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the Elimination
of all Forms of
Racial Discrimination**

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Seventy-first session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1828th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 7 August 2007, at 10 a.m.

Chairperson: Mr. de GOUTTES

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* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1828/Add.1.

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The public part of the meeting was called to order at 10.30 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Eleventh to fifteenth periodic reports of the Democratic Republic of the Congo (continued)
(CERD/C/COD/15)

1. At the invitation of the Chairperson, the members of the delegation of the Democratic Republic of the Congo resumed places at the Committee table.
2. Mr. LOKWA ILWALOMA (Democratic Republic of the Congo), thanking members for their comments and questions, acknowledged that his country's periodic report, indeed like any other human creation, was not perfect, and was very general in tone. Unfortunately, a further document which should have accompanied it had not yet reached the Committee, but he would ensure that it was sent as soon as he returned home.
3. The inter-ministerial committee referred to in paragraph 5 of the report (CERD/C/COD/15) consisted of 35 members from 17 ministries directly or indirectly concerned with human rights. Each of its subcommittees drafted a report for a specific human rights monitoring body, which was submitted to non-governmental organizations (NGOs) for comment before it was finally adopted by the full committee. Exceptionally, no NGOs had attended the consultations on his country's report to CERD, for reasons he was unable to explain, although they had been invited to do so.
4. His country treated all the international human rights instruments to which it was a party as equally important. The Government had adopted legislative measures to suppress racism and tribalism long before it had acceded to the Convention. The 2006 Constitution, dating from 2006, placed particular emphasis on the rights of women and children because they had borne the greatest burden during the civil war. The term "minority", as used in the Constitution, was a purely quantitative term, referring to groups which were small in number, not to their ethnic composition.
5. Pygmies were recognized as "indigenous peoples" in many international instruments, but the phrase was a sensitive one for many African countries. A commonly held view was that it meant those tribes which had been in the country when the colonial Power had arrived - in which case it applied to the most numerous tribe as well as the smaller ones.
6. Turning to property rights, he said that all land and subsoil belonged to the State. Of course, individuals and tribes used the land for agriculture or other purposes, but they had to have a contract with the State in order to do so.
7. The Government had recently decided to provide free primary education for all Congolese children, without distinction. There were, however, no special measures to encourage specific groups to attend school.

8. Candidates in the recent elections had made discriminatory remarks against their opponents. As far as he knew, they had not been prosecuted, but they had been denied media coverage, and a temporary ban had been imposed on the media which had publicized their remarks.
9. The Government had adopted a poverty-reduction plan, entitled the “Strategy Document for Growth and Poverty Reduction” (Document de stratégie de croissance et de réduction de la pauvreté - DSCR), which was designed to benefit all Congolese, without distinction.
10. The four national languages were Kikongo, Lingala, Swahili and Tshiluba. Over 250 dialects were also used in the country: while the State did not discourage their use, it could not actively promote such a large number of languages.
11. The redistribution of provincial boundaries laid down in article 2 of the Constitution was intended not to separate different ethnic groups, but to bring the administration closer to the people.
12. The inter-ethnic conflicts between people from Kasai and those from Katanga had now ceased, and the conflict between the Hema and Lendu peoples in the Ituri area had become less acute. However, the situation in Nord-Kivu and Sud-Kivu (paragraph 71 of the report) still gave cause for concern. He had been a member of a government fact-finding mission which had visited the region and was now preparing for a round-table meeting between all the community leaders in the east of the country.
13. The Banyamulenge and Banyarwanda peoples had been granted the right to Congolese nationality under the law on Congolese nationality of 12 November 2004 (paragraph 72 of the report). Some people of Banyamulenge ethnicity had Congolese nationality and some Rwandan, depending on where they lived. At present, a person with Congolese nationality could not simultaneously hold another nationality; that state of affairs was not likely to change in the near future.
14. Turning to the questions raised by Mr. Antonomov, he said that, in view of the new political and institutional situation in the country, the Government might soon be in a position to make the declaration on individual communications provided for in article 14 of the Convention. A child born of naturalized Congolese parents automatically received Congolese nationality from birth.
15. As Minister for Human Rights, he had a general mandate for the promotion and protection of human rights. He worked through other ministries and services, rather than directly: for instance, if a soldier, police officer or secret service agent committed a human rights violation, he would ask the relevant department to investigate and monitor its actions to ensure that justice was done.

16. The National Observatory for Human Rights (Observatoire national des droits de l'homme) had been one of five institutions intended to support democracy which had been established under the transitional Constitution of 2003 for a limited period. However, article 222 of the 2006 Constitution provided for the creation of a similar institution. Legislation was already in the pipeline for the establishment of a national human rights commission in compliance with the Principles relating to the Status of National Institutions (Paris Principles).
17. On the subject of marriage customs, he said that marriages could either be celebrated in a civil ceremony or in a family ceremony which was subsequently legally registered. If there was a conflict between the marriage customs of the prospective spouses, those of the woman prevailed.
18. The electoral law did not provide for quotas of seats for any group, including the Pygmies - delegates stood for election on their own merits. There were elected Banyamulenge representatives in the Senate and the Banyamulenge were likewise represented in government entities.
19. Two laws had been promulgated in July 2006 to combat sexual violence. One amended the Criminal Code to include a definition of offences of sexual violence which was consistent with international standards. The second amended the Code of Criminal Procedure in respect of pretrial investigation and hearings in cases of sexual violence.
20. Replying to a question from Mr. Lindgren Alves, he said that the Pygmies were called Bambute, Batwa or a number of other names, depending where they lived in the country.
21. Replying to Mr. Pillai's questions about issues arising from the report of the independent expert on the situation of human rights in the Democratic Republic of the Congo (A/HRC/4/7), he said that the Constitution and the Law on the Status of Magistrates guaranteed the independence of the judiciary. A draft law on the organization and operation of the Supreme Council of the Judiciary was currently before the National Assembly. Judges' working conditions and standard of living were currently poor: the Government, with international partners from France, Belgium and the Netherlands, aimed to renovate the buildings where they worked and provide better equipment, as well as improving prison conditions.
22. The Democratic Republic of the Congo had signed the Pact on Security, Stability and Development in the Great Lakes Region in December 2006. Pursuant to Decree-Law No. 66-342 on the suppression of racism and tribalism of June 1996, victims of racial discrimination could go before the criminal courts and lodge a civil action for damages.
23. Mr. LINDGREN ALVES said that the example of the Democratic Republic of the Congo clearly illustrated why he placed such emphasis on the need for multiculturalism adapted to the particular circumstances of each country. He fully agreed that, in a country like the Democratic Republic of the Congo, legality was more important than specific measures to protect one or another minority. Furthermore, it was difficult to accord special status to any particular group, since the country's indigenous people were effectively all those present at the time the country had been colonized. As had already been said, it was essential for the Committee to be fully informed of the details of each country's situation. Problems could arise from attempting to apply the same general recommendations in countries with very different national circumstances and conflicts.

24. Mr. KJAERUM explained that his question regarding minority representation in parliament had not been intended to refer specifically to quotas. It seemed that in the Democratic Republic of the Congo, as in many other countries, it was not uncommon for a political party to be primarily associated with one ethnic group, which raised the question of which parties represented the interests of vulnerable groups in parliament. He asked whether the results of the World Bank's study on the impact of mining and logging on indigenous areas, undertaken in February 2007, were available yet.
25. Mr. EWOMSAN praised the self-critical nature of the periodic report, especially since reports from African countries did not always recognize the reality of their ethnic conflicts, which were recurrent and were usually connected more with the struggle for survival than with cultural issues. Given that, traditionally, ethnic groups and tribes had their own territories, he asked whether the laws on land rights, under which the State owned the land and subsoil, gave rise to problems or conflicts.
26. Mr. PILLAI welcomed Mr. Lokwa Ilwaloma's reply regarding the establishment of a national human rights commission, in conformity with the Paris Principles. He was proud that the Committee had taken the initiative in involving national human rights institutions in its consideration of reports submitted by States parties, which included the submission of alternative reports by those institutions, and hoped that the Committee would have the opportunity to engage in dialogue with the future human rights commission of the Democratic Republic of the Congo.
27. Mr. LOKWA ILWALOMA (Democratic Republic of the Congo) thanked Mr. Lindgren Alves for his positive comments. In reply to Mr. Kjaerum's question regarding political parties, he explained that it was forbidden for parties to be established on an ethnic or regional basis. All parties must be national, with representation in all regions.
28. Mr. OLELA OKONDJI (Democratic Republic of the Congo) added that, while his country's laws prohibited ethnic groups from standing for election, it was possible to run within a national party or as an independent candidate, as various Banyamulenge candidates had done in the recent elections. Those who had won were now members of the Senate or of the National Assembly.
29. Mr. DIKU MPONGOLA (Democratic Republic of the Congo), referring to the establishment of a national human rights commission, said that the former National Human Rights Observatory had been a public, non-governmental body. It had ceased to exist at the end of the transition but provision was now being made for the creation of a new body, in accordance with the current political landscape and will to protect democracy and human rights. In order to be credible, the new body would be independent and would conform to the Paris Principles. Its participation in the work of treaty bodies would complement the Government's work in the area of human rights.
30. Mr. BOKANGO NGOBILA (Democratic Republic of the Congo), recalling that the new Forest Code dated only from 2002, until when legislation enacted in 1949 had applied, highlighted the difficulties encountered in the environmental sphere, particularly when ecological concerns clashed with the needs of the population. The population was not always

receptive to measures which curtailed their daily or traditional activities for environmental reasons, but there was international pressure for the country's forests and endangered species to be protected. Solutions needed to be found which protected people's livelihoods. The State, as the entity which ratified international conventions and was therefore responsible for implementing them, owned all land including the forests, but citizens could acquire legal rights over land for the purposes of habitation, cultivation, etc., at no charge.

31. Mr. OLELA OKONDJI (Democratic Republic of the Congo), replying to the question asked by Mr. Kjaerum, said that the results of the World Bank's study had not yet been received.

32. Mr. EWOMSAN, while noting that political parties in the Democratic Republic of the Congo were required to be national, nevertheless pointed out that the decision to join a party would often be motivated by who the leaders of that party were. He asked if political parties showed a regional balance and whether ethnicity and region had any influence on their membership.

33. Mr. AMIR asked whether the Government made any distinction between *jus solis*, the right to land, and usufruct, and whether the State had the right of access to land that belonged to a people.

34. Mr. BOKANGO NGOBILA (Democratic Republic of the Congo) recalled that, according to new legislation in force, all land, including forests, belonged to the State. The State granted the people the right to use the land, and develop it in accordance with local customs. While people had the right to use the land of their ancestors, it was still State-owned. In the event that the State decided to concede land, an inquiry was required, which must take account of the rights of the population to that land, and the population must be given compensation.

35. Mr. LOKWA ILWALOMA (Democratic Republic of the Congo) added that pursuant to the Constitution individuals could not purchase or sell land or do with it as they pleased, to the potential detriment of the State. The State granted authorization to individuals to build on the land or cultivate it, but maintained ownership thereof.

36. Turning to the issue of political parties, he said that the tendency for people of certain ethnic groups to belong to political parties whose leaders were of those same groups could not be prevented, since freedom to choose political affiliation was a fundamental personal freedom, which could not be curtailed.

37. Mr. BOKANGO NGOBILA (Democratic Republic of the Congo) confirmed that political parties must have representation across the whole country.

38. Mr. DIKU MPONGOLA (Democratic Republic of the Congo) said that the right to belong to a political party was a free choice, the curtailment of which would constitute a violation of freedom of association. A balance must be struck between freedom of association and freedom to join political parties, and the infiltration of political parties by certain ethnic groups.

39. Ms. DAH (Country Rapporteur), thanking the delegation for its responses to the Committee's questions, said that she appreciated the rich and frank dialogue that had taken place. The Committee would transmit its concluding observations to the Government in due course, and hoped that its conclusions and recommendations would help the State party to overcome its problems. The Committee supported all efforts being made in the State party to advance the cause of democracy and the protection of human rights.

40. Mr. LOKWA ILWALOMA (Democratic Republic of the Congo) said that his Government looked forward to receiving the Committee's concluding observations, which would be taken into account in the drafting of the next periodic report.

The public part of the meeting rose at 11.55 a.m.