



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD*Forty-fifth session***CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 12(1) OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY****Concluding observations: Sudan**

The Committee considered the initial report of Sudan (CRC/C/OPSC/SDN/1) at its 1237th meeting (see CRC/C/SR.1237), held on 25 May 2007, and adopted at its 1255th meeting, held on 8 June 2007, the following concluding observations.

A. Introduction

The Committee welcomes the submission of the State party's initial report under this Protocol as well as the replies to the list of issues submitted in a timely fashion (CRC/C/OPSC/SDN/Q/1/Add.1). The Committee also appreciates the constructive dialogue held with the delegation, which included representatives of the Government of Southern Sudan.

The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations (CRC/C/15/Add.190) adopted on the State party's second periodic report.

GE.07-42536**B. Positive aspects**

The Committee notes with appreciation:

- (a) The programmes for the return and reintegration of children working as camel jockeys from the Gulf States (notably Qatar and UAE) implemented by the National Council for Child Welfare in collaboration with non-governmental organizations;
- (b) The restructuring of the Committee for the Eradication of the Abduction of Women and Children (CEAWC) in 2002, including the provision of additional resources to enhance its effectiveness;
- (c) The implementation of the programme formulated by the National Council for Child Welfare in the framework of the National Plan of Action to Combat Violence Against Women, in November 2006;
- (d) The establishment of a child and women protection unit in the Khartoum State police service and the plan to extend this project to other parts of the country;
- (e) The criminalization of slavery and forced labour in the State party's legislation.

The Committee welcomes that the State party has ratified the following treaties:

The Optional Protocol on the involvement of children in armed conflict on 26 July 2005;

ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999, on 7 March 2003;

The Convention Against Transnational Organized Crime, 2000, on 10 December 2004.

C. Factors and difficulties affecting the implementation of the Optional Protocol

The Committee notes that the ongoing conflicts and widespread violence in different regions of the country combined with adverse climatic conditions, seriously aggravate the situation of extreme poverty and famine which affect a large part of the population. The Committee recognizes that this situation poses significant difficulties and challenges for the adequate implementation of the Optional Protocol, in particular due to the high level of vulnerability of children to the offences prohibited thereto.

D. Principal areas of concern and recommendations

1. Data

The Committee, while welcoming that a children's information centre is being set up by the National Council for Child Welfare to include all indicators related to different aspects of childhood, regrets that the information on the extent and prevalence of sale, trafficking, child prostitution and child pornography is insufficient, and that there is no centralized system of data collection on child protection issues.

The Committee recommends that the State party ensure that data, disaggregated, inter alia, by age, sex, ethnic or minority group, are systematically collected and analysed throughout the country as they provide essential tools for measuring policy implementation. Data should also include information on the number of prosecutions and convictions for such offences, disaggregated by the nature of the offence. The State party should seek the assistance of the United Nations agencies and programmes, including UNICEF, in this regard.

2. General measures of implementation

Legislation

The Committee notes that a wide-ranging legal review was conducted in 2005 leading to the establishment of the National Reform Committee and that various efforts have been undertaken to bring all domestic legislation in line with the Convention and the Protocols throughout the country. However, the Committee remains concerned at the inadequate implementation of the existing legislation.

The Committee recommends that the State party:

(a) Continue to take measures to adopt or strengthen, implement and disseminate legislation in conformity with the obligations undertaken by becoming a party to the Convention and the Optional Protocol;

(b) Ensure that all legal and administrative measures are taken to fully implement existing legislation in the area covered by the Optional Protocol;

(c) Ratify the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Rome Statute of the International Criminal Court.

Coordination and evaluation of the implementation of the Protocol

The Committee notes that the National Council for Child Welfare is the body responsible for the implementation of the Optional Protocol and welcomes the information that this body is very active in all issues related to child protection and has taken an effective leadership role in coordinating various activities.

The Committee recommends that the State party continue to strengthen and adequately empower the National Council for Child Welfare, including by providing it with the necessary authority as well as with human and financial resources . The Committee further recommends that the National Council for Child Welfare intensify its collaboration with NGOs and other civil society organizations in activities related to the implementation of the Optional Protocol.

Dissemination and training

The Committee, while welcoming the programmes developed for the dissemination and training on the Protocol by the National Council for Child Welfare, notes that the level of awareness of the Optional Protocol and its provisions is still low.

The Committee recommends that the State party:

(a) Make the provisions of the Optional Protocol widely known, particularly to children and their families, as well as communities, women's groups and religious leaders through, inter alia, school curricula and long-term awareness-raising campaigns;

(b) Strengthen systematic education and training on the provisions of the Optional Protocol for all relevant professional groups working with and for children, including prosecutors, judges, lawyers, law enforcement officials and social workers;

(c) Promote, in light of article 9(2) of the Protocol, awareness among the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and the harmful effects of the offences referred to in the Protocol, including by encouraging the participation of the community and, in particular, children and child victims, in such information and education and training programmes ;

(d) Continue to seek the assistance of the United Nations agencies and programmes, including UNICEF and ILO/IPEC.

Resource allocations

The Committee is concerned that the implementation of the Protocol is seriously hampered by the lack of adequate resources available for programmes and projects in the areas covered by the Optional Protocol.

The Committee recommends that the State party intensify its efforts to provide adequate resources, including budget allocations, for all the activities aimed at implementing the Optional Protocol. To this end, the Committee recommends that in the development and implementation of poverty reduction strategies and policies which may affect the well-being of children, adequate attention is paid to human rights, and notably child's rights, and to specific measures aimed at their implementation.

3. Prevention of the sale of children, child prostitution and child pornography

The Committee notes that the conflict situation combined with extreme poverty, drought and famine has contributed to the significant number of street children and internally displaced children who are particularly vulnerable to all forms of exploitation, including acts covered by the Optional Protocol. In this regard, the Committee is concerned at the information that children may resort to prostitution and/or are forced into early marriages as a means for survival in exchange of food, money or basic goods.

The Committee recommends that the State party adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention should be given to protect children who are especially vulnerable to such practices, including displaced children, children living in poverty and street children. The Committee also recommends that the State party intensify its efforts to protect children from early and forced marriages, which often may also have the elements of some of the practices prohibited under the Protocol, i.e. sale of children and/or child prostitution.

While welcoming the setting up of a civil registration system with the Civil Registration Act of 2001, the Committee reiterates its concern, expressed upon consideration of the State party's second periodic report under the Convention, regarding the high number of children who are still not registered.

The Committee recommends that the State party intensify its efforts in order to improve its system of birth registration, especially in more remote areas.

The Committee notes the establishment of the family protection department within the Ministry of the Interior, which, inter alia, receives complaints about abuse, including sexual abuse and provides physical and psychological recovery to victims. However, the Committee is concerned that the competence of this department is limited to abuses occurring within the family environment.

The Committee recommends that the State party, as an important preventive and protection measure against sale of children, child prostitution and child pornography, establish an effective, accessible and child-friendly complaint mechanism for children. It further recommends that such a mechanism be mandated to consider complaints regarding all forms of abuse of children, including those covered by the Protocol.

4. Prohibition and related matters

Prohibition of the sale of children, child pornography and child prostitution

The Committee is concerned that the offences contained in article 3 of the Optional Protocol are not all adequately covered under the State party's legislation. In particular, it is concerned that:

- (a) In the Criminal Code, sale of children is only considered as an offence complementary to other offences, though a provision prohibiting sale or exchange of children is contained in the Children's Act elaborated by the Government of Southern Sudan;
- (b) While the use of children in pornography is generally prohibited by the Children's Act of 2004 (article 32), there do not seem to exist provisions criminalizing the production, distribution, dissemination, importation, exportation, offer, sale or possession of child pornography as defined in article 2 of the Protocol;
- (c) Despite provisions covering abduction, luring and forced labour, the State party's Criminal Code does not contain a specific provision outlawing trafficking in persons;
- (d) There is no provision criminalizing transfer of organs of the child for profit.

The Committee recommends that the State Party amend its legislation in order to:

- (a) Adequately define sale of children in accordance with article 2 of the Protocol and ensure that all the acts listed under article 3 (1)(a) of the Optional Protocol, including transfer of organs of the child for profit, are covered under its legislation;**
- (b) Include a provision in the Criminal Code defining and criminalizing child pornography in accordance with article 2 (c) and 3 (1)(c) of the Optional Protocol;**
- (c) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the 2000 United Nations Convention against Transnational Organized Crime, and criminalize trafficking in persons accordingly;**

(d) Ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

Jurisdiction

The Committee is concerned that the State party applies its jurisdiction to crimes committed by Sudanese abroad with the condition that the act constitutes a crime under both the State party's criminal law and under the law of the State in which it was committed.

The Committee recommends that the State party amend its legislation by abolishing the principle of double criminality in order to allow in any case the prosecution of its nationals who have committed abroad an offence covered under the Optional Protocol.

Extradition

The Committee notes that the State party has some bilateral agreements on extradition and that it is a signatory to the Riyadh Convention on Judicial Cooperation.

In light of article 5 of the Optional Protocol, the Committee recommends that the State party:

(a) Include the offences referred to in article 3, paragraph 1, of the Protocol as extraditable offences in any existing extradition treaty which it entered as well as in every extradition treaty which it will subsequently conclude;

(b) Consider the Optional Protocol as a legal basis for extradition in respect of the offences covered by it, in case a request for extradition is received from another State Party with which it has no extradition treaty

5. Protection of the rights of child victims

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Protocol

The Committee notes that there are various articles in the 2004 Children's Act dealing with the protection of the rights of child victims as well as the establishment of Child Protection Working Groups both in North and Southern Sudan. However, the Committee is concerned that children victims of the offences under the Optional Protocol may not always be considered and treated as victims as provided for in article 8 of the Protocol.

The Committee recommends that the State party:

(a) Ensure that child victims of any of the offences under the Optional Protocol are as such neither criminalized nor penalized, and that all possible measures be taken to avoid their stigmatization and social marginalization;

(b) Take all necessary measure to ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the Protocol, the best interest of the child shall be a primary consideration;

(c) In light of article 8 (1) of the Protocol, protect child victims and witnesses at all stages of the criminal justice process and be also guided in this respect by the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (ECOSOC Resolution No. 2005/20).

The Committee notes with appreciation that a Child Protection Unit offering assistance and rehabilitation has started its activities in January 2007, as well as the information that a committee has been recently set up to establish a mechanism of financial compensation for damages to be granted to children who have been used as camel jockeys. However, the Committee is concerned that services for the social reintegration and the full physical and psychological recovery of the victims of the offences covered by the Protocol are still limited, also due to the lack of resources and a sufficient number of adequately trained staff.

The Committee recommends that the State party:

(a) Give priority to allocating budgetary resources so that adequate services are available for child victims of the offences covered by the Protocol, including physical and psychological recovery and social reintegration, in accordance with article 9 (3) of the Protocol ;

(b) Provide appropriate training and capacity building for all those professionals, including social workers, working with child victims of the abuses covered by the Protocol at the national, regional and local levels, in accordance with article 8 (4) of the Protocol ;

(c) Ensure that all child victims of the offences described in the Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9(4) of the Protocol.

Camel racing

The Committee welcomes the creation of a special Committee to combat the exploitation of children in camel racing, as well as the adoption of various legislative measures aimed at combating this phenomenon. It also notes various programmes as well as bilateral agreements aimed at protecting children used in camel racing abroad and ensure their physical and psychological recovery and social reintegration. However, the Committee is concerned that there continue to be cases where children, especially children belonging to particular tribes, are trafficked to the Middle East to be used as camel jockeys.

The Committee recommends that the State party continue to combat the use of children in camel racing, including by

taking preventive measures and adequately implementing the various programmes and bilateral agreements developed in this respect. It also recommends that the State party continue ensuring physical and psychological recovery and social reintegration to children returning home who have been involved in this activity.

Children recruited in armed conflict

The Committee notes with appreciation that the State party has ratified in 2005 the Optional Protocol on the Involvement of Children in Armed Conflict and that both the Government of National Unity and the Government of Southern Sudan have expressed their commitment to ensure that no children are recruited within their armed forces. However, the Committee is concerned at the information that recruitment of children continues to occur in the State party's territory, including with the promise or in exchange of money, goods or services.

The Committee recommends that the State party take all necessary measures to prevent, prohibit and punish any act or transaction, which include the offering, delivering or accepting a child, whereby a child is transferred by any person or group of persons to another for the purpose of recruitment in armed conflict.

Abduction of children

The Committee welcomes the work of the Committee for the Eradication of the Abduction of Women and Children (CEAWC) in the identification, retrieval, return and reunification of abducted women and children from the north to their communities in the South of Sudan. The Committee is concerned that, while the highest number of abductions took place during the conflict between 1983 and 2002, children continue to be abducted for purposes of forced recruitment, forced labour and, in some instances, sexual exploitation, especially in Darfur and South Sudan.

The Committee recommends that the State party:

- (a) Intensify its efforts to prevent the abduction of children for any purpose or in any form;**
- (b) Provide adequate resources to CEAWC to continue its activities for the reunification of identified abductees with their families, when in their best interests;**
- (c) Enter into bilateral and multi-lateral agreements providing for prevention, reunification and rehabilitation of abducted children.**

6. International assistance and cooperation

The Committee believes that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach, addressing the contributing factors, including, inter alia, underdevelopment, poverty, economic disparities, harmful traditional practices, armed conflicts and trafficking in children. In this respect, the Committee encourages the State party to continue and strengthen international cooperation in order to address the root causes contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.

Law enforcement

The Committee encourages the State party to continue its efforts to strengthen its international judicial and police cooperation activities for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.

7. Follow-up and dissemination

Follow-up

The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to relevant Government Ministries of the Government of National Unity as well as to the Government of Southern Sudan, the National Assembly and to local authorities, for appropriate consideration and further action.

Dissemination

The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including through the Internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups, and children in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

8. Next report

In accordance with article 12, paragraph 2 of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.