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Committee on Economic, Social and Cultural Rights

Forty-third session

Summary record (partial)* of the 33rd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 4 November 2009, at 10 a.m.

Chairperson: Mr. Marchan Romero

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Consideration of reports:

- (a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Combined second, third, fourth and fifth periodic reports of the Democratic Republic of the Congo (continued)

* No summary record was prepared for the rest of the meeting.

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The discussion covered in the summary record began at 10.35 p.m.

Consideration of reports:

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Combined second, third, fourth and fifth periodic reports of the Democratic Republic of the Congo (continued) (E/C.12/COD/5, E/C.12/COD/Q/5 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of the Democratic Republic of the Congo took places at the Committee table.*

2. **The Chairperson** invited Committee members to put any remaining questions to the delegation.

3. **Ms. Bonoan-Dandan**, in relation to articles 13 and 14, asked what human rights education was provided at schools and universities, during training for public officials such as judges and police officers and — most importantly, given the huge problems in the State party regarding violations of the rights of women and children — to the general public. Recalling that article 14 of the Covenant required States parties that did not at the time of ratification provide compulsory education free of charge for all to work out and adopt within two years a detailed plan of action for its progressive implementation within a reasonable time frame to be fixed by the State party in the plan in accordance with its means, she asked the State party when it intended to draw up that detailed plan of action.

4. In relation to article 15, and recalling with concern that the Committee on the Elimination of Racial Discrimination had noted in its concluding observations that the State party had been reluctant to acknowledge the existence of indigenous peoples and minority groups in its territory, she asked what measures had been taken in that regard, especially since article 15 of the Covenant required States parties to recognize the right of everyone to take part in cultural life. She requested further information on the cultural policy for sustainable development mentioned in paragraph 338 of the State party's report (E/C.12/COD/5). Noting that the State party had not ratified the International Labour Organization Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169), she asked whether it had signed any conventions on the rights of indigenous peoples. The assertion by the State party in paragraph 89 of its written replies to the list of issues (E/C.12/COD/Q/5/Add.1) that it was almost impossible for cultural life to express itself during a war was erroneous: cultural life did not express itself, but was expressed by the people. Indeed the people had a right to express it, and she feared that indigenous peoples were being deprived of that right. Noting recent reports of a massacre over a land dispute, she requested details on the Government's land policy and how disputes over ancestral land involving indigenous peoples and other rural communities were resolved under that policy. Expressing surprise that statistics could be provided since no birth register existed in the State party, she asked how the economic, social and cultural rights of the population could be defended if citizens were not registered at birth; for example, she wondered what system was in place to enable children in remote rural areas of the country to attend school. The conflict was certainly a challenge for the State party, but it was precisely in times of conflict and crisis that vulnerable groups were most in need of the State party's protection of their rights.

5. **Ms. Barahona Riera** asked for confirmation that some 8 or 9 per cent of the national budget was allocated to education; that percentage was very high in comparison with other countries. If the figure was correct, she wondered why there were so many problems with providing universal primary education free of charge and why the State party was considering requiring parents to pay for their children's education, and asked how the

allocation was being spent. She enquired whether any programmes existed to provide the general public with sexual and reproductive health education, which was essential in order to reduce the alarming maternal and child mortality rates, and requested information on the results of the programmes in place to tackle discrimination against women and to eradicate stereotypes in textbooks and other educational material. She requested details of measures being taken to ensure the right to education of particularly vulnerable groups such as persons with disabilities, and asked what proportion of the education budget was earmarked for that purpose.

6. **Ms. Bras Gomes**, noting information that the Committee had received from the United Nations Educational, Scientific and Cultural Organization (UNESCO) regarding a scheme for the education of juvenile offenders, asked whether that scheme provided education only or whether it also included rehabilitation programmes. She asked what had changed in terms of gender stereotypes in the national curriculum following the training programme for publishers, editors, researchers and teachers, which had been intended to eliminate stereotypes from educational material. She requested details of the State party's policy on formal and informal preschool education. She asked when the Ministry of Culture intended to hold the national conference (*États généraux*) on culture, and with what exact aim.

7. **Mr. Kedzia**, noting that the Internet could provide access to such areas as education, culture and information on health care and employment and was the cheapest means of global communication, requested details of how the Government was planning to broaden public Internet access.

8. **Mr. Riedel** asked what was being done to ensure a proper education for girls, noting that there was a trend in the State party, especially in North Kivu, for boys to attend school and girls to stay at home to look after the younger siblings in the generally large families. He requested details of measures being taken to ensure that girls also attended school, and of initial results achieved.

9. **The Chairperson**, speaking in a personal capacity, noted that the State party was one of the richest countries in the world in terms of cultural diversity, with over 450 ethnic tribal groups and many languages and dialects. He asked whether a cultural programme or system existed for registering the traditional knowledge of indigenous peoples with a view to promoting and protecting their cultural identity and their right to intellectual property and, if so, whether that system was linked to international systems for the protection of intellectual property rights. With respect to the four national languages — Swahili, Lingala, Kikongo and Chiluba — he asked on what basis they were classified as such, what status they enjoyed, including whether they could be used in court, and whether other languages could attain that classification in future.

10. **Mr. Upio Kakura Wapol** (Democratic Republic of the Congo) said that the Government considered culture to be the foundation of development. As well as the individual cultures of the 450 tribes and ethnic groups in the Democratic Republic of the Congo, there was also a strong sense of national culture. Studies were conducted by university ethnological research centres, which gathered information on ethnic diversity in each province in order to identify sociological trends. The Constitution protected cultural identity, and recognized the specific rights and individual identities of each ethnic group, while promoting national unity. Although other States might have more advanced systems for protecting ethnic and linguistic minorities, his country's Ministry of Culture monitored the situation of minority groups very closely. The cultural traditions and heritage of each ethnic group were represented in the National Museum. Although there were more than 450 languages and dialects spoken across the Democratic Republic of the Congo, the four national languages, Swahili, Lingala, Kikongo and Chiluba, were the most widely spoken, after the official language, French. The national languages could be used in administration

and justice, if the official language was not spoken. If another language became more widely used in future, it might also be classified as a national language. Local languages were used in education, and could be used in the justice system if someone who came before the courts was unable to speak any of the national languages or the official language. In that event, an interpreter or translator would be required.

11. Regarding the status of indigenous peoples, he pointed out that the problems in obtaining identity documents to which the Committee had referred were not exclusive to the indigenous communities, but in fact affected the whole population of the Democratic Republic of the Congo. Identification had been difficult thus far, since a proper census had not been taken and population migration had not been monitored. The war had illustrated a crucial need for systematic monitoring of the population. The general elections in 2006 had provided a start to the identification process, since provisional identification documents had been issued to voters and voter identification had been recorded on the electoral register. It had not been possible to establish registration offices in each province, owing to the size of the country and a lack of financial resources. Many people of various ethnic origins living in remote areas had therefore been unable to register for identity documents, since the distance for travel to their nearest registration point was simply too great. The Government had called for a national census to be taken, in order to ensure that registration could be completed and identity documents issued. The National Statistics Institute would work with the support of the World Bank and other partners to conduct the census. As yet it was difficult to know how long the census would take to be completed.

12. Although the Democratic Republic of the Congo had a monist legal system, international treaties were rarely applied directly in the courts. There had, however, been examples of the direct application of the Rome Statute of the International Criminal Court in relation to war crimes cases. The system of legal training in place ensured that judges were ready to apply international law if necessary, but in the vast majority of cases domestic law had proved sufficient.

13. Plans had been made to make budgetary provisions for compensation to women who had been victims of sexual violence. The budget must first be approved by Parliament, and the necessary funds must be made available in order for victims to be able to apply for compensation. Although that was a positive development, there were many victims of sexual violence who would not come forward and report the abuse they had suffered or claim compensation. A more comprehensive mechanism was therefore required to ensure protection and redress for victims who could not or would not approach the courts. A fund for that purpose had been established with donors and partners.

14. **Mr. Pieme Tutokot** (Democratic Republic of the Congo) said that, in an attempt to manage the issue of deforestation, the Government had called for the 156 forestry licences that had been issued to be replaced by contracts for forest exploitation. Of the 156 licences, only 56 had been considered appropriate for conversion. Those converted contracts covered exploitation of forest resources over an area of 9.7 million hectares. The institutionalization of forestry contracts had enabled a scope statement to be distributed among forestry workers, and a decree had been issued on appropriate forest management. As part of the implementation of that decree, a workshop was currently being held in Kinshasa to define relations between the Government, forestry workers and local populations.

15. **Mr. Upio Kakura Wapol** (Democratic Republic of the Congo) said that a comprehensive political framework had been devised to address issues affecting indigenous populations, which included environmental and social management, cultural management, and voluntary displacement. The framework would be implemented using funding from several donors in the three provinces with a pygmy population.

16. The inclusion of human rights in education was a government priority, and the subject had been incorporated in all school curricula. Moreover, efforts were being made to raise public awareness of international human rights treaties. Measures were also being taken to include a human rights element in police and military training, and a code of ethics had been devised for the police force. A joint programme with UNESCO was under way to promote human rights training at the University of Kinshasa. National and international human rights NGOs were active in all provinces, and monitored the application of human rights law, with the support of the Government. A programme had been devised at the level of the regional assemblies for the promotion and protection of human rights, since the broadest possible awareness of human rights was the only means to ensure maximum rights protection.

17. Turning to the question of ensuring compulsory primary education free to all, he confirmed that, in fulfilment of its obligation under the Covenant, the Democratic Republic of the Congo had made provision for that matter in its Constitution and that a draft bill on compulsory primary education was before Parliament. An implementation plan with a budget of \$3.5 billion had been formulated and would be carried out in stages, with the aim of achieving compulsory education for all at primary level within the next budget year.

18. There were currently 400,000 teachers in the primary and secondary sectors, but not all teachers were paid by the State. In some places parents had created schools under local initiatives to reduce the distances children needed to travel to school, and the State had an obligation to provide financial assistance to such schools. Furthermore, the State had financed an extra 40,000 teachers over the past two years and currently supported 220,000 teachers.

19. Regarding teachers' salaries, the number of pay scales had been reduced from three to two, one for Kinshasa and the other for the provinces. Before July 2007, a teacher's basic salary had been absurdly low, but it had now been increased to \$70 in Kinshasa and \$40 elsewhere in order to ensure that teachers enjoyed a decent standard of living.

20. The current trend was to take a holistic approach towards educational improvements, including enhancing curricula, providing supplies to relieve the burden on parents and Internet access, and creating centres of excellence. There was also a scholarship scheme to motivate outstanding students.

21. The problem of transport needed to be addressed because access to schools had been hindered by the collapse of the public transport system and many children had to travel long distances to school on foot. Another solution would be to build more schools locally.

22. Measures had been taken to restore quality at all levels of education. Public universities had returned to an entrance examination selection process, and a strict mechanism for monitoring the quality of teaching and infrastructure had been reinstated. In addition, the Government had closed a number of higher education establishments that had been created unlawfully and did not meet the requisite standards.

23. On the question of whether children in rural areas attended school, he said that many, though not all, did. Current data on school enrolments were not reliable, but a new population census was under preparation, which should give more accurate figures.

24. In response to a question on nursery education for children, he said that all provinces had appropriate kindergarten facilities but that there were not enough in rural areas. That was an issue to address in future.

25. With respect to indigenous peoples' enjoyment of their cultural rights, he had replied indirectly to the question when discussing the plan to promote the rights of all ethnic and cultural groups with no discrimination whatsoever in terms of education or access to public

office. Government activities focused on ensuring sustainable development to guarantee the welfare and durable protection of current and future generations in all population groups.

26. As for the impact of armed conflict on the practice and enjoyment of the right to take part in cultural life, he said that the harmful effects of war had destroyed a major part of the country's heritage; for example, its parks and the forest areas where indigenous peoples lived had suffered disastrous environmental damage. However, the Government was committed to restoring full access to cultural life for all the nation's peoples.

27. Turning to the right to health, he was unclear if the information requested related to the provision of services for sexual and reproductive health. If so, there was a national programme to ensure that women enjoyed their right to reproductive health and other specific programmes, all of which were producing tangible results.

28. There was currently a national debate on the controversial issue of whether or not to introduce medical abortion, which had generated much division among all sections of society. Therapeutic abortion was already authorized in the Democratic Republic of the Congo.

29. Combating all forms of discrimination and stereotyping in the fields of health and education remained high on the Government's agenda, and it would continue to fight for women's rights in general. Campaigns to increase women's access to official posts had failed to raise the number of women in Parliament and Government as expected, and most political party leaders were men, with women remaining at the grass-roots level. Legislation was needed on affirmative action in favour of women in the political arena. In addition, a selection process for women judges had already been implemented in order to increase their number. In particular, it was recognized that they might be more sensitive in dealing with matters of violence against women.

30. As for vulnerable groups, such as persons with disabilities, the Government provided special facilities, including schools. He acknowledged that more could be done and said that the political will existed to ensure that disabled persons and other vulnerable groups were able to exercise their rights at all times and in all places. However, as in other areas, Government action was dependent on available budgetary resources.

31. With regard to the UNESCO initiative to provide educational establishments and structured support for vulnerable children, such as street children, children in conflict with the law and child soldiers, and to promote their reintegration into society, he said that the Ministry of Justice and the Ministry of Social Affairs were responsible for developing relevant strategies and programmes. The aim was to have establishments in each province to bring vulnerable children under the care of the State. In addition, with the assistance of the European Union, a plan to restore justice in the eastern part of the country and help vulnerable children caught up in conflict was under preparation, which could be extended to the whole of the province. It reflected the Democratic Republic of the Congo's commitment to implement legislation on protection for vulnerable children in accordance with the Convention on the Rights of the Child and its two Optional Protocols.

32. Regarding the *Etats généraux* for culture, he clarified that that was a mechanism used by the Government to consult its partners so as to enable civil society to establish a policy framework. The Ministry of Culture had used that forum to formalize a number of texts on measures to promote and protect the cultural heritage throughout the country.

33. Turning to Internet availability, he said that current services were expensive, unreliable and based mainly on cellphone technology, but that there were plans to develop fibre-optic technology to offer cheaper and more reliable Internet connection. At present, many people accessed the Internet by going to so-called "health zones" ("*zones de santé*"),

which were public areas offering a range of services, such as providing safe drinking water and access to the mobile phone network, including Internet connection.

34. With regard to the situation of children in the east of the country, there had indeed been population displacement. A new need for access to education and health had emerged since those held hostage by armed groups had been freed by the army; however, the infrastructure to meet the new demand needed to be set in place swiftly. Action was also required to ensure employment opportunities and to return people to their land, in order to avoid potential conflict with other displaced groups.

35. **Mr. Pieme Tutokot** (Democratic Republic of the Congo) said that he wished to clarify a point that had been raised with regard to culture. His country had a rich culture and, in order to promote national cohesion, the Government had established an annual national culture fair in 2008. The fair served as a forum in which all national cultures could come together and share their traditions and was given nationwide coverage on radio and television.

36. **The Chairperson** invited any further questions from the Committee.

37. **Mr. Sadi** said that the Covenant appeared to figure prominently in national policies. He wished to know whether the Democratic Republic of the Congo would be among the first countries to sign the Optional Protocol.

38. In view of the cultural diversity of the Democratic Republic of the Congo, he asked whether it had been possible for the Government to strike a balance between national cohesion and respect for the diversity of cultural rights and, if so, to what extent. The Constitution gave considerable powers to the provinces and appeared to indicate a tendency towards federalism. Federalism could contribute to defusing conflicts that might arise as a result of the country's cultural diversity, which was a potentially divisive force.

39. With regard to the victims of sexual violence, it was precisely because the victims were silent and weak that a more proactive policy was needed to prosecute perpetrators. The very fact that victims were unlikely to pursue their rights put the onus on Government to assume a more active role.

40. **Mr. Upio Kakura Wapol** (Democratic Republic of the Congo) said that his country was giving serious consideration to ratifying the Optional Protocol and that the matter would be referred to Parliament. His Government viewed cultural diversity as a real resource and as an element of stability, while recognizing that if neglected it could be used by ethnic groups or external elements to manipulate and divide the population for political ends. It was the desire of people to live together that had prevented the country from fragmenting during the war. That desire could be attributed to the fact that, although each group had its own specific cultural identity, inter-ethnic marriages throughout the country meant that, in reality, the population formed an ethnic mosaic. His Government was working specifically to prevent any attempts to assert the social or cultural superiority of any particular group. In his country, there were no cultural or ethnic minorities as each group was in the minority in relation to the others.

41. Mechanisms existed to reinforce national cohesion. For example, the law required political parties to be composed of different ethnic groups from different provinces. The Constitution sought to consolidate national unity through the principle of provincial, rather than ethnic, cohesion. The autonomy of the provinces proclaimed in the Constitution did not refer to their political autonomy but to their management. The Democratic Republic of the Congo was highly decentralized; it had a hybrid system, with federal mechanisms to protect and foster national unity, which had come under attack during the war.

42. The Democratic Republic of the Congo was unified in its diversity, which was a source of strength. Combined with its natural resources, its cultural diversity would enable his country to prosper and expand its contribution to Africa and the world.

43. With regard to sexual violence, awareness-raising campaigns were being conducted to encourage reporting of such violence, and a greater number of cases were being prosecuted. Active efforts were made to seek out victims, who were given financial and legal support. One obstacle to reporting sexual violence was the culture of modesty among women; however, women were starting to break the silence and bring perpetrators to justice.

44. His delegation appreciated the frank and constructive dialogue with the Committee and the Committee's understanding of the challenges that his country faced, as well as its aspirations for the future. His country had chosen to accede to a number of instruments, including the International Covenant on Economic, Social and Cultural Rights, as a responsible State with a rightful place in the international community. It was aware of its obligations under the Covenant and was prepared to shoulder its responsibilities to the extent possible, consistent with the available human, material and technical resources. At the same time, it was facing tremendous challenges in building the State and consolidating the rule of law, as well as democracy and peace. Political will alone was not enough to attain the ideal of human rights. The Government had produced a real human rights programme since President Kabila Kabange had proclaimed his respect for human rights in 2001 and, in that context, the Committee's recommendations would be taken into account. However, the financial constraints must be kept in mind. The vast natural resources of the Democratic Republic of the Congo needed to be harnessed and properly managed for the people. His Government would be discussing ways of doing so with the Paris Club, the World Bank, the International Monetary Fund and other partners in the near future and cherished the hope that the resolutions already adopted on technical and financial assistance reflected specific commitments by States and would result in donor mobilization. In view of the universal nature of human rights, all States had a responsibility not only to provide advice but also to demonstrate their solidarity through the effective mobilization of the resources needed to implement the Covenant effectively for the benefit of the peoples of the Democratic Republic of the Congo, who had been living in abject poverty. One of the most basic human rights was, precisely, the elimination of poverty; a price could not be set on human dignity. Other basic rights, such as the right to food, water and electricity, were to be discussed although even the considerable sum that it was hoped to raise at the forthcoming donor meeting was insignificant, compared with the scope of his country's needs.

45. **The Chairperson** said that the Committee's questions reflected the interest it took in the Democratic Republic of the Congo and the progressive realization of rights under the Covenant. The participation of the delegation had been open, frank and informative and the contribution of the Minister for Human Rights had been particularly valuable. Although the Committee was primarily interested in economic, social and cultural rights, the dialogue had given it a better understanding of the country in other ways, as well as a greater awareness of the progress being made and the difficulties encountered in achieving development and prosperity for the people.

The discussion covered in the summary record ended at 12.30 p.m.