



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 9 OF THE CONVENTION**

Fifteenth periodic reports of States parties due in 2005

Addendum

DEMOCRATIC REPUBLIC OF THE CONGO* **

[3 August 2006]

* This document contains the eleventh, twelfth, thirteenth, fourteenth and fifteenth periodic reports of the Democratic Republic of the Congo, due on 9 March 1997, 1999, 2001, 2003 and 2005 respectively, submitted in one document. For the tenth periodic report of the Democratic Republic of the Congo and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/278/Add.1 and CERD/C/SR.1171-1173.

** 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.

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Introduction

1. The last report of the Democratic Republic of the Congo, due on 21 May 1995, was submitted on 8 May 1996 as document CERD/C/278/Add.1. The Committee's observations were published as document CERD/C/304/Add.18.
2. The delay in submitting periodic reports since then is due to the fact that, from 1996 to 2002, the Democratic Republic of the Congo was the scene of armed conflicts, including the war that put an end to the regime of the Second Republic and the war that began on 2 August 1998, both of which were started by the coalition formed by Rwanda, Uganda and Burundi, as well as internal uprisings.
3. Despite these ups and downs, the Democratic Republic of the Congo has continued to demonstrate its commitment to respect for human rights. It has received several visits by United Nations special rapporteurs on the human rights situation, headed first by Mr. Roberto Garretón and later by Ms. Iulia-Antoanella Motoc, who enjoyed total independence in carrying out their inquiries.
4. On 26 July 2004, the Chairperson of the Commission on Human Rights appointed an independent expert, Mr. Titinga Frédéric Pacéré, with responsibility for advising the Government on human rights matters.
5. In order to reduce the delays in submitting reports, the Government established an inter-ministerial committee responsible for drafting initial and periodic reports on human rights (ministerial order No. 013/MDH/CAB/MBK/0005/2001 of 13 December 2001).
6. There have been positive political developments. On 17 December 2002, in Pretoria, the arduous negotiations known as the "Inter-Congolese Dialogue" culminated in the signing of the Global and All-inclusive Agreement on the Transition in the Democratic Republic of the Congo, between the Government, the Congolese Rally for Democracy, the Movement for the Liberation of the Congo, the Congolese Rally for Democracy/Liberation Movement, the Congolese Rally for Democracy/National, the Mai-Mai, the Opposition Politique and the Forces Vives de la Nation. On 30 June 2003, a Government of national unity was formed, with tasks that included organizing free, democratic and transparent elections by 30 June 2006 at the latest.
7. Significant progress has also been made in relations between the Democratic Republic of the Congo and Rwanda and Uganda. The normalization of relations between the Democratic Republic of the Congo, Rwanda and Uganda has advanced somewhat, despite sporadic tension with Rwanda. This progress stems in large part from bilateral and multilateral diplomatic efforts which are expected to culminate in a conference of Great Lakes countries scheduled to be held in October 2005.
8. Since it is now in a position to comply regularly with its international obligations arising from the fact that it has ratified the International Convention on the Elimination of All Forms of Racial Discrimination, the Democratic Republic of the Congo hereby submits its eleventh periodic report combined with the twelfth, thirteenth and fourteenth reports. It takes account of the observations made by the Committee during the consideration of the tenth periodic report, which were published as document CERD/C/304/Add.18 of 27 September 1998.

9. The Democratic Republic of the Congo plans to make the declaration provided for in article 14 of the Convention, recognizing the Committee's competence to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by the Democratic Republic of the Congo of any of the rights set forth in the Convention.

PART I: GENERAL INFORMATION ON THE COUNTRY

I. LAND AND PEOPLE

A. Land

10. The Democratic Republic of the Congo, a central African country, straddles the Equator. 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.

11. 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 volcanic mountains with an average altitude in excess of 1,000 metres.

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

13. 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.

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

B. People

1. Demography

15. 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.

16. 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 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, Human Development Report 2004). A breakdown by zone indicates the following features:

- 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;
- A low proportion of the population in urban areas in Maniema, compared with a high proportion in Kinshasa (a tenth of the entire population);
- 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;
- 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

17. 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

18. 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.

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

19. 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

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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. The economic situation has improved, and at the end of 2003 was as follows:

(a) Output

- Money supply: 491.5 million Congolese francs as at 23 September 1998, as against 228.34 million Congolese francs as at 31 December 1997;
- Balance of payments in December 2001: exports US\$ 1,006 billion; imports US\$ 957 million, giving a surplus of US\$ 49 million;
- Investment: with the improvement in macroeconomic parameters since 2001, consolidated by the progressive return of peace, the investment sector is gradually recovering;
- External debt: Debt stock as at 31 December 2003: US\$ 9,935.13 million;
- Public finances as at 31 December 2003:
 - Income: 361,231,805,742 Congolese francs;
 - Expenditure: 361,231,805,742 Congolese francs;
- GDP: 8 per cent as at 30 June 2004;
- Rate of growth: 5.6 per cent as at 30 June 2004;
- Rate of inflation: 4.2 per cent as at 30 June 2004;
- Exchange rate: US\$ 1 = 450 Congolese francs as at 31 December 2004;
- Per capita income: generally very low, varying between US\$ 82 and 90 per annum.

(b) Social

26. 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. The social sectors worst affected by this crisis are health, education, agriculture and the road network.

(c) Political

27. Following the attainment of independence by the country 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 Sese Ceko.

28. President Mobutu instituted a single-party regime which lasted until 24 April 1990, when a return to a multiparty system was announced. The country's main stakeholders met in the Sovereign National Conference to debate the future of the country and establish democratic institutions which could guarantee enjoyment of the fundamental rights of citizens as well as national development. But, against all expectations, this process of democratization extended until 17 May 1997, on which date the Alliance des Forces démocratiques pour la Libération du Congo took power and neutralized the institutions which had emerged from the Sovereign National Conference.

29. 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 conclusion of the Global and All-inclusive Agreement and adoption of the new transitional Constitution.

30. The transitional Constitution of 4 April 2003 established a sui generis regime with the following political institutions:

- A President of the Republic, whose executive authority is shared with four Vice-Presidents;
- A transitional Government comprising the warring parties, the political opposition and civil society;
- A bicameral Parliament: the National Assembly and the Senate;
- The courts.

31. These institutions are to lead the country into the general elections scheduled to be held between March and September 2005.

III. GENERAL LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS

32. The Democratic Republic of the Congo is party to a number of international human rights instruments, including:

- The International Covenant on Economic, Social and Cultural Rights;
- The International Covenant on Civil and Political Rights;
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- The Convention on the Rights of the Child;
- The Convention on the Elimination of All Forms of Discrimination against Women;
- The African Charter on Human and Peoples' Rights;

- The African Charter on the Rights and Welfare of the Child;
- The Rome Statute of the International Criminal Court.

33. The rights and freedoms set out in these legal instruments are guaranteed to individuals by the transitional Constitution of April 2003.

34. In the specific case of the Convention on the Elimination of All Forms of Racial Discrimination, the provisions of the Criminal Code, the Labour Code, the framework law on education and the law on freedom of the press offer ever greater protection for any victims of violations of the rights guaranteed by the Convention.

35. Remedies are available in the administration, the courts, the Ministry of Human Rights or the National Human Rights Monitoring Centre, whose task it is to promote and protect human rights.

PART II: INFORMATION IN RELATION TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

36. The Democratic Republic of the Congo pursues a policy of integrating all the racial groups into the life of the nation, in particular through recruitment into the administration and participation in public life.

37. This political commitment was reaffirmed by the participants in the Inter-Congolese Dialogue, who, in the resolution on the protection of minorities adopted in April 2002, expressed their determination to eliminate all forms of racial discrimination in the following terms:

- “– We declare that no person or group of persons may be subject to discrimination in the enjoyment of rights owing to membership of an ethnic, religious or linguistic group;
- “– We declare that all the Congolese communities enjoy equal rights, but that in case of need the State may nevertheless envisage temporary incentives to accelerate and promote the equality of communities, particularly the most backward or disadvantaged;
- “– We call upon the members of all the Congolese communities to strive to promote harmonious coexistence and national reconciliation;
- “– We proclaim that all the Congolese minorities, whether ethnic, religious or linguistic, are protected in a general human rights framework in accordance with the legislation in force and the international instruments ratified by the Democratic Republic of the Congo.”

38. This integration policy was expressed in the transitional Constitution, which, in its third preambular paragraph, affirms the desire to build a single harmoniously integrated nation and to consolidate national unity so as to endow our State with a veritable soul.

39. Paragraph 4 of the preamble to the transitional Constitution lays down that the participants in the Inter-Congolese Dialogue are “convinced that only the values of equality, justice, freedom, democratic tolerance and social solidarity can underpin a nation which is integrated, fraternal, prosperous and master of its destiny before history”.

40. Article 14 of the transitional Constitution provides that “all ethnic groups and nationalities whose persons and territory constitute what on independence became the Congo (now the Democratic Republic of the Congo) should benefit from equality of rights and protection under the law as citizens. Congolese nationality is one and exclusive. It cannot be held simultaneously with another nationality. A law shall set down the conditions governing the recognition, acquisition, loss and recovery of Congolese nationality”.

41. Along the same lines, the Constitution of the Democratic Republic of the Congo, promulgated on 18 February 2006, declares (art. 10) that Congolese nationality is one and exclusive. It may not be held simultaneously with another. Congolese nationality is either held from birth, or acquired individually. A Congolese from birth is anyone belonging to the ethnic groups whose persons and territory constitute what on independence became the Congo (now the Democratic Republic of the Congo). A law sets down the conditions governing the recognition, acquisition, loss and recovery of Congolese nationality.

42. Article 12 of the Constitution consolidates this equality and states that all Congolese are equal before the law and have the right to equal protection of the law.

43. Elaborating further on this commitment, article 13 of the Constitution of the Democratic Republic of the Congo provides that “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”.

44. Article 66 of the Constitution provides that “all Congolese have the duty to respect and treat their fellow citizens without any discrimination whatsoever and to maintain relations with them that safeguard, promote and strengthen national unity and mutual respect and tolerance. They also have the duty to preserve and strengthen national solidarity, in particular when it is threatened”.

45. Legislation on racial discrimination in the Democratic Republic of the Congo in fact predates the Convention, which entered into force on 4 January 1969.

46. After experiencing a colonial past characterized by a policy of racial segregation between Whites (living in the towns) and Blacks (living in the native areas), schools for white children and schools for black children, the Democratic Republic of the Congo, on the eve of its independence on 30 June 1960, adopted several legal instruments abolishing racial discrimination.

47. Ordinance-law No. 25-131 of 25 March 1960, on the suppression of manifestations of racism or religious intolerance, provides as follows in article 1:

“The placing of graffiti on walls or in other places, the wearing of emblems, and gestures, words or writings liable to cause, maintain or exacerbate tension between races, ethnic groups or faiths shall be punishable by a prison term of between one month and one year or a fine not exceeding 3,000 zaires, or both.”

48. The decree of 13 June 1960 banning discrimination in shops and other public places provides that:

- Article 1: “In shops and public places, it is forbidden to maintain, set up or cause to be maintained or set up any separate installations, such as sales windows, entrances or counters, etc., reserved for a particular race or ethnic group.”
- Article 2: “It is also forbidden to maintain, install or cause to be maintained or installed inscriptions, illustrations or signs of any kind indicating the separate installations referred to in article 1.”
- Article 3: “Breaches of the above provisions shall be punishable by a prison term of no more than two months or a fine which may not exceed 5,000 zaires, or both.”
- Article 4: “In the event of a repeat offence, the court may order the closure of the establishment for a specific period, which shall not exceed two months.”

49. After independence, another instrument was adopted - ordinance-law No. 66-342 of 7 June 1966 on the prohibition of racism and tribalism, under article 1 of which:

“Anyone who through the use of words, gestures, writing, images or emblems or any other means displays racial, ethnic, tribal or regional aversion or hatred, or commits an act such as to promote such aversion or hatred, shall be punished by a fine of 50 to 100,000 zaires. If the offence was committed by a government official in the discharge of his or her functions, imprisonment shall be for a minimum term of six months. If the offence resulted in disruption of the authorities, serious disturbance, a secessionist movement or rebellion, the guilty party shall be punished by life imprisonment.”

50. Articles 3, 4, 5 and 6 of this ordinance-law specify administrative and criminal penalties for organizations and individuals who sustain discrimination in any form:

- Article 3: “Circles, clubs, associations or groups whose real purposes, activities or actions are inspired by motives of racial, ethnic, tribal or regional discrimination shall be dissolved by means of an ordinance of the President of the Republic.”
- Article 4: “Tribal associations of a political nature shall be prohibited. Consequently, associations of this nature which exist at the time when this ordinance-law enters into force shall be automatically dissolved.”
- Article 5: “The following shall be punished by a prison term of between one month and two years or a fine of 500 to 1,000 zaires, or both:

- ‘– Persons who have participated in maintaining a circle, club, association or group which has been dissolved in pursuance of article 3.
- ‘– Persons who in any capacity whatsoever exercise or continue to exercise the leadership or administration of an association of the type referred to in article 4.’”
- Article 6: “Anyone who, having become aware of an act punishable under article 1 or article 5 above during the performance of his or her duties, has not reported it to the judicial authorities immediately upon learning of it shall be punished by a prison term of between 15 days and one year or a fine of 250 to 1,000 zaires, or both. If the guilty party is a government official, the prison term shall be between six months and two years and the fine of 5,000 to 100,000 zaires.”

51. Regarding the conditions governing the recognition, acquisition, loss and recovery of Congolese nationality, it is important to mention here that the Congolese nationality bill submitted to Parliament by the Government in pursuance of the Global and All-inclusive Agreement has been adopted by the Parliament. Act No. 04/24 of 12 November 2004 on Congolese nationality provides as follows in articles 1, 2, 3 and 4:

- Article 1: “Congolese nationality is one and exclusive. It may not be held simultaneously with another nationality. It is either held from birth, or acquired as a result of naturalization, election, adoption, marriage or birth and residence in the Democratic Republic of the Congo.”
- Article 2: “Congolese nationality is recognized, acquired or lost in accordance with the provisions laid down in this Act, subject to the application of international conventions and the recognized principles of law in relation to nationality.”
- Article 3: “The recognition, acquisition, loss and recovery of Congolese nationality, whatever the reason therefore, shall have no retroactive effect.”
- Article 4: “All ethnic groups and nationalities whose persons and territory constituted what on independence became the Congo (now the Democratic Republic of the Congo) should benefit from equality of rights and protection under the law as citizens. As such, they bear the same obligations.”

52. In the economic sphere, article 35 of the Constitution of 18 February 2006 provides that the State guarantees that both Congolese nationals and foreigners have the right to exercise private initiative. It encourages the pursuit of small-scale commerce, art and handicrafts by Congolese nationals and ensures the protection and promotion of national expertise and skills. The manner in which this right is exercised is laid down in the law.

53. It should be noted that the pursuit of small-scale commerce under licence is reserved for Congolese nationals, in accordance with article 4 of ordinance-law No. 90-046 of 8 August 1990 regulating small-scale commerce. But registration in the Register of Commerce for the purpose of engaging in wholesale commerce is open to any Congolese or foreign individual or legal entity (decree of 6 March 1951 establishing the Register of Commerce, art. 2).

54. The law on Zairianization, which was mentioned in the previous report, has been followed by several legal instruments:

- Ministerial order No. 010 of 27 March 1998, instituting management grants associated with various types of loans;
- Order No. 027/CAB/MIN/FIN/98 of 28 May 1998, setting out arrangements for repossession by the State of Zairianized enterprises;
- Ministerial order No. 037/CAB/MIN/FINE/98 of 14 October 1998, setting up a commission for the investigation and evaluation of Zairianized property.

55. The Democratic Republic of the Congo guarantees that all foreigners residing on its territory may benefit from the full enjoyment of civil rights as set out in article 32 of the Constitution of 18 February 2006. This article states that all foreigners lawfully present on Congolese territory enjoy the protection granted to individuals and their property on terms set out in treaties and laws. They are expected to comply with the laws and regulations of the country. In addition, they benefit from protection under ordinance-law No. 66-342 of 7 June 1966 on the prohibition of racism and tribalism, referred to in paragraph 49 above.

56. Article 60 of the Constitution of 18 February 2006 states that respect for the human rights and fundamental freedoms set forth in the Constitution is a duty of all citizens and the authorities. Foreigners whose civil rights are infringed have the right to invoke this provision to secure respect for their rights.

57. Equally, foreigners benefit in the same way as all Congolese nationals from the protection guaranteed by article 61 of the Constitution in emergencies. This article states that the following fundamental rights and principles may not be suspended in any circumstances, even when a state of siege or a state of emergency has been declared:

- The right to life;
- The prohibition of torture and cruel, inhuman or degrading treatment or punishment;
- The prohibition of slavery and servitude;
- The principle *nullum crimen, nulla poena sine lege*;
- The right to a defence and to an appeal;
- The prohibition of imprisonment for debt;
- Freedom of thought, conscience and religion.

58. In the light of all the above provisions, it may be stated that where legislation is concerned, foreigners residing in the Congo enjoy adequate protection against discrimination in the same way as Congolese nationals.

Article 3

59. The Democratic Republic of the Congo provided considerable aid to the anti-apartheid movements in southern Africa. Since that policy is now a thing of the past, the country has established diplomatic relations with South Africa, Namibia and Zimbabwe. At present there is no racial segregation in the Democratic Republic of the Congo.

Article 4

60. Legislation in the Democratic Republic of the Congo contains no gaps as regards the application of article 4 of the Convention inasmuch as it condemns racism and tribalism through the legislative and administrative measures referred to in paragraphs 36 to 58 above. Under articles 76 and 77, paragraph 2, of Act No. 96-002 of 22 June 1996 establishing conditions for the exercise of freedom of the press, offences against the legislation on the press committed through the written or audiovisual media are punishable in accordance with articles 22 and 23 of the Criminal Code, book I:

- Article 76: “Any person who, by means of speeches, written material, printed matter, drawings, engravings, images, paintings, emblems or any other written or spoken medium or image that is sold, distributed, disseminated or exhibited in public places or meetings or in the sight of the public, directly incites the perpetrator or perpetrators of an act deemed to be an offence under articles 22 and 23 of the Criminal Code, book I, to commit such an act shall be punished as an accessory, if the provocation produces an effect.”
- Article 77, paragraph 2: “All persons who have directly incited discrimination, hatred or violence against a person or group of persons on grounds of their origin or membership or non-membership of a specific ethnic group, nation, race, ideology or religion shall also be punished in accordance with the provisions of article 76 above.”

61. In addition to the various instruments forwarded by the Democratic Republic of the Congo to the Secretariat of the United Nations by note No. 13251/MPZ/A2/030/95 of 26 April 1995, arrangements have been made to forward a copy of the transitional Constitution of 4 April 2003 to the Secretary-General.

Article 5

62. To date, a single seminar on the topic “The Congolese courts and the application of international human rights standards” has been organized for judges and lawyers, in December 2004. Other training was provided for court officials and police personnel.

63. Generally speaking, a judge or judicial police official who receives a complaint is required to investigate it. To do otherwise would be to commit a denial of justice.

64. Complaints of discrimination before the courts are rare. Where such offences are confirmed, those responsible must be punished, in accordance with the law.

65. Furthermore, article 16 of the Constitution of 18 February 2006 provides protection for individuals irrespective of their ethnic, racial or other origins. This article provides that the

human person is 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. No one may be held in slavery or in a similar condition. No one may be subjected to cruel, inhuman or degrading treatment. No one may be compelled to perform forced or obligatory labour.

66. In pursuance of article 10 of the Constitution of 18 February 2006, the political rights of nationals are guaranteed and protected without discrimination.

67. Pending the general elections scheduled for July 2006, the participants in the Inter-Congolese Dialogue have been allocated responsibilities in the transitional institutions, and granted access to them, in accordance with the Global and All-inclusive Agreement signed in Pretoria on 17 December 2002, and in an equitable manner.

68. The provisions of the Constitution of 18 February 2006 guarantee freedom of expression and assembly (arts. 23 and 25):

- Article 23: “Everyone has the right to freedom of expression. This right implies freedom to express opinions or beliefs, orally, in writing and visually, subject to respect for public order, the rights of others and public morality.”
- Article 25: “The right of peaceful unarmed assembly is guaranteed subject to respect for the law, public order and public morality.”

69. It is appropriate here to mention the situation as regards tribal and ethnic conflicts in Shaba (now the province of Katanga) and Ituri (an eastern province) and the conflict raging in the east of the country. The ethnic conflicts in Ituri alone have caused the deaths of over 20,000 people, and some 500,000 have been displaced. There are a number of causes at the root of these conflicts, notably the traditional rivalry between the Hema and Lendu ethnic groups, the ideology of xenophobia and ethnic hatred, the problem of land distribution, existential fears linked to the dread of extermination of one community by another, manipulation by politicians, etc.

70. In order to arrive at a lasting solution, the President convened a conference on peace in Ituri in Kinshasa from 26 August to 6 September 2002. After concluding its work, the conference put forward several paths towards a solution, including:

- Withdrawal of Ugandan troops from Ituri;
- Strengthening of the courts and prosecutors’ offices;
- Establishment of an international criminal court to try all offences committed before the setting up of the International Criminal Court, in particular with a view to determining responsibilities and punishing those responsible for committing crimes in Ituri.

71. Regarding the conflict in Nord-Kivu and Sud-Kivu, there were serious clashes in June 2004 in Sud-Kivu and Kamanyola between the Congolese armed forces and the forces of Colonel Jules Mutebutsi and General Laurent Nkunda, both Banyamulenge, following a mutiny, on the pretext of protecting the Banyamulenge community from extermination. This calls for a short historical outline.

(a) At the root of this conflict were claims to Congolese nationality from Tutsis living along the Congolese border between 1936 and 1940;

(b) The bulk of these persons obtained Congolese nationality thanks to Act No. 72-002 of 5 January 1972, on Zairian (now Congolese) nationality, and lost it under Act No. 81-002 of 29 June 1981 on Zairian nationality;

(c) Article 21, paragraph 1, of Ordinance No. 82-061 of 15 May 1982 on the application of the above-mentioned Act No. 81-002 stated that “the certificates of Zairian nationality and any other identity documents issued in pursuance of article 15 of Act No. 72-002 of 5 January 1972 on Zairian nationality are null and void”;

(d) Article 4 of decree-law No. 197 of 29 June 1999 amending Act No. 81-002 of 29 January 1981 on Congolese nationality, which was in force, stated that “as of 30 June 1960, all persons one of whose ascendant relatives is or has been a member of one of the tribes settled on the territory of the Democratic Republic of the Congo within its borders on 1 August 1885, as modified by subsequent conventions, is Congolese by birth”;

- (i) In the light of this decree-law, the groups of Rwandese origin, known as Banyamulenge, could not claim Congolese nationality, as they arrived in the Congo after 1885.
- (ii) Nevertheless, they were granted the opportunity to acquire Congolese nationality through naturalization (art. 9): “Congolese nationality is acquired as a result of naturalization, election or adoption. Notwithstanding the provisions of article 14 of this decree-law, Congolese nationality is granted on individual application. No individual may acquire Congolese nationality unless he or she expressly seeks it.”

72. It should be noted that the scale of this conflict led to the adoption of a new law on Congolese nationality, which was enacted on 12 November 2004. This law, based on the application of article 14 of the transitional Constitution, mentioned in paragraph 40 above, settled the conflict in clear and unambiguous terms by abrogating all earlier provisions on nationality (art. 52) and stipulating (art. 53) that it would enter into force on the date of its publication in the *Journal officiel*. It should also be noted that the Constitution of the Democratic Republic of the Congo which was promulgated on 18 February 2006 followed the same lines, as it provides (art. 10) that “a Congolese by birth is anyone belonging to the ethnic groups whose persons and territory constitute what on independence became the Congo (now the Democratic Republic of the Congo)”.

73. Under the provisions of article 36 of the Constitution of 18 February 2006, work is a sacred right and duty of every Congolese. No one may suffer harm at work on the grounds of origin, sex, views, beliefs or socio-economic characteristics.
74. The provisions of the Labour Code guarantee work to all working people and apply to all employers in the same way without distinction. This stems from article 1, paragraph 1, of the Labour Code, which provides that the Code is applicable to all workers and all employers engaged in professional activity in the Democratic Republic of the Congo, irrespective of the race, sex or nationality of the parties, the nature of the services provided, the amount of remuneration or the place in which the contract is concluded, inasmuch as the contract is enforced in the Democratic Republic of the Congo.
75. Article 2 of the Labour Code notes that work is a right and a duty for everyone. It constitutes a moral obligation for those who are not prevented from working by age or physical incapacity.
76. The prohibition covers any work or service which is demanded from an individual under threat of a penalty of any kind and for which the individual in question has not freely volunteered.
77. Owing to the multifaceted crisis affecting the country and the destruction of the economic fabric resulting from the wars, investment which could create employment is almost non-existent.
78. Before the adoption of the Constitution of 18 February 2006, the right to housing was not guaranteed in the Democratic Republic of the Congo. Only Act No. 81-003 of 17 July 1981 on the status of career staff in the public services and the Labour Code referred to it. As regards on-the-job benefits granted to the staff of the public services, article 43 of the Act provides that staff who are not housed free of charge by their department shall receive a substantial housing allowance to be paid monthly together with their salary. In the case of those working under a labour contract, articles 138 and 139 of the Labour Code handle the question of the right to housing as follows:
- Article 138: “In the event of a transfer or recruitment outside the place of employment, the employer must provide decent housing for the worker and the worker’s family, or, failing that, a substantial allowance. In other cases, the employer must pay the worker a housing allowance set by the parties either in the labour contract or in collective agreements or in the staff regulations. Female workers have the right to housing or a housing allowance.”
 - Article 139: The Ministry of Labour shall specify in an order the cases in which housing must be provided, its maximum reimbursement value and the (health) conditions which must be satisfied.
79. These two instruments grant the right to housing equally to female staff working in the public sector and female workers offering their services in the private sector governed by the Labour Code.

80. The Parliament, which had become aware of the legislative shortcomings in this area, guaranteed this right in article 48 of the Constitution of 18 February 2006, which provides that the right to decent housing and the right of access to drinking water and electric power are guaranteed. Details of the practical exercise of these rights are set out in a law.

81. This right has only recently been guaranteed and is not yet effectively enforced. The property market and the conclusion of leases are unregulated.

82. In the field of health, as stated by the Ministry of Health in its 2004 Plan of Action (p. 12), health is the foundation of development and a fundamental right which the Government has an obligation to guarantee. But owing to the run-down state of the economic fabric, the country's current health situation is essentially dysfunctional, as can be seen from the widespread deterioration in the health infrastructure, the chronic lack of essential medicines, the absence of a functioning national system for the distribution of essential medicines, lack of access to health care for the population, inadequate health-care coverage and the recrudescence of epidemic and endemic diseases. The result is that health care is expensive, and only the well-off are spared the difficulties stemming from this dysfunctional situation. Basic services, primary health care and prevention need to be provided in order to guarantee this right.

83. In the Constitution of 18 February 2006, the Parliament, bearing in mind this diagnosis, guaranteed the right to health and food security (art. 47). This article states that the fundamental principles of public health and food security, and the rules governing their organization, shall be set out in a law.

84. In the Democratic Republic of the Congo, there are no inequalities between the various ethnic groups in the sphere of education. Articles 13, 43, paragraph 1, and 45, paragraph 3, of the Constitution of 18 February 2006 bear witness to this:

- Article 13: “No Congolese may, in matters of education and access to State employment or in any other matter, be the object of discriminatory treatment, whether as a result of a law or of an act of the executive, by reason of religion, family background, social status, residence, opinions or political beliefs or membership of a race, ethnic group, tribe or cultural or linguistic minority.”
- Article 43, paragraph 1: “Everyone shall have the right to school education ...”.
- Article 45, paragraph 3: “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.”

85. In addition to the provisions of the Constitution of 18 February 2006, article 5 of framework law No. 86-005 of 22 September 1986 on education states that “the State shall ensure that there is no racial discrimination in education, whether on grounds on ethnic or racial origin, social status, sex or religious options”.

86. In the Democratic Republic of the Congo, participation in sport is open to all, and access to sports facilities is available on an equal footing through clubs.

87. The right of access to all places and services intended for public use, such as transport facilities, hotels, restaurants, cafes, entertainment and parks, is guaranteed by the above-mentioned decree of 13 June 1960 banning discrimination in the shops and other public places (para. 48).

Article 6

88. The steps taken to guarantee all persons protection and remedies against any acts of racial discrimination which violate their individual rights and fundamental freedoms are set out in the Constitution of 18 February 2006 and other instruments establishing the Ministry of Human Rights and the National Human Rights Monitoring Centre.

89. Article 12 of the same instrument states that all Congolese are equal before the law and have the right to equal protection of the law.

90. Article 16 of the same 2006 Constitution states that “the human person is inviolable. The State has an obligation to respect and protect it”.

91. Accordingly, thanks to these constitutional principles, anyone whose enjoyment and exercise of rights and fundamental freedoms has been impeded has access to administrative remedies (application for reconsideration and appeal to a superior administrative authority) before lodging a legal appeal in accordance with article 19, paragraph 2, of the Constitution, which states that “All persons shall have the right to their case being heard within a reasonable time by the competent judge.” And under article 21, paragraph 2, the right to appeal against a court decision is guaranteed to all in accordance with the law. In addition, appeals may be lodged with the Ministry of Human Rights and the National Human Rights Monitoring Centre in cases of flagrant violations of human rights which are protected under international instruments, the transitional Constitution or the laws of the Democratic Republic of the Congo.

92. It should be added that the Congolese judicial system makes no distinction between Congolese nationals and foreigners, either in terms of the organization and jurisdiction of the courts or in terms of procedure. The various laws apply both to foreign nationals and to Congolese citizens.

93. In addition to the transitional Constitution, the Code of Civil Procedure, the Code of Criminal Procedure and the Judicial Organization Code between them ensure that anyone who has been the victim of a violation of a right or fundamental freedom has the right to seek reparation in the courts for the harm suffered.

94. As indicated above, any practice which is discriminatory or is likely to lead to racial and ethnic discrimination is an offence under Congolese criminal law.

95. The independence of the judiciary prevents interference in the judicial process by other State bodies. It is the task of the trial judge to hand down a decision in accordance with his or her conscience. This is a principle set out in article 149 of the Constitution of 18 February 2006: “The judiciary is independent of the legislature and of the executive.” Article 150, paragraph 2, states that in the discharge of their duties judges are subject only to the authority of the law.

Article 7

96. In the Democratic Republic of the Congo, education is organized at the nursery, primary, secondary, higher and university levels. Under article 5 of framework law No. 86-005 of 22 September 1986 on education, the State is the guarantor of preservation of the nation's cultural identity, and as such ensures that there is no racial discrimination in education, whether on grounds on ethnic or racial origin, social status, sex or religious options.

97. In addition, article 61 of this law provides that all educational establishments must accept any pupil or student who complies with the conditions laid down in the law, irrespective of place, origin, religion, race or ethnic group.

98. In order to underline the binding nature of this provision, article 136 of the law states that "anyone who infringes the provisions of article 61 of this law shall be punished in accordance with the provisions of the Criminal Code".

99. There are constitutional provisions which are designed to ensure that school curricula and training programmes for teachers and other professional categories include training modules and topics which will ensure greater awareness of problems relating to human rights and foster understanding, tolerance and friendship among nations and racial or ethnic groups.

100. This is illustrated by paragraphs 5, 6 and 7 of article 45 of the 2006 Constitution, which read as follows:

- Paragraph 5: "The authorities have a duty to promote and ensure, through instruction, education and dissemination, respect for the human rights, fundamental freedoms and duties of citizens set out in this Constitution."
- Paragraph 6: "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."
- Paragraph 7: "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."
- Paragraph 8: "The conditions for the application of this article shall be laid down in the law."

101. As the law has not yet been promulgated, however, a number of training seminars should be mentioned, targeted on:

- Judicial police officers and judicial police inspectors, February 2002;
- Judicial police officers from the two Kasais, October 2002;

- Officers of the Congolese armed forces and the Congolese national police, March 2003;
- Journalists from Kinshasa, April 2003;
- Human rights trainers in schools, 11-13 February 2004.

102. Article 46 of the Constitution of 18 February 2006 states that “the right to culture, free intellectual and artistic creation and scientific and technological research are guaranteed, subject to respect for the law, order and public morality. Copyright and intellectual property are guaranteed by the law. The State shall, in performing its functions, take account of the cultural diversity of the country. It shall protect and ensure the promotion of the national cultural heritage”.

103. To enable the Congolese people to exercise their right to culture without discrimination, as guaranteed by article 46 of the Constitution, decree No. 003/027 of 16 September 2005, which sets out the duties of the ministries in the transitional Government, assigns the following tasks to the Ministry of Culture:

- Promotion and development of cultural and artistic activities;
- Protection of sites, monuments and the cultural and artistic heritage of the nation;
- Management of bilateral and multilateral cultural relations;
- Copyright management and protection;
- Management of archives, national libraries and national museums.

104. Alongside the Ministry of Culture and the Arts, the National Theatre, set up under ordinance No. 78-300 of 6 July 1978, has the goals of ensuring the creation, promotion, adaptation and dissemination of artistic events in the Democratic Republic of the Congo, promoting artistic and cultural promotion through the theatre, ballet and music, developing the national culture and awakening popular awareness by means of original shows or others adapted to Congolese conditions which can bolster the virtues of national unity and convey to brotherly and friendly peoples the message of authentic Congolese cultural and artistic values. In addition, several associations have been set up under decree-law No. 195 of 29 January 1999, on non-profit-making associations, to boost the national culture and traditions.

105. The Democratic Republic of the Congo has more than 450 tribes divided into five ethnic groups (Bantu, Sudanic, Nilotic, Hamitic and Pygmy). Aside from education and instruction, the purpose of which is the harmonious moulding of the Congolese personality, its cultural policy consists of promoting and preserving the cultural identity of each of the country’s tribes and ethnic groups, and preserving their languages.

106. For the practical application of this policy, the State encourages the creation of community radio stations, whose programmes are broadcast in local languages, as well as the cultural events organized by the Ministry of Culture and the Arts from time to time.

On 10 December each year, in partnership with the Office of the United Nations High Commissioner for Human Rights, the Democratic Republic of the Congo celebrates International Human Rights Day.

107. Currently, the attention of the transitional Government, through the Ministry of Culture, is focused on organizing a general forum on culture, repatriating Congolese cultural works, improving the management of natural resources, restoring colonial monuments and re-establishing the prestige of Congolese traditional art. As planned by the Ministry of Culture, the forum on culture mentioned above will make it possible to formulate a sustainable cultural policy.

108. In the Democratic Republic of the Congo, there are official information media, namely Congolese National Radio and Television and the Congolese Press Agency.

109. It is the task of these official information media to make use of educational broadcasts or programmes and informative articles to forge sentiments of social cohesion in the Democratic Republic of the Congo without discrimination between racial or religious groups.
