



Convention on the Rights of the Child

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Committee on the Rights of the Child Fifty-fifth session

Summary record of the 1561st (Chamber B) meeting

Held at the Palais Wilson, Geneva, on Monday, 20 September 2010, at 3 p.m.

Chairperson: Mr. Zermatten (Vice-Chairperson)

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The meeting was called to order at 3.15 p.m.

Consideration of reports of States parties (continued)

Third and fourth reports of the Sudan on the implementation of the Convention on the Rights of the Child (continued) (CRC/C/SDN/3-4)

Initial report of the Sudan on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/SDN/1)

1. *At the invitation of the Chairperson, the delegation of the Sudan took places at the Committee table.*
2. **The Chairperson** requested further information on the training of judges, police officers and social workers who provided support to the courts, and asked how many juvenile courts there were in the State party, whether any lawyers were specialized in child issues and whether children received free legal assistance. Noting that sentences imposed were severe, he wished to know whether there was any system of alternative measures to deprivation of liberty, whether detainees under the age of 18 years were held in special premises, whether they were separated from adults and whether their educational or socio-educational needs were taken into account, with a view in particular to keeping them in their family environment. He asked whether street children were considered to be juvenile offenders.
3. **Mr. Filali** (Country Rapporteur) asked what training lawyers received, whether legal assistance was compulsory during criminal proceedings involving child defendants, whether the Ministry of Justice was responsible for prison staff and whether remedies were available for children detained for a crime or serious offence.
4. **Ms. Herczog**, noting that thousands of children, most of them born out of wedlock, were abandoned at birth in Sudan and that many of them died before receiving assistance or even after being admitted to an institution, asked what was being done to address the problem, countering the stigmatization that such children suffered, ensuring that they were cared for, monitoring that care and educating the families and staff concerned.
5. **Ms. Habani** (Sudan) said that she recognized that in Sudan, for religious reasons, children born out of wedlock were not looked after by their parents and were therefore exposed to many risks. The State guaranteed the same rights for those children as for others and the same possibilities to lead a life in dignity within society. Under the new Nationality Act, abandoned children were given a name and Sudanese nationality; the children were registered under the name of their father or mother on the general birth register and placed in a home or with a specially trained foster family. Foster families were supervised by the Ministry of Social Affairs of each state.
6. *Kafalah* was encouraged but was subject to conditions so that the authorities could exercise control over the living conditions of the children involved: the family must receive an adequate income, have a good reputation and treat the child with respect and dignity. Social service officials monitored children placed in *kafalah* families. If a child suffered abuse, he or she could be temporarily or definitively removed from the foster family. Over 3,000 children were currently living in *kafalah* families in Khartoum and elsewhere in the country or had been adopted in Muslim countries that did not recognize *kafalah*, in which case the children took the surname of their adoptive family. The situation was closely monitored by the competent authorities.
7. **Mr. Filali** (Country Rapporteur) asked whether anonymous birth was possible in hospitals and whether any provisions were made to enable children to find their biological parents. He wondered whether children placed through the *kafalah* procedure were entered

into the family record book, what the situation was with regard to succession and whether in the case of death of the *kafil* (the main guardian under *kafalah*) the child was obliged to live with the deceased's wife or in the care of the deceased's family. Lastly, he requested details on the civil status of children born of rape or incest.

8. **Ms. Herczog** said that the situation of abandoned children in the Sudan could change if the State had the will for it to do so. She asked what motivated families to foster children and if they were prepared to offer the emotional support that children needed.

9. **Ms. Habani** (Sudan) replied that, in the *kafalah* system, the foster family had the right to give up to 30 per cent of its estate to the fostered child, as a gift. If one parent died, the surviving spouse was responsible for the child. While the Ministry of Social Affairs did provide a monthly allowance to all families that took in a child aged between 2 and 18 years, many families volunteered because they wanted to care for children. In addition to emergency foster families, with whom children were placed if there was no room in shelter homes, there were families who permanently took in children for their whole life. The families committed in writing to taking care of the child. Khartoum State, had a service with a staff of approximately 100 responsible for monitoring placed children. The number of foster families increased sharply after each awareness-raising campaign.

10. **Ms. Herczog** asked why it was necessary to wait until the child was 2 years old before placing him or her in a *kafalah* family, given that the first two years of life were crucial to psychological development, and whether any data were available on education and other areas in order to measure the progress and well-being of placed children as compared to those of other children from the same social and age groups.

11. **Mr. Filali** (Country Rapporteur), noting that the State party accepted that Sudanese children placed in Muslim countries where adoption was now authorized, such as Turkey and Tunisia, were adopted and therefore took their adoptive family's surname, asked whether the Sudanese authorities had any plans in that regard.

12. **Ms. El-Ashmawy** asked whether there were any guidelines for families wishing to take in children under the *kafalah* system.

13. **Ms. Habani** (Sudan) recalled that *kafalah* was subject to conditions but that the main requirement was that there was no evidence of problems in the family wishing to foster a child. The authorities monitored and maintained control over the situation through social workers, who closely followed the child's development. If a family was suspected of having exploited a child in its care or having infringed the child's rights, an investigation was launched and the child could be removed from the family. Sudanese law was inspired by sharia, which prohibited adoption. The *kafalah* system constituted progress, guaranteeing the rights of the child. It had emerged that children placed with families overseas could not enjoy the same rights as other family members if they did not take the adoptive family's name.

14. Programmes to ensure children's access to drinking water were being run with the support of the United Nations Children's Fund (UNICEF), and over 70 per cent of families had access to drinking water, which had a positive effect on the children. In camps, however, children continued to suffer from lack of access to drinking water.

15. **Mr. Filali** (Country Rapporteur) asked what possible remedies were available after a death sentence and whether presidential pardons were granted to mothers, given that under the Child Act the child's best interests constituted an essential element of protection of the rights of the child.

16. **Ms. Habani** (Sudan) said that the death penalty could not be imposed on a pregnant woman or a woman nursing a child under the age of 2 years. Beyond that age, the child could be placed in the care of a parent or foster family. Under the Child Act, minors were

prohibited from spending longer than 2 years in prison with their detained mother, after which period they had to be placed in the care of a member of their extended family or in a special shelter. At the end of the 2-year period, however, a mother could be granted a presidential pardon, except in the case of a serious crime.

17. The situation of refugees — many of them in the east, west and south of the country — was governed by the Convention relating to the Status of Refugees and other relevant instruments to which Sudan was party. The Refugees Office in the Ministry of the Interior was responsible for providing various services for refugees, including ensuring access for refugee children to free health care and education.

18. The Sudan had launched a vaccination scheme aimed at preventing childhood illnesses, and planned to conduct information programmes on reproductive health and HIV/AIDS prevention in schools. In cooperation with the United Nations Population Fund, it was establishing a national strategy for eliminating female circumcision.

19. Early marriage was only an issue in poor, remote areas, where traditionally the parents chose to marry off their daughters and prioritize their sons' education. The Sudanese Government was attempting to raise awareness among the population of the importance of girls' education, as part of a strategy targeting nomadic populations in particular, which included training teachers who were willing to follow them during the travelling season.

20. **Mr. Filali** (Country Rapporteur) asked whether a judge could authorize the marriage of a girl under the age of 18 years, and how the education of child refugees in camps was organized.

21. **Ms. El-Ashmawy** asked what age group received free health care.

22. **Ms. Habani** (Sudan) said that a judge could authorize the marriage of a girl under the age of 18 years if he or she believed it to be in the girl's best interests, but that the authorities were working with religious leaders and ulemas towards abolition of that practice.

23. Under agreements concluded between the Ministry of the Interior and the Office of the United Nations High Commissioner for Refugees (UNHCR), UNHCR organized education programmes in camps in the east of the country, which received mainly Eritrean and Ethiopian refugees.

24. All children under the age of 5 years who were in possession of the health record booklet issued to them upon birth registration were covered by social security and therefore had access to free health care in public hospitals, including emergency surgery. Children with disabilities benefited from that medical coverage, and the equipment involved was duty-free. A centre for persons with disabilities had been created since the Sudan had acceded to the Convention on the Rights of Persons with Disabilities and every effort was made to ensure that children with disabilities were educated in regular schools.

25. Measures to reintegrate street children into society included vocational training programmes and projects to facilitate their return to their families. As a result, over 300 displaced children had recently been returned to Darfur and to the northern states.

26. The Child Act prohibited slavery and forced child labour, and was applicable throughout the country. In the southern states, former child soldiers had been returned to their families through a programme of disarmament, demobilization and reintegration. However, armed rebel groups continued to recruit children.

27. **Mr. Filali** (Country Rapporteur) asked whether the Health Insurance Act applied to all children in the country, including in Darfur, and how the State party was working to

prevent children from dropping out of school, a phenomenon caused by both armed conflict and poverty.

28. **Ms. Varmah** asked who managed the centres for persons with disabilities, whether they complied with all regulations applicable to children and whether the parents of children with disabilities received financial assistance and advice.

29. **Ms. El-Ashmawy** asked what role was played by civil society in running the programme of disarmament, demobilization and reintegration at the local level.

30. **Ms. Habani** (Sudan) said that the social security system covered the whole territory, including Darfur and the southern states, and that only its administration differed between regions: it was administered in the north by the Ministry of Social Affairs and in the south by the Ministry of Labour, but the strategies in place were the same.

31. Integration of children with disabilities into the regular school system implied building appropriate infrastructure and training teachers in those children's specific care needs. The media played a decisive role in raising public awareness of the issue. Several states had specialist institutes providing care for those with hearing and visual impairments, and thousands of children had been medically examined in Sudan and abroad as part of a project funded by Sudanese expatriates.

32. **The Chairperson** asked what the State party was doing to combat female genital mutilation and whether civil society and the media played a role in that area.

33. **Mr. Filali** (Country Rapporteur) asked if the State party planned to prohibit by law the practice of early marriage, which was traditionally authorized as soon as a child reached puberty, and whether the decision of the judge responsible for authorizing such a marriage was based on sharia or on tradition.

34. **Ms. Habani** (Sudan) said that there were no provisions — not even in the Child Act (2010) — that set the marriageable age, but that no distinction was drawn between boys and girls in that respect. The practice of early marriage was almost non-existent in cities and the average age for marriage was increasing as a result of women's education.

The meeting was suspended at 4.25 p.m. and resumed at 4.40 p.m.

35. **Ms. Magot** (Sudan) said that the Southern Sudan Child Act (2008) increased the age of criminal responsibility from 10 to 12 years and provided for the creation of juvenile courts, although none had been established to date. However, a number of judges had undergone specific training in the rights of the child. The Act provided that the rights of the child must be fully respected in all legal proceedings and that questioning of children must be conducted in camera. No judicial or legal assistance was provided for children in Southern Sudan, but for the most serious offences children must be assisted by a lawyer. The Sudan had decided to include issues relating to the rights of the child in lawyers' and social workers' training.

36. **Mr. Filali** (Country Rapporteur) asked whether the Child Act (2010) was applicable in Southern Sudan.

37. **Ms. Magot** (Sudan) said that it was not applicable in the four states of Southern Sudan. Issues relating to children and the family fell within the remit of the federal State and only the Southern Sudan Child Act (2008) was applicable in Southern Sudan.

38. Studies into the phenomenon of abduction of children among tribes had shown that it occurred principally because of fertility problems in certain tribes. The Government of Southern Sudan had organized round tables between communities to address the problem and to draft guidelines on the subject. For several reasons, essentially linked to tradition, the problem of child abduction was easier to address through mediation between the tribes than

through the judicial process. During the war, the Lord's Resistance Army (LRA) had abducted children, mainly in the border region between Sudan and Uganda, but most of them had now returned to their families.

39. **Mr. Pollar** said that, according to certain NGOs, tribes had bartered children for money.

40. **Ms. Magot** (Sudan) said that in general children were not sold or bartered; for the most part, abducted children were treated as though they had been members of the tribe since birth.

41. **Ms. Habani** (Sudan) said that since the signature of the peace agreements, action taken by the authorities with the help of UNICEF had curbed the phenomenon of child abduction.

42. The problem of child labour persisted to a certain extent in rural areas where traditionally children looked after the livestock and helped their parents with agricultural work.

43. The Child Act (2010) provided that education was compulsory for all children, but its implementation had come up against various obstacles, particularly in regions where parents were required to pay school fees, including in public education, in addition to hidden fees such as the purchase of textbooks. The Sudan planned to allocate a larger budget to education in order, for example, to cover all school fees of the poorest families. The Ministry of Education had developed school curricula that needed to be followed by all states, and a programme of refresher training for teachers and to alert them to other methods of education, one of the aims being to prevent the use of corporal punishment.

44. **Mr. Filali** (Country Rapporteur) asked whether religious schools followed the curricula set by the Ministry of Education.

45. **Ms. Habani** (Sudan) said that all religious schools were required to follow the official curricula, even if they devoted a certain number of supplementary hours to religious education. *Khalawi* were schools that provided specific religious training on the Koran during school holidays and religious festivals.

46. Since the adoption of the Child Act (2010), living on the streets had no longer been an offence, meaning that street children were no longer subjected to a systematic crackdown, but, on the contrary, were entitled to measures to reintegrate them into society, especially through school attendance.

47. The National Council for Child Welfare had launched a programme to combat child labour through education and vocational training.

48. **The Chairperson**, noting that very few students had access to secondary education, asked how vocational training was organized. He requested further details on preschool education, which was underdeveloped outside Khartoum. Lastly, he asked whether the State party had adopted a comprehensive anti-poverty strategy, given that poverty was often used to explain the poor school enrolment rate.

49. **Ms. Habani** (Sudan) said that the Higher Council for Vocational Training conducted vocational training programmes in all states. Khartoum, for example, had 13 vocational training centres.

50. In theory, preschool education was compulsory, but in reality only private establishments, for which parents were required to pay fees, offered such education. However, the Sudan had launched a strategy to promote preschool education with a view to remedying the situation.

51. In order to combat poverty, the Sudan had launched a national 15-year strategy based on microcredit and prioritizing women and informal work. Evaluations to date had shown that many families had benefited from microcredit programmes in most states. The strategy was also an excellent way of combating child labour, inasmuch as it was the parents' poverty that forced them to put their children to work.

52. **Mr. Krappmann** asked whether children were involved in the State party's efforts to combat child labour.

53. **Ms. Habani** (Sudan) said that children were involved in all activities that concerned them, including efforts aimed at combating child labour. A study into child labour was currently being conducted in four states, and its results would make for better targeting of the authorities' efforts in that area. The national poverty reduction strategy was being evaluated in all states.

54. **Mr. Filali** (Country Rapporteur) asked whether the informal sector was controlled by the General Labour Inspectorate.

55. He further wished to know whether the Civil Status Code effectively authorized the marriage of girls aged from 11 years onwards and whether the draft Child Act (2006) or the Child Act (2010) banned female genital mutilation.

56. **Ms. Habani** (Sudan) said that the Child Act (2010) banned employment of children under the age of 14 years, but that provision was not necessarily respected in the informal sector, which was outside the control of the authorities. To combat that phenomenon, measures must first be taken to curb poverty and promote education so that children could break out of the cycle of poverty.

57. A national strategy to combat female genital mutilation had been launched in 2008. A fatwa issued by an ulema's committee clearly indicated that Islam did not authorize genital mutilation, a practice that had its roots in African traditions and was in no way linked to religion. Measures to eliminate the practice included awareness-raising campaigns. Nearly 500 midwives, whose income depended partly on performing excisions, had recently taken an oath and committed to refrain from carrying out such mutilation, in return for which they had been integrated into the official health-care system.

58. The Sudan was a federal State; in case of conflicting provisions, federal legislation had primacy over state legislation.

59. **Mr. El-Sheikh** (Sudan) said that since the adoption of the Child Act (2010) six juvenile courts had been established at the state level. In cities that did not have such courts a judge acting as a juvenile court judge could hear a case in which the defendant was a minor.

60. UNICEF would soon be organizing training for judges which would include an explanation of practices relating to juvenile justice in other countries with a comparable social context to that of Sudan, particularly from the point of view of the difficulties caused by practices linked to traditional justice.

61. Children brought to justice could be accompanied at the hearing by one of their parents. In several juvenile courts, children's testimonies were videotaped, which sometimes meant that the child did not have to attend the hearing. In the interests of maintaining the child's privacy, no descriptions or images of the child were released to the media.

62. With regard to policy on legal aid, all child defendants in criminal cases had the right to be assisted by a lawyer.

63. **The Chairperson** asked whether legal aid was compulsory or if it was proposed depending on the seriousness of the case.
64. **Mr. Filali** (Country Rapporteur) asked whether police custody and pretrial detention of children was regulated by specific rules and whether the presence of a lawyer was compulsory during proceedings involving children.
65. **Mr. El-Sheikh** (Sudan) said that the State was required to offer legal aid to all children whose families did not have sufficient financial means to defend their interests and that the presence of a lawyer was compulsory in all criminal proceedings involving children.
66. The Child Act (2010) was being applied and had already led to convictions for sexual offences; one might cite the case in which the defendant was convicted and sentenced to 10 years' non-suspended imprisonment pursuant to article 45, paragraph (c), on sexual harassment; and a case of rape that came under article 45, paragraph (b), in which the defendant was convicted and sentenced to 20 years' imprisonment and a fine.
67. With a view to guaranteeing the best interests of the child in cases involving sexual offences, the Child Act (2010) provided for the intervention of a medical examiner, who examines the child, providing physical and psychological follow-up care for six months and ensuring respect for privacy in the handling of personal data. The Family and Child Protection Unit coordinated the application of those measures, in close cooperation with civil society organizations, UNICEF and Save the Children Sweden.
68. **Mr. Koompraphant** asked whether the potential impact of sexual abuse on other family members was evaluated and whether the authorities monitored children after they had been returned to their family in order to ensure that they were not abused again.
69. **Mr. Ukud** (Sudan) explained that persons guilty of incest were in principle brought to justice and detained, as demonstrated by a recent judgement in which a father convicted of incest had been sentenced to 20 years' imprisonment.
70. **Mr. Musa** (Sudan) said that a moratorium on capital punishment had been imposed for children under the age of 18 years and that a bill was currently being drafted.
71. A commission to combat discrimination against non-Muslims had been established in Northern Sudan.
72. Many activities to raise awareness of unexploded mines and devices had been conducted in schools and universities in Southern Sudan, and programmes to delimit dangerous areas, and demining campaigns were under way. Two care centres for mine victims had been opened.
73. The country was embarking on an extensive programme of legal reform aimed at modernizing obsolete laws, including those relating to the security forces, national security and the detention of children.
74. **Mr. El-Sheikh** (Sudan) said that the Child Act (2010) defined children as all persons under the age of 18 years and that the fatwa issued by the Sudanese religious authorities on the subject recommended the same age limit.
75. **Mr. Filali** (Country Rapporteur) asked whether sharia, as a source of law, had primacy over positive law.
76. **Ms. Habani** (Sudan) explained that there was no conflict between positive law and sharia law and that all Sudanese legislation was permeated by the spirit of sharia.

The meeting rose at 6 p.m.