



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Consideration of reports submitted by States
parties under article 19 of the Convention
pursuant to the optional reporting procedure**

Second periodic reports of States parties due in 2009

Democratic Republic of the Congo* ** ***

[Date received: 13 July 2017]

* The initial report of the Democratic Republic of the Congo is contained in CAT/C/37/Add.6; it was considered by the Committee at its 686th and 687th meetings, held on 21 and 22 November 2005 (CAT/C/SR.686 and 687). For its consideration, see the Committee's concluding observations (CAT/C/DRC/CO/1).

** The annex to the present report is on file with the secretariat and is available for consultation. It may also be accessed from the web page of the Committee against Torture.

*** The present document is being issued without formal editing.



Introduction

1. In line with the provisions of article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Democratic Republic of the Congo submitted and presented its initial report to the Committee against Torture in 2005.

2. The second periodic report responds to the various issues raised with the Democratic Republic of the Congo by the Committee. It provides detailed information on all relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the Committee's recommendations.

3. The present periodic report was drafted in consultation with the National Human Rights Commission and civil society.

1. Please indicate what measures the Government of the Democratic Republic of the Congo has taken to include in its domestic legislation a definition of torture that is consistent with article 1 of the Convention, and to criminalize acts of torture. In particular, please provide information on the current status of the draft law to make torture a criminal offence that was submitted to Parliament in 2004, and on any bill that has been tabled since 2005.

4. In 2011, the Government of the Democratic Republic of the Congo included in its domestic legislation a definition of torture that is consistent with article 1 of the Convention and made torture a criminal offence.

5. Article 48 bis of Act No. 11/008 of 9 July 2011 criminalizing torture stipulates the following:

“Any public servant, public official or person responsible for a public service, or anyone acting on their orders, at their instigation or with their express or tacit consent, who has intentionally inflicted severe pain or suffering, whether physical or mental, on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind, shall be punished by a term of imprisonment of 5 to 10 years and a fine of 5,000 to 100,000 Congolese francs.

The perpetrator shall be punished by a term of imprisonment of 10 to 20 years and a fine of 100,000 to 200,000 Congolese francs if the acts referred to have caused the victim serious trauma or led to illness, a permanent incapacity to work or physical or psychological impairment, or if the victim is a pregnant woman, a minor, an elderly person or a person living with a disability.

A penalty of life imprisonment shall be imposed if the same acts have caused the death of the victim.”

6. The Act was published in Official Gazette No. 14 on 15 July 2011 and is the outcome of the bill introduced in Parliament in 2004.

2. Please provide updated information on cooperation between the government authorities and civil society in the promotion and protection of human rights, in particular with regard to the suppression of torture.

7. The Democratic Republic of the Congo maintains close cooperation with civil society organizations in connection with all activities to promote and protect human rights, including the reforms of the defence and security forces and in the area of justice.

8. Members of these civil society organizations are part of the following official bodies:

- The National Human Rights Commission, established by Act No. 13/011 of 21 March 2013;

- The Human Rights Liaison Body in the Democratic Republic of the Congo, established by Decree No. 09/35 of 12 August 2009;
- The Protection Unit for Human Rights Defenders, established by Ministerial Order No. 219/CAB/MIN J&DH/2011 of 13 June 2011.

9. The mandates of all of these bodies include the promotion and protection of human rights. They help to create awareness among the various actors involved in the fight against torture.

10. The Democratic Republic of the Congo cooperated with NGOs on the drafting and dissemination of the Act criminalizing torture and in the preparation of all reports submitted to the universal periodic review and the treaty bodies.

11. Civil society is also involved in all stages of the preparation of the report for the universal periodic review and the follow-up of the implementation of recommendations accepted by the Democratic Republic of the Congo.

12. Civil society also participates in the approval of all human rights reports, for both the universal periodic review and the treaty bodies.

13. Moreover NGOs involve government authorities in the organization of their activities, such as round tables and forums on human rights.

3. Please indicate the measures taken to prevent arbitrary detention, torture and cruel, inhuman or degrading treatment and to eliminate impunity for alleged perpetrators of such acts, including through thorough investigation, the prosecution of perpetrators and the compensation of victims.

14. To prevent arbitrary detention, torture and cruel, inhuman or degrading treatment, the Democratic Republic of the Congo is taking the following actions:

- Training of 350 officers as peer trainers in human rights and international humanitarian law by the Civic Education and Social Action Service of the Armed Forces of the Democratic Republic of the Congo in the various military regions;
- Addition of human rights and international humanitarian law teaching at the Military Academy in Kananga and the Army Staff College in Kinshasa;
- Regular training sessions provided for the benefit, inter alia, of judges and court officials by the Ministry of Defence and Former Combatants and the Ministry of Justice and Human Rights, with the support of international and national partners, including the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO);
- Approval by the Congolese Universities Administrative Board, the body responsible for developing university curricula, of a Faculty of Law course on human rights law;
- Between July 2012 and November 2013, organization by the Ministry of Justice and Human Rights of a national awareness campaign on the Act criminalizing torture for defence and security forces and prison service officials (33 awareness campaigns in 11 provincial capitals and 2 cities in the former provinces);
- Strengthening of capacity-building for media professionals in the area of human rights for the benefit of members of the NGO Journalists for Human Rights in November 2015;
- Monitoring by the Ministry of Justice and Human Rights of punishment cells, detention centres and prisons in collaboration with the United Nations Joint Human Rights Office (UNJHRO) since 2013;
- Strengthening of capacity-building for criminal investigation officers on the rights of arrested persons, in collaboration with UNJHRO and civil society.

15. In order to eliminate impunity for alleged perpetrators of acts of torture, including through thorough investigation, the prosecution of perpetrators and the compensation of

victims, the following actions have been taken by the various authorities of the Democratic Republic of the Congo:

- Act No. 11/008 of 9 July 2011 criminalizing torture;
- Directive No. AG/0793/10 of 23 June 2010 on torture issued by the Chief Justice of the Armed Forces, instructing heads of department in the military prosecution service to initiate investigations systematically into all cases of torture or ill-treatment;
- Letter No. 0905/PNC/CiatGen/084/SVJur&Cont/2015 on 7 May 2015 on humanizing the police service by the Commissioner General of the Congolese National Police
- Letter No. 1981/PNC/CG/COMDT/2014 of 16 July 2014 by the Commissioner General of the Congolese National Police instructing all unit commanders and heads of sections to ensure the strict legality of all the actions taken in the context of judicial proceedings opened in their offices, including torture.

16. By way of example, it may be noted that at least five members of the Armed Forces, five officers of the Congolese National Police, one agent from the National Intelligence Agency and one administrative official have been found guilty of practising or inciting torture and have been handed prison terms of between six months and life by the courts of the former provinces of Bas-Congo, Équateur, Kasai-Occidental, Kasai-Oriental, Katanga and Maniema.

17. However, there is still a need to organize specific training for criminal investigation officers and judges on the investigation of torture and other cruel, inhuman or degrading treatment or punishment.

4. In the light of the deteriorating human rights situation throughout the Democratic Republic of the Congo (allegations of arbitrary and mass arrests, torture, rape and ill-treatment), please indicate how the State party intends to formulate a coherent plan to guarantee security in its territory, particularly in the east of the country, and to prevent these acts from occurring.

18. To guarantee security in its territory, particularly in the east of the country, and to prevent these acts from occurring, the Democratic Republic of the Congo has designed and developed a number of programmes of action, including the following:

- Operation Kimia, to pacify territories recovered from rebel forces;
- The Amani Leo programme to protect civilians and fight the Hutu rebels of the Democratic Forces for the Liberation of Rwanda in the eastern part of the country;
- Disarmament, demobilization and reintegration programmes Nos. 1, 2 and 3;
- The Stabilization and Reconstruction Plan for Eastern Democratic Republic of the Congo, which since 2009 has replaced the Amani programme with the aim of stabilizing and rehabilitating regions affected by armed conflict. The Plan has three components: security, humanitarian assistance and the economy. The aim of the security component is to remedy the lack of security by deploying the Police and the Army, thereby regaining sovereignty through the restoration of State authority. As part of the effective implementation of the Plan, in the territories freed from the grip of armed groups in the eastern part of the country the Democratic Republic of the Congo has established and installed a civil administration and special police units for the protection of women and children. The units are now operational in that part of the country and are being extended nationwide.

19. In addition, at the political and diplomatic levels, a number of initiatives have led to the signing of agreements, namely the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region, known as the Addis Ababa Framework Agreement, which was concluded on 24 February 2013, and the Nairobi Declarations of 12 December 2013.

20. In that context, a national mechanism for oversight and monitoring of the commitments undertaken under the aforementioned Agreement was established by Ordinance No. 13/020, which was signed by the President of the Republic on 13 May 2013. In the same connection, national consultations were held in Kinshasa from 6 September to 6 October 2013 and a committee was established to follow up on the resulting recommendations.

21. Moreover, in the framework of MONUSCO, a rapid intervention brigade was established to combat armed groups in the Democratic Republic of the Congo, pursuant to United Nations Security Council resolution 2098 (2013).

22. At the military level, the defence sector reforms that were implemented with support from international partners enabled the country to restructure its defences. This led to the elimination of the M23 rebel forces in December 2013 and the restoration of government authority in formerly occupied areas.

23. The judiciary, the police and the security services are being reformed within the same framework.

5. Please indicate the measures taken to ensure that every place of detention is subject to judicial control, in conformity with the presidential decision of 8 March 2001. Please indicate whether the following places of detention, inter alia, are already subject to judicial supervision:

- (a) **The Republican Guard punishment cell (*cachot*) in La Botte**
- (b) **The Camp Saïo punishment cell**
- (c) **The punishment cell of the tenth Military District of South Kivu**
- (d) **The punishment cell of the National Intelligence Agency in Bukavu**

24. A number of measures have been taken, including the amendments to the Constitution of 18 February 2006, article 149 of which enshrines the independence of the judiciary, and the introduction of the following pieces of legislation:

- Act No. 11/008 of 9 July 2011 criminalizing torture;
- Directive No. AG/0793/10 of 23 June 2010 on torture, issued by the Chief Justice of the Armed Forces, instructing head of departments in the military prosecution service to systematically investigate all cases of torture or ill-treatment;
- Letter No. 0905/PNC/CiatGen/084/SVJur&Cont/2015 on 7 May 2015, issued by the Commissioner General of the Congolese National Police, on humanizing the police service.

25. All the places of detention listed above are subject to judicial oversight.

6. Please provide information on the measures taken to close down unauthorized holding centres.

26. There are no longer any unauthorized detention centres in the Democratic Republic of the Congo, in line with the Presidential Order of 8 March 2001 and the measures referred to under item 5.

7. Please indicate the measures taken to enhance the independence of the judiciary and to train judges in order to improve the efficiency of investigations and bring judicial decisions into line with the applicable international norms. In this regard, please indicate whether the bills on the status of judges and the Higher Council of the Judiciary have been adopted. If this is not the case, please explain why.

27. In the Democratic Republic of the Congo, the principle of the independence of the judiciary is enshrined in article 149 of the Constitution of 18 February 2006, as amended and supplemented on 20 February 2011, which stipulates that the judiciary is independent

of the Executive. This principle is reinforced in the composition of the Higher Council of the Judiciary, the sole management body for the judiciary, which is composed exclusively of judges (article 152 of the Constitution).

28. The legislation on the status of judges and the Higher Council of the Judiciary has been adopted and promulgated.

29. The legislation takes the form of Organic Act No. 06/020 of 10 October 2006 on the status of judges, as amended and supplemented in 2015, and Organic Act No. 08/013 of 5 August 2008 on the organization and functioning of the Higher Council of the Judiciary.

30. Organic Act No. 13/011-B of 11 April 2013 on the organization, functioning and jurisdictional competence of the judiciary gives powers to civilian courts (courts of appeal) to try crimes that fall under the jurisdiction of the International Criminal Court.

31. In addition, to strengthen the independence of the judiciary, the following actions have been undertaken:

- The division of the Supreme Court into three new courts, namely the Council of State, the Court of Cassation and the Constitutional Court;
 - The adoption of Organic Act No. 13/010 of 19 February 2013 concerning proceedings before the Court of Cassation;
 - The adoption of Organic Act No. 13/026 of 15 October 2013 on the organization and functioning of the Constitutional Court;
 - The adoption of the Organic Act concerning the organization and functioning of the Council of State;
- The recruitment of 2000 new judges in 2010-2011;
- The establishment of specialized courts, including commercial courts, labour courts and children's courts;
- The establishment since 2012 of a prosecution support unit, as part of MONUSCO, to support military justice in the country;
- The appointment of judges by presidential decree on 1 June 2013 to launch the operation of the magistrates' courts.

32. Regarding the training of judges, in accordance with article 4 of the Organic Act on the status of judges, the Judicial Training School is currently under construction. In the meantime, ad hoc training is provided by the Higher Council of the Judiciary with support from technical and financial partners.

33. The Minister for Human Rights has taken account of the question of training for judges and improvements in investigations of acts of torture in the comprehensive plan for the implementation of the recommendations of the universal periodic review and the treaty bodies.

8. Is there a bill on the establishment of an independent national institution for the promotion and protection of human rights to replace the National Human Rights Observatory?

34. The Democratic Republic of the Congo, through Organic Act No. 13/011 of 21 March 2013, established the National Commission for Human Rights in accordance with the Paris Principles. The officials of the National Commission for Human Rights were selected by their peers, approved by the National Assembly, appointed by the President of the Republic and sworn in before the Constitutional Court in July 2015.

35. The budget of the National Commission for Human Rights is funded from the national budget.

36. It is responsible for:
- Investigating all violations of human rights;
 - Providing guidance to complainants and victims and helping them to initiate legal action in respect of all proven violations of human rights;
 - Conducting periodic visits to prisons and detention centres throughout the Democratic Republic of the Congo;
 - Ensuring that the rights of women and children are respected;
 - Ensuring that the rights of persons with disabilities are respected;
 - Ensuring that the rights of older persons, victims of disasters of all kinds and other vulnerable groups are respected;
 - Educating citizens about their basic rights;
 - Contributing to the promotion of civic education and the culture of human rights in order to improve public awareness;
 - Strengthening the response capacities of human rights associations;
 - Ensuring the implementation of domestic legal norms and regional and international legal instruments relating to human rights that have been duly ratified by the Democratic Republic of the Congo;
 - Addressing specific cases of human rights violations through conciliation;
 - Drawing up recommendations for the ratification of regional and international human rights instruments;
 - Promoting and ensuring the harmonization of legislation, regulations and practices with international human rights treaties that have been duly ratified by the Democratic Republic of the Congo;
 - Drawing up reports on the status of application of domestic norms and international legal instruments in the area of human rights;
 - Contributing to the preparation of reports that the Democratic Republic of the Congo is required to submit to international organizations, pursuant to its human rights treaty obligations;
 - Reviewing domestic legislation on human rights and proposing changes to the country's legal system;
 - Issuing opinions and making proposals to Parliament, the Government and other institutions on matters relating to the promotion and protection of human rights, international humanitarian law and humanitarian action;
 - Developing networks and cooperative relations with the institutions of the Republic and local, national and international organizations which pursue the same objectives;
 - Performing any other function or activity falling within the scope of its mandate.

9. Please indicate the measures taken to ensure that military courts are used solely to try military personnel for military offences, in accordance with the relevant provisions. In this regard, please provide clarifications regarding trials of civilians before military courts.

37. In the Democratic Republic of the Congo, military courts are no longer competent to try civilians under article 156 of the Constitution of 18 February 2006.

38. To give effect to this constitutional principle, Organic Act No. 13/011-B of 11 April 2013 on the organization, functioning and jurisdictional competence of the judiciary gave powers to the appeals courts to try civilians for war crimes, genocide and crimes against humanity, which previously were the exclusive responsibility of military courts.

10. What administrative or legislative measures have been taken to educate State officials and members of the security forces (the Armed Forces of the Democratic Republic of the Congo, the Congolese National Police, the intelligence services, etc.) about the prohibition on the use of torture and cruel, inhuman and degrading treatment, particularly during interrogation and detention?

39. The principle of the prohibition of torture is enshrined in the Constitution:

- Articles 16 (1) and (4): “The human person is sacred and shall be respected and protected by the State. No one may be subjected to cruel, inhuman or degrading treatment.”
- Article 61 (2): “Under no circumstances, even when a state of siege or a state of emergency has been declared in accordance with articles 85 and 86 of this Constitution, may there be any derogation from the following fundamental rights and principles: ... the prohibition of torture and cruel, inhuman or degrading treatment or punishment.”

40. To implement the constitutional principle of the prohibition of torture, the Act criminalizing torture mentioned under item 1 was promulgated.

41. In addition, the Chief Justice of the Military High Court issued Directive No. AG/0793/10 of 23 June 2010, instructing heads of departments in the military prosecution service systematically to investigate all cases of torture or ill-treatment, in accordance with relevant national and international legal instruments.

42. Similarly, the Commissioner General of the Congolese National Police, in Letter No. 1981/PNC/CG/COMDT/2014 of 16 July 2014, instructed all unit commanders and heads of sections to ensure the strict legality of all the actions they take in the context of judicial proceedings opened in their offices, including torture. He also issued Letter No. 0905/PNC/CiatGen/084/SvJur&Cont/2015 of 7 May 2015, recalling Note No. 25 CAB/VPM/MININTERSEC/785/2015 of 20 March 2015, informing all provincial commissioners, directors of central services and commanders about the national specialized training programme on the humanization of services (see documents in the Annex).

43. In order to strengthen the implementation of the above-mentioned Act, Directive and instructions within the law enforcement services, the Government of the Democratic Republic of the Congo, in collaboration with the United Nations Joint Human Rights Office, has been running awareness-raising campaigns since 2012 for agents and officers employed in the defence and security forces and the judiciary as part of the national programme to raise awareness of and disseminate the Act criminalizing torture.

44. Finally, since 2013, also in collaboration with the United Nations Joint Human Rights Office, the Ministry of Justice and Human Rights has conducted regular missions to monitor punishment cells, detention centres and prisons and to build the capacities of human rights officers and public officials in the provinces. During these monitoring missions, the Government strengthens the capacities of criminal investigation officers in order to ensure that detainees are held in satisfactory social conditions. In February 2017, the Democratic Republic of the Congo introduced monitoring in prisons in application of the instruction to release 51 prisoners who had been the victims of arbitrary detention or the non-implementation of a presidential pardon.

11. Please provide information on the legislative and administrative measures taken to provide protection for civilian populations in combat zones, in particular to protect women and children against sexual violence and rape. Does the State party have a strategy for tackling the systematic use of rape as a weapon of war, and therefore as a form of torture, and to provide for the rehabilitation of the victims of such acts?

45. The Democratic Republic of the Congo has taken the following initiatives in order to ensure the protection of civilian populations in areas of armed conflict, in particular to protect women and children against sexual violence and rape:

(1) Legislative measures:

- Article 15 (1) of the Constitution of 18 February 2006, as amended and supplemented in February 2011, states that “the public authorities shall ensure the elimination of sexual violence”. Article 14 (3) states that “the public authorities shall take steps to combat all forms of violence against women in public and private life”.
- Article 48 of Act No. 13/013 of 1 June 2013 on the staff regulations for the National Police states that: “In the performance of their tasks, officers shall respect and protect human dignity and maintain and uphold human rights, humanitarian law and the fundamental rights and freedoms of the individual, in line with the national and international standards in force. They shall pay particular attention to the protection of the rights of vulnerable persons, women and children, at all times and in all locations. They may not engage in, inflict, provoke or tolerate acts of torture or cruel, inhuman and degrading treatment for any reason whatever.”
- Act No. 06/018 of 20 July 2006 amending and supplementing the Decree of 30 January 1940 on the Congolese Criminal Code and Act No. 06/019 of 20 July 2006 amending and supplementing the Decree of 6 August 1959 on the Congolese Code of Criminal Procedure address sexual violence.
- Act No. 09/001 of 10 January 2009 on child protection increased the penalties for sexual violence if the victim is a child (articles 169 to 184).

(2) Regulatory measures:

- Decree No. 11/01 of 5 January 2011 establishing the regular seats and jurisdiction of children’s courts.
- Decree No. 13/008 of 23 January 2013 on the establishment of a national humanitarian coordination framework.
- Ministerial Order No. 063/CAB.MIN.AFF.SAH.SN/2012 of 17 September 2012 on the establishment, organization and functioning of the social workers’ corps of the Democratic Republic of the Congo.

46. In 2009, the Democratic Republic of the Congo developed a national strategy and plan of action to combat gender-based sexual violence. The strategy is implemented through five national programmes covering each of the following elements and the related specific objectives:

- The fight against impunity;
- Prevention and protection;
- Security sector reform and sexual violence;
- Multisectoral assistance for survivors;
- Data and mapping.

47. As part of the strategy, a mechanism was set up to provide holistic care to victims, including:

- Medical and health care;
- Psychological support;
- Legal and judicial assistance;
- Socioeconomic reintegration.

48. The appointment of the Personal Representative of the Head of State on Sexual Violence and Child Recruitment is also part of the strategy for combating violence against women and children in the context of armed conflict.

49. In this connection, the Great Lakes Region High-Level Consultation of Ministers in Charge of Justice and Gender on Sexual and Gender-Based Violence was held in Kinshasa from 25 to 28 July 2012. Specifically in relation to the Kampala Declaration, Member

countries adopted the “Zero Tolerance Now” campaign against sexual and gender-based violence in the Great Lakes region.

50. The Democratic Republic of the Congo is continuing its efforts in the fight against trafficking in persons and violence against women and children, particularly through the National Agency for Eliminating Violence against Women and Adolescent and Very Young Girls, which was established by Decree No. 09/38 of 10 October 2009, and the National Fund for the promotion of women and the protection of children.

51. In order to give effect to the commitments made at the regional and international levels in the fight against all forms of violence against women, the Democratic Republic of the Congo has developed a national gender policy, adopted a regional plan and plan of action on the implementation of United Nations Security Council resolution 1325 (2000) and established joint national, provincial and local technical coordination committees and local and provincial synergies to combat sexual violence.

52. A joint plan of action to combat the recruitment and use of children and other serious violations of children’s rights by the Armed Forces and the security services was signed by the Democratic Republic of the Congo and the United Nations Task Force on Children and Armed Conflict on 4 October 2012.

12. What practical measures have been put in place to counter, in cases of sexual violence, the use of amicable settlements mediated by the family, traditional leaders, local government authorities, the police or even the prosecution/judge advocate’s department and to ensure that perpetrators receive penalties that are commensurate with the gravity of the acts committed?

53. Under articles 14 and 15 of the Constitution, referred to under item 11 above, amicable settlements in cases of sexual violence in the Democratic Republic of the Congo have no legal effect.

54. The determination of lawmakers to take stronger action against sexual violence by ending impunity for such offences is reflected in the harsher sentences provided for in the relevant laws.

55. Moreover, media-based campaigns are conducted regularly to raise awareness among religious and traditional leaders, opinion makers and police officers with the aim of dissuading them from resorting to amicable settlements.

13. Please indicate the number of security forces and services with arrest, detention and investigatory powers and the measures taken to ensure that the police remain the principal institution responsible for law enforcement.

56. For specific operations relating to state security and border control, the following services are involved:

- The Armed Forces (military intelligence service);
- The National Intelligence Agency;
- The Department of Migration;
- The Department of Customs and Excise.

57. Article 182 of the Constitution tasks the police with ensuring public safety, the security of persons and of their property and the maintenance and restoration of public order.

14. Please indicate:

- (a) **The average number of cases brought before a judge at different levels of the judicial system that involve complaints about torture or cruel, inhuman or degrading treatment;**
- (b) **The number of police and security officers for every 100,000 inhabitants, and their distribution in the territory of the State party;**
- (c) **The number of public prosecutors and judges for every 100,000 inhabitants, and their distribution in the territory of the State party;**

58. The distribution of prosecutors and judges of the Democratic Republic of the Congo is provided in the Annex.

Summary table of judges in the Democratic Republic of the Congo

<i>Jurisdictions: Courts of Appeal, Commercial Courts, Labour Courts, Tribunaux de grande instance (Courts of major jurisdiction), Magistrates' Courts and Juvenile Courts</i>	<i>Chief Justices</i>	<i>Justices</i>	<i>Judges</i>	<i>Councillors</i>
Total	14	301	1 010	370
Overall total				1 695
Ratio per 100,000 inhabitants				1.7%

Source: Supreme Council of Justice.

59. See Annex 1 for details.

- (d) **The proportion of accused persons and detainees who apply for and actually receive free legal aid.**

60. The majority of defendants and detainees are not aware of the procedure for obtaining a certificate of financial hardship and rarely request the free consultation services that are available in every bar association in the country.

- 15. Please indicate the measures taken to expedite the process of disarmament of militias and armed groups, including, inter alia, the Democratic Forces for the Liberation of Rwanda, the Interahamwe, the "Rastas" and the Mai-Mai, pursuant to the recommendation made by the Independent Expert on the situation of human rights in the Democratic Republic of the Congo, in his report dated 21 February 2007 (A/HRC/4/7, p. 2) to the Human Rights Council.**

61. In addition to the information provided in this document under item 4, it should be noted that the Sukola 1 and 2 operations were conducted by the Armed Forces to track down all rebel forces, including the Democratic Forces for the Liberation of Rwanda, the Allied Democratic Forces — National Army for the Liberation of Uganda, the Mai-Mai, Mai Raia Mutomboki and others. In this context, following the voluntary disarmament plan, members of the Democratic Forces for the Liberation of Rwanda and other armed groups have given up their weapons and are billeted far from the eastern border.

Article 3

- 16. Please provide information on the legislation in force in the State party concerning the expulsion, return (refoulement) or extradition of foreigners to other States, including in cases where there are serious grounds to believe that these persons would be in danger of being subjected to torture.**

62. In addition to what was stated in the initial report (CAT/C/37/Add.6 of 2 April 2005, paras. 61 and 62), article 33 (5) of the Constitution of 2006 as amended and supplemented in 2011, stipulates that: “No one, under any circumstances, may be sent to the territory of a State where he or she is in danger of being subjected to torture or cruel, inhuman or degrading treatment or punishment.”

Articles 5, 6, 7 and 8

- 17. Please provide information about the measures taken to establish the State party’s jurisdiction over acts of torture in cases where the alleged offender is present in any territory under its jurisdiction, with a view to ensuring either extradition or prosecution.**

63. In addition to what was stated in the initial report (CAT/C/37/Add.6 of 2 April 2005, paras. 92-103), the penalties prescribed in the Act criminalizing torture (imprisonment for 10 to 20 years or for life, as applicable) allow the application of article 3 of the Criminal Code, which states that:

“Anyone who, outside the territory of the Democratic Republic of the Congo, is guilty of an offence in respect of which Congolese law provides for a term of imprisonment of two months or more may be prosecuted and judged in the Congo, subject to application of the legal provisions on extradition.

Prosecution may be initiated only at the request of the public prosecutor.

Where an offence is committed against an individual and the maximum penalty provided for under Congolese law is five years’ imprisonment or more, the request must be preceded by a complaint by the injured party or an official report from the authorities in the country where the violation was committed ...”.

Article 11

- 18. Please provide detailed information on the measures taken to guarantee that every detainee is formally registered and is brought before a judge within 48 hours, in conformity with article 28 of the Code of Criminal Procedure, and to guarantee the right of such persons to have the assistance of legal counsel of their choosing, to be examined by a doctor and to contact their next of kin or a person of their choice from the beginning of police custody.**

64. Article 17 of the Constitution states:

“Individual liberty is guaranteed. Liberty is the rule, detention the exception. No one may be prosecuted, arrested, detained or convicted other than by law and in the form prescribed by law.”

65. Article 18 adds:

“All arrested persons must be informed immediately of the reasons for their arrest and of any charges brought against them in a language that they understand.

They must immediately be informed of their rights.

Persons held in custody have the right to make immediate contact with their family or counsel.

Custody may not exceed 48 hours. On expiry of that period, the person in custody must be released or placed at the disposal of the competent judicial authority.

The treatment accorded to all detainees must guarantee their life, physical and mental health and dignity.”

66. In practice, the following steps have been taken:
- Directive No. AG/0793/10 of 23 June 2010 issued by the Chief Justice of the Military High Court;
 - Instructions contained in Letter No. 1981/PNC/CG/COMDT/2014 of 16 July 2014 issued by the Commissioner General of the Congolese National Police;
 - Letter No. 0905/PNC/CiatGen/084/SVJur&Cont/2015 of 7 May 2015 on humanizing the police service issued by the Commissioner General of the Congolese National Police;
 - Regular inspections of punishment cells by prosecutors;
 - Monitoring of places of detention by the Protection Department of the General Secretariat for Human Rights;
 - Capacity-building activities for criminal investigation officers on the rights of arrested persons;
 - Monitoring of places of detention, prisons, punishment cells and detention centres by the Ministry of Justice and Human Rights.
67. In addition, as part of its remit, the National Commission for Human Rights is also responsible for making periodic visits to places of detention throughout the country.

19. What measures have been taken to facilitate access to places of detention for judges from the prosecution/judge advocate’s department, human rights organizations and staff members of the Office of the United Nations High Commissioner for Human Rights?

68. In the Democratic Republic of the Congo, all detention facilities fall under the authority of the prosecutor’s office or the judge advocate’s department, which conduct unrestricted monitoring of such premises.

69. In addition, as part of its remit the National Commission for Human Rights is also responsible for making periodic visits to places of detention throughout the country. It conducts monitoring on the ground in this regard.

70. NGOs wishing to gain access to places of detention can simply make a request to the competent authorities (the Minister for Justice and Human Rights, the Attorney-General of the Republic, the Chief Justice of the Armed Forces or their representatives).

71. The International Committee of the Red Cross (ICRC) and MONUSCO also enjoy unrestricted access under their mandates.

72. In the context of child protection, United Nations agencies visit all places of detention under the guidelines adopted by the Ministry of Defence and the Director General of the National Intelligence Agency.

20. Please provide information on any emergency or anti-terrorist legislation that may limit the guarantees provided to detainees, particularly the right to be heard by a judge as soon as possible, the right to contact family members and to inform them of the situation, and the right to have access to a lawyer and a doctor from the outset of deprivation of liberty.

73. The Democratic Republic of the Congo has not passed any emergency legislation that may limit the guarantees granted to detainees.

21. Please indicate the measures taken to halt practices that are contrary to the United Nations Standard Minimum Rules for the Treatment of Prisoners, in particular to reduce prison overcrowding and the number of persons in pretrial detention, while guaranteeing that women are segregated from men and children from adults, and to address the problems of poor hygiene and insufficient food, especially in South Kivu.

74. The Democratic Republic of the Congo is concerned about improving living conditions in prisons. In this context, a reform of the prison system is under way and includes the following main areas:

- **Material conditions of detention:** infrastructure, hygiene and sanitation, food, access to health care. In this connection, the Minister of Justice and Human Rights issued Judicial Organization Order No. 029/CAB/MIN/J&DH/2013 of 28 January 2013 concerning the establishment, organization and functioning of local budget management oversight committees for provincial central prisons and detention camps. The Order introduces significant innovations to prisons management in that it establishes a committee in every prison for the administration of resources allocated to the overall well-being of prisoners. In the interest of good governance, administration committees are composed of the Provincial Governor or his or her representative, the Public Prosecutor, the Head of the Provincial Division of Justice, the Prison Warden and two civil society representatives. With regard to infrastructure and with a view to solving the problem of prison overcrowding, the Democratic Republic of the Congo, with the support of partners, has refitted and constructed prisons, notably in Goma prison in North Kivu, Dungeni prison in the former province of Orientale and Makala prison in Kinshasa, as well as in Ndolo military prison in Kinshasa and Angenga detention camp in Équateur.
- **Legal conditions of detention:** rigorous inspections of places of detention and issuance of government policy on detention. Accordingly, the Ministry of Justice and Human Rights conducts regular monitoring of places of detention.
- **Updating of the legal framework:** as the legislation governing the prison system is now obsolete, a draft revised version of Order No. 344 of 17 September 1965 on the organization of the penitentiary system in the Democratic Republic of the Congo is currently being considered by the Ministry of Justice and Human Rights. The revised version includes the restructuring of the prison administration in line with criminal law reforms through the increase in alternatives to imprisonment.
- **Capacity-building for prison administration staff:** the Government of the Democratic Republic of the Congo, with the support of various partners, regularly organizes training sessions for officers and managers in the prison service.

75. In general, men are separated from women, and children from adults, in line with Order No. 344 of 17 September 1965 on the organization of the penitentiary system.

76. In addition to the above-mentioned measures, there are amnesties and presidential pardons that help to alleviate overcrowding in prisons.

22. Please provide information on the measures taken to eradicate the use of corporal punishment, solitary confinement and food deprivation as disciplinary measures.

77. Article 16 of the Constitution stipulates that:

“The human person is sacred. The State has an obligation to respect and protect it.

All persons have the right to life and physical integrity, as well as the free development of their personality in a context of respect for the law, public order, the rights of others and 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 compulsory labour.”

78. These provisions are complemented by article 61 (2) of the Constitution, as mentioned above in the reply to paragraph 10 of the list of issues.

79. In terms of legislation, torture is classified as a separate offence under Act No. 11/008 of 9 July 2011 criminalizing torture.

80. Article 48 bis of the Act provides that:

“Any public servant, public official or person responsible for a public service, or anyone acting on their orders, at their instigation or with their express or tacit consent, who has intentionally inflicted severe physical or mental pain or suffering on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any other reason based on discrimination of any kind, shall be punished by a term of imprisonment of 5 to 10 years and a fine of 5,000 to 100,000 Congolese francs.”

23. Please indicate:

(a) The number of complaints, investigations, indictments, proceedings, convictions and decisions aimed at providing redress and compensation for victims of acts of torture and other cruel, inhuman or degrading punishment or treatment;

81. The Government plans to carry out a statistical study on prosecutions and compensation for victims.

82. Some cases in which military courts handed down convictions for torture are as follows:

Military tribunal of the garrison of Mbandaka

RP 134/2007/RMP 575

Botuli Ikofo et. al (*Waka Lifumba case*)

Sentence of 5 years' imprisonment for arbitrary arrest and unlawful detention with torture.

Military tribunal of the garrison of Bukavu

RP 275/09 and 521/10/RMP 581/07 and 1573/KMC/10

Jean Bosco Maniraguha, alias Kazungu, et. al.

Sentence of life imprisonment for the crime against humanity of torture.

Military tribunal of the garrison of Bunia

RP 071/09, 009/010 and RP 074/010

Kakado Barnaba

Sentence of 20 years' imprisonment for the war crime of cruel or inhuman treatment.

Military tribunal of the garrison of Bukavu

RP 708/12/RMP 1868/TBK/KMC/1012

Kabala Mandumba

Sentence of 20 years' imprisonment for the war crime of torture.

(b) The names and locations of all places of detention;

83. The Democratic Republic of the Congo has 167 prisons and detention camps. They are shown in the table in annex 2, listed by decentralized administrative subdivision.

(c) The maximum and the average length of pretrial detention;

84. The maximum length of pretrial detention in the Democratic Republic of the Congo is 82 days, divided as follows:

- (1) For civilians:
 - 48 hours in police custody;
 - 5 days' detention under a warrant issued by the public prosecutor;
 - 15 days' detention ordered after a hearing in chambers;
 - 60 days during court proceedings.
- (2) For the military:
 - Not more than 12 months.

(d) The prison population, disaggregated by offence and length of sentence; and

(e) The number of deaths that have occurred in each penal establishment.

85. Statistics on deaths are provided in an annex.

Articles 12 and 13

24. Please indicate the measures taken to conduct prompt and impartial investigations into allegations of torture and ill-treatment and to ensure that the alleged perpetrators of such acts are tried and, if found guilty, are given appropriate sentences, and that the victims are properly compensated. Is there a draft law on the protection of victims and witnesses? If so, please provide information on its content and any impediments to its adoption.

86. To effectively conduct prompt and impartial investigations into allegations of torture and ill-treatment, the Democratic Republic of the Congo established torture as a separate offence by the enactment of Act No. 11/08 of 9 July 2011 criminalizing torture. Since that time, the country has been firmly committed to combating the scourge of torture.

87. Moreover, circuit court hearings are organized in remote areas with a view to bringing an end to violations of the law.

88. To illustrate that commitment, in 2013 and 2014, five members of the Armed Forces of the Democratic Republic of the Congo, five officers from the Congolese National Police, one National Intelligence Agency officer and an agent from an administrative authority were convicted of having committed or encouraged torture. Penalties ranging from 6 months to life imprisonment were handed down by courts in the provinces of Kongo Central and Maniema and in the former provinces of Équateur, Kasai Occidental, Kasai Oriental and Katanga. At present, several cases related to torture are pending before the various competent courts.

89. In line with these prosecutions, guards from Mbandaka central prison in Équateur and Osio detention camp in Kisangani were convicted in 2014. More recently a guard at the Kasai Oriental central prison was convicted in 2016.

90. The Government has stepped up the fight against impunity, as can be seen from the conviction of Brigadier General Jérôme Kakwavu. On 17 November 2014, the Military High Court found him guilty of perpetrating the war crime of torture against Mr. Combe Ngambu, sentenced him to 5 years' imprisonment and ordered him to pay the equivalent in Congolese francs of US\$ 5,000 to the victim.

91. Numerous convictions have been handed down for the crime of torture.

92. The Ministry of Justice and Human Rights is currently engaged in deliberations concerning compensation for the victims of human rights violations in general, as part of a comprehensive approach to compensation.

93. The Government has not yet deemed it appropriate to enact a special law on compensation. Witnesses and victims enjoy general legal protection, as was the case with the 36 victims in the Songo-Mboyo case, who received compensation in 2014.

94. The Government has adopted implementing legislation that provides for the protection of victims and witnesses, including the Act amending and supplementing the Decree of 6 August 1959 establishing the Code of Criminal Procedure of 31 December 2015.

- 25. Please indicate whether all the follow-up committees which the Ministries of the Interior and Defence were to establish to investigate alleged human rights violations committed by the PNC and FARDC are currently operational.**

95. In the Democratic Republic of the Congo, the military courts deal with confirmed cases of human rights violations committed by elements of the Congolese National Police and the Armed Forces of the Democratic Republic of the Congo.

- 26. Please indicate the number of cases in which law enforcement officials were subjected to judicial or administrative sanctions for ill-treatment of detainees in 2007 and 2008. Please indicate the nature of the sanctions and the length of the sentences imposed. Please indicate whether, in cases of allegations of torture or cruel, inhuman or degrading treatment, civil servants implicated in such cases are suspended from duty as a precautionary measure for the duration of the investigation. Please provide detailed statistics in this regard and references for the judgments that were rendered.**

96. As the Act criminalizing torture only entered into force in 2011, it was difficult prior to that date to prosecute the alleged perpetrators of acts of torture or ill-treatment against detainees.

- 27. Please provide information regarding the fact that, according to information received by the Committee, some members of FARDC who have allegedly committed acts of torture have not been punished, but have been maintained in their posts or promoted.**

97. As mentioned in the reply to paragraph 24, in the Democratic Republic of the Congo, all confirmed cases of torture referred to the courts are prosecuted and punished.

98. Concerning promotion, members of Armed Forces of the Democratic Republic of the Congo are subject to the requirements of articles 160-166 of Act No. 13/005 of 15 January 2015 concerning the military code of the Armed Forces of the Democratic Republic of the Congo.

- 28. Please indicate whether persons placed in detention have the option, in cases where their complaints of torture and ill-treatment are dismissed, to submit their cases to the competent judicial authorities by means of a private prosecution.**

99. In the Democratic Republic of the Congo it is possible to initiate a private prosecution in the ordinary courts, but not in the military courts.

- 29. Please specify which independent body (bodies) is (are) responsible for visiting prison establishments and other places of detention. Please indicate the frequency of visits since 2005, the recommendations put forward by this body (these bodies) following such visits and how the recommendations were implemented. If these recommendations have not been implemented, please explain why not.**

100. Deliberations on the establishment of a national preventive mechanism are currently taking place.

101. The Democratic Republic of the Congo has, however, established a national human rights institution — the National Human Rights Commission — in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Commission consists of members of civil society, receives a budget from the public treasury and is empowered to carry out periodic visits to prisons and detention facilities throughout the country, in accordance with article 6 (3) of Act No. 13/011 of 21 March 2013 concerning the establishment, organization and functioning of the National Human Rights Commission.

102. Besides the independent national human rights institution, visits are carried out by:

- The corrections unit of MONUSCO;
- The United Nations Joint Human Rights Office;
- ICRC;
- National and international NGOs.
- The Personal Representative of the Head of State on Sexual Violence and Child Recruitment.

30. Please indicate the measures taken to establish and promote an effective mechanism to receive complaints of sexual violence, including within the prison system, and to investigate the complaints.

103. Public prosecutors' offices have special units for receiving complaints of sexual violence, which were established on the instructions of the Attorney-General of the Republic with the support of partners. The Attorney-General is further planning to deploy prosecutors soon to the eastern provinces of the country to strengthen the fight against impunity in cases of sexual violence.

104. In addition, within the framework of the Stabilization and Reconstruction Plan for the Eastern Democratic Republic of the Congo, justice officials are regularly made aware of the fight against sexual violence.

105. Lastly, a special police unit for the protection of children and the prevention of sexual violence was created pursuant to Decree No. 13/017 of 6 June 2013 laying down the organization and operation of the General Headquarters of the Congolese National Police and Decree No. 13/018 of 6 June 2013 on the establishment, organization and operation of a legal and litigation department within the Congolese National Police. The unit has offices for child monitoring and protection and for the prevention of sexual violence, with detachments in all police stations.

106. With a view to holding those responsible for atrocities in the country accountable, on 9 September 2016 the Government and MONUSCO signed the memorandum of understanding on the establishment of prosecution support cells, which is renewable annually.

31. What measures are taken to encourage prosecution/judge advocate's departments to take up, of their own motion, and to prosecute, cases of torture and cruel, inhuman or degrading treatment which they discover while making inspection visits to detention facilities, or which are brought to their attention?

107. The mission of prosecution departments is to seek out alleged perpetrators, to demonstrate their guilt and to refer them to the courts.

108. Since the adoption of the Act criminalizing torture, prosecution and judge advocate's department officials are obliged to take up, of their own motion, cases that are brought to their attention.

109. In this regard, during 2012 and 2013, a national campaign was carried out in all 11 former provinces, with the support of the United Nations Joint Human Rights Office, to raise awareness of the Act criminalizing torture among judges and prosecutors, criminal investigation police officers, prison guards and health personnel.

32. **Please provide information on the measures taken to expedite investigations into any disappearance or arbitrary execution reported to the State party and to prosecute and punish the perpetrators of such acts. In this connection, please indicate the measures taken to investigate the discovery, on 21 November 2006, by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and the judge advocate's department of Bunia garrison, of three mass graves in a FARDC military camp reportedly containing the bodies of some 30 men, women and children who had been missing since August 2006, according to information provided to the independent expert on the situation of human rights in the Democratic Republic of the Congo (A/HRC/4/7, para. 27).**

33. **The independent expert, in his report dated 21 February 2007 to the Human Rights Council (A/HRC/4/7, paras. 20-43) mentions a large number of massive violations of human rights, including cases of torture, cruel, inhuman or degrading treatment, disappearance, arbitrary detention, gang rapes and summary executions. Please indicate the measures taken to investigate the cases mentioned in his report, as well as actions taken to prosecute and punish the perpetrators. Please provide information on the action being taken to shed light on the disappearance of Dr. Soso Gesevene on 20 August 2006.**

110. Measures taken include investigations and prosecutions, some of which have been referred to the International Criminal Court.

111. There have also been prosecutions and convictions at the national level.

112. The Government, taking note of the information provided by the independent expert on the situation of human rights in the Democratic Republic of the Congo, Mr. Titinga Frédéric Pacéré in his report of 15 March 2006, submitted to the Human Rights Council and adopted by the United Nations General Assembly under reference A/HRC/4/7 of 21 February 2007, is conducting investigations and research and will provide, as soon as possible, information on the situation of Dr. Soso Gesevene.

Article 14

34. **Please indicate the measures taken to grant effective reparations, including adequate compensation and appropriate medical and psychological support, to victims of torture, including victims of rape and other forms of sexual violence. Please indicate how many persons have been compensated following a case of torture or ill-treatment and describe the nature of the violence to which they had been subjected.**

113. As part of the implementation of the national strategy against gender-based violence, mechanisms have been established with the support of international partners to provide holistic care for victims. The technical capacity of 90 medical health facilities, of which 30 are referral facilities, has been strengthened in North Kivu and South Kivu; at least 14,000 victims of sexual violence have received medical treatment, of which at least 3 per cent involved fistula repairs; some 12,000 victims receive good quality social and psychological care appropriate to their age and situation, with a view to reintegration in their families and communities, and 90 community networks have been strengthened. At least 2,520 victims of sexual violence (18 per cent) receive social and economic support for their reintegration and rehabilitation (United Nations Population Fund, 2012 report).

114. In addition, 35 women victims of sexual violence in Songo Mboyo, Équateur province, received compensation in 2014 as a result of proceedings before the military courts.

115. Raw data recorded by the civilian and military courts and tribunals in 2014 and 2015 are provided, as a statistical sample, in annex 4.

35. Please indicate the measures taken to adopt emergency legislative and administrative measures to protect child victims of torture, and of sexual violence in particular, and to ensure their rehabilitation and reintegration. Please also provide information on the measures taken to demobilize all child soldiers and provide for their rehabilitation and reintegration, particularly in Ituri, North and South Kivu and Katanga.

116. The main legislation enacted to put an end to all forms of sexual violence is Act No. 06/018 of 20 July 2006 amending and supplementing the Decree of 30 January 1940 on the Criminal Code and Act No. 06/019 of 20 July 2006 amending and supplementing the Decree of 6 August 1959 on the Code of Criminal Procedure.

117. Regarding children in particular, the Child Protection Act No. 09/001 of 10 January 2009 demonstrates the Government's firm commitment to the effective protection of children from torture and sexual violence through the creation of juvenile courts, the social workers' corps and State custodial and educational establishments.

118. Measures taken include:

- The zero-tolerance policy on sexual violence established by the Ministry of Justice and Human Rights;
- The strengthening of the capacity of criminal investigation officers of the Congolese National Police to combat sexual violence, with the support of the United Nations Joint Human Rights Office and the European Union police mission in the Democratic Republic of the Congo;
- The establishment of the thematic group on gender and combating gender-based violence in the sectoral ministries involved in the fight against sexual violence;
- The holding in Kinshasa from 25 to 28 July 2012 of the High-Level Consultation of Ministers in Charge of Justice and Gender from the Great Lakes Region on Sexual and Gender-Based Violence, at which, specifically in relation to the Kampala Declaration, member countries adopted the "Zero Tolerance Now" campaign against sexual and gender-based violence in the Great Lakes region;
- The adoption of Act No. 13/005 of 15 January 2013 concerning the military code of the Armed Forces of the Democratic Republic of the Congo;
- The adoption of Act No. 13/013 of 1 June 2013 concerning National Police personnel regulations.

119. As regards the demobilization and reintegration of child soldiers, a joint plan of action to combat the recruitment and use of children and other serious violations of children's rights by the national armed forces and security services was signed by the Democratic Republic of the Congo and the United Nations special team on children and armed conflict on 4 October 2012. In application of this plan, four joint technical working groups were set up in 2014-2015 in the provinces and areas most affected by armed conflict, namely North Kivu, South Kivu, north Katanga and Ituri, in order to monitor and protect the rights of children in situations of armed conflict.

120. In the period between 4 October 2012 and 31 December 2013, some 4,494 children associated with armed forces and groups, including 642 girls, were detached from these groups and, with the support of the United Nations Children's Fund, were provided with assistance.

121. The directives issued by the Ministry of Defence, Veterans and Reintegration, the Director of the National Intelligence Agency and the judge advocate general of the Armed Forces, all mentioned in the reply to paragraph 3, also fall into the category of measures for the demobilization of children associated with armed forces and groups.

Article 15

- 36. Please clarify whether the Code of Criminal Procedure explicitly stipulates that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings. If this is not the case, please explain why not. Please indicate the remedies available in cases where a conviction is based on statements obtained under torture or as a result of cruel, inhuman or degrading treatment.**

122. Apart from the relevant aspects addressed in the initial report (CAT/C/37/Add.6, paragraphs 171-173), the Act criminalizing torture not only allows courts to disregard confessions obtained under torture, but provides for the prosecution of those who perpetrate acts of torture for the purpose of obtaining a confession, with the assistance of the technical and scientific departments of the police and forensic experts.

123. The following should also be taken into consideration:

- Directive No. AG/0793/10 of 23 June 2010, instructing heads of department in the military prosecution service to systematically investigate all cases of torture or ill-treatment;
- Letter No. 1981/PNC/CG/COMDT/2014 of 16 July 2014 of the Commissioner General of the Congolese National Police, instructing all unit commanders and heads of sections to ensure the strict legality of all the actions they take in the context of judicial proceedings opened in the course of their duties, including in respect of torture;
- Letter No. 0905/PNC/CiatGen/084/SvJur&Cont/2015 of 7 May 2015, recalling Note No. 25 CAB/VPM/MININTERSEC/785/2015 of 20 March 2015, informing all provincial commissioners, directors of central services and commanders about the national specialized training programme on the humanization of services.

Article 16

- 37. Please indicate the legislative or administrative measures taken to protect human rights defenders from threats and other forms of intimidation, in particular members of non-governmental organizations such as Action contre l'impunité pour les droits humains (Action against Impunity for Human Rights) (ACIDH), La Voix des Sans Voix pour les droits de l'homme (Voice of the Voiceless for Human Rights), and Le Comité des Observateurs des Droits de l'Homme (The Observers' Committee for Human Rights) (CODHO), to which the Special Representative of the Secretary-General on the situation of human rights defenders refers in his report dated 27 March 2007 to the Human Rights Council (A/HRC/4/37/Add.1, paras. 225, 228 and 230).**

124. Pending the adoption of the bill on the protection of human rights defenders, currently under review in the Senate, the Government has engaged in efforts to protect journalists and human rights defenders. In this regard, the following legal and regulatory instruments are worth noting:

- Organic Act No. 11/001 of 13 January 2011 concerning the composition, powers and functioning of the High Council for Broadcasting and Communications;
- Act No. 13/011 of 21 March 2013 concerning the establishment, organization and functioning of the National Human Rights Commission;
- Decree No. 09/35 of 12 August 2009 concerning the establishment, organization and functioning of the Human Rights Liaison Body in the Democratic Republic of the Congo;
- Ministerial Order No. 219/CAB/MIN/J&DH/2011 of 13 June 2011 on the establishment, organization and functioning of the Protection Unit for Human Rights Defenders;

- Edict No. 001/2016 of 10 February 2016 on the protection of human rights defenders and journalists in South Kivu province.

38. Please indicate whether the State party has adopted the bill prohibiting and punishing domestic and sexual violence. If not, please explain why not.

125. The principle of the prohibition of domestic and sexual violence is enshrined in articles 14 (3) and 15 (1) of the Constitution of 18 February 2006, as amended by Act No. 11/002 of 20 January 2011, which state, respectively, that the public authorities “shall take steps to combat all forms of violence against women in public and private life” and that “they shall ensure the elimination of sexual violence”.

126. Consequently, Act No. 06/018 of 20 July 2006 amending and supplementing the Decree of 30 January 1940 on the Criminal Code and Act No. 06/019 of 20 July 2006 amending and supplementing the Decree of 6 August 1959 on the Code of Criminal Procedure stipulate penalties for all sexual violence committed either in the privacy of the home or elsewhere.

39. Please provide information on the measures taken to eradicate child trafficking, especially for the purposes of sexual or economic exploitation, and to prosecute the perpetrators of such acts.

127. Since the ratification in 2001 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Democratic Republic of the Congo has continued its efforts to enhance and overhaul its legal framework by adopting texts concerning the protection of the rights of children, including:

- The Constitution of 18 February 2006, whose article 41 (6) states that “All other forms of child exploitation shall be punished by law”;
- The Child Protection Act No. 09/001 of 10 January 2009, whose articles 162 and 182 stipulate, respectively, that “trafficking in or sale of children is punishable by 10 to 20 years’ imprisonment and a fine of 500,000 to 1 million Congolese francs” and that “procuring of a child is punishable by 5 to 20 years’ imprisonment. The penalty shall be increased to 10 to 25 years if the procurer of the child is the father, mother, stepfather, stepmother, guardian or any person exercising parental rights”.

128. In practice, several prosecutions have been brought against suspected child traffickers, including the case RMP 104.394, filed by the Public Prosecutor’s Office of Kalamu in Kinshasa.

40. The Committee notes that it has still not received a reply from the State party to the letter dated April 2007 to the Democratic Republic of the Congo from the Rapporteur for follow-up to the Committee’s observations and recommendations (CAT/C/DRC/CO/1). Please provide the information requested.

129. As a result of the enactment of the Act criminalizing torture, a definition in conformity with article 1 of the Convention against Torture is now in place.

130. Legislation providing for universal jurisdiction over acts of torture has not yet been adopted. However, the Democratic Republic of the Congo has ratified the Rome Statute of the International Criminal Court and cooperates with the Court whenever requested to do so.

41. Please provide detailed information on any relevant changes in the legislative or institutional framework for the protection and promotion of human rights at the national level that have taken place since the presentation of the initial report, including any relevant recent jurisprudence. Please also indicate any difficulty which would prevent the State party from fully meeting its obligations under the Convention.

131. Since the presentation of the initial report, the Democratic Republic of the Congo has acceded to the Optional Protocol to the Convention against Torture, doing so on 23

September 2010. It ratified the Convention on the Rights of Persons with Disabilities in September 2015.

132. The Constitution of 18 February 2006, as amended and supplemented by Act No. 11/002 of 20 January 2011, includes more than 50 articles devoted solely to human rights and fundamental freedoms.

133. Apart from the Constitution, a number of ordinary and organic laws with real impact on the promotion and protection of human rights have been passed since 2009. The acts concerned are the following:

- Act No. 15/013 of 1 August 2015 on the implementation of women's rights and equality;
- Organic Act No. 11/001 of 10 January 2011 concerning the composition, powers and functioning of the High Council for Broadcasting and Communications;
- Act No. 11/008 of 9 July 2011 criminalizing torture;
- Act No. 011/22 of 24 December 2011 concerning basic principles relating to agriculture;
- Act No. 11/007 of 6 July 2011 concerning the implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction in the Democratic Republic of the Congo;
- Act No. 011/009 of 9 July 2011 concerning basic principles relating to the protection of the environment;
- Act No. 11/003 of 25 July 2011 amending Act No. 06/006 of 9 March 2006 concerning the organization of presidential, legislative, provincial, urban and local elections;
- Organic Act No. 13/010 of 19 February 2013 concerning proceedings before the Court of Cassation;
- Organic Act No. 13/011-B of 11 April 2013 on the organization, functioning and competence of ordinary courts;
- Organic Act No. 13/012 of 19 April 2013 amending and supplementing Organic Act No. 10/013 of 28 July 2010 concerning the organization and functioning of the Independent National Electoral Commission;
- Act No. 13/005 of 15 January 2013 concerning the military code of the Armed Forces of the Democratic Republic of the Congo;
- Act No. 13/013 of 1 June 2013 concerning National Police personnel regulations;
- Organic Act No. 13/026 of 15 October 2013 concerning the organization and functioning of the Constitutional Court;
- Act No. 13/011 of 21 March 2013 concerning the establishment of the National Human Rights Commission.
- Act No. 10/002 of 11 February 2012 authorizing the accession by the Democratic Republic of the Congo to the Treaty on the Harmonization of Business Law in Africa;
- Act No. 13/024 of 7 July 2013 authorizing the accession of the Democratic Republic of the Congo to the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto;
- Act No. 16/008 of 15 July 2016, amending and supplementing Act No. 010 of 1 August 1987 on the Family Code;
- Organic Act No. 11/013 of 11 August 2013, whose article 35 (2) (3) entrusts the Deputy Commissioner General responsible for the administrative branch of the National Police with the coordination of the fight against sexual and gender-based violence, as well as the monitoring and protection of children;

- Decree No. 13/017 of 6 June 2013 on the organization and operation of the General Headquarters of the Congolese National Police, whose article 14 (3) (2) assigns to the Directorate of Public Security the task of proposing and following up on measures relating to child protection and the fight against sexual violence.

134. At the institutional level, the following structures have been created since 2009:

- The High Council for Broadcasting and Communications, by Act No. 11/001 of 10 January 2011;
- The Independent National Electoral Commission, by Organic Act No. 10/013 of 28 July 2010 as amended and completed to date;
- The Economic and Social Council, by Organic Act No. 13/027 of 30 October 2013;
- Organic Act No. 13/026 of 15 October 2013 on the organization and functioning of the Constitutional Court;
- The National Agency to Combat Violence against Women and Girls, established by Decree No. 09/38 of 10 October 2009;
- The Human Rights Liaison Body, created by Prime Ministerial Decree No. 09/35 of 12 August 2009;
- Juvenile courts, established by Act No. 09/001 of 10 January 2009 (the ordinary benches being subsequently fixed by Prime Ministerial Decree No. 11/01 of 5 January 2011);
- The Protection Unit for Human Rights Defenders, established by Ministerial Order No. 219/CAB/MIN/J&DH/2011 of 13 June 2011.

42. Please provide detailed information on any new political, administrative or other measure aimed at protecting and promoting human rights at the national level since the presentation of the initial report, including any human rights plan or programme, and on the resources allocated to them, the means of action, the objectives and the results achieved.

135. In addition to the steps described in the replies to paragraphs 40 and 41 of the list of issues, the Government has adopted several political and administrative measures and action plans and programmes, including:

In the education sector:

- The National Education Strategy, which has led to the construction and rehabilitation of 1,000 schools and the distribution of free school textbooks;
- Free primary education introduced in 2010;
- Increase in the education budget from 8 per cent to 16 per cent of the overall budget, which has made it possible to build and renovate several educational facilities, distribute free school textbooks and substantially increase school enrolment rates.

In the health sector:

- In 2009, updated national plan for the promotion and protection of human rights;
- In 2012, action plan for the protection of children in situations of armed conflict;
- In 2013, drafting of the third-generation Growth and Poverty Reduction Strategy Paper;
- Expanded Programme on Immunization;
- Immunization campaigns against tuberculosis and poliomyelitis;
- National agricultural investment plan incorporating the Bukanga Lonzo pilot project;
- Programmes and projects to support the development of rural infrastructure (known as PADIR), leading to the addition of 212 water supply points, 77 boreholes and 18

drinking water supply facilities in the provinces of Bandundu, Bas-Congo, Kasai Occidental, Kasai Oriental and Katanga;

- Civil service elections were organized in accordance with Decree No. 013/CAB.MIN/Fp/j-ck/40/dn/gnk/019/013 of 1 July 2013 establishing the Civil Service Trade Union Electoral Code;
- At the political and diplomatic levels, a number of initiatives have led to the signature of agreements, notably the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region, known as the Addis Ababa framework agreement, which was concluded on 24 February 2013, and the Nairobi declarations of 12 December 2013;
- Prime Ministerial Decree No. 11/01 of 5 January 2011 establishing the jurisdiction and seats of juvenile courts, and the signing on 29 December 2010 by the Ministers of Justice and Human Rights and of Gender, Family Affairs and Children of Interministerial Order No. 490/CAB/MIN/J&DH/2010 and Interministerial Order No. 011/CAB/MIN.GEFAE establishing a mediation committee for juvenile justice. Pursuant to the aforementioned Decree, the Minister of Justice and Human Rights signed Order No. 001/CAB/MIN/J&DH/2011 establishing secondary seats for juvenile courts and Order No. 002/CAB/J&DH/2011 defining the jurisdiction and grouping of jurisdiction of juvenile courts for the enforcement of custodial, educational and protective measures. Nevertheless, all State custodial and educational establishments in the Democratic Republic of the Congo are in need of rehabilitation and reconstruction. In December 2010, the Government issued an Interministerial Order establishing a legal assistance committee for widows and orphans, in order to provide protection for this group;
- In addition, the National Fund for Promotion and Social Services developed a strategic and financial plan for the period 2012-2016 for the mobilization of resources for various social projects, including child protection projects;
- In the interests of child protection, the Government introduced formal training for social workers in October 2013 through the creation of a higher education establishment, known as the National Institute of Social Work;
- The signing, on 4 October 2012, of an action plan to tackle the recruitment and use of children and other grave violations of children's rights by the armed forces and the security services of the Democratic Republic of the Congo; the development in 2011 of the national action plan to combat the worst forms of child labour and the close partnership between the Democratic Republic of the Congo and its international and national partners (non-governmental human rights organizations) in the context of follow-up to the universal periodic review;
- The National Fund for the Promotion of Women and the Protection of Children; the National Strategic Development, Literacy and Informal Education Plan (2012-2020), which is already being implemented; the implementation strategy for the national youth policy; the training and phased deployment of 500 assistants during the period 2010-2013 in juvenile courts; the repatriation of 3,116,631 internally displaced persons by the Government, with support from human development partnership organizations, in May and June 2013 to the east and north-west of the country (source: Office for the Coordination of Humanitarian Affairs); the organization of training sessions to strengthen the capacities of clerks, bailiffs and criminal investigation officers, from 2010 to 2013; the establishment of the National Legal Support Unit in the military justice system; the integration of courses on human rights and international humanitarian law into the training programmes of all military and Congolese National Police academies; the creation by the Ministry of Gender, Family Affairs and Children of a database and the publication of statistical data on sexual and gender-based violence and its integration into the national human rights education programme; the organization by the Government of public awareness campaigns and the dissemination of information on the Act criminalizing torture, the Child Protection Act, the Act on the Protection of the Rights of Persons living with HIV/AIDS and various laws on sexual violence; the organization of

public speaking competitions on human rights in the university sphere, with the support of the United Nations Joint Human Rights Office, the French Embassy and other partners, the winner of which was awarded a study grant for a master of advanced studies in France; the boosting of agricultural production by the provision of more than 2,725 tractors, ploughs and harrows to farmers; the rehabilitation of road infrastructure and agricultural service roads; and the establishment of liaison bodies at the provincial level;

- Decree No. 13/008 of 23 January 2013 on the establishment of a national humanitarian coordination framework; Order No. R9C/024/GC/CAB.MIN/AFF.SAH6 SN/09 of 9 November 2009 on the implementation of the national guidelines for the protection and care of children in situations of family breakdown; Ministerial Order No. 143 of 10 November 2010 on the establishment of the steering committee for the street children project, and Ministerial Order No. 063/CAB.MIN.AFF.SAH.SN/2012 of 17 September 2012 on the establishment, organization and functioning of the social workers' corps in the Democratic Republic of the Congo. Furthermore, a number of strategies have been put in place, including the strategy for the implementation of the national youth policy and the National Strategic Development, Literacy and Informal Education Plan (2012-2016, 2020), which is already being implemented. Lastly, the Democratic Republic of the Congo has adopted and implemented the National Action Plan for Orphans and Vulnerable Children.

43. Please provide any other information on recent measures and changes aimed at implementing the Convention and the Committee's recommendations since the consideration of the initial report in 2005, including relevant statistical data, and on any events in the State party that are of relevance to the implementation of the Convention.

136. The Democratic Republic of the Congo acceded to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on 23 September 2010.

137. Deliberations on the establishment of a national preventive mechanism are currently in progress.

138. Nevertheless, the Democratic Republic of the Congo has by now established a national human rights institution — the National Human Rights Commission — in accordance with the Paris Principles.

139. Other relevant measures, as mentioned above in the reply to paragraph 3 of the list of issues, include:

- The Act criminalizing torture;
- The Child Protection Act and its implementing decree;
- National public information and awareness campaigns on the Act criminalizing torture in national languages and in all provinces;
- The directives issued by the Minister of Defence, the judge advocate general and the National Intelligence Agency and the letter of the Commissioner General of the Congolese National Police;
- Human rights monitoring in punishment cells, detention centres and prisons and human rights capacity-building for officials and civil servants based in the provinces;
- Convictions for torture.

44. Please provide information on legislative, administrative or other measures taken by the Government in response to terrorist threats, and please indicate the extent to which such threats have affected fundamental human rights guarantees, in law and in practice.

140. The Democratic Republic of the Congo has not passed any emergency laws. However, steps have been taken to strengthen security at airports, including the installation of scanners, the recruitment of extra security officers and the introduction of biometric passports.

141. In addition, a passenger identification and tracking system has been installed at 13 of the 33 border posts that were due to have the system by 2017.

45. Please indicate the concrete steps taken to ensure broad dissemination of the Convention and of the Committee's concluding observations in all the languages of the State party. What actions and programmes have been undertaken in cooperation with non-governmental organizations? In what circumstances do human rights defenders have access to places of detention and to information and statistics relating to Government policies?

142. The Convention was disseminated initially through publication in the Official Gazette and subsequently through the following measures:

- The updating and dissemination of a handbook on the fundamental rights and duties of citizens, in national languages, by the Ministry of Justice and Human Rights;
- Training of trainers on the dissemination of the handbook on the fundamental rights and duties of citizens;
- Awareness-raising on all human rights issues by the civic and patriotic education department of the Armed Forces;
- Preparation, production and broadcasting of programmes on human rights by the information, communication and press department of the Congolese National Police;
- Since 2010, the teaching of courses on human rights and international humanitarian law as part of the training programme at the army and police academies;
- Radio and television programmes on human rights (civil rights and liberties, points of law and the law and society in the official media);
- Production and distribution of communication tools such as T-shirts, leaflets, posters, brochures and banners, including on the occasion of United Nations International Day in Support of Victims of Torture, with the support of the United Nations Joint Human Rights Office;
- Regular media coverage of human rights issues, including through the organization of international days attended by journalists.

143. Concerning cooperation with civil society and access to places of detention, please refer to the replies to item 2 of the list of issues.

46. Does the State party plan to make the declaration under articles 21 and 22 of the Convention? Does the Democratic Republic of the Congo envisage ratifying the Optional Protocol to the Convention against Torture? If so, has it established or designated a national mechanism to conduct periodic visits to places of detention in order to prevent torture or other cruel, inhuman or degrading treatment?

144. The Government is currently considering the possibility of making the declarations under articles 21 and 22 of the Convention.

145. The Democratic Republic of the Congo acceded to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on 23 September 2010.

146. The Democratic Republic of the Congo has not yet set up a national mechanism to conduct periodic visits to places of detention in the sense of article 17 of the Protocol. However, this task is performed by the National Human Rights Commission.
