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Committee on Economic, Social and Cultural Rights Seventy-first session

Summary record of the 2nd meeting

Held at the Palais Wilson, Geneva, on Monday, 14 February 2022, at 3 p.m.

Chair: Mr. Abdel-Moneim

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The meeting was called to order at 3.05 p.m.

Consideration of reports

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

Sixth periodic report of the Democratic Republic of the Congo (E/C.12/COD/6; E/C.12/COD/Q/6 and E/C.12/COD/RQ/6)

1. *At the invitation of the Chair, the delegation of the Democratic Republic of the Congo joined the meeting.*
2. **Mr. Puela** (Democratic Republic of the Congo), speaking via video link, said that, despite the regular attacks perpetrated by armed groups in some areas of the country and the effects of the coronavirus disease (COVID-19) pandemic, the Government remained committed to protecting and promoting human rights, including those set out in the Covenant.
3. To that end, the authorities had taken a number of actions, including the declaration, in May 2021, of a state of emergency in Ituri and North Kivu Provinces, aimed at restoring authority and hastening the return of peace to the region. In October 2021, the Prime Minister had launched an ambitious nationwide development programme for the construction and upgrading of basic social infrastructure such as roads and schools. The Government had also adopted a national strategic plan for universal health care, following the promulgation of Act No. 18/035 of 13 December 2018 establishing the fundamental principles of public health care, and the President had publicly committed to increasing the number of people with affordable health insurance by 10 per cent each year.
4. The national strategic plan was structured around five main areas, namely, improving the quality of health-care services, providing financial protection for all users of those services, reinforcing the mainstreaming of health, ensuring appropriate management of the health-care system and mobilizing resources to achieve universal health care. Significant progress had already been made, including the establishment of the National Council for Universal Health Care. Five draft decrees were being considered by the Council of Ministers, with a view to setting up a Solidarity Health Fund, a Health Promotion Fund, a National Public Health Institute, a Regulatory Authority for Universal Health Care and a National Agency for Clinical Engineering and Health Information.
5. The Organic Act on the Protection and Promotion of the Rights of Persons with Disabilities had been adopted by the Senate in December 2021 and was currently awaiting presidential approval. Once promulgated, the Act would fill the gaps in existing legislation and create an effective framework within which to ensure that persons with disabilities were able to participate in national life on an equal footing with others.
6. The Government was committed to combating corruption and misuse of public funds, with a view to maximizing the resources available for improving the well-being of the population. In addition, with the aim of confronting the country's history of violence and achieving national reconciliation through peace, the Government had taken several steps to establish transitional justice mechanisms. In the light of the complex situation and the ethnic diversity in the country, particular emphasis was placed on contextual analysis and public consultation processes, which were due to be launched at the end of February 2022.
7. **Mr. Windfuhr** (Country Rapporteur) said that he would be interested to hear how the State party intended to encourage the courts to invoke the provisions of the Covenant in their decisions in areas such as labour disputes and how it planned to ensure that judges received training on the Covenant. It would be helpful to know whether the Government was planning to ratify the Optional Protocol, which would allow the Committee to receive communications from individuals under the jurisdiction of the State party.
8. While the Committee welcomed the establishment of the National Human Rights Commission, which had been granted category A status by the Global Alliance of National Human Rights Institutions, it was concerned that some of the Commission's regional offices had reportedly not yet received the financial resources they required for their operations. It was unclear how changes to the internal regulations governing the appointment of the Commission's members would affect its independence.

9. The Committee had been informed that the measures that had been instituted to combat the spread of COVID-19 had caused difficulties for low-income households in particular. He would appreciate the delegation's assessment of how those difficulties could be addressed. Given that approximately 27 million children had experienced long-term school closures, he would be interested to hear how the right to education had been affected and how other issues, such as early marriage, child labour and the recruitment of children by armed groups, had been impacted.

10. The World Food Programme had reported that the food crisis in the State party was the most serious in the world in terms of absolute numbers, with 27.3 million people experiencing food insecurity. He wished to know which factors, aside from internal conflict, had brought about that situation and how the authorities intended to resolve the problem, particularly among internally displaced persons, who numbered 5 million according to estimates by the Office of the United Nations High Commissioner for Refugees.

11. The situation of human rights defenders in the State party was reportedly dire, particularly for those working to defend land and environmental rights. The Committee would welcome an update on when the bill on the protection of human rights defenders was likely to be adopted, as well as an account of any obstacles to its full implementation. It would also appreciate information on how the State party planned to increase protection for human rights defenders who worked with the lesbian, gay, bisexual, transgender and intersex communities.

12. While the Committee welcomed the changes that had been made to the Forestry Code and the Mining Code, it would be interested to learn whether the Government was planning to develop an action plan on business and human rights, or regulations requiring companies to exercise due diligence in respect of human rights. It was unclear whether the amendments to the regulatory framework governing extractive industries were sufficient to prevent negative impacts on ecosystems and livelihoods. He would be grateful for details of how the authorities monitored the implementation of the framework by mining companies and artisanal mining operations, as well as of any sanctions imposed for breaches of the regulations and any remedies granted to affected populations. He would welcome the delegation's comments on how the State party planned to ensure that the royalties from mining activities were shared with local communities. He would also appreciate an update on the implementation of the 2017–2020 action plan on reducing child labour in the mining sector.

13. Corruption reportedly permeated all spheres of the State party, including the Government, the police and the military. He wished to hear about any additional steps the authorities were taking to monitor and evaluate public administrations and to guarantee the independence of the judiciary. It would be interesting to hear the delegation's comments on whether a nationwide plan to eradicate corruption might be helpful.

14. Given that the State party was home to the largest rainforest in Africa, an account would be welcome of the Government's plans to slow the rate of logging concessions granted to international companies. He would be grateful for details of how the authorities sought to protect communities that were displaced from conservation areas and to address atrocities committed by park rangers.

15. The Committee welcomed the State party's ratification of the Convention on the Rights of Persons with Disabilities and would appreciate comments from the delegation on the possibility that it would adopt comprehensive anti-discrimination legislation. It would be helpful to receive information about the work of non-governmental organizations in the area of disability and to learn how those that received government funding were selected. It was unclear what additional steps the authorities planned to take to improve the situation of indigenous peoples, especially Batwa communities. He would welcome an update on when the bill on the protection and promotion of the rights of indigenous peoples was expected to be passed by the Senate. It would be useful to receive details of how standards on free, prior and informed consent were applied with regard to the use of indigenous land and the protection of indigenous culture. He would also appreciate an account of the extent of discrimination, including verbal attacks, harassment and killings, faced by lesbian, gay,

bisexual, transgender and intersex persons and the measures being taken to protect them and to counteract stereotypes, intolerance and violence.

16. He wished to know whether the rate of violence against women had decreased in recent years, particularly at artisanal mining sites, and what steps the Government planned to take to promote gender equality, especially for women in vulnerable groups.

17. **Mr. Caunhye** (Country Task Force) said that he would appreciate information on any measures taken recently to reduce unemployment, particularly among marginalized groups, in the formal and informal sectors, as well as statistical data, disaggregated by sex, age group and province, on employment trends in both sectors over the previous five years. He wished to learn about the Government's response to the job losses and loss of income that had resulted from the COVID-19 pandemic. It would also be helpful to know whether the Youth Employment Action Plan and the National Employment and Vocational Training Policy had had any effect on employment rates and whether the Government had taken any steps to facilitate the employment of persons with disabilities.

18. He wished to find out how the minimum wage was calculated, whether it was indexed to the cost of living, what the amount of the minimum wage had been over the previous five years and whether social partners and workers' representatives were consulted regarding that amount. He would be grateful for information on any steps that had been taken to extend the minimum wage to all workers, including those in the informal sector, and on any complaints that had been filed by workers because of their employers' failure to pay the minimum wage.

19. He was curious to know whether any training programmes or information campaigns had been run or other steps taken to eliminate workplace discrimination, including in hiring, firing and compensation decisions, in both the public and private sectors, and whether the Government planned to enact legislation to prohibit workplace discrimination based on sex or any other grounds. He wished to learn how prohibitions against gender-based discrimination at work were enforced, how the principle of equal pay for work of equal value was implemented and whether any complaints had been filed for failure to enforce those prohibitions or implement that principle. As the Committee had received reports that women working in the public sector faced discriminatory treatment when claiming social security benefits, it would be helpful if the delegation could indicate the number of women who received social security benefits, particularly under Act No. 16/013 of 15 July 2016.

20. He would appreciate information on any steps being taken to regularize the situation of workers in the informal sector, in which a substantial percentage of the total active workforce was employed, and to transition workers, particularly women workers, from the informal sector to the formal one. He wished to know how the State party ensured that legal protections under the Labour Code applied to workers in the informal sector and to workers employed informally in the formal sector. It would also be helpful to know how the State party enforced occupational health and safety regulations and ensured that workers in both the informal and formal sectors enjoyed the basic right to just and favourable conditions of work. He would be interested to find out whether any complaint mechanisms were available to workers to report violations of that right and, if so, how many complaints had been filed and what the outcomes had been. He wished to learn what steps the State party was taking to combat child labour in the mining sector and what the results had been of the 2017–2020 action plan on reducing child labour in the mining sector. It would be helpful to have an update on the State party's plans to recruit 1,000 labour inspectors.

21. He would be grateful for information on how the State party ensured, through either legal or administrative measures, that there were no restrictions on the right to form and operate trade unions in the public sector. He would like to know how many such trade unions had been formed during the previous five years and whether any measures had been taken to prevent the harassment or intimidation of trade unionists or undue interference in the administration of trade unions.

22. He would appreciate an update on the implementation of Act No. 17/002 of 8 February 2017 and on the mutual insurance and welfare funds that were to be established. He wished to know what steps were being taken to extend social protections, including social security benefits under Act. No. 16/009 of 15 July 2016, to all segments of the population and to provide assistance to vulnerable groups. It would be helpful to have data on the forms of

social assistance that had been provided to vulnerable groups over the preceding three years under the social assistance programmes of the Ministry of Social Affairs, Humanitarian Action and National Solidarity.

23. Miners worked in harsh conditions, and high rates of injury and disease were reported. He would be grateful for data, disaggregated by sex, age and type of employment, on persons working at mining sites and the number of accidents and incidence of disease over the previous five years. He would appreciate detailed information on measures taken to protect miners from exploitative working conditions, prohibit the employment of children and pregnant women at mining sites and provide victims of accidents or disease with remedies and adequate compensation. He also wished to learn whether cooperative societies of artisanal miners were being established within special zones for artisanal mining, in accordance with Act No. 18/001 of 9 March 2018.

The meeting was suspended at 4 p.m. and resumed at 4.20 p.m.

24. **Mr. Puela** (Democratic Republic of the Congo) said that, as education was now free for children in the country, including children living in mining areas, it provided a viable alternative to seeking work in mines. The Voluntary Principles on Security and Human Rights, which the Government would soon adopt, would apply to the extractive sector. The Democratic Republic of the Congo had been one of the first countries to sign up to the Extractive Industries Transparency Initiative. All businesses operating in the country were required to file certain reports relating to their activities, and the failure to do so was punishable by a fine of \$1 million to \$2 million. A fund had been set up to remedy environmental damage in communities where mining activities took place.

25. Women's rights and gender parity were promoted under Act No. 15/013 of 1 August 2015 and through the work of an interministerial committee and a national council that had been put in place to address those issues. There was no gender pay gap in the civil service: women and men had the same salaries and benefits, which had recently been increased following negotiations with trade unions, and 27 per cent of government positions were held by women. The Deputy Prime Minister responsible for environmental matters and the Governor of the Central Bank of the Democratic Republic of the Congo were women. Acts of violence against women could be reported using a hotline available throughout the country. A national reparation fund had been created to provide comprehensive assistance, including medical and psychological care, to survivors of sexual violence. A campaign was under way to fight sexual violence in schools.

26. With regard to persons with disabilities, the law established provisions governing their access to work. The Ministry for Persons with Disabilities and Other Vulnerable Persons was implementing a project with a sizeable budget to promote the employment of persons with disabilities and stop them from begging in the streets of Kinshasa. The situation with respect to discrimination against persons with disabilities had already improved considerably since the recent adoption of the Organic Act on the Protection and Promotion of the Rights of Persons with Disabilities.

27. Concerning the application of the Covenant by the national courts, the Interministerial Committee on Human Rights had developed a comprehensive plan based on the recommendations made by the human rights treaty bodies and as part of the universal periodic review process. Under that plan, the National Judicial Training Institute would ensure that the relevant training was provided to judges, some of whom were sent to study abroad.

28. A process was currently under way to appoint new members to the National Human Rights Commission; its new composition would be finalized in March 2022 when parliament was back in session. The Commission's budget had been increased.

29. As to the situation of internally displaced persons and the recent horrific massacre in a displacement camp, the presence of the armed forces in the camps had been reinforced to prevent the recurrence of such atrocities. The state of emergency had been declared to prevent such acts of violence. A bill on the protection of human rights defenders was currently under consideration before the National Assembly.

30. Contrary to what the Committee had been told, the Government was expending significant efforts to combat corruption and had adopted a zero-tolerance approach. The

powers of the General Inspectorate for Finance had been expanded, and it was engaged in a major campaign throughout the country. The President's chief of staff had recently been prosecuted and convicted on charges of corruption and was currently serving a prison sentence while awaiting the outcome of an appeal. Just a few days previously, two senior members of the board of directors of SCTP, the publicly owned ports and transport company, had been arrested for acts of corruption and were in custody.

31. The Government was working on incorporating environmental protection standards into the process for granting concessions to oil companies.

32. **Mr. Hennebel** said that the Committee was particularly concerned by reports of widespread sexual violence against women and girls in conflict and other contexts, perpetrated by the armed forces and police in the State party. He would therefore be interested to know what measures the State party was taking to address the situation, specifically to ensure effective and comprehensive reparation for victims of sexual violence and to try to find lasting solutions to the problem. He would also welcome an update on plans to criminalize conjugal rape. Lastly, it would be helpful to know how the State party evaluated the effectiveness of the various measures, regulations and plans related to environmental protection, health and human rights in the mining sector.

33. **Mr. Windfuhr** said that he would be interested to hear more about the causes of hunger and malnutrition in the State party, the extent to which the current situation was related to loss of income during the COVID-19 pandemic, and whether the level of the minimum wage and minimum social support also played a role. The delegation might also comment on the measures that were being considered to improve the situation.

34. Given that larger foreign mining companies had a responsibility to apply international standards, he would be interested to know how the State party viewed the balance between State control and self-regulation. He would also like to know what options were being considered to manage the artisanal mining sector, including by minimizing the risks to health and guaranteeing more stable control of those mining activities.

35. Lastly, it would be interesting to know why the State party did not plan to adopt a general anti-discrimination law, which would help address different forms of discrimination and intersectional discrimination.

36. **Mr. Uprimny**, speaking via video link, said that, while he understood the reasons for the declaration of the state of emergency in North Kivu and Ituri Provinces, given the insecurity in the region, there were, nevertheless, concerns that states of emergency were always problematic when it came to respect for human rights. In that connection, he wished to draw attention to the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights. He would be interested to know what measures the State party had taken to ensure that the state of emergency did not result in any disproportionate restriction of economic, social and cultural rights, particularly with respect to vulnerable population groups.

37. He would welcome a response to the Committee's questions regarding any specific measures taken or planned to address discrimination against lesbian, gay, bisexual, transgender and intersex persons. He also wished to know what was being done to protect human rights defenders in the exercise of their legitimate activities and what was hindering the adoption of the bill on human rights defenders that was still before parliament. Lastly, while the prosecution of senior officials for acts of corruption was an important step, it would be helpful to know whether there was a legal framework in place to prevent such acts occurring in the first place, as well as a mechanism to protect whistle-blowers.

38. **Mr. Emuze** said that he wished to know to what extent the State party had effectively regulated the activities of multinational mining companies operating in the country when it came to preventing pollution and land degradation, and whether any measures had been taken to provide socioeconomic resources to local communities who were unable to farm or fish because of the large-scale exploitation of mineral resources in their areas.

The meeting rose at 5 p.m.