

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report –

Universal Periodic Review:

DEMOCRATIC REPUBLIC OF CONGO

I. BACKGROUND AND CURRENT CONDITIONS

The Democratic Republic of Congo (DRC) is a State party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* with no reservations. The DRC is also a State party to the *1969 Convention Governing the Specific Aspects of Refugee Problems in Africa* (OAU Convention). Most of the refugees currently residing in the DRC have been recognized as refugees on a *prima facie* basis, pursuant to Article 1.2 of the *OAU Convention*.

The DRC is not a State party to either the *1954 Convention relating to the Status of Stateless Persons*, or the *1961 Convention on the Reduction of Statelessness* (the *Statelessness Conventions*). The DRC has signed the *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (Kampala Convention), but has yet to ratify it. The country is a State party to the Great Lakes Pact which incorporates the Great Lakes Protocol on the Assistance and Protection of Internally Displaced Persons. Authorities have not yet taken steps to domesticate the protocol by adopting national legislations or policy.

Article 33 of the Constitution of the Democratic Republic of the Congo of 18 February 2006 recognizes the right to seek asylum in the DRC. The current asylum system was established by Law no. 021/2002 “*Portant statut des réfugiés en République Démocratique du Congo*” (the *Refugee Law*) on 16 October 2002. The *Refugee Law* created the National Commission for Refugees which is responsible for examining requests for asylum on a case-by-case basis.¹

As of June 2013, the total number of asylum-seekers and refugees registered in the DRC amounted to 183,675 persons. The majority of refugees originate from Rwanda and the Central African Republic, while a smaller number are from Burundi, Sudan and other countries. Women and girls account for approximately 51% of the refugee population. Moreover, there are an estimated 2.6 million internally displaced persons (IDPs) in the DRC.

There is currently no comprehensive legal system in place to regulate protection and assistance for IDPs. However, relevant authorities have initiated consultation with UNHCR

¹ Law no. 021/2002 on the Status of Refugees in the Democratic Republic of the Congo

and partners regarding the development of relevant national framework on the protection and assistance of internally displaced persons in 2012.

Around 71% of the DRC population lives below the poverty line, faces high unemployment, and lacks adequate health care and educational services. This situation disproportionately affects refugees and asylum-seekers (because they cannot rely on family support, land, property, etc.), who often have to rely on the limited assistance that can be extended to them by UNHCR.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

UNHCR commends the Government and the people of the DRC for their hospitality towards refugees, including the decision to allow Angolan refugees wishing to remain in the DRC to apply for temporary residence permits on favourable terms and with considerably lower application fees. The good co-operation and close working relationship between UNHCR and the Government of the DRC contributed to a generally favourable protection environment for refugees in the country, and facilitated the documentation of the registered refugees. UNHCR welcomes the initiatives taken to develop legislation for the protection of internally displaced persons. UNHCR also welcomes the DRC's adoption of a National Strategy to Combat Gender-based Violence.

UNHCR welcomes the decision of DRC to assume its responsibilities more effectively with regard to conducting refugee status determination (RSD), by embarking on a transfer of responsibility process to the National Commission on Refugees, which is almost complete. In addition, the recent decision of the DRC to recognize refugee status on a *prima facie* basis for refugees from the Central African Republic is welcomed.

III. KEY PROTECTION ISSUES AND RECOMMENDATIONS

Issue 1: Refugees and Asylum-Seekers

Despite efforts aiming at strengthening the capacity of the National Commission on Refugees to conduct RSD, asylum-seekers still experience a significant delay in the assessment of their claims. This is at least partly caused by the capacity of the personnel in charge of RSD that needs to be further strengthened. The delay in the treatment of asylum claims is also due to the limited presence, or complete absence, of the entity in charge of refugee status determination in some parts of the country. This is especially true when asylum-seekers do not have the opportunity to submit their claims elsewhere (i.e. in the capital). The channeling of claims from rural areas to the capital for further processing has not proven to be a viable option either.

The Refugee Law provides that all recognized refugees should be issued identity cards certifying their refugee status. While refugees in accessible areas of the country have been issued such identity documents, governmental service providers often do not recognize the validity of these documents. Therefore, many refugees continue to face difficulties in assessing their rights.

The comprehensive strategy developed to resolve the situation of Angolan and Rwandan refugees in recent years has contributed to their durable solutions (voluntary repatriation and resettlement). However, local integration prospects are still too limited due to the lack of

resources and inadequate data on the refugee population. At the Ministerial Intergovernmental Event on Refugees and Stateless Persons in December 2011, the DRC pledged to “*support the legal, social and economic integration of Angolan refugees into the host community, including by facilitating access to agricultural land, employment opportunities, education and/or long-term residency status.*”²

Recommendations:

UNHCR recommends that the Government of the DRC:

- Take the necessary measures to process refugee claims within a reasonable timeframe and without undue delay;
- Raise awareness of governmental and other service providers on the issue of refugee identity documents to facilitate their acceptance; and
- Facilitate the local integration of Rwandan and Angolan refugees in the DRC.

Issue 2: Internally Displaced Persons (IDPs)

The situation of IDPs in the DRC is critical, particularly in the regions where conflict has been ongoing for almost two decades, namely in the North and South Kivus (the Kivus). The recent upsurge in conflict between the M23 Movement and the Congolese Army further jeopardized the situations of IDPs. Some IDPs have been displaced several times, with no durable solution in sight. The cluster approach has been activated at the national and sub-national levels where responding to acute protection concerns was at stake. However, this response relies heavily on the support of the international community including MONUSCO, humanitarian organizations and civil society institutions. The national legal framework has not yet been reinforced to deal more effectively with the needs of the internally displaced population.

In the absence of a national legal framework, the protection situation of IDPs does not yet conform to international standards (Guiding Principles on Internal Displacement, Kampala Convention and CIRGL³ Protocols). The Committee on the Rights of the Child recommended that the State party, “*strengthen its efforts in order to ensure that all refugees and displaced persons, particularly children, are provided with adequate and appropriate assistance, including food, medical and psychological care and access to education*” and that the State party, “*establish a coherent database and national programmes for refugee and internally displaced children with a view to ensuring full protection of their rights.*”⁴

Recommendations:

UNHCR recommends that the Government of the DRC:

- Accede to the *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (Kampala Convention);;

² UN High Commissioner for Refugees (UNHCR), *Ministerial Intergovernmental Event on Refugees and Stateless Persons - Pledges 2011*, October 2012, available at: <http://www.refworld.org/docid/50aca6112.html>.

³ Conférence Internationale sur la Région des Grands Lacs, *Pact on Security Stability and Development in the Great Lakes Region: Protocol on the Protection and Assistance to Internally Displaced Persons*, available at: https://icglr.org/IMG/pdf/Pact_on_Security_Stability_Development-S.pdf.

⁴ UN Committee on the Rights of the Child (CRC), *Consideration of reports submitted by States parties under article 44 of the Convention: Convention on the Rights of the Child: concluding observations: Democratic Republic of the Congo*, 10 February 2009, CRC/C/COD/CO/2, para 75, available at: <http://www.refworld.org/docid/49a5172e2.html>.

- Takes steps to domesticate the Great Lakes Protocol on the Protection and Assistance of Internally Displaced Persons;
- Complete the drafting of a law on the provision of assistance and protection of IDPs, with UNHCR's technical support.

Issue 3: Statelessness

The DRC has not yet acceded to either the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. The Congolese nationality legislation⁵ is generally compliant with the international standards for prevention and reduction of statelessness set out in the 1961 Convention and human rights law.

Accession by DRC to the two international Statelessness Conventions would complement the existing framework that exists to prevent and reduce statelessness and avoid the detrimental effects of statelessness on individuals and society by ensuring minimum standards of treatment for stateless persons. The *1954 Convention relating to the Status of Stateless Persons* ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. Importantly, the *1954 Convention* also guarantees stateless persons a right to identity and travel documents and to administrative assistance. Furthermore, the *1961 Convention on the Reduction of Statelessness* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. These treaties are therefore complementary to standards contained in other human rights treaties. An increase in the number of State parties to the two Statelessness Conventions is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

During the Ministerial Intergovernmental Event on Refugees and Stateless Persons in December 2011, the DRC pledged to take initiatives such as “*Identifying cases of statelessness on its national territory; preventing statelessness by setting up national mechanisms in compliance with its national legislation and through registering children by the Registrar of Civil Status, encouraging civil marriage, and applying the provisions of law No. 04/024 of 12/11/2004 on Congolese nationality.*”⁶ Yet, little progress has been made since then.

Recommendations:

UNHCR recommends that the Government of the DRC:

- Accede to the *1954 Convention relating to the Status of Stateless Persons*, and the *1961 Convention on the Reduction of Statelessness*; and,
- Put in place measures to prevent or respond to potential statelessness situations.

Issue 4: Access to birth registration and issuance of birth certificates

A high percentage of Congolese children do not have any birth certificates. This is a critical issue for returnees, refugees, and IDP children, as they may find themselves in a situation where they are unable to provide any proof of identity or secure any of their rights. Failure to

⁵ The 2006 Constitution and Law No 04/024 of 12/11/2004 on Congolese Nationality

⁶ Ibid.

document a person's legal existence can prevent the effective enjoyment of a range of human rights, including access to education and health care. The Human Rights Council adopted a resolution on birth registration and the right of everyone to recognition everywhere as a person before the law, calling upon "*States to ensure free birth registration, including free or low-fee late birth registration, by means of universal, accessible, simple, expeditious and effective registration procedures without discrimination of any kind.*"⁷ Because birth registration legally establishes the place of birth, proof of age, and parental affiliation, it serves as important documentary proof to acquire the parents' nationality or the nationality of the State in which the child is born. It also provides children with a degree of protection against child labour, illegal adoption, early marriage, sexual exploitation, military recruitment, and trafficking.⁸

Forcibly displaced children are at heightened risk of such abuses in the DRC. The Committee on the Rights of the Child, in its 59th session, expressed concern about the mechanisms used to verify the age of military recruits and noted that "*this problem is exacerbated by the very low level of birth registration.*"⁹ The Committee reiterated its past recommendation that the DRC "*continue and strengthen its efforts to encourage birth registration of all children.*"¹⁰ In its 50th Session, the Committee had also urged the State party to "*ensure allocation of adequate financial, human and other resources to registration centres and to take measures, including mobile services, to ensure easy access to registration by the population in all areas of the country,*" and to "*to put in place a mechanism to provide for late registration of births free of charge.*"¹¹

Recommendations:

UNHCR recommends that the Government of the DRC:

- Ensure birth registration, including through mobile brigades;
- Ensure the provision of late birth registration free of charge;
- Ensure birth registration of all children born in DRC without discrimination (including refugees and asylum seekers' children) and facilitate birth registration of Congolese children upon return to DRC when such registration could not or was not accomplished in the asylum country.

Issue 5: Reintegration

Following the announcement that, as of 3 September 2013, over 100,000 Congolese refugees have now repatriated from the Republic of the Congo,¹² it is critical that reintegration efforts

⁷ UN Human Rights Council Resolution A/HRC/RES/19/9, 3 April 2012, available at:

http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/19/9.

⁸ UN High Commissioner for Refugees, *Birth Registration: A Topic Proposed for an Executive Committee Conclusion on International Protection*, 9 February 2010, EC/61/SC/CRP.5, para. 2, available at:

<http://www.unhcr.org/refworld/docid/4b97a3242.html>.

⁹ UN Committee on the Rights of the Child (CRC), *Consideration of reports submitted by States parties under article 44 of the Convention: Convention on the Rights of the Child: Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict: concluding observations: Democratic Republic of the Congo*, 7 March 2012, CRC/C/OPAC/COD/CO/1, para. 27, available at:

<http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-OPAC-COD-CO-1.pdf>.

¹⁰ Id.

¹¹ UN Committee on the Rights of the Child (CRC), *Consideration of reports submitted by States parties under article 44 of the Convention: Convention on the Rights of the Child: concluding observations: Democratic Republic of the Congo*, 10 February 2009, CRC/C/COD/CO/2, para 36, available at:

<http://www.refworld.org/docid/49a5172e2.html>.

¹² UNHCR News Stories, *UNHCR helps more than 100,000 refugees return to northern Democratic Republic of Congo*, 3 September 2013, available at: <http://www.unhcr.org/5225ff206.html>.

for returnees and IDPs are strengthened. Collectively, UNHCR's planning figures for 2013 estimated that the DRC host nearly 800,000 refugee returnees and IDP returnees. Reintegration programs play an integral role in increasing the self-reliance of returnees, preventing future conflict, and protecting against future displacement. Due to the unrest that the DRC has been experiencing for nearly two decades, resources devoted to reintegration activities have been shrinking (which may also be due to donor fatigue), while the needs have continued to rise. Moreover, the DRC is not in a position to mobilize or allocate sufficient resources to sustain an effective reintegration programme for all returnees. As a result, the return of forcibly displaced persons has not always been durable, especially due to security concerns.

The Committee on the Rights of the Child, in its 59th session, has also highlighted the impact of limited access to reintegration in the context of former child soldiers. The Committee noted that *"less than half of returning child soldiers have access to reintegration support and that when such programmes exist, they often fail to address the medical, psychological or socio-economic needs of former child soldiers"* and indicated that many of those who are released with support, especially girl soldiers, often *"drift into other marginal activities such as prostitution."*

Recommendations:

UNHCR recommends that the Government of the DRC:

- Continue raising international support (including funding) for the implementation of reintegration programmes;
- Create suitable conditions (security, rule of law, basic social services, etc.) for the durable return of forcibly displaced persons (IDPs and refugees);
- Initiate programmes to promote self-reliance of returnees.

Issue 6: Sexual and gender-based violence

While affecting the population at large, the issue of sexual and gender-based violence (SGBV) is also a critical concern for refugees and IDPs. In 2009 the Government adopted a National Strategy to Combat Gender-based Violence. The national strategy was adopted to implement the United Nations Comprehensive Strategy on Combating Sexual Violence in the Democratic Republic of the Congo, which was presented to the Government on 1 April 2009.¹³ However, the implementation and effectiveness of the program has yet to provide meaningful results and SGBV remains a pervasive problem in the DRC.

Reports suggest that while SGBV is prevalent across the country, it has risen at an alarming rate in the eastern DRC in recent years. The increase follows renewed violence, particularly in North Kivu, where around 1 million persons are internally displaced. In North Kivu alone, from January 2013 until 30 July 2013, UNHCR registered 705 reported cases of sexual violence,¹⁴ of which 619 were cases of rape and 288 were perpetrated against minors.¹⁵ Official UN figures suggest overall reported cases of sexual violence in North Kivu rose from

¹³ Comprehensive Strategy on Combating Sexual Violence in the Democratic Republic of the Congo, 1 April 2009, available at: <http://stoprapenow.org/uploads/features/CSonDRCforweb.pdf>.

¹⁴ During a similar period in 2012, 108 cases were registered.

¹⁵ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review on the Democratic Republic of the Congo*, 4 January 2010, A/HRC/13/8, available at: <http://www.refworld.org/docid/4bdea1882.html>.

4,689 cases in 2011 to 7,075 in 2012, with many more cases remaining unreported. Most of the reported cases of sexual violence were committed by armed men.

The Committee on the Rights of the Child has consistently expressed serious concerns that marginalized children in the DRC, such as children involved in armed conflict, refugees, and internally displaced persons, are commonly victims of sexual exploitation and abuse. The Committee has also noted with deep concern that impunity remains pervasive for those who perpetrate rape and sexual violence against women and children, often as a weapon of war. Furthermore, the Committee was concerned that young girls in urban centres are often forced to engage in prostitution, sometimes by their parents, at a very early age. The Committee has made several recommendations, calling on the State party to: strengthen legislative measures, address the root causes of sexual exploitation, end impunity for any and all perpetrators, ensure victims are not criminalized, and develop prevention and recovery programs.¹⁶

Recommendations:

UNHCR recommends that the Government of the DRC:

- Expedite and strengthen efforts to enhance the effectiveness of the National Strategy to Combat Gender-based Violence in cooperation with UN agencies;
- Take adequate measures to reduce and eradicate incidents of SGBV committed by armed elements;
- Ensure access to an effective response (security, legal, medical, psycho-social and self-reliance) to situations of SGBV; and
- Improve training and awareness among DRC security forces and agents, establish/strengthen accountability mechanisms, and introduce a vetting mechanism to exclude perpetrators of SGBV.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
September 2013**

¹⁶ See UN Committee on the Rights of the Child (CRC), *Consideration of reports submitted by States parties under article 44 of the Convention: Convention on the Rights of the Child : concluding observations: Democratic Republic of the Congo*, 10 February 2009, CRC/C/COD/CO/2, para 75, available at: <http://www.refworld.org/docid/49a5172e2.html>; UN Committee on the Rights of the Child (CRC), *Consideration of reports submitted by States parties under article 44 of the Convention : Convention on the Rights of the Child : Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict : concluding observations : Democratic Republic of the Congo*, 7 March 2012, CRC/C/OPAC/COD/CO/1, available at: <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-OPAC-COD-CO-1.pdf>.

ANNEX

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedures' Reports

- Universal Periodic Review:

DEMOCRATIC REPUBLIC OF CONGO

We would like to bring your attention to the following excerpts of Treaty Body Concluding Observations and Special Procedure reports relating to issues of interest and concern to UNHCR with regards to the Democratic Republic of the Congo.

Treaty Body Concluding Observations

Committee on the Rights of the Child (CRC/C/OPAC/COD/CO/1) 59th Session 7 March 2012

26. The Committee expresses concern that FARDC recruitment procedures are inconsistently applied and that recruitment into the State party's armed forces is mainly carried out at the discretion of regional military commands or individual unit commanders. The Committee is also concerned about the ineffectiveness of the mechanisms to verify the ages of incoming recruits and notes that this problem is exacerbated by the very low level of birth registration in the State party.

27. The Committee reiterates its recommendation (CRC/C/COD/CO2, para. 36) to continue and strengthen its efforts to encourage birth registration of all children. The Committee also urges the State party to standardize army recruitment procedures and train officers to ensure consistent and effective verification of the age of individual recruits to effectively prevent the recruitment of children into the armed forces. The Committee further recommends that the State party widely circulate guidelines on verifying age and instruct recruiters that in the case of doubt over an individual's age, he/she should not be recruited.

32. The Committee expresses deep concern about the continuous recruitment and abduction of children, including girls by numerous non-State armed groups, and by community-based militias known as Local Defence Forces (LDF). The Committee is also concerned that in January 2009, hundreds of child soldiers were incorporated into the FARDC during the "accelerated integration" of members of the National Congress for the Defense of the People (CNDP). The Committee expresses further concern that the State party has not prioritized the release of children detained by non-State armed groups in its negotiations with these groups, as demonstrated in the negotiations with the Yakutumba Mai Mai in August 2010.

33. The Committee reminds the State party of its obligations under the Optional Protocol to take all the necessary measures to ensure that no children are recruited by non-State armed groups. The Committee urges the State party to ensure that the release, recovery and reintegration of children associated with non-State armed forces or armed groups becomes a priority and is addressed in all peace or ceasefire negotiations and

agreements with armed groups, in line with the United Nations operational guidelines on addressing children's issues in peace agreements. The Committee also urges the State party to ensure that:

- (a) The release of all children from non-State armed groups is a precondition for any future integration into the army or police and any related training programmes;*
- (b) No military, financial or logistical support is provided to local militias suspected of recruiting or using children or committing other human rights abuses. Priority should be given to regulating the activities of local defence forces and to ensuring that children are not recruited or used by them;*
- (c) Cross borders frameworks of cooperation and exchange are established to repatriate children from neighbouring countries to their countries of origin as already recommended by the Special Representative of the Secretary General for Children and Armed conflict after her 2009 visit in the country.*

38. The Committee notes with deep concern that in spite of the zero tolerance policy for human rights violators declared by the President in 2009, none of the perpetrators of recruitment and use of children in armed conflict, although clearly identified, has been prosecuted and convicted. The Committee is particularly concerned that:

(e) In spite of the sentencing of numerous perpetrators of sexual abuse, impunity remains pervasive for the rape and the most horrific forms of sexual violence and abuses of women and children which continue to be used as a weapon of war in conflict zones

39. The Committee urges the State party to show stronger political will and demonstrable tangible efforts to apply its zero tolerance policy with a view to promoting accountability in the State party. The Committee strongly urges the State party to put an end to the impunity that perpetrators of recruitment and use of children continue to enjoy and ensure the prompt and impartial investigation of all allegations against all suspected FARDC officers and personnel, including those listed in the final report of the Security Council Group of experts (S/2009/603, annex 124). The Committee also urges the State party to:

(f) Take prompt and active measures to bring perpetrators of sexual crimes to justice and to make the implementation of the Comprehensive Strategy on Combating Sexual Violence a reality.

48. The Committee notes with concern that less than half of returning child soldiers have had access to reintegration support and that when such programmes exist, they often fail to address the medical, psychological or socio-economic needs of former child soldiers. As a result, a significant proportion of demobilized children are re-recruited. The Committee is also particularly concerned that:

- (a) Girl soldiers, although comprising up to thirty per cent of children involved in armed forces and groups, have been and are still underrepresented in release and commanders or drift into other marginal activities such as prostitution;*
- (b) Children surviving sexual violence still have little chance to obtain access to health care, psychological support and compensation;*
- (c) The stabilization and reconstruction program (STAREC) for the five conflict affected eastern provinces fails to include education and employment programmes.*

49. The Committee urges the State party to rebuild an effective and adequately funded national reintegration strategy for child soldiers which should be fully integrated into STAREC. In particular, the Committee urges the State party to:

- (a) Conduct a mapping of existing initiatives and available funding; an evaluation of current and past initiatives and a full needs assessment of the nature, scope, duration, funding and expertise needed for the provision of “appropriate assistance” to former child soldiers;**
- (b) As a matter of priority, develop and implement in collaboration with the United Nations and child protection actors a strategy to identify and provide effective reintegration assistance to current and former girl soldiers and their children, which meet their complex medical, economic and psychosocial needs; Every effort should be made to ensure these initiatives, and any resulting programmes, do not increase the stigma and exclusion faced by former girl soldiers;**
- (c) Ensure without any further delay that consistent and sustainable budget allocations are made to provide child survivors of sexual violence with immediate compensation, psychological support and health care;**
- (d) Ensure that school reintegration; access to vocational training and the development of youth employment opportunities for demobilized children are incorporated into STAREC;**
- (e) Significantly increase support for reintegration and recovery measures, ensure they are accessible in affected regions and develop multi-disciplinary assistance programs; and**
- (f) Ensure that child soldiers, parents and communities are involved in the design and evaluation of reintegration projects.**

**Committee on Economic, Social and Cultural Rights
(E/C.12/COD/CO/4) 43rd Session
16 December 2009**

17. The Committee is concerned that while pygmies continue to suffer extreme forms of societal marginalization, in particular with regard to their access to identity documents, education, health and employment and in spite of repeated calls by human rights bodies to address the situation, the State party has still not taken the necessary measures to end these human rights violations. The Committee also expresses deep concern that in war zones pygmies have been and continue to be subjected to mass rapes, extermination and persecution which are committed with total impunity. (article 2.2)

The Committee urges the State party to ensure that racial discrimination is criminalized as a specific offence and that perpetrators of acts of racial discrimination and crimes against pygmies are brought to justice. The Committee also urges the State party to train public officials and organize campaigns to enhance public awareness in matters of discrimination against pygmies.

26. The Committee is concerned that trafficking of women and children for sexual and commercial exploitation is widespread and on the increase. The Committee is also concerned that men, women and children continue to be regularly abducted by armed groups, including FARDC, and detained in the State party or forcibly transported to neighbouring countries for the purpose of forced labour or sexual slavery. The Committee is further concerned that existing laws do not prohibit all forms of trafficking and that the State party has still not adopted any measures aimed at combating trafficking. (article 10.3)

The Committee urges the State party to criminalize all forms of trafficking in human beings, convict perpetrators, adopt effective measures against trafficking and the sexual and commercial exploitation of women and children, and provide them with physical and psychological recovery and social reintegration measures, including provision of shelter, counselling and medical care.

33. *The Committee expresses concern at the precarious situation of the 1.7 million internally displaced persons (IDPs) in the State party who rely exclusively on assistance provided by international humanitarian organizations. The Committee notes with concern that due to continuous insecurity in the eastern provinces of the State party, IDPs have no other choice but to hide in the forest where they are deprived of any assistance. The Committee also notes with deep concern that IDPs are regularly victims of gross human rights and humanitarian law violations committed by all factions engaged in the fighting, including FARDC.*

The Committee urges the State party through its Ministry for Solidarity and Humanitarian Affairs to assume its obligations to protect and respond to the needs of internally displaced persons.

35. *The Committee notes with concern that in spite of the significant increase in budgetary allocations to the education sector, access to primary schools remains fee-paying and therefore unaffordable for many. The Committee also notes with concern that school enrolment of children, especially girls, remains at an extremely low level and that the low level of birth registration in the State party continues to be a major obstacle to the enjoyment of the right to education. The Committee is further concerned that only a small part of the State budget allocated to education is actually being spent on education, especially in priority areas such as educational infrastructure and decent salaries for teachers.*

In light of its general comment No. 11 (1999) on plans of action for primary education (art. 14), the Committee reminds the State party that article 14 of the Covenant requires each State party which has not been able to secure compulsory primary education, free of charge, to undertake, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory primary education free of charge for all. The Committee also urges the State party to take all appropriate measures to ensure that births are registered throughout its territory and that the funds allocated to education are actually spent on priority areas such as educational infrastructure and teachers. The Committee requests the State party to provide precise information in its next periodic report on the measures adopted to achieve free and compulsory primary education for all children.

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**Committee on the Rights of the Child
(CRC/C/COD/CO/2) 50th session
10 February 2009**

7. The Committee is concerned at the high level of poverty in the State party, which hampers the full enjoyment by children of their rights and leads to several forms of exploitation, such as economic exploitation, sexual exploitation and trafficking, and also increases vulnerability of certain groups of children inter alia street children, refugee and displaced children.

28. The Committee notes with interest the measures taken to eliminate the disparity between education of girls and of boys, in particular through the acceleration strategy for education of girls (2003-2007). The Committee is nevertheless deeply concerned that certain groups of children face discrimination and marginalization, including children with disabilities, children accused of witchcraft, Batwa children, hidden children, demobilized child soldiers and internally displaced children, and that measures to implement legislation against discrimination, including administrative measures, have been insufficient. The Committee also expresses its concern at the persisting societal discrimination against girls.

35. The Committee notes the efforts made by the State party to improve birth registration, including the adoption in 2004 of a National Plan of Action on the subject, training for birth registration officers, initiatives to move registry offices closer to population centres and the extension to 90 days of the time limit for registration of births. Nevertheless, the Committee notes with grave concern that not only does the percentage of children whose births have been registered remain low overall but the registration rate has in fact decreased.

36. The Committee recommends that the State party continue and strengthen its efforts to encourage birth registration of all children. The Committee urges the State party to ensure allocation of adequate financial, human and other resources to registration centres and to take measures, including mobile services, to ensure easy access to registration by the population in all areas of the country. The Committee further urges the State party to put in place a mechanism to provide for late registration of births free of charge.

66. The Committee recommends that the State party, taking into account its general comment No. 1 (CRC/GC/2001/1) on the aims of education:

- (b) Take all measures to ensure that children complete their compulsory schooling, taking concrete action to address the reasons behind non-completion of schooling, including, inter alia, persisting zones of insecurity, displacement of families, lack of transport, destruction of school infrastructures and poverty;**

74. While noting with appreciation that some assistance is provided to refugees and displaced persons, the Committee nevertheless expresses grave concern that half of displaced persons on the State's territory are children. The Committee is deeply concerned that violence against child refugees or IDPs continues in the eastern part of the country. The Committee is also concerned that data on refugee and displaced children is lacking, that the provision of assistance is sporadic and that refugees and displaced persons, many of whom are children, are not legally protected.

75. The Committee urges the State party, taking into account the Committee's general comment No. 6 (2005) on the treatment of unaccompanied children and separated children outside their country of origin, to continue and strengthen its efforts in order to ensure that all refugees and displaced persons, particularly children, are provided with adequate and appropriate assistance, including food, medical and psychological care and access to education. The Committee recommends that the State party establish a coherent database and national programmes for refugee and internally displaced children with a view to ensuring full protection of their rights. The Committee also reiterates its previous recommendation (CRC/C/15/Add.153, paragraph 63) that every effort be made to prevent all forms of violence against refugee and internally displaced children. Finally, the State party is encouraged to implement the recommendations of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, following his mission to the State party in January 2009.

84. The Committee is seriously concerned that marginalized children, such as children involved in armed conflict, refugees and internally displaced persons, are victims of sexual exploitation and abuse. Furthermore, the Committee is concerned that young girls in urban centres are often forced to engage in prostitution, sometimes by their parents, at a very early age.

85. The Committee recommends that the State party:

- (a) Develop and strengthen appropriate legislative measures to address the issues of sexual abuse and sexual exploitation;**
(b) Take steps to address the root causes of sexual exploitation and abuse, including poverty and separation of children from their families;
(c) Take appropriate measures to end impunity for perpetrators of sexual offences against children and ensure their prosecution;
(d) Ensure that child victims of sexual exploitation or abuse are not criminalized or penalized; and
(e) Develop and implement appropriate policies and programmes for prevention, recovery and social reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996, 2001 and 2008 World Congresses against Commercial Sexual Exploitation of Children as well as the outcome of other international conferences on this issue.

**Committee on the Elimination of Racial Discrimination
(CERD/C/COD/CO/15) 71st session
17 August 2007**

10. *While noting the State party's intention to conduct a scientific census in 2009, the Committee remains concerned at the fact that the last census in the Democratic Republic of the Congo was conducted in 1970, and that as a result the information provided by the State party on the ethnic and linguistic make-up of its population, including indigenous peoples, refugees and displaced persons, is not comprehensive. The Committee recalls that information on demographic characteristics enables both the Committee and the State party to better assess the implementation of the Convention at the national level.*

(b) The Committee invites the State party to submit data on refugees and displaced persons in order to enable it to assess the extent, distribution and impact of their movements.

**Committee on the Elimination of Discrimination against Women
(CEDAW/C/COD/CO/5) 36th Session
25 August 2006.**

340. *While recognizing the efforts undertaken by the State party aimed at the reconstruction of the country and its socio-economic fabric after the long years of armed conflict, including the repatriation, rehabilitation and resettlement of refugees and internally displaced persons, the majority of whom are women, the Committee is concerned that the widespread poverty among women and the poor socio-economic conditions are among the causes of the violation of women's human rights and discrimination against them.*

341. *The Committee urges the State party to make the promotion of gender equality an explicit component of all its national reconstruction and development strategies, policies and programmes, in particular those aimed at repatriation, rehabilitation and resettlement and at poverty alleviation and sustainable development. The Committee also invites the State party to place emphasis on the promotion and protection of women's human rights in all development cooperation programmes with international organizations and bilateral donors so as to address the socio-economic causes of discrimination against women.*

**Human Rights Committee
(CCPR/C/COD/CO/3) 86th session
26 April 2006**

15. *The Committee remains concerned at the large number of forced disappearances or summary and/or arbitrary executions committed throughout the State party's territory by armed groups. These violent acts in turn result in mass migrations of the affected populations, thereby contributing to an ever-increasing number of displaced persons, especially in the provinces of Ituri, North and South Kivu and Katanga (articles 6, 7 and 9 of the Covenant). The State party should open inquiries into any forced disappearance or arbitrary execution reported to it, appropriately prosecute and punish the perpetrators of such acts and grant effective reparations including appropriate compensation, to victims or their families (articles 6, 7 and 9). It should also strengthen measures to curb the displacement of civilian populations.*

Special Procedure Reports

Report of the Representative of the Secretary-General on the situation of human rights on internally displaced persons - Mission to the Democratic Republic of the Congo (A/HRC/8/6/Add.3)

16 May 2008

71. Following this first mission in the Democratic Republic of the Congo, the Representative concludes that this country is experiencing a serious protection crisis and a serious humanitarian crisis, particularly in its eastern region, highlighted inter alia by the very large numbers of internally displaced persons. He considers that the adoption of peaceful solutions to the present conflicts, the renunciation of violence, scrupulous respect by all concerned for human rights and the guarantees set out in humanitarian law and an unfailing commitment to combat impunity are essential in order to put an end to the serious violations of human rights suffered by the displaced persons in the eastern part of the Democratic Republic of the Congo.

72. The Representative calls on all the parties to implement without delay and with unfailing political commitment the statements of commitment signed at the Conference for Peace, Stability and Development in North and South Kivu, held in Goma from 6 to 23 January 2008, as well as the November 2007 Nairobi communiqué. In particular, he considers that continued dialogue is the only way out of the conflict affecting the country, and that any resort to arms would lead to disastrous consequences for the civilian population, especially the hundreds of thousands of persons who have already been displaced or who would be forced to flee as a result of such operations.

73. In order to provide displaced persons in the Democratic Republic of the Congo with assistance and protection in the context of a durable solution to the issue of displacement in this country - a prerequisite for peacebuilding - the Representative recommends a strategy focusing simultaneously on continued political dialogue between the Government and the various armed groups and the other parties concerned and the strengthening of humanitarian assistance and activities for the protection of the displaced population, as well as early recovery measures where returns are already under way or can be contemplated.

Report of the independent expert on the situation of human rights in the Democratic Republic of the Congo, Mr. Titinga Frédéric Pacéré¹

(A/HRC/7/25)

29 February 2008

59. According to a study on the humanitarian situation in the Democratic Republic of the Congo which was published in July 2007 by the Ministry of Humanitarian Affairs, there are currently approximately 6 million internally displaced persons, mostly from vulnerable groups such as children, women, and older persons, throughout the country. In the region of Petit Nord alone (Goma, Masisi, Rutshuru, Lubero and Kalehe), between December 2006 and December 2007, a total of 437,796 internally displaced persons from 93,384 households were identified. Those figures were provided by the Commission on Population Movements in North Kivu, the Office of the United Nations High Commissioner for Refugees (UNHCR), the

World Food Programme (WFP), the United Nations Children's Fund (UNICEF), Solidarités, Caritas and the United Nations Office for the Coordination of Humanitarian Affairs.

60. The situation is particularly alarming in the east of the country where clashes between FARDC and armed groups have led to massive new movements of populations living without resources and in complete insecurity (lacking medicine, health care, shelter, drinking water and food assistance). The number of internally displaced persons continues to grow because of the climate of insecurity in the provinces of North and South Kivu.