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HUMAN RIGHTS HOUSE

(CORRSDH – MDH)

THEMATIC GROUP ON WOMEN'S RIGHTS AND SEXUAL VIOLENCE

(GTDFVS)

**ADDITIONAL SHADOW REPORT TO THE 6th and 7th COMBINED
REPORT OF THE DEMOCRATIC REPUBLIC OF CONGO ON THE
IMPLEMENTATION OF THE CONVENTION ON THE
ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST**

KINSHASA, DRC

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ACRONYMES

ABEEC	Association pour le Bien Etre de l'Enfant Congolais
ADIF	Action pour le Développement Intégrale de la Femme
AFEMAC	Association des Femmes Magistrats du Congo
AMI ASBL	Avocat du Monde International
APPROPEV	Association pour la Protection des Personnes Vulnérables
AUDEF	Alliance pour l'Universalité des Droits Humains
BTP	Public buildings and infrastructure
CAFCO	Cadre de Concertation de la Femme Congolaise
CAFE DHN	Carrefour de la Femme pour les Droits Humains et la Nature
CEDEW	Convention on the Elimination of All Forms of Discrimination Against Women
CEEAC	Communauté Economique des Etats de l'Afrique Centrale
CENI	Commission Electorale Nationale Indépendante
CII	Coordination Informatique Interministérielle
CJR 1325	Centre pour la Justice et la Résolution 1325
CERVEAU	Centre de Recherche des Voies pour l'Epanouissement et l'Autonomie
CNF	Conseil National de la Femme
CODE	Coalition des ONG des Droits de l'Enfant
CORRSDH-MDH	Coalition d'Organisations non gouvernementales pour la Rédaction des Rapports et le Suivi de la situation des Droits de l'Homme – Maison des Droits de l'Homme
CPF	Conseil Provincial de la Femme
CSRP	Comité de Suivi de la Réforme de la Police
CTR	Comité Technique de Suivi de Reforme
DDR	Demobilisation, Disarmament, and Reintegration
DRC	Democratic Republic of Congo

DSCR	Document de la Stratégie de Croissance et de Réduction de la Pauvreté
EPSP	Enseignement Primaire, Secondaire et Professionnel
EPT	Espoir pour Tous
ESU	Enseignement Supérieur et Universitaire
FAO	Organisation des Nations Unies pour l'Alimentation et l'Agriculture
FARDC	Forces Armées de la République Démocratique du Congo
FIFADH	Filles et Femmes en Action pour les Droits Humains
FORFEM	Forum de la Femme Ménagère
GEDROFE	Réseau Genre et Droits de la Femme
GTDFVS	Groupe Thématique Droits de la Femme et Violences Sexuelles.
LIZADEEL	Ligue de la Zone Afrique des Droits de l'Enfant et des Elèves
MICS	Multiple Indicators Cluster Survery (Enquête par Grappes à Indicateurs Multiples)
NDJF	Nouvelle Dynamique de la Jeunesse et de la Femme
ORHEOND	Orphelinat Henry Ondhen
PAIDECO	Programme d'Appui aux Initiatives de Développement Communautaire
PARSAR	Projet d'Appui à la Réhabilitation du Secteur Agricole et Rural
PASU	Projet d'Action Sociale d'Urgence
PEASU	Projet Eau et Assainissement en milieu Semi-Urbain
PMEA/PMI	Petites et Moyennes Entreprises et Artisanat/Petites et Moyennes Industries
PMEDE	Projet de Développement des Marchés d'Electricité pour la consommation Domestique et Exportations
PMURIS	Projet Multisectoriel d'Urgence de la Reconstruction des Infrastructures Socioéconomiques
PMURR	Programme Multisectoriel d'Urgence de Réhabilitation et de Reconstruction
PNMLS	Programme National Multisectoriel de Lutte contre le SIDA
PRAPE	Programme de Relance Agricole dans la Province de l'Equateur

PRAPO	Programme de Relance Agricole dans la Province Orientale
PROVIVI	Protection des Victimes de Violences
RAC	Restoration African Center
RAF	Réseau Action Femme
REDD	Réduire les Emissions dues au Déboisement et à la Dégradation
SADC	Southern African Development Community (Communauté de Développement d'Afrique Australe)
SOFEPAI	Solidarité des Femmes pour la Paix et le Développement Intégral
SOPPOC	Sondage d'Opinions sur Perception de la pauvreté par la Population Congolaise
STAREC	Plan de Stabilisation et de Reconstruction des Zones sortant des Conflits armés
TMC/DH	Technology Multi-Connection

I. Executive Summary

Despite the efforts of the Congolese government to minimize gender inequality in accordance with their international legal obligations, gender inequalities remain profoundly visible in Congolese society.

This report is based on an evaluation of the Congolese state's implementation of the Concluding Observations adopted on 25 August 2006 by the UN Committee on the Elimination of All Forms of Discrimination against Women.¹

The Thematic Group on Women's Rights and Sexual Violence of CORRSDH – MDH (GTDFVS) has selected five articles from the Convention on the Elimination of All Forms of Discrimination Against Women, on the basis of the recommendations made by the Committee, for this evaluation. This report covers the period of 2006 to 2011.

Article 2: Policy Measures

Article 14 of the Constitution enshrines the principle of male-female parity. It does not, however, provide a definition of parity. A law has been drafted regarding parity by the Ministry of Gender, Family and the Child. It has been passed by the Senate but not by the National Assembly. Obstacles to passing the law include:

- Differences in the definition of 'parity' between the institutions of the Republic (specifically the Executive branch, the Senate, and the National Assembly). The draft law defines gender parity as 50% representation (Article 2).² However, the Senate reduced it to 30% before passing it.³
- During previous discussions in the National Assembly, it has been suggested that the Electoral Law sufficiently provides for parity and, thus, an additional law is not required.⁴

The funds allocated to the Ministry of Gender remain insufficient and cannot effectively realize political fairness and gender equality in Congolese society. Additionally, the revision of the Family Code, initiated in 2002 by civil society, has made little progress; the process was stopped at the executive level before being submitted to Parliament.

The failure of these reform initiatives means that the discriminatory provisions of the Family Code remain in place and that gender equality has not been realized. To address these issues, GTDFVS makes the following recommendations:

- Ensure that the draft law on parity is passed by the National Assembly with the guarantee of 50% parity, as originally proposed by the Ministry of Gender, Family and the Child.
- Demonstrate political will by voting on a law regarding modalities for applying women's rights and parity, taking into account the entirety of Article 14 of the Constitution of the Republic.
- List all the measures and laws that discriminate against women and begin to revise them in accordance with CEDAW, including the Family Code and the Statute of Career Civil Servants of the State.

¹ Committee on the Elimination of Discrimination against Women, Concluding Observations, Thirtysixth session, 07---25 August 2006. http://www2.ohchr.org/english/bodies/cedaw/docs/co / CEDAW_C_CO5_fr.pdf. (Accessed 09/05/2012).

² Ministère du Genre, de la Famille et de l'enfant, « Projet de loi de mise en œuvre de la parité homme-femme », Mars 2011 ;

³ Sénat, Rapport de la Commission spéciale relative à l'examen et l'adoption du projet de loi portant modalités d'application des droits de la Femme et de la Parité, Octobre 2012.

⁴ Assemblée nationale, Rapport de la Commission mixte PAJ-Socio culturelle, Avril 2011.

Article 3: Guarantee of Human Rights and Fundamental Freedoms

The rape and sexual violence experienced by women exemplifies a multitude of inequalities suffered by women. Gender discrimination in traditional and religious beliefs has resulted in higher rates of poverty and vulnerability for women.

The government institutions created to implement the National Strategy to Fight All Forms of Gender-Based and Sexual Violence, National Agency Against Violence to Women and Girls (AVIFEM) and National Fund for the Promotion of Women and Child Protection (FONAFEN), have not been able to adequately respond for a number of key reasons. AVIFEM, for example, does not have its own office; it is run by active politicians, when it should be an independent body;⁵ it is insufficiently funded; it has a staff of around 300 people who do not work but receive a salary; and it is supposed to work nationally but is only running a few activities in Kinshasa.

In this regard, the group makes the following recommendations:

- That the Ministry of Justice continues awareness-raising activities regarding laws on sexual violence throughout the country;
- That the Ministry of Gender, Family and Children set up a fund for the compensation of victims of sexual violence.

Article 7: Political and Public Life

Regarding political and public life, the participation of women in the sphere of decision-making has improved slightly with Article 14 of the 2006 Constitution of the Democratic Republic of Congo,⁶ which states that “the Government shall ensure the elimination of all forms of discrimination against women and ensure the protection and promotion of their rights.” As a result of the 2006 elections, 42 women were elected to the National Assembly (8.4% of 500 seats). In the Senate, there were 104 female candidates, or 9.25% of a total of 1,124; however, only five women were elected, or 4.62% of 108 seats.⁷ In the 2011 elections 47 women were elected to the National Assembly.⁸

To these ends, GTDFVS recommends:

- That the Parliament strengthens the Electoral Law, in particular Article 13, in order to render inadmissible any electoral list from political parties ignoring male – female parity;
- That the Ministry of Gender, Family and Children accelerates the implementation of the National Action Plan for Gender, setting out the objectives, indicators and deadlines for the realization of women's representation in all institutions;
- That the Ministry of Gender, Family and Children, supports women's NGOs in their advocacy, outreach and follow-up on the implementation of CEDAW.

Article 10: Women and Education

⁵ Ministère du Budget, « lois sur les finances publiques », 2012

⁶ Office of the President of the Republic Constitution of the Democratic Republic of Congo amended by Law N ° 11/002 of 20 January 2011 amending certain articles of the Constitution of the Democratic Republic of Congo of 18 February 2006, Official Journal, 52th year, special edition, 05 February 2011, p. 9.

⁷ Office of MONUC---CAFECO, Participation of Congolese women in the electoral process, second edition, February 2010, p 13.

⁸ Independent National Electoral Commission, Election of National Deputies of 2011 Interim Results, Kinshasa, February 1, 2012, p.1.

GTDFVS notes that the Government has made efforts in the field of education. The “All the girls and boys in school” campaign was launched in 2006 with support from UNICEF. Generally, the number of children in school stabilized during the 2007-2008 (90.3%) and 2008- 2009 (90.7%).⁹

The Government policy on free primary education was enacted in November 2010 and initially covered the first, second and third years of primary education throughout the country, with the exception of the cities of Kinshasa and Lubumbashi. The enrollment rate of girls still remains low, however.

To these ends, GTDFVS makes the following recommendation:

- That the Ministry of Primary, Secondary and Vocational Education ensures girls' access to primary education by eliminating school fees and related costs in order to create effective, free education.

Article 14: Rural Women

In rural areas, the effects of discrimination are compounded by a deteriorating socioeconomic context, which is the result of the wars and looting that the DRC has experienced since the 1990s, the lack of access to agricultural areas, the lack of potable water, poverty, and ignorance regarding reproductive health.

Government development programs addressed to these issues fail to take into account the gender perspective. Additionally, there is low involvement of women's organizations in public interventions. The latter tend to work voluntarily and are occasionally supported by international development partners, whose support do not necessarily make their work effective and requires the incorporation of short, medium and long term monitoring.

To these ends, the Congolese government should enact the following recommendations:

- That the Ministry of Rural Development ensures the full participation of women in the formulation of development plans at all levels;
- That the Ministry of Rural Development organizes self-help groups and cooperatives to encourage equal economic opportunity for women in the formal and informal economic sector;
- That the Ministry of Gender, Family and Children, provides data disaggregated by gender on the situation of rural women.

II. The Thematic Group on Women’s Rights and Sexual Violence

⁹ Ministry of EPSP, Technical Unit for Education Statistics, Statistical Yearbook of primary secondary and vocational education. 2008---2009 school year, Kinshasa, 2010, p 45.

The Thematic Group on Women's Rights and Sexual Violence (GTDFVS) is part of the larger National Coalition of Non-Governmental Organizations for Monitoring and Reporting on the Human Rights Situation - House of Rights (CORRSDH-MDH). The GTDFVS, the author of this report, has monitored the situation of women's rights since December 2009. Its mission is to monitor the situation of women's rights and to advocate nationally and internationally for the Congolese state's accountability towards women in the DRC.

The Thematic Group is made up of 34 civil society organizations dedicated to the fight for the rights of women and girls, namely: ELAEIS, Women's Solidarity for Peace and Integral Development (FSPD), Africa Restoration Center (RAC), Network of Women's Organizations for Sustainable Development (ROFED), Gender and Women's Rights Network (GEDROFE), Center for Rehabilitation and Socio-Professional Reintegration (CRISP), La COUPOLE, Crossroads for the Rights of Children and Women (CARDEF), Forum of the Housewife (FORFEM), Consultation Framework of Congolese Women (CAFCO), Association for the Aid and Protection of Vulnerable People (APROPEV), Action for the Integral Development of Women (ADIFE), Girls and Women in Action for Human Rights (FIFADH), Association of Women Without Limits (AFSL), Youth and Women for Human Rights and Peace (JFDHOP), Center of Support and Technical Assistance to Victims of Sexual Violence (CATAVIS), Woman for the Reconstruction and Development of the Congo (LAFERDEC), Association of Women Rice Farmers of Kingabwa (AFRIKI), Siloam Development Center (CDS), Women's Forum for Good Governance and Democracy (FFBGD), New Dynamic of Youth and Women (NDJF), Mary Mediator Group for the Professional Supervision of Young Girls (MMGPROF), Association of Women Lawyers of Congo (AFEJUCO), Women's Solidarity for Peace and Integral Development (SOFEPADI), Center for Justice and Resolution 1325 (CJR 1325), Research Center for the Ways for Fulfillment and Autonomy (CERVEAU), Lawyers of the World International (AMI ASBL), Women Action Network (RAF), Crossroads for Women's Human Rights and Nature (CAFE DHN), Protection of Victims of Violence (PROVIVI), League of Africa Zone for the Defense of the Rights of Children and Pupils (LIZADEEL), Forum for Rights of Young People and Children in Congo (FODJEC), Congolese Committee Against Torture (CCCT) and Female Genie (GF).

Listed below are several examples of activities that GTDFVS has undertaken:

- Advocacy activities targeting diplomatic missions in Kinshasa and Geneva, particularly member states of the Human Rights Council, focused on ensuring that they included the theme 'fight against sexual violence' in their statements during the Universal Periodic Review of the DRC in December 2009;
- The organization of national consultations on gender-based sexual violence towards the submission of a report to the Executive Secretariat of the International Conference on the Great Lakes Region (ICGLR) in October 2011;
- The preparation and publication of a Shadow Report on the implementation of CEDAW in the DRC, submitted to the Committee in November 2011; and
- An awareness campaign in the Kimbanseke area of Kinshasa focused on the empowerment of rural women in March 2012.

III. Introduction

The government of the Democratic Republic of Congo (DRC), through the Ministry of Gender, Family and Children, submitted its 6th and 7th periodic reports (published officially by the United Nations on 21 December 2011). The DRC will be reviewed in July 2013 at the 55th session of the Committee for the Elimination of Discrimination against Women (CEDAW). As a result of insufficient information contained in these reports, the Committee recommended that the government of the DRC prepare an Additional Report with updated data. The GTDFVS developed their comments and recommendations regarding the Congolese government's implementation of the Committee's recommendations for the period of 2006 to 2011 on the basis of the information presented during the consultative workshop hosted by the Government in regards to their Additional Report to CEDAW (April 2012).

Methodology

The GTDFVS prepared this report using secondary sources. This report is the result of a process that began with a training on data collection organized by the Human Rights House (HRH), which is run by the Carter Center. Fifteen researchers, 11 women and 4 men from the GTDFVS members based in Kinshasa, were trained. The training was followed by the development of a questionnaire and the collection and compilation of field data. These last steps were carried out under the supervision and coordination of GTDFVS and with the assistance of the Executive Secretariat of the CORRSDH-MDH. This report was approved by all members of GTDFVS during a consultative meeting of civil society in the DRC, held on 30 September 2012.

Secondary data collection was undertaken in Kinshasa, and in the provinces of North Kivu and Equator. It was conducted by six teams, each consisting of two people (four teams in Kinshasa, one in North Kivu and one in Equator). Of roughly 1800 state actors, civil society organizations, international NGOs and development partners, 114 persons were consulted in the two provinces and in Kinshasa (42 persons in Equateur, 32 persons in North Kivu and 40 person in Kinshasa¹⁰). Data collection methods included interviews, the analysis of documents and consultations by e-mail. To verify information provided by the government, the researchers attempted to evaluate the impact of the measures put in place by the Government to implement CEDAW and the Committee's recommendations.

This report is based on data collected from various official sources, including: National and Provincial Assemblies, the Ministry of Justice and Human Rights, the Ministry of Gender, Family and the Child, the the Ministry of Social Affairs and Humanitarian Solidarity, members of the government at the provincial level (North Kivu and Equateur), agencies of the United Nations (UNWomen, UNDP, UNICEF, UNJHRO, WHO, UNESCO, UNHCR), MONUSCO (Gender Office, Electoral Division and HIV / AIDS Section), international organizations (Caritas Congo, Open Society Initiative South Africa, Search for Common Ground, Oxfam Quebec, Médecins Sans Frontières and IFES), the national network of women's NGOs and local NGOs (RAC, ROFED, ORHEOND, ABEEC, GEDROFE, FORFEM , CAFCO, APPROPEV, ADIFE, NAWMP, Cause Commune, SOFEPADI, CJR 1325, AFEMAC, CERVEAU, AMI ASBL, RAF, AUDEF, TMC/DH, CAFE DHN, CODE, PROVIVI, Toges Noirs, Espoir pour Tous, LIZADEEL, FIFADH), and the STAREC program in North Kivu.

IV. Analysis of the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women

¹⁰ GTDFVS, data collection conducted in Kinshasa, Equateur and North Kivu, April 2012.

The following analysis is based on the identification of measures taken by the Government in the implementation of CEDAW through its various policies, of which some are protective and others discriminatory. The group made observations and recommendations to the Government. GTDFVS has analyzed the implementation of the five articles of CEDAW, namely:

- Article 2: Political Measures
- Article 3: Guarantee of Human Rights and Fundamental Freedoms
- Article 7: Political and Public Life
- Article 10: Women and Education
- Article 14: Rural Women

A. Article 2: Political Measures

A.1. Legal Measures for Gender Equality

The Government has established the principle of gender equality in the Constitution and other various laws, as follows:

1. The Constitution of the Democratic Republic of Congo of 18 February 2006:¹¹
 - Article 11 states: “All human beings are born free and equal in dignity and rights. However, the enjoyment of political rights are recognized only to Congolese people, without exception as established by law.”
 - Article 12 states: “All Congolese are equal before the law and are entitled to equal protection of the laws.”
 - Article 14 states: “Women have the right to equitable representation in national, provincial and local institutions. The State guarantees the implementation of male-female parity in the aforementioned institutions. The law fixes the modalities of implementation.”
2. Law n°11/013 of 11 August 2011 on the organization and functioning of the Congolese National Police (PNC):¹²
 - Article 56.d states: “the staff at all levels, in all functions of command at all times and in any circumstances, must take into account objective criteria related to both the physical ability, sufficient instruction, the proven morality as well as a fair representation of provinces. It is also required that equal consideration be taken into account of gender representation.”
 - Article 59 states: “recruitment in the national Police takes place through competition, either internally or directly, depending on the needs expressed in the annual budget, taking into account the balance between the provinces, gender and adjustments determined in services and units. Recruitment through internal competition is open to career police to access a special category or any specialization. Recruitment by direct or external competition is open to any national Congolese candidate for their admission in the body of career police.”
3. Law No. 11/003 of 25 June 2011 which amends Law No. 006/006 of 9 March 2006 on the organization of presidential, legislative, provincial, urban, municipal and local elections:¹³

¹¹Office of the President of the Republic, Constitution of the Democratic Republic of the Congo. Op.Cit. p. 11.

¹²Office of the President of the Republic, Law No. 11/013 of 11 August 2011, Official Journal.

- Article 13 states: “the following definitions shall list a document prepared by political parties or political groupings with different names of the candidates in an electoral district to fill one seat, in a constituency with one seat to be filled, political parties or political groupings present their unique candidate of the political party or political grouping. Every list is established taking into account the gender parity in representation and promotion of those with disabilities. However, not achieving gender equality and the lack of anyone living with a disability are not grounds for dismissal of a list.”

Many of the laws still contain discriminatory provisions. However, revision has never been considered. For example, Article 352 of the Family Code sets the marriage age of girls at 15 and Articles 448 to 452 stipulate that a woman must obtain permission from her husband before certain actions.¹⁴

A.2 Measures of Implementation

The government has taken the following measures:

- The elaboration of the National Gender Policy and the National Action Plan;¹⁵
- The elaboration of the National Program for the Promotion of Congolese Women (PNPFC) of 1999 and its implementation by the Ministry of Gender, Family and Children through the National Council for Women established in 1998;¹⁶
- Implementation of the National Strategy to Fight against Gender Based Violence by the Ministry of Gender, Family and Children since 2009;¹⁷
- The establishment, in 2009, of the Thematic Group on Gender and the Fight Against Sexual Violence, composed of state actors from the justice and security departments in association with local NGOs and international partners working on this issue;¹⁸
- Adoption of the Action Plan for the Implementation of Resolution 1325 in October 2010 by the Ministry of Gender;¹⁹
- Creation of the National Fund for the Promotion of Women and Child Protection (FONAFEN), by Decree 09/37, on 10 October 2009.²⁰

A.3 Observations on the Implementation of the Law

DRC is dedicated to gender equality, even referring to CEDAW in the Constitution, however implementation has been problematic. Notably, the National Gender Report of the Ministry of Gender,

¹³ Law No. 11/013 of August 11, 2001, Op.Cit.

¹⁴ Ibid. p35 and 36.

¹⁵ Ministry of Justice and Human Rights, 6th and 7th Report additive implementation of the Convention on the Elimination of Discrimination against Women, April 2012.

¹⁶ Ministry of Justice and Human Rights, additional 6th and 7th Reports. Op.cit.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

Family, and Children found that the DRC authorities quickly ratify treaties and international conventions without considering either the scope or the consequences.²¹ Indeed, on the one hand, there is no law organizing parity as the Constitution would have it, and, on the other hand, the mechanisms created by the Government are dysfunctional.

Draft law on parity

A law regarding parity was drafted by the Ministry of Gender, Family and the Child. It has been passed by the Senate but not by the National Assembly. There are several reasons that it has yet to be passed in the National Assembly, including:

- The institutions of the Republic (specifically the Executive branch, the Senate, and the National Assembly) appear to have different definitions of ‘parity’. The draft law defines gender parity as 50% representation (Article 2).²² However, the Senate reduced it to 30% before passing it.²³ As such, the law, as it currently stands, may not guarantee parity.
- During previous discussions in the National Assembly, it has been suggested that the Electoral law sufficiently provides for parity and, thus, an additional law is not required.²⁴ Notably, Article 13 of the Electoral Law²⁵ is ambiguous about parity: Paragraph 3 states that each list should be drafted in consideration of male-female parity and promoting persons with disabilities. However, Paragraph 4 specifies that non-compliance with these provisions (male-female parity and the inclusion of persons with disabilities) will not render the list inadmissible. As such, the electoral law is unconstitutional, and it does not reflect a vision of equality. Notably, the electoral law passed by the National Assembly is not inline with Article 14 of the Constitution.

As evidence of the lack of political will, the draft law has not been included in the Agenda of the National Assembly.²⁶

Impact of the FONAFEN mechanism

The FONAFEN mechanism, according to its president,²⁷ identified 8,335 widows in Kinshasa, 4,064 of which have been sensitized on the management of micro-finance and 2,764 on the methods of survival. However, the group found that this mechanism fails to achieve the missions for which it was created for the following reasons: lack of infrastructure and insufficient budget.

Year	Voted budget (CDF)	Scheduled payment (CDF)	Paid (CDF)
2012 ²⁸	330,901,000	99,999,996	99,999,996

²¹ Ministry of Gender, Family and Children and the United Nations Program for Development, National Gender Report 2011, p.1 10.

²² Ministère du Genre, de la Famille et de l'enfant, « Projet de loi de mise en œuvre de la parité homme-femme », Mars 2011 ;

²³ Rapport de la Commission spéciale relative à l'examen et l'adoption du projet de loi portant modalités d'application des droits de la Femme et de la Parité, Octobre 2012.

²⁴ Assemblée nationale, « Projet de loi portant modalités d'application des droits de la femme et de la parité », aout 2011.

²⁵ Loi n°11/003 du 25 juin 2011 modifiant la loi n° 06/006 du 09 mars 2006 portant organisation des élections présidentielle, législatives, provinciales, urbaines, municipales et locales.

²⁶ Assemblée nationale, Calendrier de travaux de la Session ordinaire de Mars 2013.

²⁷ BIELA & IDUMBA, Entretien du 21 mai 2013

²⁸ Ministère du Budget, *ESB de dépenses par administration : Exécution au 31/12/2012*

2013 ²⁹	99,999,999	33,332,999	24,999,999
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Source : Ministère du Budget de la RDC, 2012-2013

According to NGOs RRSSJ, the FONAFEN, which is supposed to be national, is only operational in Kinshasa. In addition, identification of widows in Kinshasa and awareness-raising did not have any impact on the equality of men and women in the DRC.

A.4 Recommendations

The GTDFVS requests that the Committee recommend that the government:

- Ensure that the draft law on parity is passed by the National Assembly with the guarantee of 50% parity, as originally proposed by the Ministry of Gender, Family and the Child.
- Demonstrate political will by voting on a law regarding modalities for applying women's rights and parity, taking into account the entirety of Article 14 of the Constitution of the Republic.
- List all the measures and laws that discriminate against women and begin to revise them in accordance with CEDAW, including the Family Code and the Statute of Career Civil Servants of the State.

B. Article 3: Guarantee of Human Rights and Fundamental Freedoms

According to Recommendation 14, the State Party must commit to put an end to all forms of violence against women and the impunity enjoyed by the perpetrators. In this perspective, the group focused on the issue of sexual violence in the DRC.³⁰

B.1 Legal Measures

Article 15 of the Constitution of the Democratic Republic of Congo (18 February 2006) states that “the government shall ensure the elimination of sexual violence. Unprejudiced to the international treaties and agreements, any sexual violence on any person with the intent to destabilize, dislocate a family and make an entire people disappear is a crime against humanity and punishable by law.”

Laws relating to sexual violence adopted by the Government include:³¹

- Law n°006/018 of 20 July 2006 amending and supplementing the decree of 30 January 1940 on the Congolese Penal Code;
- Law n°06/019 of 20 July 2006 amending and supplementing decree of 6 August 1959 on the Congolese Code of Criminal Procedure.

In comparison with the Penal Code, these laws focus principally on the offenses of rape and indecent assault. These provisions also criminalize various forms of sexual violence that were not included in the

²⁹ Op cit. *Exécution au 31/03/2013*

³⁰ Committee on the Elimination of Discrimination against Women. Concluding observations. 2006 CEDAW/C/COD/CO/5. Available at <http://www.un.org/womenwatch/daw/cedaw/36sess.htm> (Accessed 11 June 2012).

³¹ Ministry of Justice and Human Rights, 6th and 7th additional Report, Op.Cit.

Penal Code and define rape in accordance with applicable international standards.³² Finally, it should be noted that the laws noted above are believed to be adequate judicial protection of women against sexual violence.³³

B.2 Measures of Implementation

The government asserts that it has taken the following steps:³⁴

- The launch of the national strategy in 2009 to fight against sexual violence and gender-based violence;
- Establishment of the Thematic Group on Gender and the Fight Against Sexual Violence against Women;
- Establishment of the National Agency Against Violence to Women and Girls in the Democratic Republic of Congo (AVIFEM) by decree n°09/38 of 10 October 2009.
- The adoption of the Action Plan for the Implementation of Resolution 1325 in October 2010 by the Ministry of Gender, Family and Children.

B.3 Observations on the Implementation of the Law

Sexual violence and mass rape is one of the most significant problems in DRC, a post-conflict country. The situation on the ground remains unchanged despite the advances made by the government, such as the adoption of laws addressed to the suppression of sexual violence. The number of cases of victims of sexual violence remains high and the created mechanisms ineffective.³⁵

The challenges of realizing justice for cases of sexual violence in the DRC are daunting:

- The widespread sexual abuse by some members of the community and some officers of the court;
- Illiteracy among rural women;
- Popularization of laws on sexual violence;
- Impunity for perpetrators of sexual violence among members of militias and armed groups;
- Lack of statistics that are reliable and disaggregated by sex;
- The Congolese State's difficulty in compensating victims of sexual violence;
- Red tape and slow judicial administration;
- Corruption;
- Failure to repair the injuries suffered by the victims, characterized by the nonpayment of damages;
- The impunity of military officers (FARDC) and the Congolese National Police (PNC).³⁶

The problem of access to justice is a major concern for the entire population, particularly women, throughout the territory of DRC. This problem is in part related to the lack of courts and the distance to access them in remote areas and in outlying areas of Kinshasa, the slowness of legal proceedings, the lack

³² Ministère du genre, famille et de l'enfant ; Agence nationale de lutte contre les violences faites à la Femme et à la Jeune et Petite fille « AVIFEM ». *LOI SUR LES VIOLENCES SEXUELLES*, 8P .Page 1

³³ Ministère du genre, famille et de l'enfant ; Agence nationale de lutte contre les violences faites à la Femme et à la Jeune et Petite fille « AVIFEM » .Op.cit. Page 7

³⁴ Ibid. p9.

³⁵ *National Agency against Violence to Women, Youth and Girls (AVIFEM)*

³⁶ The United Nations Mission in DRC, GRIP Report 2011/14.

of financial means, fear of reprisals, the weight of local customs and religion, and the corruption that plagues the Congolese judicial system. It is also the result of the fact that the authorities are not able to ensure security; this is augmented by the insecurity caused by the presence of armed groups in the eastern part of the country³⁷.

Sexual violence has serious consequences for women and girls, requiring a holistic response: in regards to health, violent rape can cause uterine prolapses, vesico-genital or retro-anal fistulas. Women who are victims of rape may find themselves with unwanted pregnancies that can lead to clandestine abortions, often resulting in the death of the mother and the child. Infertility and sexually transmitted infections are also reported. From a psycho-social point of view, victims are rejected, stigmatized and find themselves in a precarious situation.

According to the Ministry of Gender, Family and Children, as quoted by the National Agency against Violence to Women, Youth and Girls (AVIFEM), the table below provides statistics of sexual violence perpetrated throughout the various provinces of the Democratic Republic of Congo.

PROVINCES	2009	2010	2011	2012
Bandundu	592	534	349	440
Bas-Congo	947	734	651	1053
Equateur	695	714		
Kasaï occidental	1028	1021		
Kasaï oriental	1131	714		
Katanga	833	665	757	1051
Kinshasa	881	1207	405	463
Maniema	831	251		
Nord-Kivu	4091	5485	5543	7075
Province orientale	1468	1204	1826	3685
Sud-Kivu	5010	2928	2713	5028
Total	17507	15457	12244	18795

Source: National Agency against Violence to Women, Youth and Girls (AVIFEM)

As shown in the above chart, the number of victims of sexual violence is growing; the impact of activities of AVIFEM is not evident.

AVIFEM is a technical public service with administrative and financial autonomy. The overall aim of AVIFEM is to implement the National Strategy to the Fight Against all Forms of Gender-Based and Sexual Violence, particularly in regards to youth and girls. However, AVIFEM faces significant obstacles in fulfilling its mission, namely:

- AVIFEM is housed in the office of a non-governmental organization called Network of African Women Ministers and Parliamentarians (REFAMP);
- It is run by active politicians, when it should be an independent body;³⁸

³⁷ AVIFEM, Interview, mai 2013.

³⁸ Ministère du Budget, « lois sur les finances publiques », 2012

- Its required budget forecasted for 2012 was 349,550,500 Congolese francs, but it was authorized and paid 99,999,996 Congolese francs for the year 2012;
- It has a staff of around 300 people who do not work but receive a salary;
- It is supposed to work nationally but is only running a few activities in Kinshasa. Additionally, it only has focal points in the provinces of Katanga and South Kivu, neither of which are operational;
- Notably, the National Strategy for the Fight against Gender Based and Sexual Violence should be implemented nationally but is only implemented in the east.

In regards to cases of sexual violence, in the territory of Monkoto in the province of Equateur, 157 cases were reported during the last two months of 2011. It should be noted that this area has 12 police officers for a population of 350,000 inhabitants (a rate of one policeman for every 29,166 inhabitants) and two under equipped hospitals with two doctors (175,000 inhabitants per hospital and per physician).³⁹ Based on this observation, it is clear that the population does not enjoy the protection as required by the National Strategy for the Fight against Gender Based and Sexual Violence.

The 2011 report of the Prosecutor's Office of Mbandaka (Equateur province) found that of 94 cases of sexual abuse, 71 cases involved children and 23 involved adults. However, the data is not disaggregated by gender.⁴⁰

In the framework of the judicial reform process, some measures have been taken by the Government to fight against sexual violence, including:

- A training workshop on judicial support to victims of sexual violence was organized from 27 to 29 April 2010 for judges and officers of the judicial police from Lubumbashi and Kipushi (Katanga province), with the support of UNJHRO, ACIDH and UNICEF;
- Legal action was taken against Lt. Col. Sadoke Kikunda Mayele of the FDLR for mass rapes and other human rights violations perpetrated in the Kibua-Mpofi in the Walikale territory from 30 July to 2 August 2010. The case is being considered under military justice mechanisms and investigations have begun (case registration – RMP 0223/LS/010). Additionally, a Prosecutor at the High Court (Tribunal de Grande Instance) of Goma, Mr. Oscar Kasangaki, was dismissed.. These actions were carried out in the framework of the fight against impunity through the STAREC program.

The collected data indicates that legal-judicial support from 2006 to 2009 was as follows: of 2,416 files compiled for legal support, 1,537 victims were assisted in court and 508 judgments were passed following prosecutions. The progress rate for legal and judicial assistance is 53%, out of 4,500 victims.⁴¹

B.4 Recommendations

- That the Ministry of Justice continues awareness-raising activities regarding laws on sexual violence throughout the country;

³⁹ Id.

⁴⁰ High Court of Mbandaka, 2011 Report.

⁴¹ The United Nations Mission in DRC, GRIP Report 2011/14. Op. Cit.

- That the Ministry of Gender, Family and Children set up a fund for the compensation of victims of sexual violence.

C. Article 7: Political and Public Life

The group analyzed the implementation of Article 7 of CEDAW regarding the political and public life of women and found that women are not sufficiently involved in decision-making. In particular, the group focused on the 2006 and 2011 elections, and the compositions of the government, public administration, the armed forces and the police.

C.1. Current Situation

The Constitution of 18 February 2006 establishing the male / female parity generated a lot of hope that there would be improvement in access for and representation of women in decision-making bodies. However, very little progress has been made to date; the average number of women in public and private institutions does not exceed 11%.

The Ministry of Gender, Family and the Child was established as the national machinery for the advancement of Congolese women by Order n° 007/071 on the 25 November 2007. It is mandated to develop the legal and institutional framework to ensure the participation of women in national development and to ensure a significant representation of women in the national, provincial and local institutions. To these ends, the Ministry has developed the National Program for the Promotion of Congolese Women, to be implemented through the National Council of Women. Additionally, the National Strategy for Women's Political Participation in Democratic Governance was adopted in 2010.

C.2 Observation

Despite the aforementioned, the group found that the political participation of women has not changed. Women continue to be underrepresented in the decision-making sphere despite the statement regarding parity in the Constitution of 2006. The DRC government has not distinguished itself in its application of the Constitution. For example:

- At the government level, there were only 5 women out of 44 people in 2010;⁴²
- At the level of the judiciary, women accounted for 7% in 2006; with the recruitment of 400 women judges, the percentage had risen to 16% in 2012;⁴³
- For positions in the public service, there were 16 women and 132 men in 2010;⁴⁴
- The employment of women in security forces is very low. They represent 3% of the army and 6% of the police, in all ranks;⁴⁵
- In positions of responsibility in political parties, there are 8 women and 384 men;⁴⁶

⁴² Ministry of Gender, Family and Children: National Gender Report, 2011. Op. cit. p.100.

⁴³ AFEMAC, Rapport de l'atelier sur l'implication des femmes dans la magistrature Kinshasa, le 16 au 18 novembre 2011,13p, Page 4 ;

⁴⁴ Ministry of Gender, Family and Children: National Gender Report, 2011. Op cit.. p.99.

⁴⁵ Ministry of Gender, Family and Children: National Gender Report, 2011. Op cit. p.101.

⁴⁶ Ibid. p.99.

- In the parliamentary elections in November 2011, of 500 elected members, there are only 47 women, a rate of 9.4%;⁴⁷
- Of 7 officers of the National Assembly, there is only one woman, equal to 14.2%.⁴⁸

The participation of women in the political sphere is still limited. Article 13 paragraph 3 of the Electoral Law states: “Each list is established taking into account the equal representation of men and women and the promotion of persons with disabilities. However, the non-realization of gender equality and non-presence of a person living with disability are not grounds for dismissal of a list.” This provision is not in conformity with the parity clause enshrined in Article 14 of the Constitution. The Government should ensure that the Electoral Law is in compliance with the spirit and letter of Article 14.

Political participation of women is illustrated in the table shown below:

Table: Women’s Representation in National Institutions

Government	Total	Number of women
Muzito, Adolphe (2010-2011)	43	5
Matata Mponyo (2012-2013)	55	6
Parliamentarians		
Deputies (2011)	500	43
Senators (2006)	108	6
Magistrates ⁴⁹	3750	660

Source : GTDFVS, Data collection, Kinshasa, May 2013

Some positive points in relation to the participation of women in the electoral process in November 2011 were identified during the survey in the province of Equateur.⁵⁰ These are as follows:

- Improved representation of women; in 2011 there were 7 women candidates where as in 2006 there were only 2;
- Local women voted in favor of more female candidates;
- Some involvement of women in the electoral process, namely in awareness-raising activities, in the campaign, in the revision of the electoral files and in election observation.

The following are some points of concern that were raised by the Electoral Division of MONUSCO in 2011:⁵¹

⁴⁷ Independent National Electoral Commission, Election of National Deputies of 2011 Interim Results, Kinshasa, February 2012, p1.

⁴⁸ Id.

⁴⁹ Ligue pour les droits de la Femme Congolaise, «Plaidoyer pour la promotion de la magistrature en République démocratique du Congo », Mai 2012. p 5.

⁵⁰ MONUSCO Electoral Division, Synthesis Report on the Evaluation of Legislative Elections of 2011 and Women’s Participation in the Province of Equateur.

⁵¹ MONUSCO Electoral Division. Op. cit.

- Illiteracy of most women voters led to a significant amount of fraud in regards to the marking of candidates;
- Lack of financial resources for women affected their campaigns;
- Exclusion of the Equateur Women’s Collective (COLFEQ) by the CENI (National Independent Electoral Commission) from the awareness campaign;
- Non-integration of women candidates in the communities;
- Manipulation of women by political parties who completed the lists.

The table below illustrates the limited number of women in public institutions.

Table: Presence of Women in Public Institutions / Equateur province

Institutions / Bodies	Total Members	Men		Women	
		Number	%	Number	%
National Assembly	108	105	97%	3	3%
Magistrates (civil and military) ⁵²	78	78	100%	0	0%
Provincial Government	13	11	85%	2	15%
Advisers of Ministers	72	71	99%	1	1%
Regional (Territorial)	32	29	91%	3	9%
Provincial Administration	45	43	96%	2	4%
Deputies and Senators elected	62	58	94%	4	6%
School heads	4801	4612	96%	189	4%

Source: *Five Year Development Plan of the Province of Equateur 2010-2014, August 2009, p. 35.*

In conclusion, the public and political participation of women is dependent on cultural inertia, the low involvement of women and their lack of means. This situation hinders the advancement of women, despite the progress made in the legal domain. The Government’s slow pace in taking corrective measures should be noted.

C.3 Recommendations

- That the Parliament strengthens the Electoral Law, in particular Article 13, in order to render inadmissible any electoral list from political parties ignoring male – female parity;
- That the Ministry of Gender, Family and Children accelerates the implementation of the National Action Plan for Gender, setting out the objectives, indicators and deadlines for the realization of women's representation in all institutions;
- That the Ministry of Gender, Family and Children, supports women's NGOs in their advocacy, outreach and follow-up on the implementation of CEDAW.

D. Article 10: Women and Education

⁵² Observatoire de la parité, « Indice de la parité ». Disponible sur www.observatoire.delaparite.org. (Consulté le 06/06/2013)

In this section, the group analyzed Article 10 of CEDAW relating to women and education. The group focused on the very low rate of access to education for girls, future women.

D.1 Government Policy (Access to Education)

Concerning education at the national level, in 2006 the government launched a campaign entitled “All Girls and Boys in School”, initiated by UNICEF. Since 2010, the government has declared free primary education in nine provinces of the DRC.

D.2 Observations

Despite these initiatives, the percentage of girls in school is still very low in the provinces that have decreed free primary education for children. For illustrative purposes, considered the statistical yearbook of primary, secondary and vocational education for the school year 2009-2010, published in June 2011. Enrollment of girls, per province, is as follows: Kinshasa 48.2%, Katanga 33.6%, Bandundu 36.5%, Kasai Oriental 32.6%, North Kivu 42.4%, Maniema 27.0%, Equateur 26.5%, Province Orientale 36.0%, Bas-Congo 39.3%, Kasai Occidental 27.3% and South Kivu 36.8%.⁵³

The group’s research found the following:

- State authorities interviewed in North Kivu confirm that the Government gives priority to education in its “Cinq Chantiers” program, with an emphasis on free primary education. However, according to civil society organizations in the selected province, the campaign “All the Girls and Boys in School” has not had the expected results because free education is not effective, on the one hand. On the other hand, girls are caught by the cultures and stereotypes dominating society.
- The Strategy for the Development of the Subsector of Primary, Secondary and Vocational Education (2010 - 2016) of the Ministry of Primary, Secondary and Vocational Education does not have specific measures that promote education for girls.
- Education in the province of Equator is characterized by four major problems, shown below, that limit girls’ access to education:⁵⁴
 - A heavy school administration system;
 - Insufficient budget allocated to primary, secondary and university education, often poorly managed and under executed; A very low level of spending, an inefficient and inequitable funding; Access to infrastructure is more difficult in Equator than in other provinces.
 - The population of Equator is found to be among the least educated in the DRC, with low levels of school attendance and literacy. It has a rate of 24.6% of uneducated persons compared with 20.1% nationally, i.e. 4.6% more than the national average. Additionally, the poor working conditions of teachers and the inability of some parents to pay school fees for their children contributes to the decreasing enrollment rates of children.

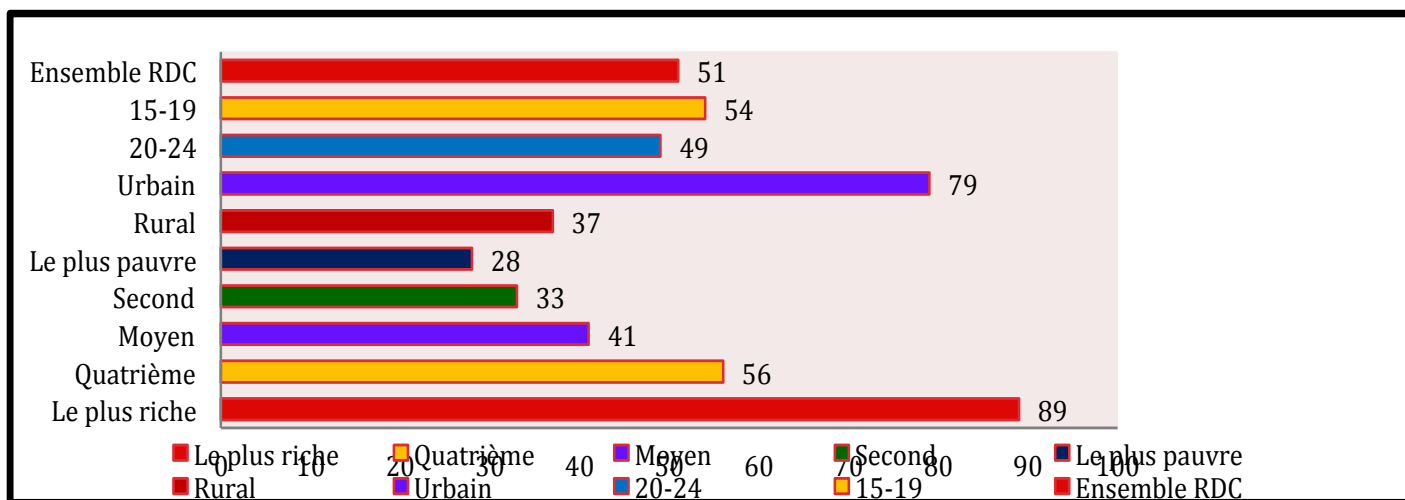
⁵³ Ministry of EPSP / Technical Unit For Education Statistics (ETSC), Statistical Yearbook of primary, secondary and vocational school year 2009-2010, Kinshasa, June 2011. p39.

⁵⁴ Ministries of Planning, Finance and Budget, Five Year Development Plan of the Province of the Equateur 2010-2014 August 2009, p20.

However, 5% of rural girls have access to education through the "All Girls and Boys in School" campaign;

- Serious deterioration of the buildings at all levels;
- Relatively low coverage of schools at the primary level with inequalities in access to at secondary and higher levels.

Table: Literacy Rate among women aged 15-24, DRC, 2010



Source: Synthesis Report, UNICEF, May 2011.

D.3 Recommendations

- The Ministry of Primary, Secondary and Vocational Education ensures girls' access to primary education by eliminating school fees and related costs in order to create effective, free education.

E. Article 14: Rural Women

Rural women have no access to economic resources and are not involved in the implementation of development programs and projects.

E.1 Context

Women living in rural areas play an important role in the agricultural sector in the DRC. They are working more than men, in the ratio of 76.7% to 63.4%.⁵⁵ The Government has implemented a policy of integrated rural development through the Ministry of Rural Development with the support of technical and financial partners. Several actions have been taken for the recovery of agricultural production, the opening up of production areas and rural organization. Since 2002, these actions were taken through some major projects and programs, including: Emergency Multi-sector Rehabilitation and Reconstruction (PMURR), Project Rehabilitation and Support to the Agricultural Sector and Rural Development (PARSAR), Agricultural Recovery Program in Orientale Province (PRAPO), Support Program to Community Development Initiatives (PAIDECO) and Agricultural Recovery Program in the Province of Equateur (PRAPE).

⁵⁵ Ministry of Gender, Family and Children: National Gender Report. Op. Cit. p. 32

E.2 Observations

The various programs mentioned above have not increased the participation of rural women in decision-making, as advocated by Article 14 of the Convention, although they represent 70% of rural farmers⁵⁶. To date, the results of these programs are mixed despite the fact that several million dollars have been spent.

The group noted that in the implementation of the Program for the Rehabilitation of the Agricultural and Rural Sector (PARSAR), the following actions were taken:⁵⁷

- Construction of administrative buildings in Bandundu Province;
- By the end of March 2012, capacity building programs were launched by partner organizations and the ministries in charge of agriculture and rural development; more than 2,500 people, 40% of which were women, participated in trainings. Beneficiaries included staff of technical parties, producers, management committees and farmers' organizations;
- Support for agricultural production was provided to 27 village seed organizations (OSV) comprising of 768 farmer-based organizations (PVOs), with 22,829 members (56% women). A total population of 570,000 people were directly impacted by the project.

The group noted that there are several programs addressed to agricultural development and the reduction of food insecurity. However, the duration and geographical coverage of these programs is limited. As illustrated above, the PARSAR project, funded by the African Development Bank in the amount of \$ 41.47, covers only two provinces in the DRC, namely the Bas-Congo and Bandundu.⁵⁸

In addition, gender discrimination is reinforced in the economic sphere: "According to studies, efforts by the government and its partners to achieve equality between men and women do not have the desired effect. Indeed, the DRC exhibits a maximum score of 43%⁵⁹ on the implementation of measures and economic policies. This figure is explained by the fact that there are no monitoring and evaluation mechanisms to ensure that the identified policies were implemented, the implementation of policies related to men and women's food security and the fight against poverty is difficult because it does not receive adequate funding."⁶⁰

In regards to reproductive health, early motherhood is more common in rural areas among young women with no education and among those living in the poorest areas. Significant differences were observed between the provinces. Additionally, teenage pregnancies are more frequent in this generation than in previous generations. Contraceptive use is very low in rural areas: 15% in rural areas compared to 25% in urban areas; 9% in Katanga compared to 31% in Kinshasa and 29% in Equator. The percentage rate of women who use contraception doubles between uneducated women (13%) and women with education (26%) and between the poorest (17%) and the richest (32%).⁶¹

⁵⁶ Ministry of Gender, Family and Children: National Gender Report. Op. Cit. p. 98.

⁵⁷ www.afriqueredaction.com. (Consulté le 3/6/2013)

⁵⁸ Ministère de l'agriculture, « Programme REDD+ Réduction de l'impact de l'agriculture de subsistance sur la forêt, Document d'orientation », 2009

⁵⁹ Ministry of Gender, Family and Children, National Gender Report 2011), Op. Cit. p. 108.

⁶⁰ Ministry of Planning/ National Institute of Statistics (NIS), Survey by bunches with multiple indicators Mics-RDC 2010, Final Report, Kinshasa, May 2011, p. 124.

⁶¹ Id.

Finally, the advocacy of women's organizations has encountered not only financial difficulties but also the problem of normalization related to the political context. For example, civil society organizations were only involved in the validation of the State's 6th and 7th Periodic Report to CEDAW in a workshop organized by CIDH in April 2012.

E.3 Recommendations

- That the Ministry of Rural Development ensures the full participation of women in the formulation of development plans at all levels;
- That the Ministry of Rural Development organizes self-help groups and cooperatives to encourage equal economic opportunity for women in the formal and informal economic sector;
- That the Ministry of Gender, Family and Children, provides data disaggregated by gender on the situation of rural women.

V. Conclusion

CEDAW promotes the principle of equality between men and women, emphasizing that discrimination against women violates that principle. Gender inequalities remain deeply rooted in Congolese society. It appears that the Government of the DRC is failing to eradicate discrimination against women and to reduce disparities in treatment between the sexes in several areas, despite their commitments under international law.

This report focused on the evaluation of the implementation of the Concluding Observations adopted on 25 August 2006 by the UN Committee on the Elimination of All Forms of Discrimination against Women. The research undertaken in Kinshasa, Equateur province and North Kivu indicates that:

- The DRC has only partially responded to the Concluding Observation of the Committee on the Elimination of Discrimination Against Women;
- Some political and judicial authorities do not have information regarding CEDAW or the Committee's Concluding Observations;
- There is a lack of reliable statistics, disaggregated by gender, and the existing data is not accessible;
- Gender has not been taken into account in the implementation of various development programs and projects;
- There continues to be a number of legal provisions that discriminate against women in the DRC;
- Currently, sexual violence remains a major concern due to multiple wars in the east of the DRC. Impunity of perpetrators persists, despite the existence of the laws addressing sexual violence, which discourages victims to report incidents.

Finally, the group found that the reports and recommendations of national development actors and international humanitarian actors regarding the situation of women's rights are not sufficiently taken into account by the Government.

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