



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

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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 5 December 2005]

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It is worth noting that the Kingdom of Morocco recently boosted its legal arsenal by introducing a number of new legislative provisions to conform to international standards in this regard, in particular the Convention on the Rights of the Child and the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography.

In this connection, Act No. 24/03 of 11 November 2003, amending the Criminal Code, includes all the provisions embodied in the Protocol.

Criminalization of the acts covered by the Protocol

The buying or selling of children has been made a criminal offence in accordance with article 35 of the Convention of the Rights of the Child and articles 1 to 3 of the Optional Protocol.

It is a criminal offence to incite or encourage a minor to engage in prostitution or to recruit, or employ minors for the purpose of engagement in debauchery. The age of the victim, when young, is deemed an aggravating circumstance in numerous offences.

Anyone who incites, encourages or facilitates child pornography by representing, by whatever means, a child engaged in any sexual activity or by representing the sexual parts of a child for sexual purposes, and anyone who produces, distributes, disseminates, exports, imports, offers, sells or possesses this kind of pornographic material shall be liable to punishment in accordance with article 2, paragraph (a), of the Protocol.

In accordance with article 3, paragraph 1 (a) (i) c, of the Protocol, it is a criminal offence to press a child into forced labour.

An attempt to commit such an offence is designated as a criminal offence in accordance with article 3, paragraph 2, of the Protocol.

Legal persons are held liable for committing such offences in accordance with article 3, paragraph 4, of the Protocol.

Doctors and their assistants are not bound by professional secrecy when it comes to reporting acts of violence against children which come to their attention during the course of their duties.

All offences committed against children under the age of 18 are treated as repeat offences.

Penalties are increased in the following circumstances:

The fine for procuring children for the purpose of inciting them to engage in prostitution has been increased.

The fine for complicity in prostitution has been increased.

A higher fine and a penalty of deprivation of liberty are imposed for luring children under the age of 18 to any of the places listed in section 282 of the Criminal Code (betting offices, gambling houses, etc.).

The penalty is doubled if the author of the act is an ascendant of, or is responsible for, or has authority over, the child, and where the offence involves the transfer of the child for the purposes of concealing his or her identity or swapping the child for another.

The penalty for prostituting or corrupting a child is higher if the offence is committed by a criminal band or using torture. If torture is used, the penalty rises to life imprisonment.

A conviction handed down for child pornography must be accompanied by an order for the confiscation and destruction of the pornographic material. In addition, the court may order the publication or suspension of the conviction and, where necessary, the revocation of the convicted person's licence. It may also order the permanent or temporary closure of the premises in question.

The statute of limitations

Sexual exploitation can take various forms. If the acts involved constitute a criminal offence, the statute of limitations is 20 years. If they constitute a lesser offence, the statute of limitations is 5 years.

The new Code of Criminal Procedure strengthens these provisions by establishing a new statute of limitations which begins when the child reaches full legal age and applies to any criminal assault upon a child committed by an ascendant, a person entrusted with responsibility for, or the care of the child, or a person with authority over the child.

Assistance for, and protection of, child victims

According to the Code of Criminal Procedure, if a crime or lesser offence is committed against a victim under the age of 18, the court may order the placement of the child victim with a trustworthy individual, an institution or public interest association, or a public institution providing child welfare assistance. Such placement shall be until a final judgement has been handed down on the crime or the lesser offence. The order shall be executed irrespective of any appeal. In addition the public prosecutor, the juvenile judge and counsel for the minor may have the minor undergo a medical, psychological or psychoanalytical examination in order to determine the nature and extent of the harm suffered by the child and see whether there is a need for treatment in view of the child's current and anticipated state.

Having due regard to the Universal Declaration of Human Rights, article 5 of which stipulates that: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment", and considering the relevant provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which our country has ratified, the Ministry of Justice drafted a torture bill that was recently adopted by the Parliament. The bill establishes, inter alia, a penalty of from 10 to 20 years' imprisonment for torturing a witness, a victim, or a plaintiff in order to induce that person to make a statement, file a complaint or initiate a lawsuit, or to prevent that person from taking any of the aforementioned actions.

With regard to court proceedings, the royal decree corresponding to a legal aid act stipulates that legal aid shall be made available in all courts in the Kingdom and, in any case, to persons who lack the means to exercise their rights or to defend themselves in court. Legal aid is provided for all kinds of disputes and for civil claims before the courts. Legal aid is extended under the decree to the measures of implementation that must be carried out pursuant to the issuance of a court judgement granting legal aid.

Opportunity for children to submit complaints about abuse

We should point out that there is nothing to stop a child from submitting a complaint about any form of abuse. The Department of Public Prosecutions can initiate a prosecution of its own motion concerning any criminal act of which it learns and does not need to receive a complaint to do so. The new Code of Criminal Procedure furthermore accords public human rights associations the right to institute a civil action in criminal proceedings to support the rights of child victims.

Statistics and measures taken to give effect to legislative provisions

In parallel with the legislative work done by the Ministry of Justice, the Ministry, in the framework of research, studies, and monitoring of crime, encourages prosecutor's offices to record acts of abuse and violence committed against children in annual statistics that are compiled, analysed and transmitted to decision makers. The following is a summary of the data for 2004 on the crimes covered by the Protocol.

Number of cases of sexual abuse and of persons prosecuted in 2004

Types of crime	Number of cases	Number of persons prosecuted
Rape	153	160
Rape resulting in loss of virginity	201	236
Aggravated sexual assault of a minor	729	807
Sexual assault of a minor	215	229
Facilitation of prostitution of minors	49	60

Number and percentage of cases of sexual abuse and of persons prosecuted in 2004

Types of crime	Number of cases	%	Number of persons prosecuted	%
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Rape	153	2.71	216	2.64
Rape resulting in loss of virginity	201	3.56	236	3.90
Aggravated sexual assault of a minor	729	12.90	807	13.34
Sexual assault of a minor	215	3.81	229	3.78
Facilitation of prostitution of minors	49	0.87	60	0.99

Number of child victims of sexual abuse, disaggregated by sex

Types of crime	Males	Females
Rape	45	51
Rape resulting in loss of virginity	5	199
Aggravated sexual assault of a minor	320	300
Sexual assault of a minor	157	62
Facilitation of prostitution of minors	14	30

Relationship between perpetrator and victim of child sexual abuse

Types of crime	Father	Mother	Brother	Sister	Husband	Servant	Employer	Other
Rape	1	0	0	0	0	0	2	157
Rape resulting in loss of virginity	0	0	3	0	0	0	0	233
Aggravated sexual assault of a minor	0	0	0	0	0	0	4	803
Sexual assault of a minor	0	0	1	0	0	0	0	228
Facilitation of prostitution of minors	0	1	0	0	0	0	0	59

Number of persons prosecuted in 2004 for child sexual abuse, disaggregated by sex

Types of crime	Number of persons tried before the courts by sex		Total		
	Males	Females			
	Adult	Minor	Adult	Minor	
Rape	138		22	0	0 160
Rape resulting in loss of virginity	196		36	3	1 236
Aggravated sexual assault of a minor	625		181	1	0 807
Sexual assault of a minor	218		8	1	2 229
Facilitation of prostitution of minors	47		1	12	0 60

The Ministry of Justice, in the framework of its cooperation programme with UNICEF and with the French Ministry of Justice, organizes continuous training and training courses abroad for judges and juvenile judges in order to make these persons aware of the importance of working for children and to inform them about international standards on children's rights and juvenile justice. A training course was run to provide information about the new provisions added to the Criminal Code in the light of the Optional Protocol on the sale of children, child prostitution and child pornography, and about the outcome of the Stockholm Conference, the Arab Regional Conference held at Rabat and the international conference held at Yokohama on this subject.

In addition, numerous letters are sent regularly to all courts in the Kingdom to encourage the courts to take action on this issue and ensure that they pay due attention to cases of child abuse.

The Ministry of Justice recently concluded a partnership agreement with the National Observatory of Children's Rights to monitor cases of child abuse and institute cooperation to prevent such abuse. It also maintains ongoing contact with children's rights associations, participating in the meetings to which it is invited by these bodies and dealing with their complaints about violations committed against children.
