



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD Forty-first session 9-27 January 2006

supplement to the written replies of the government of morocco to the list of issues to be taken up in connection with the consideration of the initial report of morocco submitted under article 8 (1) of the optional protocol to the convention on the rights of the child on the sale of children, child prostitution and child pornography (crc/c/opsa/mar/q/1)

[Replies received on 4 January 2006]

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Part 1

Supplementary information (response to questions 1, 8 and 10)

Question 1

(a) Number of children trafficked to and from Morocco

Excluding children who are transferred across borders in family disputes between parents, it remains difficult to determine the number of cases of unaccompanied child refugees and of children who are trafficked for the purposes of sexual exploitation.

(b) Number of cases of sale of children, child prostitution and child pornography reported to the police

Urban police departments received no reports between 2002 and 2004 about the sale of children or trafficking of children for the purposes of exploitation or pornography.

As regards the crime of sexual abuse, in 2002, the police registered a total of 317 cases, involving, inter alia, 222 female victims. In the 395 cases registered in 2003, some 240 victims were female, as compared with 332 out of 475 cases registered in 2004.

(i) The reliability of the statistics is contingent upon cases being reported via the toll-free number of the National Observatory on the Rights of the Child and, primarily, to police departments and public prosecutor's offices at the Kingdom's courts. Clearly, many cases are not reported to any of these bodies.

(ii) Overall, the number of prosecutions in 2004 for enticing minors to engage in prostitution was 49. Some 60 persons were charged and the total number of child victims enticed to engage in these acts in the same year was 14 boys and 30 girls. Forty-seven male adults, 1 minor, and 12 female adults were sent before the courts.

In accordance with the provisions of the Criminal Code and the Code of Criminal Procedure, particularly the new provisions which focus on increasing the penalties for the criminal offences listed in section 7 of the Criminal Code relating to minors who are forced to commit or are the victims of crime, the Kingdom's courts adjudicate the cases referred to them that involve the sale of children and sexual exploitation of minors. By way of example, we refer to some recent rulings, listed in the annex hereto, which were handed down respectively by courts in Asilah, Agadir, Fez, Marrakech, Ayoun and Casablanca.

Case 1: Marrakech Court of Appeal

Enticing and inciting minors to engage in prostitution, and procuring:

Criminal court ruling No. 55/33 was delivered in case No. 828/2005 on 27 May 2005.

Two persons, a French national and a Moroccan national, were prosecuted in this case.

The charges against them were sexual exploitation, use of pornography, enticing and inciting others to engage in prostitution, and procuring.

Articles invoked: articles 475, 484, 497-499 and 503 of the Criminal Code. The first defendant was charged under articles 497-499

of the Code.

In the case, the first defendant was sentenced to two years in prison.

Case 2: same Marrakech Court of Appeal

Ruling No. 2430/2005 was handed down on 2 November 2005 in *flagrante delicto* criminal case No. 2430/2005.

The defendants were charged, inter alia, with recruiting persons to engage in prostitution and encouraging minors below 18 years of age to engage in prostitution.

Articles invoked: articles 251, 489, 497-498 and 501-503.

The persons against whom proceedings were taken were Moroccan nationals and foreigners.

The first foreign defendant was sentenced to one year in prison. The two other foreigners received eight-month prison sentences, while the two Moroccan defendants received four-month prison sentences.

Case 3: Asilah Court of First Instance

Ruling No. 13/2005 was handed down in *flagrante delicto* criminal case No. 12/2005 on 24 February 2005.

The five defendants were charged with rape of a minor, keeping a brothel and inciting depravity.

Articles invoked: articles 289, 300 and 501-502 of the Criminal Code.

In this case, one of the five defendants received a two-month prison sentence and was ordered to pay a fine of 1,000 dirhams.

Cases 4 and 5: the appellate division in Ayoun

Case 4: Wadi al-Dahab Court of First Instance

This was the subject of case No. 26/2005, regarding the prosecution of two persons for enticing and inciting minors below 18 years of age to engage in prostitution. In the ruling handed down on 29 April 2005 the first defendant received a one-month prison sentence and a fine of 1,000 dirhams and the second received a one-month suspended sentence and a fine of 500 dirhams. Both defendants were ordered to pay costs.

Case 5: the same court

In case No. 189/2005, one person was prosecuted for seducing a minor below 18 years of age. Pursuant to ruling No. 201/2005 of 30 May 2005, the defendant was convicted and given a one-year prison sentence and a fine of 500 dirhams. The court set a minimum mandatory term of imprisonment.

Cases 6 and 7: Casablanca Court of Appeal

Case 6:

This relates to criminal case No. 1201/5/2005, in which ruling No. 728B was handed down on 8 July 2005. One person was prosecuted for aggravated rape of a minor, battery, wounding, violence, and incitement to depravity.

Articles invoked: articles 400-401, 485 and 502 of the Criminal Code.

The defendants were sentenced to four years in prison and a minimum mandatory term of imprisonment was set.

Case 7: Casablanca Court of First Instance

This was the subject of criminal case No. 6863, in which ruling No. 1021 was delivered on 21 December 2005. One person was prosecuted for raping a minor without using violence, inciting depravity, and concealing the proceeds of crime.

Articles invoked: 484, 497 and 571.

The court sentenced the defendant to a six-month suspended sentence, a fine of 3,000 dirhams and payment of costs, and it set a minimum mandatory prison sentence.

(iii) Assistance to victims.

(a) With reference to article 19 of the Code of Criminal Procedure, Morocco's police departments have juvenile investigation units which are staffed by well-qualified persons of both sexes who are appointed to carry out these tasks.

(b) In terms of access to the courts, the legislative provisions on judicial assistance for minors also apply to victims of sexual exploitation. They cover the material aspects of any court costs and of engaging legal counsel. The provisions guarantee the right to a defence in criminal cases.

As regards court procedures, it is worth noting that the new Code of Criminal Procedure has established special judicial bodies to

hear juvenile cases, together with a juvenile police force. It has introduced a wider range of protection, rehabilitation, supervision and surveillance measures, increased the range of persons involved in protecting young persons and integrating young persons in difficult circumstances, and adopted a procedure for reaching settlements before cases go before the competent court.

Question 8

In order to clarify the response concerning the toll-free number of the Observatory of the Rights of the Child (0021280002511), which was launched on 11 December 2000, we should point out that the Listening and Protection Centre opened on 25 November 1999, under the patronage of Her Royal Highness Princess Ialla Meryem, is attached to the National Observatory. It consists of a reception and advice unit, which operates in university medical centres, and the Listening and Protection Centre at the Observatory. A form is filled out for every telephone call, indicating the date and time, the complainant's name, age and hometown, the type of ill-treatment, and the initial action taken.

The Centre was established, inter alia, to receive child victims of violence, particularly those subjected to physical, sexual and psychological violence. It listens to the children and their guardians in person or via the special toll-free number, intervenes with the judicial authorities, liaises with regional reception units, coordinates with the Ministry of Health and the Bar Association, and so on. Some 92 per cent of persons are heard in person; 8 per cent use the toll-free number.

Question 10

We should point out, with respect to the reports about the town of El Hajeb, that a prosecution was mounted in a case involving the forced prostitution of minors. A man, his wife and a number of others were implicated. On 14 November 1999, the wife and husband were sentenced to two years in prison, while the three other defendants were acquitted. We have no further information on this subject.

Part 2

Supplementary information on questions 2 and 3

With regard to the Committee's question about the coordination mechanisms to ensure the implementation of the Optional Protocol, the National Action Plan for Children (2005-2015) to which reference was made in the initial report was established in the framework of ongoing involvement of the governmental sectors, representatives of civil society, children themselves (through the Children's Parliament), young municipal councillors, and national and international institutions in efforts to defend children's rights. The above-mentioned Action Plan provides for the creation in urban and rural communities of child protection units that include representatives of all actors. The units are expected to deal with urgent cases of violence against children, using the following procedures:

Providing listening, advice and assistance services;

Delivering health-care services and urgent care for child victims of exploitation, including sexual exploitation;

Setting up a model information network to facilitate the gathering and filing of evidence with a view to taking appropriate action at a later date;

Providing administrative services by recording victims' statements, ensuring follow-up of cases, including prosecutions, and filing complaints;

Ensuring protection of child victims of violence and, where necessary, guaranteeing that children are taken in and given shelter pending placement in a specific centre, and ensuring a credible system of monitoring and supervision.

3. With regard to the question on the amount of funds allocated through national, regional and local budgets to all programmes specifically related to issues covered by the Optional Protocol, we should point out that under the National Action Plan, the programmes and strategies that have been designed provide an opportunity to increase funding for the protection of children through the:

Establishment of care institutions for children in difficulties;

Modernization and refurbishment of existing institutions;

Establishment of educational centres catering for children with disabilities.

Part 3

Supplementary information on questions 4, 5, 7, 9 and 11

Question 4

With regard to appeals, remedies and compensation:

(a) The Department of Public Prosecutions institutes public proceedings in accordance with the Code of Criminal Procedure, even when no complaint has been lodged.

The new Code of Criminal Procedure allows public-interest associations to file a civil suit on behalf of child victims. A child victim of violence can lodge a complaint in person.

(b) Remedies

In addition to the penalties of imprisonment and the fines prescribed in the Criminal Code, victims are entitled, through their guardians or public-interest associations, to claim compensation for any injury which they suffer.

Question 5

With regard to the statute of limitations on the offences listed in article 5, paragraph 1, of the Code of Criminal Procedure, at the outset, we must explain that the criminal offences listed in section 7 of the Criminal Code refer to the corruption and prostitution of minors and are classified as lesser offences; any other related acts are defined as serious offences. Thus, the general rule, as stated in article 5 (para. 2) of the Code of Criminal Procedure, is that the statute of limitations on lesser offences, including those in section 7 of the Code which relate to the corruption of young persons, is a period of five years from the date on which the offence was committed. Public prosecutions of such offences are time-barred under article 4 of the Code.

The statute of limitations interrupts all investigation and prosecution procedures taken or ordered by the competent judicial authority (art. 6, para. 1, of the Code of Criminal Procedure). There is still one exception under article 5 of the Code of Criminal Procedure, and this relates to the statute of limitations for minors who are the victims of abuse committed by an ascendant, a person with the right to care for or act as a guardian of the child or a person with authority over the child. The same period applies, beginning when the minor reaches his or her civil majority.

Question 7

As an example of judicial action taken to prevent the criminalization and punishment of child victims of violence for acts that they were forced to commit, we refer to a court ruling which ordered the non-prosecution of minors for acts that they had been forced to commit. Ruling No. 10626 of 22 December 2005 was handed down in criminal case No. 2518/2005, involving the prosecution of two adults and two minors. The case against the minors was dropped. The prosecution related to criminal offences involving sex tourism, protection of prostitution and protection of brothels. The first defendant was sentenced to three years in prison and a fine of 10,000 dirhams, while the second was given a six-month prison sentence and a fine of 5,000 dirhams.

Question 9

With regard to the measures taken to combat pornography on the Internet, three avenues are used:

1. Through the national database (Interpol, Rabat), which provides the Cyber Criminalite department at the Criminal Investigation Police Directorate with secure access to the Interpol child pornography database. The department has a unit which investigates offences committed via the Internet;
2. Through the external affairs department of the criminal investigation police, in cases involving the investigation of pornography transmitted via the Internet. The police can ask the courts to order the National Communications Regulation Agency to close down suspect Internet sites.

Part 4

Supplementary information in response to questions 6 and 11

Question 6

This question is linked to paragraph 14 of the national report, concerning the National Action Plan for the Integration of Street Children (see also paragraph 126 of the same report).

Minors in difficult circumstances are defined as the following groups:

Working children below 15 years of age;

Working children between 15 and 17 years of age;

Neglected children between 0 and 5 years of age;

Street children;

Children in institutions;

Children subjected to abuse or any form of violence;

Children with a physical or mental disability;

Unaccompanied Moroccan child refugees;

Child detainees in Tandouf;

Unaccompanied child refugees of African origin from the southern Sahara.

A number of measures have been designed for each of these groups on the basis of a multi-sectoral approach.

Question 11

In order to elucidate the information contained in paragraph 164 of the national report on the implementation of the international project on legal reform in Morocco to prevent sexual exploitation and trafficking of children for the purposes of sexual exploitation (ECPAT), we should mention that, before it was dropped from the Cabinet, the Ministry of Human Rights drew up a draft cooperation and partnership agreement. The Moroccan Government is now working to revitalize this project through the governmental sector concerned with children and in cooperation with other relevant sectors and organizations.
