



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Fifty-fifth session

13 September – 1 October 2010

### Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

#### Concluding observations: Sudan

1. The Committee considered the initial report of Sudan (CRC/C/OPAC/SDN/1) at its 1563rd meeting, held on 21 September 2010 (see CRC/C/SR.1563), and adopted at its 1583rd meeting, held on 1 October 2010, the following concluding observations.

#### Introduction

2. The Committee welcomes the submission of the State party's initial report. The Committee further welcomes its written replies to the list of issues (CRC/C/OPAC/SDN/Q/1 and Add.1) and appreciates the constructive dialogue with the multisectoral delegation. The Committee, however, regrets that the State party's replies to the list of issues did not address all the issues raised by the Committee and that many of the responses lacked detailed information.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations on the State party's third and fourth periodic report (CRC/C/SDN/CO/3-4), adopted on 1 October 2010, and with the concluding observations on its initial report under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/SDN/CO/1), adopted on 8 June 2007.

#### I. Positive aspects

4. The Committee commends the State party on the promulgation of the Armed Forces Act (2007), which sets the minimum age of recruitment into the armed forces at 18 years and provides for penalties for child recruitment and other war crimes.

5. The Committee welcomes the ratification of the following instruments:

(a) Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, on 13 October 2003;

(b) Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), on 7 March 2006;

(c) Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), on 13 July 2006.

6. The Committee also welcomes the establishment of the National Mine Action Centre in 2005.

## II. General measures of implementation

### Coordination

7. The Committee notes the designation of the National Council for Child Welfare as the lead agency for coordinating the implementation of child rights. It is concerned, however, that the Council lacks adequate human and financial resources to fulfil its mandate, as a result of which it has not been effective in its role at the national, regional and municipal levels, in particular with regard to ensuring coordination among the many different agencies involved.

**8. The Committee recommends that the State party ensure that adequate human and financial resources are made available to the National Council for Child Welfare with a view to ensuring the effective coordination of plans and policies among the agencies involved in the implementation of the Optional Protocol at all levels.**

### Independent monitoring

9. While welcoming the adoption of the National Human Rights Commission Act in April 2009, the Committee expresses concern that the National Human Rights Commission is yet to be established and that there is currently no independent national mechanism to monitor the implementation of the Convention, receive complaints of child rights violations and take appropriate remedial action.

**10. The Committee urges the State party to proceed with the establishment of the National Human Rights Commission and ensure that it is in conformity with the principles relating to the status of national institutions (Paris Principles, General Assembly resolution 48/134, annex). In particular, the State party should ensure that the National Human Rights Commission is vested with the competence to receive and follow up complaints of violations of child rights and is provided with sufficient human and financial resources to ensure its independence and efficacy.**

### Dissemination and awareness-raising

11. The Committee notes information on activities undertaken by the State party, in collaboration with relevant partners, to disseminate the principles and provisions of the Optional Protocol. It is, nevertheless, concerned at the absence of a sustained awareness-raising programme and notes that, consequently, awareness of the Optional Protocol among the general public is low.

**12. The Committee recommends, in the light of article 6, paragraph 2, of the Optional Protocol, that the State party ensure that the principles and provisions of the**

**Optional Protocol are widely disseminated to the general public, including children, through systematic and long-term awareness-raising programmes.**

#### **Training**

13. The Committee takes note of the State party's information that a guide has been published with a view to assisting armed forces personnel in dealing with children affected by armed conflict. However, the Committee remains concerned that professional groups working with children affected by armed conflict, in particular the police, the military and staff serving on the Disarmament, Demobilization and Reintegration Commissions, are not fully trained in child protection issues and in the principles and provisions of the Optional Protocol.

14. **The Committee recommends that the State party:**

(a) **Strengthen human rights training for members of the armed forces, with specific training on the principles and provisions of the Optional Protocol;**

(b) **Develop awareness-raising, education and training programmes on the Optional Protocol for professional groups working with children affected by armed conflict, notably staff serving on the Disarmament, Demobilization and Reintegration Commissions, prosecutors, lawyers, judges, law enforcement officers, social workers, medical professionals, teachers, media professionals and local and district officials;**

(c) **Provide, in its next report, information on the impact of measures taken, if any, in this regard.**

#### **Data collection**

15. The Committee regrets the lack of data on many areas covered by the Optional Protocol, including the number of children recruited by armed groups, the number of children who have been prosecuted and sentenced for participation in armed conflict and the number of children who have been subjected to grave human rights violations as a result of the armed conflicts in Darfur and Southern Sudan.

16. **The Committee recommends that the State party:**

(a) **Establish a comprehensive data collection system in order to ensure that data, disaggregated inter alia by age, sex, geographical area and socio-economic background, are systematically collected and analysed;**

(b) **Use the data collected as a basis for designing policies to implement the Optional Protocol and assessing progress achieved towards this objective;**

(c) **Seek the assistance of relevant United Nations agencies and programs, including the United Nations Children's Fund (UNICEF), in this regard.**

### **III. Prevention**

#### **Voluntary recruitment**

17. While noting that the Armed Forces Act (2007) sets the minimum age of recruitment into its armed forces at 18 years and that the State party has issued directives in this regard, the Committee is concerned at reports of children being associated with the Sudan Armed Forces and with Government-backed militias.

18. **The Committee urges the State party to:**

(a) **Take effective measures to end the recruitment of children into its armed forces and affiliated armed groups, including through the effective monitoring of the recruitment process at all levels of the military;**

(b) **Ensure that all military codes, manuals, rules of engagement and other military directives are in accordance with the provisions of the Optional Protocol.**

#### **Birth registration**

19. The Committee notes with concern that, although the Child Act (2010) and the South Sudan Child Act (2008) provide for free birth registration, in practice, the cost of the service is beyond the means of most families. The Committee also expresses its concern at the inadequacy of birth registration facilities and at the general lack of awareness among the public of the importance of such registration, as a consequence of which many children are not registered at birth. The Committee emphasises its concern that the failure to register all children at birth renders it difficult to verify the ages of young recruits, in particular.

20. **The Committee recommends that, with a view to improving birth registration rates, the State party:**

(a) **Ensure that birth registration is free and compulsory in practice;**

(b) **Establish birth registration facilities, including mobile birth registration units, at the local, community and village levels;**

(c) **Conduct awareness-raising campaigns, with the active support of community leaders, to promote birth registration.**

#### **Human rights and peace education**

21. The Committee notes the lack of information from the State party regarding efforts to promote human rights and peace education in Sudanese schools.

22. **The Committee recommends that the State party take effective measures to include human rights and peace education in school curricula with a view to promoting a culture of peace and tolerance. It also encourages the State party to develop training for teachers on the inclusion of human rights and peace education in the educational system.**

## **IV. Prohibition and related matters**

#### **Recruitment by non-State armed groups**

23. The Committee notes that while the Armed Forces Act (2007) criminalizes the recruitment of persons who do not meet the conditions of recruitment, including the minimum age of 18 years, the State party's penal legislation does not provide for a sanction in the case of the recruitment of children and their use in hostilities by armed groups who are not part of the State party's military. Against this background, the Committee expresses its concern at reports of the forced recruitment of children into armed groups, including the Justice and Equality Movement and the Sudanese Liberation Army, as well as their use in hostilities. It notes with concern that hundreds of children have been abducted by and forcibly recruited into the Lord's Resistance Army (LRA) and that girls are frequently abducted by the LRA for the purpose of sexual slavery. The Committee is further concerned that armed groups recruiting children into their ranks continue to enjoy impunity with respect to the offences set out in the Optional Protocol.

24. The Committee urges the State party to strengthen its efforts to prevent and punish the recruitment of children and their use in hostilities, inter alia, by:

- (a) Explicitly providing, in its penal legislation, for effective and dissuasive penalties for the recruitment of children and their use in hostilities by armed groups;
- (b) Enforcing penalties for acts constituting violations of the Optional Protocol and ensuring the thorough investigation of cases and the effective prosecution of offenders, including those with command responsibility;
- (c) Adopting an action plan in accordance with Security Council resolutions 1539 (2004), 1612 (2005) and 1882 (2009) and ensuring its effective implementation;
- (d) Deploying additional police personnel in Darfur;
- (e) Allocating sufficient financial and human resources to the Government of Southern Sudan with a view to strengthening its capacity to respond effectively to LRA attacks and to secure the release of abducted children.

#### **Extraterritorial jurisdiction**

25. The Committee regrets the absence of information on whether the State party may assume extraterritorial jurisdiction in cases involving the offences set out in the Optional Protocol.

26. The Committee recommends that the State party review its legislation in order to establish extraterritorial jurisdiction for crimes under the Optional Protocol.

## **V. Protection, recovery and reintegration**

#### **Disarmament, demobilization and reintegration**

27. The Committee notes with appreciation the State party's efforts to secure the disarmament, demobilization and reintegration of children recruited into armed groups or used in hostilities in Darfur and Southern Sudan. It particularly welcomes the collaboration between the North and South Sudan Disarmament, Demobilization and Reintegration Commissions on the reintegration of child combatants in Abuja, Southern Kordofan and Abyei. Nevertheless, the Committee is concerned at the slow pace of the disarmament, demobilization and reintegration process as a result, inter alia, of the limited financial resources allocated for it. It also expresses its concern that sustainable reintegration remains a challenge due to widespread and extreme poverty in the region, as a consequence of which many children, once demobilized, voluntarily return to join armed groups.

28. The Committee recommends that the State party:

- (a) Allocate adequate financial resources for the implementation of the disarmament, demobilization and reintegration process;
- (b) Address the widespread poverty implicated in the recruitment of demobilized child combatants into armed groups, inter alia, by implementing an effective poverty reduction strategy;
- (c) Fully implement the Action Plan signed by the Sudan People's Liberation Army (SPLA) on 20 November 2009, which commits to a child-free SPLA within one year of signature.

**Assistance for physical and psychological recovery**

29. The Committee notes with concern the limited assistance available for the physical and psychological recovery of child combatants who have been demobilized. The Committee is particularly concerned at the lack of specialized medical care available for girls formerly associated with armed groups, many of whom are victims of sexual violence.

**30. The Committee recommends that the State party prioritize the provision of assistance for the physical and psychological recovery of child combatants, including the provision of specialized medical care for girls who have been victims of sexual violence. In this regard, the Committee encourages the State party to allocate adequate human and financial resources to recovery programmes.**

**Treatment of children associated with armed groups**

31. The Committee is extremely concerned that child combatants have been prosecuted for participation in hostilities, including in relation to an attack on Omdurman, Khartoum in May 2008. While welcoming the State party's information that all the children arrested in connection with the Omdurman incident have been pardoned by Presidential Decree, the Committee expresses its concern that they were treated primarily as perpetrators rather than victims, with some of them having been sentenced to death.

**32. The Committee strongly recommends that the State party:**

**(a) Abolish, by law, the death penalty and life imprisonment for crimes committed by persons under 18 years of age;**

**(b) Ensure that accountability measures for alleged child perpetrators should be in the best interests of the child and should be conducted in a manner that takes into account their age at the time of the alleged commission of the crime, promotes their sense of dignity and worth, and supports their reintegration and potential to assume a constructive role in society;**

**(c) In determining which process of accountability is in the best interests of the child, consider alternatives to judicial proceedings wherever appropriate;**

**(d) Guarantee that juvenile justice standards are applied to all children within its jurisdiction and ensure that any trials are conducted in a prompt and impartial manner, in accordance with international fair trial standards;**

**(e) Provide adequate, free and independent legal assistance for all children;**

**(f) Inform parents or close relatives where the child is detained and allow contact;**

**(g) Guarantee children a periodic and impartial review of their detention;**

**(h) Ensure that children in detention have access to an independent complaints mechanism and that reports of cruel, inhuman and degrading treatment of detained children are investigated promptly in an impartial manner;**

**(i) Hold all criminal proceedings against children in juvenile and not military courts;**

**(j) Detain children only as a measure of last resort and for the shortest possible period;**

**(k) Provide all professionals working in the juvenile justice system with training on the Convention, the Optional Protocols thereto, other relevant international standards and the Committee's general comment No. 10 (2007) on children's rights in juvenile justice.**

**Arms export**

33. The Committee notes the lack of information on whether the State party's legislation prohibits the sale or transfer of arms to countries where children are known to be or may potentially be recruited or used in hostilities.

34. **The Committee recommends that the State party introduce a specific prohibition on the sale or transfer of arms if the final destination is a country where children may be, or are being, recruited by armed forces or groups or used in hostilities.**

**VI. International assistance and cooperation****International cooperation**

35. The Committee notes with concern that, under the laws of the State party, cooperation with the International Criminal Court is effectively criminalized, despite the adoption of Security Council resolution 1593 (2005) calling on the State party to cooperate fully with the International Criminal Court and its Prosecutor.

36. **The Committee recommends that the State party cooperate fully with and provide any necessary assistance to both the International Criminal Court and its Prosecutor, in accordance with Security Council resolution 1593 (2005).**

37. The Committee regrets the lack of information on cooperation with countries in the region in relation to addressing the activities of the LRA in Southern Sudan, including attacks on civilians and the abduction of children for recruitment.

38. **The Committee recommends that the State party strengthen cooperation with neighbouring countries with a view to adopting an effective strategy to combat the LRA practice of child abduction and recruitment in Southern Sudan, particularly in Western and Central Equatoria. It invites the State party to provide information on the implementation of this recommendation in its next periodic report under the Convention.**

39. **The Committee recommends that the State party strengthen its cooperation with the Special Representative of the Secretary-General for children and armed conflict in order to effectively implement Security Council resolutions 1612 (2005) and 1882 (2009) within its jurisdiction.**

**VII. Follow-up and dissemination**

40. **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 the Head of State, the Supreme Court, Parliament, relevant ministries and local authorities for appropriate consideration and further action.**

41. **The Committee recommends that the initial report submitted by the State party and concluding observations adopted by the Committee be made widely available to the public and children in particular in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**

**VIII. Next report**

42. **In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol**

and the present concluding observations in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 1 October 2015.

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