

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY 45<sup>TH</sup> SESSION SUDAN, INITIAL REPORT 25 MAY 2007

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Information submitted to the Committee

On 3 March 2006, Sudan submitted its initial report to the Committee on the Rights of the Child (the Committee).<sup>1</sup> The report provided an overview of Sudan's domestic implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

<sup>1</sup> CRC/C/OPSC/SDN/1, available at <http://www.ohchr.org/english/bodies/crc/crcs45.htm>.

(the Protocol).<sup>2</sup> The bulk of the report provided the Committee with a list of statutes related to the rights of children in Sudan on topics including, *inter alia*, legal age of criminal responsibility, the prohibition of the selling of children, child prostitution and child pornography, and the protection of the rights of child victims. The report clearly showed how recent the legislation is. For example the statutes themselves reference an act, the “Children’s Act,” which was not passed until 2004. The remaining portion of the report consisted of a brief summary of projects and programmes to protect children from violence as well as a budgetary summary of international assistance and cooperation. Absent from the report were signs of the implementation of the listed statutes and any statistics showing the extent of the violations against children.

In response to this information, the Committee provided the Sudanese delegation with a series of questions during the first half of the session. The Committee requested more information regarding the implementation of these laws, exceptions for children born out of wedlock, clarification on the age for minors, domestic financial resources, the judiciary system, the jurisdiction of the listed statutes, social rehabilitation programs for both the victims and the perpetrators, the tracing of abducted children, what is being done in cooperation with bordering nations, the involvement of NGOs, and how the international community can provide more support. After a brief recess, the representatives were to address these questions in the remaining hour and a half.

While there was no independent information submitted publicly by NGOs, two such organizations were involved in the original drafting of Sudan’s report.<sup>3</sup> Additionally, other civil societies had read and given feedback on previous drafts of the report and that feedback was incorporated into the report.

## Themes and issues

The Sudanese delegation was headed by the State Minister with the Ministry of Social Welfare and Women and Child Affairs of Sudan. It also included the Permanent Representative of Sudan to the United Nations Office at Geneva, the Secretary-General of the National Council for Child Welfare of Sudan, representatives of the Government of Southern Sudan, the Ministry of Foreign Affairs of Sudan, and the a representative of the Police Force of Southern Sudan.

The delegation opened by stating that a draft bill on children, aimed at harmonizing Sudan’s obligations under the Optional Protocols to the Convention on the Rights of the Child with domestic law, was currently before Parliament. It then discussed new developments, including the establishment of the National Council for Child Welfare to coordinate and monitor the implementation of the CRC and its two Optional Protocols, the establishment of a unit for the protection of the family and the child, and the implementation of a plan concerning violence against children. It also explained that a Working Group on the protection of children from sexual abuse in conflict had been formed in partnership with the United Nations, the African Union, and civil society institutions.

The committee members praised Sudan’s efforts, but questioned to what extent the policies were having a positive effect on the actual welfare of children in Sudan.

### **National implementation of international treaties and conventions**

While the questions were of an equal distribution regarding many issues, the Sudanese representatives focused a great proportion of their response on how international treaties and conventions are being

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<sup>2</sup> Available at <http://www.ohchr.org/english/law/crc-sale.htm>.

<sup>3</sup> UNICEF and The Sabah Association for Child Welfare and Development.

implemented in their domestic law. Sami Abd Eldaim Yassin, State Minister with the Ministry of Social Welfare and Women and Child Affairs of Sudan, stressed that it is obligatory, according to the Sudanese Constitution, that human rights conventions be incorporated and enforced by the State. However, he mentioned that because of the recency of the ratification of these conventions, more time is needed for the new legislative committee to properly implement resolutions such as the Children's Act of 2004.

Mr. Yassin went on to say that as recently as two months ago the official status of two important charters, the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, were unknown to the Sudanese government. Now, however, their status has been clarified, the instruments ratified, and they will now be included in Sudanese law.

Mr. Yassin continued to stress that there is yet much organization and communication that needs to be accomplished before all of the work will be completed. He said that there is no timeframe for the project as it is an ongoing process which will continue in the coming years.

### **Ministry Coordination**

Mr. Yassin spoke of the coordination between the Ministry of Social Welfare and Women and Child Affairs and the National Council for Childhood, stating that the ministry of social welfare and women and child affairs is a federal organisation comprised of nine departments. The national council for child welfare is therefore a department in the Ministry. Coordination of this council is almost daily and there are weekly meetings with the minister and monthly reports on what has been accomplished in the previous month and what is to be accomplished in the coming month. The national council for child welfare is under the chairmanship of the President and is comprised of all federal ministers of the provinces, thereby guaranteeing widespread coordination.

### **Funding**

Formerly, Sudan had no centralized unit to gather information on child victims, but the government is now establishing a centre for child welfare. With the help of UNICEF and the Swedish Save the Child organisations, a committee incorporating a cross section of governmental bodies and civil institutions is being established with presence both in the 15 northern provinces and in southern Sudan. Budgetary allocations for children's issues have increased recently as a result of a growth in the Sudanese economy. With the help of UNICEF, roughly \$250 million has been allocated for children. However, Mr. Yassin also expressed a need for more international financial support, suggesting that the Sudanese government has still not received all the money they were promised.

### **Prosecution of perpetrators**

Despite being asked directly many times by Committee member Ms. Yanghee Lee, the Sudanese delegation avoided answering the question of a functioning court system strong enough to implement and uphold the new legislation. That they could avoid such direct questioning on the matter was disconcerting, however the Committee were informed that impunity is no longer granted to civil servants and other state employees and that if a military personnel commits such crimes he will be tried in a military court. What that means in terms of actual practice is still unknown.

As far as the prosecution of children for crimes committed, the police are encouraged to be more careful with children under the age of 18. Noting that Sudan is serious that these children now have rights, they cannot be thrown in jail, but are to be placed in a "safe place" to be investigated.

### **Death penalty**

There was some ambiguity in Sudan's report regarding whether or not the death penalty can be applied to children. In their clarification, the delegation merely reiterated the ambiguity stating unequivocally that prior to the age of 18, a child is not considered responsible and the death penalty is not applicable – with the caveat of certain exceptional cases referenced in the text of the Constitution.<sup>4</sup>

### **Forced labour**

Committee member Mr. Kotrane questioned what mechanisms Sudan had in place to persecute individuals who forced children into labour. The Chairperson echoed this concern, noting that the Sudanese Criminal Code calls for one year imprisonment and/or a fine as a penalty. She suggested that since such language can allow for the imposition of only a small fine, that there is the possibility a perpetrator might escape adequate punishment.

Sudan responded by reiterating that forced labour is criminalized under Sudanese law and replied that the circumstances surrounding the crime reinforce the sanction. Sudan explained that if a crime involves a child then the sanctions are heavier, as the fact that the victim is a child is always taken into account. The delegation then referenced the Child Bill of Southern Sudan, and noted that it defines child labour and prohibits children from working at any place where they might be exposed to inappropriate behaviour, such as bars and hotels. According to the law, children are barred from any sex work and may not work overnight. However, the Bill makes some reservations for children who are caring for their parents so long as the child is twelve years old.

Ms. Kotrane also broached the subject of using children as jockeys in camel races, and questioned how Sudan has dealt with the issue.

Sudan responded by stating that they are party to bilateral agreements regarding the use of children as camel jockeys. It noted that there is an agreement in place with the United Arab Emirates to deal with the situation, and that Sudan has worked with UNICEF to return child jockeys to Sudan and provide psychological and social support. Furthermore, Sudan explained, any child who has incurred physical damage is compensated accordingly. The delegation added that as for children who have returned from Qatar, there is an understanding with a charity organization to provide community support and to establish schools and healthcare facilities in the affected regions of eastern Sudan. Sudan noted that to date, six schools and complexes have been established.

### **Child marriage**

Ms. Khattab raised the subject of the marriage of children, and specifically asked about the minimum age of marriage for girls.

Sudan replied that of the 570 tribes in Sudan, there are very few that have a tradition of early marriage. Sudan noted that there is a bill in place to deal with the marriage of children, and that the penal system penalizes those families who allow their children to be married at a young age. The delegation stated that both the Government of Southern Sudan and the national Government acknowledge reports on the abduction of children and women to be wed. In response, Sudan has implemented a program to return abducted children and women.

### **Female genital mutilation**

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<sup>4</sup> “The death penalty may not be imposed on anyone below 18 or over 70 years of age, unless with respect to *qisas* or *hadd* offences.” CRC/C/OPSC/SDN/1 Page 7, available at <http://www.ohchr.org/english/bodies/crc/crcs45.htm>.

The Sudanese delegation raised the subject of female genital mutilation (female circumcision) by stating that it is an inherited practice that has been ongoing for thousands of years. Sudan explained that as the tradition of female circumcision is in the spirit and mentality of the people, the practice cannot be combated by law alone. It noted that in the past two years, Sudan has undertaken a major campaign to raise awareness and demonstrate the physical and psychological damages of genital mutilation. Sudan stated that the government has reached the decision to categorically disallow female circumcision, and even the National Council of Physicians, following the order of the President of the Republic, has prohibited all physicians and midwives from practicing it. If an individual is found guilty of performing the operation, then he can be prohibited from practicing. Sudan acknowledged that the practice has not been eradicated, but noted that many steps have been taken to stop it.

### **Southern Sudan**

Mr. Pollar raised the issue of child abduction, referring to armed militias and other groups that would invade villages and abduct children to use for fighting. He asked what steps were being taken to trace these children, and whether it was true that certain NGOs were attempting to buy out children from slavery. He then asked what specific strategic campaigns on the matter were being investigated, and whether a program was in place to target the perpetrators. He concluded by asking for Sudan's stance on the problems at the borders with regard to non-Sudanese abducting children, or the Sudanese abducting children north of the border. Ms. Vuckovic-Sahovic questioned the extent of child prostitution, especially in Darfur and Southern Sudan.

Sudan stated that in the process of preparing the report, information had been gathered from 10 states of Southern Sudan, and that work had been done together with the representatives of State ministries, NGOs, and UN bodies. Sudan acknowledged that children were victims with regard to the law-resistant army in Southern Sudan. The delegation reiterated that the Government takes the issue seriously. It noted that a trauma centre has been set up and that Sudan was working with the government of Uganda to rehabilitate the children. As for the sale of children, Sudan confirmed that some children have been bought back, but Sudan maintains that such actions are not desirable because the people who abduct children should not be paid, as that encourages the practice. Rather, children should be taken back and reintegrated into their communities. Sudan reiterated that in Southern Sudan, child welfare is a priority issue.

### **Conclusions and next steps**

The session closed with the delegation and the Chair of the Committee expressing their thanks to each other. The Committee Expert serving as the Special Rapporteur, Ms. Aluoch, stated that things were looking bright for Sudan.

*Last revised and updated: 6 June 2007.*

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The *Treaty Body Monitor* forms part of the Human Rights Monitor Series produced by ISHR. It reports on each country reviewed by the seven treaty bodies and provides an overview of every treaty body session. It is currently an online publication that can be found at <http://www.ishr.ch/hrm/TMBs>.

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