

AFRICAN UNION		UNION AFRICAINE
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Consideration of Reports Submitted by States Parties under the Terms of Article 62 of the African Charter on Human and Peoples' Rights

Concluding Observations and Recommendations on the Initial Report of the Democratic Republic of Congo (DRC)

I - Introduction

- 1- The Democratic Republic of Congo (DRC) is a State Party to the African Charter on Human and Peoples' Rights (the African Charter or the Charter) having ratified it on 20 July 1987.
- 2- The present Concluding Observations on the Initial Report of the Democratic Republic of Congo (DRC) arise from the content, the presentation, and the dialogue that ensured from the exchange between the African Commission on Human and Peoples' Rights (the African Commission or the Commission) and the Representative of the, DRC at the African Commission's 34th Ordinary Session held in Banjul, The Gambia from 6 to 20 November, 2003.
- 3- The Report consolidates DRC's Initial Report due since 20 on July 1989 and the 1st, 2nd, 3rd, 4th, 5th and 6th reports due on 20 July 1991, 20 July 1993, 20 July 1995, 20 July 1997, 20 July 1999, 20 July 2001 and 20 July 2003 respectively.
- 4- The Report was presented to the African Commission by the Minister of Human Rights, the Honourable Kalala Marie Madeleine.

II: Positive Aspects

The African Commission:

- 5- Commends the frank, candid and constructive manner with which the DRC Minister of Human Rights, the Honourable Kalala Marie Madeleine participated in the dialogue with the African Commission. The presentation deserves a special mention.
- 6- Notes with appreciation the submission by the DRC of its Initial Report, more particularly, at the time it was going through enormous problems including armed conflict in the Northern and Eastern regions of the country.
- 7- Appreciates the willingness of the DRC Government to cooperate with the AU, the United Nations and the international community in efforts to find solutions to its current social, economic and political problems which provides hope for a lasting solution to the current crisis.
- 8- Commends the DRC for the success of the peace process to-date, which has culminated in the establishment of a transitional Government. It is a welcome development which puts the DRC on the road to lasting peace, thereby creating an environment under which the rights under the African Charter may be protected for the entire territory of the DRC.
- 9- Notes with satisfaction that the DRC has already made serious efforts to put in place legislation for the protection of human rights in line with its obligations under Article 1 of the African Charter.
- 10- Welcomes the efforts of the United Nations through MONUC in ensuring peace, particularly in the Eastern Districts of the country, and to provide an environment upon which a peaceful transition to the democratisation of the entire DRC is highly commendable.

III - Factors Restricting the Enjoyment of the Rights Enshrined in the African Charter

11. The Report acknowledges that despite the new Transitional Government's desire to protect all its citizens so as to enable them to enjoy rights under the Charter, the fact that it is yet to establish control over the entire territory of the DRC inhibits those citizens in areas still under conflict from accessing Government protection and hence the enjoyment of the rights under the Charter.

- 12- The Report also recognises that the current Government inherited a system where the economy had collapsed with no meaningful economic infrastructure such as roads and bridges and this has the effect of crippling the new Government's ability to mobilise the enormous natural resources the country is endowed with for the benefit of its people.
- 13- The Report reveals that the long conflict the country has been embroiled in and the consequential deep ethnic hatred that has resulted there from thereby perpetuating continued conflict in the Eastern districts, inhibits economic development and the creation of an environment for the enjoyment of human rights by people in those areas.
- 14- The Report further states that the massive displacement of people in all areas of conflict over the years seriously affects access by the people affected to enjoyment of rights under the Charter.

IV - Areas of Concerns

While recognising the efforts of DRC to promote and protect human rights and to promote awareness of the principles and provisions of the African Charter, the African Commission remains concerned that:

- 15- The Report does not strictly comply with the Commission's guidelines for reporting set out in the Commission's guidelines for reporting primarily due to the fact that the Government did not have control of the whole territory of the DRC at the time, the tremendous efforts being made to provide a legal framework within which the rights under the charter may be protected are highly commendable;
- 16- The continued conflict in the Eastern Districts particularly in Bunia has resulted in numerous deaths, destruction of property and displacement of many people;
- 17- The United Nations Peace-Keeping Force (MONUC) has been unable to stop the carnage in the Eastern Districts such as Bunia where massacres which amount to violations of international humanitarian law, are reported to have taken or be taking place;
- 18- There are still reports of continued serious violations of the human rights of the pygmy/Batwa populations of the DRC particularly in the Eastern Districts, which include deprivation of the right to life, forced

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removals from their lands, total deprivation of basic means of livelihood and many other injustices;

- 19- There is an absence of any mention or treatment of the Pygmy/Batwa population in the DRC Report despite numerous reports of injustices they are reported to be suffering;
- 20- There is an apparent absence of the protection of the independence of the judiciary in the light of the powers given to the Minister of Justice to dismiss judges; and
- 21- The continued existence of child soldiers in the DRC is still rampant.

V - Recommendations

The African Commission recommends that the Government of DRC should:

- 22- Expedite the consolidation of the Peace Process so as to demobilise the numerous armed groups and integrate the various armies of the components of the Transitional Government into a single army so as to assume control and responsibility over the entire territory of the DRC;
- 23- Take urgent measures in conjunction with MONUC to stop the fighting in the Eastern Districts so as to ensure the security of people in those areas;
- 24- Take steps towards ensuring the protection of the rights of the Pygmy/Batwa people in the whole territory of the DRC and move particularly to stop the serious violations of the rights of these people in the Eastern Districts. In this regard, the Government is urged to put in place as quickly as possible legislation recognising the rights of the Pygmy/Batwa people;
- 25- Take urgent and concrete measures to complete the promulgation of the new constitution for the Republic as well as other laws for the implementation of the rights under the Charter so as to enable all its people to enjoy the rights under the Charter;
- 26- Pay particular attention, in drafting the new constitution, to those provisions relating to the protection of the independence of the judiciary as the judiciary is not only a fountain of justice but also the key to adequate protection of human rights;

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- 27- Take all appropriate measures to protect the rights of the child by ensuring disbanding and prohibition of child soldiers. Such measures should include programmes for the rehabilitation of the former child soldiers;
- 28- Expedite the submission of its 9th periodical report due on 20 July 2005 so as to update the Commission on the success of the peace process and new laws and programmes undertaken to ensure adequate protection of the rights under the Charter; and
- 29- Inform the African Commission, in its next Periodic Report, of the steps it has taken to address the areas of concern, as well as how it has implemented the recommendations in this Concluding Observations.

Adopted at the thirty-Fourth Ordinary Session of the African Commission on human and Peoples' Rights held from 6 to 20 November 2003, in Banjul, The Gambia