



Rights of the Child
in Sudan

OMCT

OPERATING THE **SOS-TORTURE** NETWORK



Rights of the Child in Sudan



The aim of OMCT country reports are to prevent torture

In its reports on children's rights, OMCT aims to analyse national law in terms of the international commitments that a government has made. For example, in some countries families are not informed when their child is detained and this removes a precious safeguard against abuse. The absence of such safeguards facilitates situations where the torture of children can and does occur.

In other words, the reports aim to point out where, often unknowingly, legislation facilitates grave abuses against children.

The legal analysis is supported, where possible, by urgent appeals on the torture of children documented by OMCT. These urgent appeals (OMCT intervenes almost daily on such cases) are the foundation of all our work.

The reports are not legal semantics for their own sake, but represent, in addition to the urgent actions, another side of our strategy to end torture. The reports include meaningful and feasible recommendations for legal reform aimed at reducing the incidence of child torture.

The reports are presented to the United Nations Committee on the Rights of the Child who use them to analyse how well a country is fulfilling its international commitments with regards to children. Their recommendations on the issue of torture, drawing from OMCT's reports, send a strong message from the international community on the need for action to end the torture of children.

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COMMITTEE ON THE RIGHTS OF THE CHILD
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Report on the implementation
of the Convention
on the Rights of the Child
by Sudan

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I. Preliminary observations

Sudan ratified the Convention on the Rights of the Child (CRC, hereafter, the Convention) on 3 August 1990, with no declarations or reservations. Sudan is a party to the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)¹, the International Covenant on Economic, Social and Cultural Rights (CESCR),² the International Covenant on Civil and Political Rights (CCPR),³ and a signatory to the Convention Against Torture, Cruel, Inhuman or Degrading Treatment or Punishment (CAT)⁴. Sudan is a party to the Geneva Conventions of 1949 although the Government has taken no action regarding the 1977 Protocols.

Sudan has also taken no action regarding either the Convention on the Elimination of Discrimination Against Women (CEDAW) or the African Charter on the Rights and Welfare of the Child. Sudan has also not ratified the Optional Protocols to the Convention. OMCT strongly urges the timely ratification of the last six instruments mentioned.

OMCT welcomes the submission of the Sudan's second report to the Committee on the Rights of the Child (hereafter, Government Report) in accordance with article 44 of the Convention. The Government report states in section I, paragraph 14 that "the Convention became part of national legislation and consequently entered into force as a binding law on all parties, including the bodies and institutions of the State."⁵ In addition, national laws of the Sudan were instituted on the basis of the provisions and articles of international human rights instruments.⁶ In the report submitted, the Sudanese government claims that it is committed to children's rights⁷ and articulates several of its responsibilities in the Constitution of the Republic of Sudan (hereafter, the Constitution), which was adopted by referendum in 1998.

However, OMCT is concerned that these instruments do not adequately serve to protect

1 - Accession on March 21, 1977

2 - Accession on March 18, 1986

3 - Accession on March 18, 1976

4 - Signed on June 4, 1986

5 - CRC/C/65/Add.17

6 - Ibid. para. 10

7 - Ibid. para. 1 (a)

children from torture, cruel, inhuman and degrading treatment or punishment based on reports of torture and ill-treatment of children received from the Sudanese Organisation Against Torture, a member of the OMCT SOS-Torture network (hereafter, SOAT), and other organizations.⁸ These reports recount that government, Sudanese People's Liberation Movement/Army (SPLM/A), and other factions participating in the protracted armed conflict continue to engage in brutal and systematic violence against children.⁹ Reports of scorched-earth warfare tactics, the use of famine as a weapon of war, the conscription of child soldiers, slave raids, arbitrary arrest and detention, and abominable conditions in transit camps and vagrancy camps show that existing measures and *de jure* protections for children are grossly inadequate.¹⁰

Based on information received, OMCT is also gravely concerned that Sudanese legislative provisions foresee the torture, cruel,

inhuman and degrading treatment or punishment of children, particularly in the form of corporal and capital punishment which are issues later addressed in this report. OMCT regrets that there are also legislative loopholes allowing for abuses of children's rights. OMCT is particularly concerned by a report recounting that "the use of cruel and degrading punishments in line with the regime's interpretation of Shari'a Law was stepped up during 2001."¹¹

OMCT would encourage the Government to adopt measures that are consistent with international standards in order to implement and ensure effective protections for children.

8 - Sources include the Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002; Gerhart Baum, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Situation of Human Rights in the Sudan*, 23 January 2002, E/CN.4/2002/46; Amnesty International, *Annual Report 2001-2002*, AI index POL 10/001/2001. Urgent appeals from the SOAT, Human Rights Watch and Amnesty International are additional sources.

9 - Ibid.

10 - Ibid.

11 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002.

II. General Observations on the Situation of Children in Sudan

2.1 Effects of the Armed Conflict on Children

Sudan is under an obligation to civilians in a situation of internal armed conflict in accordance with article 3 common to the four Geneva Conventions of 1949, which is recognized as customary international law. Article 3 states: “Persons taking no active part in hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end the following acts are prohibited: .. a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; .. c) outrages upon personal dignity, in particular humiliating or degrading treatment.” Obligations to protect children’s right to life arise from article 6 of the Convention, which states that “States Parties recognize that every child has the inherent right to life. States Parties

shall ensure to the maximum extent possible the survival and development of the child.” OMCT would recall that Sudan has not signed the Protocol Additional to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts of June 1977. OMCT would urge the timely ratification of this instrument.

Specific protections for children in armed conflict are also found in article 38 of the Convention on the Rights of the Child, which states that “in accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.”

The armed conflict in Sudan is among the most brutal and lengthy in the world, having claimed more than two million lives and created an internally displaced and refugee population of more than four and a half million people in over nineteen years of hos-

tilities. The International Crisis Group¹² reports that “while it was once fashionable to talk of a ‘lost generation of children’ in Sudan, even this bleak notion now seems inadequate. The reality is that generations of children, particularly in the southern regions, have never had sustained opportunities to access basic education, health care, clean water or adequate food. Children across the country do have access to guns, however, and opportunities to join militias, rebels groups and the government military. The culture of the warlord is predominant, and for many young people, it represents the only livelihood.”¹³ While the primary actors are the government-backed Sudanese People’s Armed Forces, Popular Defense Forces, *Murahaleen* militias, the rebel

Sudan People’s Liberation Movement/Army (SPLM/A), and various other militias, the popular characterization of an Islamic North fighting an animist/Christian south oversimplifies the conflict as it overlooks a history of colonization and terrorism and confusion brought about by constant fluctuation and fragmentation.¹⁴ “Sudan’s vast oil reserves, currently controlled by the government, are the greatest spoils of the war, but it is also a battle over land, religion, ideology and demands for self-determination.”¹⁵

OMCT regrets that the continuation and exacerbation of this conflict by all parties has led to a widespread and systematic pattern of children’s rights abuse in Sudan, as illustrated by the following issues. OMCT would urge the government and the SPLM/A to genuinely pursue a peace process with a view to ensuring permanent guarantees and protections for children.

a. Bombing attacks on civilians

United Nations General Assembly Resolution 2444 (XXIII), articulates the customary international law principle that it is “prohibited to launch attacks against

12 - The International Crisis Group is a private, multinational organization, with over 80 staff members on five continents, working through field-based research and high-level advocacy to prevent and contain conflict. <http://www.crisisweb.org>

13 - ICG Africa Report N 39, *God, Oil and Country: Changing the Logic of War in Sudan*, p. 3-4 International Crisis Group Press, Brussels, Belgium, 2002.

14 - Evidence of such fluctuation was particularly notable in 2002 with “the merger of the SPLA with the Sudan People’s Democratic Front (SPDF), bringing together the fighting forces of two important opposition groups. The SPLA also struck agreements with the Sudan Alliances Forces (SAF) in the north, the Umma Party and the Popular National Congress party.” John Prendergast, “Sudan’s Last Fighting Season?”, *The Observer*, May 12, 2002; see also ICG Africa Report N 39, *God, Oil and Country: Changing the Logic of War in Sudan*, p. 3-4 International Crisis Group Press, Brussels, Belgium, 2002.

15 - ICG Africa Report N 39, *God, Oil and Country: Changing the Logic of War in Sudan*, p. 3-4 International Crisis Group Press, Brussels, Belgium, 2002.

civilian populations as such” and “distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as much as possible.”¹⁶ OMCT also recalls UN Security Council resolution 1379 on Children and Armed Conflict, which “underlines the importance of the full, safe and unhindered access of humanitarian personnel and goods and the delivery of humanitarian assistance to all children affected by armed conflict.”¹⁷

Despite these obligations, and the aforementioned obligations arising from the Convention and the Geneva Conventions, government bombing attacks that explicitly target civilians often occur in Sudan. According to the annual report of the SOAT, 568 bombs were dropped on non-military targets in the past year.¹⁸ Schools, church-schools, aid organizations, and food distribution sites were all bombing locations.¹⁹ Government planes and helicopters have attacked World Food Program sites, NGO clinics, and areas populated by large groups of internally displaced persons.²⁰ During May-July 2001, aerial bombs fell on camps for internally displaced persons.²¹ Anatox airplanes bombed Southern Sudan, mainly in the Bahr el-Ghazal region, killing

several children in 2001 and 2002.²² The government committed an air attack on a UN food distribution center in Bieh, Upper Nile Province, on 20 February 2002, which resulted in the death of 17 civilians, including children, violating a fragile, internationally brokered peace agreement.²³ The United States government subsequently resumed negotiations with both government forces and the SPLM/A who agreed in March 2002 that bombings against civilians would cease. However, a government attack on a relief center in Rier in Western Upper Nile Province, on May 22, 2002, breached

16 - Respect for Human Rights in Armed Conflicts, Resolution 2444 (XXIII) of the United Nations General Assembly, 19 December 1968.

17 - S/RES/1379 (2001)

18 - Sudanese Organization Against Torture (SOAT), Annual Report on the Human Rights Situation in Sudan, 2002; Gerhart Baum, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Situation of Human Rights in the Sudan*, 23 January 2002, E/CN.4/2002/46

19 - *Ibid.*

20 - *Ibid.*

21 - Amnesty International, Current Country Update on Sudan; Gerhart Baum, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Situation of Human Rights in the Sudan*, 23 January 2002, E/CN.4/2002/46

22 - *Ibid.* see also “Latest News” at <http://www.sudan.net>

23 - Press Release/Commentary by Norwegian Foreign Ministry posted on February 23, 2002 at “latest news” at <http://www.sudan.net>, No.36/02 ; Human Rights Watch News, “Sudan : Investigate Helicopter Killings”, March 1, 2002, <http://www.hrw.org/press/2002/03/sudan0301.htm>; UNICEF, statement by Executive Director, WFP Food Programme Coordinator, UN Emergency Relief Coordinator, “Sudan Must Protect Civilians and Relief Workers”, <http://www.unicef.org/media/newsnotes/02nn04sudan.htm>.

this agreement, and resulted in the death and wounding of several children, many of them 10 and 11 year old boys.²⁴ Information from an AFP news article stated that “the SPLA has charged that a government Russian-made military Antonov plane on Wednesday dropped sixteen bombs on Rier, a relief centre for thousands of displaced people, killing 18 civilians and wounding 85, most of them children.”²⁵

In view of such reports, OMCT is very concerned that armed forces continue to deliberately target children and institutions whose purpose is to aid the health, development and well being of children. OMCT would request that all armed forces cease bombing attacks on civilians and NGOs in

the country in order to preserve children’s right to life and protect them during an armed conflict, in compliance with articles 6 and 38 of the Convention and the aforementioned U.N. Resolutions. OMCT would urge the government and SPLM/A to immediately comply with Human Rights Commission resolution 2002/16 which requests the government of Sudan “to implement the Khartoum agreement to protect civilians and civilian facilities from military attacks,”²⁶ and to respect provisions of international law concerning internal armed conflict.

b. Food Shortages and Poverty

The Convention addresses the right to food for children in articles 24 and 27, obligating States Parties to “take appropriate measures . . . to combat disease and malnutrition . . . through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods...”²⁷ and also requiring that “States Parties, in accordance with national conditions and within their means... shall in case of need provide material assistance and support programmes, particularly with regard to nutrition .. .”²⁸ Starvation of civilians has be-

24 - Reuters, May 24, 2002 posted at <http://www.sudan.net>; News Article by AFP posted on May 25, 2002 at “latest news” at <http://www.sudan.net>. According to the article, the rebel’s report was confirmed by the Norwegian People’s Aid (NPA) relief organization.

25 - News Article posted by AFP on May 25, 2002 at “latest news” at <http://www.sudan.net>

26 - During their 2002 session, the UN Human Rights Commission expressed their “deep concern at ... the widespread and indiscriminate aerial bombardments and attacks by the Government of the Sudan, particularly bombings of schools and hospitals, churches, food distribution areas and marketplaces and expresses deep concern about the recent attack by the Government against a United Nations food distribution center in southern Sudan on 20 February 2002.” (Human Rights Commission res 2002/16 sec. 2 item b- ii).

27 - Article 24 of the Convention

28 - Article 27 of the Convention

come illegal as a matter of customary law²⁹ and is reflected in Protocol II of the Geneva Conventions, which state in article 14 that “starvation of civilians as a method of combat is prohibited. It is prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as food-stuffs, crops, livestock, drinking water.” Children, as the most vulnerable members of the population, suffer greatly when they are deprived of sufficient, nutritious quantities of food which are necessary for their good health and development.

In Sudan, poverty, drought, displacement, and humanitarian relief operations thwarted by the aforementioned aerial attacks on food distribution sites, contribute to a massive food shortage crisis. The government of Sudan has been accused of engaging in scorched earth warfare and reports state that crops and livestock have been looted and burned.³⁰ In addition, a severe drought left hundreds of thousands in danger of starvation, and government promises to replenish a large portion of the food supply have gone unfulfilled.³¹

OMCT would call on the Government to cease attacks on food relief operations.

OMCT would call on all parties to the armed conflict to halt raids of villages where livestock or crops are looted or destroyed in compliance with article 38 of the Convention. OMCT would call on the government to grant domestic food aid and encourage the construction of civil society so that food might be produced, in compliance with article 6 (2) of the Convention.

c. Child Soldiers

Article 38 of the Convention states that “States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces.” Furthermore, article 1 of the Optional

29 - Statement by the International Committee of the Red Cross. Commission on Human Rights, 19 March - 27 April, 2001, 57th session, Agenda item 10.

<http://www.icrc.org/Web/Eng/siteeng0.nsf/iwpList78/3FB7E0D8B82A07DEC1256B66005FD4ED>;

Human Rights Watch/Africa, “Starvation of Civilians as a Method of Combat”, APPENDIX G: RULES OF WAR. <http://www.hrw.org/reports/1999/sudan/SUDAWEB2-79.htm>; Amnesty International, “International Criminal Court Fact Sheet 5: Prosecuting war crimes”, AI Index: IOR 40/06/00. http://www.amnestyusa.org/icc/factsheet_5.pdf.

30 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002; Gerhart Baum, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World. Situation of Human Rights in the Sudan*, 23 January 2002, E/CN.4/2002/46; Human Rights Watch, *Sudan*, 2002; Amnesty International, *country report: Sudan*, 2001; ICG Africa Report N 39, *God, Oil and Country: Changing the Logic of War in Sudan*. p. 3-4, International Crisis Group Press, Brussels, Belgium, 2002

31 - ICG Africa Report N 39, *God, Oil and Country: Changing the Logic of War in Sudan*. p. 3-4, International Crisis Group Press, Brussels, Belgium, 2002

Protocol to the Convention on the involvement of children in armed conflict establishes that “States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities” and article 2 establishes that “States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.”

OMCT welcomes recent demobilizations of child soldiers. In February 2001, UNICEF helped to demobilize over 3,000 child soldiers who had been held by the SPLM/A. OMCT regrets that the government objected to the demobilization for logistical

reasons³² and recommends that the government and the SPLM/A cooperate with UNICEF in the demobilization of the thousands of child soldiers remaining. The status of child soldiers from the Southern Sudanese Independence Movement/Army (SSIM/A) after demobilizations and remobilizations in 1998 and 2000 is also unclear, however there are probably several hundred government-armed child soldiers in this “faction.”³³ OMCT would request that the government provide the Committee with information about the whereabouts and status of children who were fighting with the SSIM/A.

Despite these steps, OMCT is concerned that Sudan continues to tolerate the use of children as soldiers and has not taken sufficient legislative measures to stop the recruitment and conscription of child soldiers.

OMCT is concerned that there is no minimum recruitment age for children in Sudan. Minimum recruitment ages in Sudan are unclear from the People’s Armed Forces Act³⁴ of 1986 and the Popular Defence Act³⁵ of 1989. The former permits children to be recruited and to participate in hostilities as article 10, paragraphs 4 and 5, stipulate that “all those capable of bearing arms are re-

32 - “The government of Sudan formally protested the evacuation, claiming that the airlift was conducted secretly in violation of agreements between the UN and the government. The government also criticized the fact that the children were evacuated to Rumbek rather than being repatriated with their families. The SPLA rationale for the airlift was that they were expecting a government dry-season offensive in the area in which child soldiers were deployed and for safety reasons would not place a demobilization transit center in that area. Questions have been raised by NGOs about how many of the children released were actually child soldiers” (Coalition to Stop the Use of Child Soldiers, *Global Report 2002*, country: Sudan, http://www.childsoldiers.org/report2001/country_entries.html).

33 - *Ibid.*

34 - The People’s Armed Forces are the official armed force in Sudan. (U.S. Government Country Overview, *Sudan : Fielded Forces*. <http://www.milnet.com/milnet/pentagon/centcom/sudan/sudff.htm>)

35 - The Popular Defense Force represents the military arm of the National Islamic Front. (U.S. Government Country Overview, *Sudan : Fielded Forces*.

<http://www.milnet.com/milnet/pentagon/centcom/sudan/sudff.htm>

garded as a reserve force and that the President of the Republic may call upon them to serve in any branch or unit of the armed forces whenever the need arises.”³⁶ The latter provides that “any person volunteering for the Popular Defence Forces must be no younger than 16 years of age and medically fit.”³⁷ It appears that there is no minimum age at which a child can be subject to a call to military service by the President of the Republic to serve in the People’s Armed Forces and that the prohibition on volunteering does not set a minimum age of recruitment for the Popular Defence Force. OMCT would call on the government to set the minimum age for the recruitment of children at the age of 18 by harmonizing its legislation regarding participation in the armed forces.

OMCT believes that children under the age of 18 should not be recruited or conscripted into the armed forces as set forth by the standards in the Optional Protocol of the Convention. OMCT regrets that seventeen year-old children in Sudan are legally permitted to serve as soldiers under the Compulsory Military Service Act, which requires those between ages 17 and 19 to perform military service. OMCT would call on the Government to repeal the Compulsory

Military Service Act, so that children under 18 may not be called to serve in the armed forces.

OMCT also regrets that under the same provision, military service is a precondition for obtaining a certificate for entry into a University. OMCT fears that this provision seriously limits access to higher education in view of the fact that Sudan has been in a prolonged armed conflict in which soldiers may be placed in life-threatening or other situations that are harmful to their growth and development. OMCT believes that this contradicts article 28 of the Convention which requires States Parties to “make higher education accessible to all on the basis of capacity by every appropriate means.” OMCT would call on the government to repeal this requirement.

OMCT is concerned by reports of the *de facto* situation of children who are recruited and (sometimes forcibly) conscripted into various armed forces.³⁸ Allegedly, child soldiers are used on the frontlines and as

36 - CRC/C/65/Add.17. para. 39

37 - Ibid.

38 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan, 2002*; Coalition to Stop the Use of Child Soldiers, *Global Report 2002, country: Sudan*, http://www.childsoldiers.org/report2001/country_entrines.html.

“spies, messengers, sentries, porters, servants and sexual slaves” in Sudan.³⁹ Reports state that the top recruiters of children are the SPLM/A, the PDF, and the Ugandan Lord’s Resistance Army.⁴⁰ Multiple sources have stated that the youngest soldiers recruited were ten year-olds con-

scripted by southern government-sponsored militia.⁴¹ Forcible conscription was frequently carried out in 2000 and 2001 by government authorities who raided buses and other public places to seize young men.⁴² In 2000, the SPLM/A had agreed to stop recruiting child soldiers but it is unclear whether they have stuck to this agreement.

OMCT is further concerned about reports claiming that Government has both supported and harbored the Ugandan Lord’s Resistance Army (LRA), who are based in the Eastern Equatoria region of Southern Sudan and who are notorious for recruiting child soldiers and placing children on the front lines as combatants.⁴³ Despite the Government’s denunciation of the LRA’s practices and the recent demobilization of thousands of children, the Government continues to tolerate their presence. Recent news reports indicate that the situation of children in the South has worsened, with massacres involving child soldiers.

“The Africa Rights report issued May 9 (2002) says the majority of the LRA combatants are formerly abducted persons, and include many children, as well as those born in captivity. The

39 - “Children Still Abused by African Armies”. BBC News Report, 12 June 2001. http://news.bbc.co.uk/1/hi/english/world/africa/newsid_1384000/1384725.stm

40 - Ibid.

41 - Coalition to Stop the Use of Child Soldiers, *Global Report 2002, country: Sudan*, http://www.childsoldiers.org/report2001/country_entries.html; ICG Africa Report N 39, *God, Oil and Country: Changing the Logic of War in Sudan*. International Crisis Group Press, Brussels, Belgium, 2002

42 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan, 2002*.

43 - “The government of Sudan has provided military and logistical support to the Ugandan armed group Lord’s Resistance Army (LRA), which is estimated to hold 6000 Ugandan children captive on government controlled territory. The LRA is infamous for forcing both boys and girls to become soldiers and to participate in acts of brutality against other children and adults. Many of the girls have been raped and become concubines of LRA fighters. Sudan and Uganda agreed in October 2000 that the LRA would be disarmed and its camps moved 1000 km from the Ugandan border, and that the abducted Ugandan children would be returned. In return, Uganda agreed to halt support for the SPLA. While the government of Sudan claims to have stopped supporting the LRA, it has not complied with this agreement. Uganda’s support for the SPLA does not appear to have altered either. The government of Sudan has assisted in repatriating a small number of individuals who had escaped from the LRA; the authorities assisted child protection agencies in repatriating 105 children and adults to Uganda between November 2000 and March 2001. In March and April 2001, following a request of the 2000 UNCHR, a mission from the office of the HCHR, with participation from UNICEF and the Office of the Special Representative of the UN Secretary General for Children and Armed Conflict, visited Khartoum, Nairobi, Kampala and northern Uganda to examine the issue of abducted children.” (Coalition to Stop the Use of Child Soldiers, *Global Report 2002, country: Sudan*,

http://www.childsoldiers.org/report2001/country_entries.html)

report also has accounts of LRA female combatants in southern Sudan fighting with children strapped to their backs and babies crying in battle. Africa Rights says the military confrontation will inevitably inflict tragically high casualties, especially on children.”⁴⁴

OMCT would urge the Government to comply with Security Council Resolution 1314 (2000), which “urges all parties to armed conflict to respect fully international law applicable to the rights and protection of children in armed conflict; .. urges Member States in a position to do so to sign and ratify the Optional Protocol to the Convention.. on the Involvement of Children in Armed Conflict; requests parties to armed conflict to include, where appropriate, provisions for the protection of children, including the disarmament, demobilization and reintegration of child combatants.”⁴⁵ OMCT would also call on the Government to take all feasible measures to ensure that all under 18 year-olds do not take a direct part in hostilities and that all recruitment of under 18 year-olds stop as a matter of priority. OMCT would call on the Government to demobilize, rehabilitate and reintegrate all former child soldiers.

2.2 Refugee and Internally Displaced Children

OMCT is very concerned about the situation of both refugee and internally displaced children in Sudan, as these children are especially vulnerable to recruitment or forced conscription into various armed forces, are lacking in basic needs such as food and education, and are deprived of their regional culture, language and local traditions.

a. Refugee Children⁴⁶

Sudan is under an obligation to offer protection to refugee children under article 22 of the Convention, which provides that “States parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall .. receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments.. .”

44 - “Army Has Sent 10,000 Troops To Sudan Front”, The Monitor, Kampala, May 12, 2002, posted at “latest news” at <http://www.sudan.net>

45 - S/RES/1314 (2000).

46 - For information on specific cases of torture of refugee girls in Sudan, see the OMCT report on Violence Against Girls in Sudan.

Sudan also adhered to the 1951 U.N. Convention relating to the Status of Refugees on 22 February, 1974, which offers protections for refugee children.

In paragraphs 315-324 of its Report, the Government addresses the question of refugees in Sudan. The Government claims to have a “clear-cut” policy towards refugees that stems from Islamic, Christian and African traditions. The report also states that protections for refugees are granted under the Asylum Act of 1974. However, the Government Report does not mention any specific *de jure* protections for refugees and neglects to address the unique needs of refugee children. OMCT would request that the government provide specific information about the domestic laws and procedures applicable to the child who is considered a refugee or seeking asylum.

According to the UNHCR, 215,500 children under the age of 18 are refugees from Sudan and 95,500 children under the age of 18 are refugees in Sudan.⁴⁷ In 2001, the UNHCR helped repatriate tens of thousands of

Ethiopian and Eritrean refugees who have been living in Sudanese camps. OMCT would recommend that the Government provide assistance and reintegration for all refugee children.

b. Internally Displaced Children

OMCT is not aware of any provisions in Sudanese legislation that specifically address internally displaced persons. In their last Government Report, the Government included some paragraphs dedicated to the situation of the internally displaced,⁴⁸ however OMCT would request that the government collect and provide further statistics about the numbers of internally displaced children in Sudan and provide the committee with information on the situation of internally displaced children, their particular needs, and what specific legislative provisions offer protections to internally displaced children.

4.5 million people (approximately ten percent of the population), are internally displaced in Sudan.⁴⁹ Reports from the Sudanese Victims of Torture Group (now the Sudanese Organization Against Torture), recall that in 2001, workers at Sudanese organizations supporting displaced children

47 - UNHCR, *Refugee Children in Africa: Trends and Patterns in the Refugee Population in Africa Below the Age of 18 Years, 2000*, Population and Data Unit, Geneva, 2001.

48 - CRC/C/65/Add.17

49 - Norwegian Refugee Council/Global IDP project, *Background paper prepared for the mission to Sudan of the Senior Inter-Agency Network on Internal Displacement*, http://www.idpproject.org/IDP_project/Sudan_Mission_%20Brief_March02.pdf

were singled out for harassment by government security forces.⁵⁰ Camps and areas inhabited by a majority of internally displaced persons were often singled out as targets for government air raids.⁵¹ OMCT recalls that according to article 2 of the Convention, “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind (...).”

OMCT would urge the government to immediately prosecute all those who commit acts of violence against internally displaced children and provide reintegration for all internally displaced children.

2.3 Discrimination Against Children⁵²

Article 2 of the Convention states that “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed

opinions, or beliefs of the child's parents, legal guardians, or family members.” OMCT is concerned that discrimination based on residence status and religion has led to the violation of children’s rights as cited throughout much of this report and constitutes one of the root causes of torture, inhuman and degrading treatment of children in Sudan.

a. Discrimination based on Residence Status

Multiple reports state that the government has fostered discrimination and hatred between (mostly southern) tribal factions in order to divide the population and wage an effective war.⁵³ In addition, deficient social services and civil structures in the South and the East mean a lack of vital resources and services for children in those areas.

50 - Sudanese Victims of Torture Group : Newsletter. Issue 29, Sept/Oct 2001

51 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002

52 - For information about discrimination against girls, see the OMCT report on Violence Against Girls in Sudan.

53 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002; Gerhart Baum, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Situation of Human Rights in the Sudan*, 23 January 2002, E/CN.4/2002/46; Human Rights Watch, *Human Rights Watch country report Sudan*, 2002; Amnesty International country report on Sudan, 2001; ICG Africa Report N 39, *God, Oil and Country: Changing the Logic of War in Sudan*. International Crisis Group Press, Brussels, Belgium, 2002.

These phenomena cause great disparities between underprivileged southern states and wealthier northern states.⁵⁴

OMCT would remind the government that children, irrespective of their residence status, should have access to basic social services. OMCT would request that the government provide information about measures it will take to reduce economic and social disparities between those children living in the North and the South of the country.

b. Religious Discrimination

The 1983 coup marked the beginning of a policy of Islamization that has characterized the war and influenced Sudanese legislation and politics. Islam is practiced by the ruling elites who live mostly in Northern Sudan while the rest of the country practices both Christianity and traditional religions.

Section 8 of the SOAT 2002 annual report recounts that in 2001, the government cancelled Easter celebrations in Khartoum at the last minute, giving organizers no time to notify participants.⁵⁵ When participants assembled, police forcibly turned them away by injuring them with tear gas and live ammunition.⁵⁶ The police sentenced many others to imprisonment and lashing, including 3 juveniles who were sentenced to 20 lashes each.⁵⁷ In addition, the report alleges that police attacked a Christian group on their way to a conference about Evangelism during the same month.⁵⁸ It states that 5 people were critically injured and one child had his right hand amputated.⁵⁹

The SOAT report also alleges that in camps and reform centers near Khartoum, children are forced to study Islam and say Muslim prayers, regardless of their religious beliefs.⁶⁰

54 - "The ratio of schools to children is 1: 431 in the north, while in the south it is 1: 3,417. There are only 560 female teachers in all of southern Sudan. In the north, only twelve percent of teachers have some form of training as opposed to seven percent in the south." Friends of Children Society (AMAL), *Alternative Report on the Situation of Human Rights in Sudan*, p. 9, 2001.

55 - Sudanese Organization Against Torture (SOAT), "Annual Report on the Human Rights Situation in Sudan". 2002.

56 - *Ibid.*

57 - *Ibid.*

58 - *Ibid.*

59 - *Ibid.*

60 - *Ibid.*

Based on these SOAT reports and others,⁶¹ OMCT believes that there is a climate of religious intolerance in the north of Sudan. OMCT would request that the Government allow non-Islamic gatherings and cease to harass and brutalize children and families on the basis of their religious practice or

preference. OMCT would urge the government to prosecute all those who discriminate against children. OMCT would urge the government to immediately halt discriminatory practices such as forced prayer and religious study in detention centers and camps.

III. Definition of the Child

Article 1 of the Convention states that “a child means every human being below the age of 18 years.” In contrast, Sudanese legislation employs varying definitions of the child.

Puberty, which is generally recognized in girls between the ages of 9 and 15 and in boys between the ages of 14 and 18, is one way of determining majority.⁶² The Sudan’s Committee Report states that a 15 year-old person who has “manifested obvious external signs of puberty” is generally said to have reached the age of majority.⁶³

The Civil Transitions Act of 1984 stipulates in article 22 that an 18 year-old is of full legal age to exercise his/her civil rights.

Article 32 of the Convention requires States Parties to “provide for a minimum age or minimum ages for admission to employment.” While the Labor Act of 1997 prohibits children under 12 from working in the labor force, the same act defines a juvenile as “someone under the age of 16.” OMCT would recall ILO Convention 138 which sets the minimum age for admission to employment at fifteen years.⁶⁴ OMCT would urge the Government to ratify ILO Convention 138 and harmonize its legislation regarding the minimum age for employment accordingly.

61 - See also, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Sudan*, 27/04/ 2001, CERD/C/304/add.116, item 12 ; Amnesty International, *Current Country Update on Sudan*; Gerhart Baum, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Situation of Human Rights in the Sudan*, 23 January 2002, E/CN.4/2002/46.

62 - Friends of Children Society (AMAL) Alternative Report on the Situation of Human Rights in Sudan, 2001, item (1)

63 - CRC/C/65/Add.17, para. 30

64 - Article 2, Convention concerning Minimum Age for Admission to Employment, ILO C138, Geneva 1973.

Ostensibly, Sudanese legislation does not offer a clear definition of the child. OMCT would request that the government provide information about protections offered for children between age 15 (in cases where a child manifests external signs of puberty and can therefore be considered mature at

15) and age 18. OMCT would request that the government amend existing legislation in order to establish an age of majority that is fixed at age 18, equal for boys and girls, and consistent with the whole of the Convention and its general principles.

IV. Protection from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

4.1 Sudan's Legal Framework

Article 20 of the Constitution offers legal protection from torture, inhuman or degrading treatment or punishment, stating: "Everyone has the right to life and liberty and security of person in accordance with the law. Everyone shall be free and no one shall be held in slavery or servitude or degraded or tortured."

OMCT believes that the aforementioned provision is not adequate to protect children from torture, cruel, inhuman or degrading treatment or punishment. OMCT notes with concern that torture does not constitute a crime under Sudanese criminal law. OMCT would urge the government of Sudan to consider torture a crime under the criminal law so that children can seek legal redress and so that those who sponsor, command or commit torture may be brought to justice.

OMCT is further concerned that legislative interpretations in line with Islamic Shari'a law foresee the torture of children.⁶⁵ The

Islamic Shari'a is named as a principal source of law in Article 65 of the Constitution. Shari'a law prescribes *hadd* penalties or *Hudud* punishments⁶⁶ (punishments taken literally from the Koran such as flogging, whipping, crucifixion and amputation), which OMCT considers to be torture, or cruel, inhuman and degrading treatment or punishment. OMCT would recall that the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)⁶⁷ state in rule

65 - See section V, "Children in Conflict with the Law".

66 - "Muslim fiqh (law) divides punishment into three heads: *hadd*, *quisas* (or *qasas*), and *ta'zir*. *Hadd* (pl. *Hadud*) comprises punishments that are prescribed and defined in the Qur'an and the Hadis. These include stoning to death (*rajm*) for adultery (*zina*); one hundred lashes for fornication (Quran 24:2-5; eighty lashes for slandering an 'honorable' woman (*husun*), i.e., accusing her of adultery; death for apostatizing from Islam (*irtidad*); eighty lashes for drinking wine (*shurb*); cutting off the right hand for theft (*sariqah*, Quran 5:38-39); cutting off of feet and hands for highway robbery; and death by sword or crucifixion for robbery accompanied by murder." (<http://www.bharatvani.org/books/uith/index.htm>). Other sources include: Sudanese Law Overview <http://els41.law.emory.edu/ifl/legal/sudan.htm>; Sudan Human Rights Organization (SHRO) December 26, 2001 Memorandum to the U.N. Human Rights Commission on Sudan Penal Law <http://www.shro-cairo.org/reports/un-memorandum.htm>; Amnesty International Medical Concern, <http://www.web.amnesty.org/ai.nsf/Index/AFR540052001?OpenDocument&of=COUNTRIES%5CSUDAN>

67 - These rules are recognized by the Committee as guidelines for the implementation of article 37.

17.3 that “juveniles shall not be subject to corporal punishment.” In addition, the U.N. Committee on the Rights of the Child and the Human Rights Committee have repeatedly expressed concern about the acceptance of legislation prescribing corporal punishment for children.⁶⁸

Recent OMCT urgent appeals demonstrate that Sudanese courts regularly employ Shari’a interpretations of law to prescribe corporal punishment and the death penalty.⁶⁹ SOAT reports that the use of Islamic Shari’a law was stepped up in 2001.⁷⁰

OMCT would urge the government to abolish all legislation prescribing torture and other ill-treatment, including corporal punishment, and to prosecute and punish those who prescribe torture and ill-treatment based on interpretations of Sudanese legislation.

4.2 Slavery and Related Abduction and Child Trafficking

Article 32 of the Convention creates an obligation for states parties to protect children from work that economically exploits children or is harmful to their health and development. Sudan is obliged to suppress the use of forced or compulsory labour as set forth in article 1 of ILO Convention 29 of 1930 and article 1 of ILO Convention 105 of 1957. ILO Convention 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor deems that slavery is among the most harmful types of economic exploitation. While Sudan is not a party to the aforementioned ILO Convention, they prohibit slavery in domestic legislation under constitutional article 20. They offer further protection against economic exploitation in the Labor Act of 1997, which, states: “Juveniles shall not generally be employed in dangerous industries and works injurious to the health or those which require physical effort, or in works and jobs which are injurious to their morals.”⁷¹ OMCT considers that the physical, psychological and developmental effects of some economic exploitation, including bonded labor and slavery, on children reach the threshold

68 - Human Rights Committee, General Comment 20, HRI/GEN/1/Rev.2, p. 30; Committee on the Rights of the Child, *Report on seventh session*, September-October, 1994, Annex IV, p. 63.

69 - OMCT Urgent Appeal, 24/06/02. Case SDN 240602 ; OMCT Urgent Appeal, 17/06/02. Case SDN 170602.VAW ; OMCT Urgent Appeal, 04/01/02. Case SDN 040102.VAW.

70 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002.

71 - Article 21.2, Labor Act of 1997

of torture as defined in article 1 of the Convention Against Torture.⁷²

Paragraph 428 of Sudan's Government Report states that "article 163 (of the 1991 Criminal Code) prohibits forced labor by providing that any person who exploits another by illegally forcing him to work against his will shall be punished with the law in force." OMCT would request that the Government provide information about which laws in force serve to punish those who engage in the practice of slavery. OMCT would request that the Government prosecute and punish all those found guilty of engaging in the practice of slavery and to guarantee freedom, rehabilitation and reintegration to all children who are slaves or forced or bonded laborers.

OMCT considers that slavery and bonded labor are closely related to the phenomenon of child trafficking.⁷³ "Although the trafficking process may not be coercive at the beginning, it always results in a form of violence, since its purpose is exploitation. In most cases, as highlighted by the ILO, 'labor trafficking may be seen as a contemporary form of debt bondage.'⁷⁴ Trafficking may, in some cases, be considered a form of violence tantamount to torture. OMCT as-

serts that state responsibility for slavery and bonded labour includes an obligation of due diligence⁷⁵ which is articulated in article 35 of the Convention, which requires States Parties to "take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form."

Sudan offers protection from sale, abduction and child trafficking in chapter XVI of the 1991 Criminal Code, which "prohibit(s) the

72 - Article 1 of the CAT states: "For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions". See also: World Organisation Against Torture (OMCT), Mannerheim League for Child Welfare, *Outcome document for the International Conference on Children, torture and other forms of violence: Facing the facts, forging the future*, 27 November – 2 December, 2001, Tampere, Finland.

73 - World Organisation Against Torture (OMCT), Mannerheim League for Child Welfare, *Outcome document for the International Conference on Children, torture and other forms of violence: Facing the facts, forging the future*, 27 November – 2 December, 2001, Tampere, Finland.

74 - Ibid. p. 47; ILO, *Stopping Forced Labour, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and the Rights at Work*, 2001, para. 147.

75 - World Organisation Against Torture (OMCT), Mannerheim League for Child Welfare, *Outcome document for the International Conference on Children, torture and other forms of violence: Facing the facts, forging the future*, p. 48. 27 November – 2 December, 2001, Tampere, Finland.

sale, trafficking and abduction of children and the perpetration of such offences for the purpose of inducing the child to perpetrate acts against the law.”⁷⁶ However, OMCT is concerned that the aforementioned provision of the Criminal Code does not offer adequate protection for children, as the prohibition is contingent upon the specific intent of “inducing the child to perpetrate acts against the law.” OMCT would request that the government amend the provisions of chapter XVI of the 1991 Criminal Code to state that “the sale, trafficking and abduction of children and the perpetration of such offences is prohibited,” omitting the clause of intent.

OMCT is concerned that, despite the provisions of the 1991 Criminal Code, the labor act and Constitutional article 20, instances of child slavery and related abduc-

tion and trafficking are a widespread phenomenon within Sudan and abroad.

Numerous reports state that within Sudan, government-armed tribes and militia forces, notably the “ *Murahaleen* ” (soldiers of jihad), of the Baggara tribes, carry out systematic abductions of women and children (particularly the Dinka people of Bahr el-Ghazal), transport people, and sell them as slaves.⁷⁷ Reports state that these militias often abduct children from towns near railway lines, using the trains to transport children to the garrison town of Wau, where they are sold into slavery, all with the acquiescence of police forces and military support of the government.⁷⁸ Girls are often made concubines and sexual servants.⁷⁹ According to the report prepared by John Harker, the leader of the 2000 Canadian Assessment Mission,⁸⁰ as many as 15,000 women and children remain in captivity in Sudan.

Abduction, child trafficking and enslavement also occur across the borders of Sudan. The SOAT annual report claims that in 2001, children aged between 4 and 7 were trafficked out of Sudan and taken to camel racing camps in the Gulf States, sometimes with the consent of their parents, who were promised jobs or housing.⁸¹ In these camps,

76 - CRC/C/65/Add.17 para. 381.

77 - Coalition to Stop the Use of Child Soldiers, Global Report 2002, <http://www.childsoldiers.org/>; Gerhart Baum, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Situation of Human Rights in the Sudan*, 23 January 2002, E/CN.4/2002/46

78 - Ibid.

79 - Ibid.

80 - A special Canadian Foreign Service official, John Harker, was assigned last October to study the impact of Talisman Energy, Inc., on the on-going conflict in Sudan. He issued his findings February 14th in a report titled, *Human Security in Sudan : the Report of a Canadian Assessment Mission*. The report was consulted heavily by the U.S. Committee for Refugees.

http://www.refugees.org/news/crisis/sudan_n022500.htm

81 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002, p. 24.

children are denied access to education and proper nutrition.⁸² Some children have died while serving as camel jockeys and others have witnessed the death and brutal treatment of their peers and siblings.⁸³ OMCT fiercely condemns the practice of trafficking children abroad for use as camel jockeys.

SOAT reports that the authorities launched a campaign against the trafficking of children abroad. OMCT welcomes this endeavor and would request that the government provide the Committee with specific information about this campaign and about other measures they will take to combat child trafficking abroad in accordance with their obligation under article 35 of the Convention.

OMCT notes the efforts of the Government, in cooperation with the international community and NGO's, in creating the Committee on the Eradication of Abductions of Women and Children (hereafter, CEAWC).⁸⁴ OMCT appreciates the strengthening of CEAWC by a 2002 Presidential decree and the committee's efforts:

“a. To facilitate the safe return of affected women and children to their

families as a matter of priority by giving full support (whether financially, administratively or otherwise) to the efforts of the tribal leaders concerned;

b. To investigate reports of the abduction of women and children and to bring to trial any persons suspected of supporting or participating in such activities and not cooperating with CEAWC;

c. To investigate into the cases or the abduction of women and children subjected to forced labour or similar conditions and recommend ways and means to obtain the eradication of this practice.”⁸⁵

In addition, OMCT urges the Government to comply with Human Rights Commission Resolution 2002/16, which calls on the

82 - Ibid. see also, E/CN.4/Sub.2/2001/30, 16 July, 2001

83 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002, p. 24.

84 - E/C.12/1/Add.48; Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002; See also, the OMCT report on Violence Against Girls in Sudan.

85 - Dr. Ahmed El Mufti (CEAWC Chairman). *Human Rights of Women and Children in the Sudan: Chronology of Activities of the Committee for the Eradication of Abduction of Women and Children (CEAWC) May 1999-February 2001*. Khartoum, February 2001. The Embassy of the Republic of Sudan.

<http://www.sudanembassy.org/ceawc.html>

Government, in paragraph 1, to sign and ratify ILO Convention 182, and “to reinforce the action undertaken to prevent and stop abductions of women and children taking place within the framework of the conflict in southern Sudan, to provide for appropriate punishment of any person not cooperating, to bring to justice the perpetrators who are not willing to cooperate, to facilitate the safe return of affected children to their families, to take further measures to eradicate the practice, in particular those cases connected with the passage of the government train through Bahr al Ghazal, and to implement the presidential decree ordering full cooperation with the Committee for the Eradication of Abduction of Women and Children and support more strongly and more effectively the work of the Committee, ensuring the appropriate funding, resources and staff for its activities.”⁸⁶

OMCT would request that the government provide statistical information about slavery and trafficking within and across the borders of Sudan; to immediately prosecute and punish those found guilty of being a party to, or directly participating in, the abduction, trafficking, sale or enslavement of human

beings; and take all measures possible to rehabilitate formerly enslaved children and children born in captivity.

4.3 Cases of Torture

*a. Incidences of Torture*⁸⁷

OMCT is extremely concerned by regular reports of specific cases of torture, cruel, inhuman and degrading treatment or punishment inflicted on children in Sudan.

OMCT is very concerned by a recent report recounting that between 21 and 22 June 2002, Kabashi Alayan, Mohamed Sedieg and Gadim Hamdoun Hamid were 3 fourteen year-old boys among a group of 35 detainees from the Rizeigat Tribe who were tortured and that two of them were subsequently sentenced to death.⁸⁸ The detainees were charged with murder and armed robbery (*harraba*), which carry the penalties of amputation,⁸⁹ cross amputation, death by hanging, or death by hanging and crucifixion. The boys were allegedly “tortured in Niyala secondary school by the Province Chief of Police, an interrogation officer named Ahmed, and four assistants named

86 - Human Rights Commission Resolution 2000/16, para. k

87 - For further cases of torture against children, see also the OMCT report on Violence Against Girls in Sudan.

88 - OMCT Child Concern SDN 100702.CC and Case SDN 100702, 10/07/2002

89 - *Ibid.*

Omer, Nasr el Din, Musa and Abu Indelang (nickname).⁹⁰ According to information received, the boys were beaten with sticks, gun butts and hoses and may have been among other detainees who sustained broken fingers and forearms as a result of the torture.⁹¹ Subsequently, two of the boys, Kabashi Alayan and Gadim Hamdoun Hamid, were “sentenced to death, following what OMCT considers to be an unfair trial, carried out by the Special Court (Emergency Court) in Darfour Province.”⁹² The verdict in Mohamed Sedieg’s case is unknown at this time, although it is believed that he may have either been acquitted or sentenced to ten years imprisonment.⁹³ The children have one opportunity to appeal their cases and “OMCT fears that the sentences could be carried out very quickly following the appeal, should it fail.”⁹⁴ OMCT deems these sentences to be a violation of the right to life and extreme forms of cruel and inhuman punishment.

OMCT is also concerned by the SOAT’s annual report, which states that in November 2001, the Security of the Community Police attacked petty traders in Alkalakla Al-lafa market (near Khartoum) and beat 15 year old Alnour Ali

Abdallah to death using gun butts and their boots.⁹⁵

OMCT has also received reports of torture used in military training camps. Amnesty International reported the May 2001 death of Mohanad Abdelrahman M. Zakana, a 16 year old conscript in the Alijouli training camp. Allegedly the boy died of sunstroke after being subjected to harsh training procedures and being denied adequate medical treatment.⁹⁶

Amnesty also reported the May 2001 death of Ghassan Ahmed Al Amin Haroun, at the Jabal Awlia Compulsory Military Service Joint Camp, who reportedly had injuries to his hands, back, right foot, and eye and bruising on other parts of his body. While an autopsy report claimed that he died of respiratory failure, authorities failed to investigate the death.⁹⁷

90 - Ibid.

91 - Ibid.

92 - OMCT Case SDN 100702.1 / 100702.1.CC, 23/07/2002

93 - Ibid.

94 - Ibid.

95 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002, p. 20; OMCT urgent appeal SDN 091101.CC

96 - Amnesty International, Annual Report 2001-2002, AI index POL 10/001/2001.

97 - Ibid.

OMCT is also concerned about cases of torture in connection with armed conflict, such as the report by the Sudanese Catholic diocese of Torit, which states that Ugandan rebels of the Lord's Resistance Army (LRA) massacred at least 470 civilians in southern Sudan in May, 2002, and "in one attack, rebel fighters stripped girls naked and forced them to drink their urine before raping and abducting them."⁹⁸

b. Detention Centers and Camps

According to reports received, ghost houses, camps, reform centers, detention centers, and prisons in Sudan subject child inhabitants to incredibly harsh and inhuman treatment.⁹⁹ In these facilities, children are denied access to primary education and suffer from health problems due to overcrowding, poor sanitation, and lack of access

to basic resources. Problems of skin infections and malnutrition are common. Corporal punishments such as flogging and whipping, beating, hard exercise and sexual abuse are some of the tortures suffered by children in these camps.¹⁰⁰

"Military style parades and inspections take place at the beginning and end of each day as well as before meals, and whipping of children is common as a punishment even for very minor offences. In cases where the individual child who has committed an offence cannot be identified, a collective penalty is applied whereby all children are subjected to punishment. Children are most commonly made to work on the construction and maintenance of buildings, whilst a few who receive recommendations for behavior or earn the favor of supervisors are allowed to work as cleaners or gardeners in the houses of police officers."¹⁰¹

An OMCT report from January 1997 expressed a follow up concern for the health and safety of at least 770 children remaining in Al Huda Camp after an initial urgent

98 - "Church Leaders Say Ugandan Rebels Kill 470 in So. Sudan". IPS, May 14, 2002; see also <http://www.sudan.net/news/posted/4992.html>

99 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan, 2002*; Sudanese Victims of Torture Group (SVTG, currently SOAT) Newsletter: "Anniversary of the UN Convention on the Rights of the Child", Issue 21, November 1999; Sudanese Victims of Torture Group Newsletter: "Kober Prison, Special Report". Issue 7, January 1997.

100 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan, 2002*, p. 20-23.

101 - *Ibid.* p. 21.

appeal made in 1996.¹⁰² SOAT stated that many of these children were in poor health and that medical facilities were insufficient. The appeal also alleged that these children are often transferred to, or held in, Kober prison where they are tortured. Punishments and methods of torture used in Kober prison included beatings, standing for long hours in the sun, beatings on the soles of the feet and being lifted and dropped on the abdomen.¹⁰³

OMCT released two urgent appeals in the spring of 1996 expressing concern about 36 illegal detainees at so called “ghost houses” in Kober prison.¹⁰⁴ “According to the information received one of the .. detainees is Mr. Mohmed Hussain Ali, a 14 year old student.”¹⁰⁵

OMCT would request that the government provide detailed information about the status of Al Huda Camp and Kober prison and the whereabouts of the children who were imprisoned there in 1996 and 1997.

OMCT is also gravely concerned by reports that children in Sudan are being tortured in detention.¹⁰⁶ SOAT reported that on March 23 1995, Fawzi Akasha Abdel Rahman, a 16 year old student at Egiraif

Sharque secondary school, was feared to have been murdered in detention, after being arrested by security forces.¹⁰⁷

OMCT considers that these reports relate forms of violence amounting to clear violations of articles 6 and 37 of the Convention, which obligate states parties to protect children’s right to life and to protect them from torture, cruel, inhuman, and degrading treatment or punishment. In addition, OMCT considers that such violence constitutes a breach of article 24 of the Convention, which requires States Parties to “recognize the right of the child to the enjoyment of the highest attainable standard of health and ... to pursue full implementation of this right.”

c. Recommendations

OMCT would urge the government to:

- a) investigate all reports of torture and ill treatment;

102 - OMCT Case SDN 190896 CC

103 - OMCT follow up of Case SDN 190896 CC

104 - OMCT case SDN 060596 and Child Concern SDN 060596.CC

105 - Ibid.

106 - See also the above mentioned case SDN 100702.1 /100702.1.CC; involving three fourteen year-old boys who were tortured in detention before being sentenced to death.

107 - OMCT Child Concern SDN 270696.CC

- b) prosecute all who are found to have inflicted torture, cruel, inhuman or degrading treatment or punishment;
- c) provide adequate medical care and basic resources to children in camps and detention centers, ensuring that they are properly, regularly fed and that facilities are clean and sanitary;
- d) institute monitoring mechanisms at all state sponsored camps where children are held and issue accurate reports about the population, health, development and welfare of children held there;
- e) take measures to ensure the physical and psychological recovery and reintegration of children who have been tortured or otherwise ill-treated.

V. Children in Conflict with the Law

5.1 Criminal Responsibility

a. The age of criminal responsibility

Article 40.3 of the Convention requires States Parties to “seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular: (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law; (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human

rights and legal safeguards are fully respected.” OMCT would recall that the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) recommend, in rule 2.3 that “efforts shall be made to establish, in each national jurisdiction, a set of laws, rules and provisions specifically applicable to juvenile offenders .. and designed to .. meet the varying needs of juvenile offenders, while protecting their basic rights.” Accordingly, OMCT firmly believes that there should be special considerations regarding the criminal responsibility of juveniles which take their emotional, mental and intellectual maturity into account.¹⁰⁸

OMCT is concerned that Sudanese criminal provisions do not take the special needs of juveniles into account, as the recent Government Report does not refute or contradict the 1992 Government Report, which states that “alcohol or drug consumption and sexual relations outside of the bonds of marriage are absolute crimes for which the age factor is not taken into account in the terms of the Criminal Law Act of 1991.”¹⁰⁸ OMCT would call on the Government of Sudan to take the special needs of children into account in all legislation, especially in the criminal law, in accordance with international guidelines and custom.

One of the ways that governments can take the special needs of children into account is by establishing a minimum age at which a child is considered criminally responsible within their domestic legislation, as stated in article 40.3 of the Convention. OMCT is concerned that Sudanese criminal law does not expressly define the child, merely stating that a child is somebody who has not reached adulthood age or *baligh*, which correlates with the external manifestations of puberty, recognized around age 15.¹⁰⁹ Accordingly, article 8 of the Penal Code of 1991 states that someone who has not reached maturity, or the age of adulthood,

is not deemed to have perpetrated an offence.¹¹⁰ However, the Government Report states in Section II, paragraph 6 that “the measures of care and reform stipulated in the (1991) Penal Code must .. be applied in the case of all such persons over seven years of age, as the court deems fit.” OMCT believes that seven years is too low an age for criminal responsibility.

OMCT would request that the Government provide information about the legal regime applicable to juvenile offenders between the ages of 15 and 18. Based on the aforementioned information found in the Sudan’s reports to the Committee, OMCT would also request that the government raise and harmonize the age of criminal responsibility in accordance with article 40 of the Convention, following the recommendation of the Committee that the age limit ought to be set as high as possible.

b. Grounds of arrest

Article 37 of the Convention states, “no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest,

108 - CRC/C/3/Add.3 para. 33.

109 - Criminal Law of 1991, article 3; See also Article 8 of the Penal Code.

110 - CRC/C/65/Add.17, para. 40

detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.” The U.N. standard minimum rules and guidelines relating to juvenile justice provide a framework for the implementation of article 37 that is recognized by the Committee.¹¹¹ The Riyadh Guidelines for the prevention of juvenile delinquency recommend that governments “avoid criminalizing and penalizing a child for behavior that does not cause serious damage to the development of the child or harm to others.”¹¹² OMCT believes that such behavior includes, among other things, “status offences”: offences such as “vagrancy” or “being a public nuisance.” OMCT is concerned that the Public Order Act of 1998 criminalizes living on the street and has perpetuated an increase in the arrest of children.¹¹³ OMCT is gravely con-

cerned by the SOAT report which recounts that,

“Street children are regularly picked up by the police who extract bribes, beat, humiliate and harass them. Extensive powers of search and arrest are enjoyed by all police officers and even those of the lowest rank, who are extremely poorly educated and trained, and hold powers of arrest without warrant. ... The Security of the Community Police frequently attack the women and children who work at the market, confiscating their products together with whatever profits they have made.”¹¹⁴

OMCT is concerned by this and other reports of arbitrary arrest and detention by the Security of the Community Police.¹¹⁵ The annual report of the SOAT recounts that in northern Sudan, children are arbitrarily rounded up by police forces and placed in reform centers, camps and detention centers where they are subject to inhuman and degrading treatment.¹¹⁶ OMCT has received reports from the SOAT of hundreds of children, many as young as seven years old, being arbitrarily arrested and convicted of criminal offences by the Security of the

111 - See: *Report on the tenth session*, October – November 1995, CRC/C/46. The rules and guidelines used are the Beijing Rules (General Assembly resolution 49/33), the Riyadh Guidelines (General Assembly resolution 45/112), and the Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113), http://www.unhchr.ch/html/menu3/b/h_comp48.htm

112 - United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) GR 45/112, 14 December 1990.

113 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002.

114 - *Ibid.* p. 20.

115 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002

116 - See section 4.2 (b) of this report on “torture in camps, reform and detention centers”.

Community Police, presumably under the 1991 Penal Code or the Public Order Act of 1998.¹¹⁷

Arbitrary arrests and immediate conviction, often for offenses against “morality” or disruption of public order are allegedly common in northern Sudan.¹¹⁸ Theft and alcohol related offences are the most common convictions and in 1998, a disproportionately large number of boys were convicted for public order offences.¹¹⁹ According to the SOAT report, 42.7 % of the population of children in several of the detention centers in northern Sudan had been convicted of “causing a public nuisance or disturbing.”

OMCT is concerned that vague allegations, such as allegations of “offenses against morality” and “public disturbance” employ an excessively large breadth of interpretation which judicial authorities use to penalize children for behavior that does not cause serious damage to the development of the child or harm to others and is generally disproportionate in view of the gravity of the crime committed. Based on the aforementioned reports, OMCT is further concerned that police forces in Sudan enjoy excessive powers of arrest, which leads to the arbitrary arrest and detention of children

and which contravenes article 37 of the Convention.

OMCT would call on the Government of Sudan to:

- a) clearly outline penal offenses in their criminal code and arrest juveniles under specific criminal provisions;
- b) outlaw “status” offences;
- c) ensure that the arrest, detention and imprisonment of a child is in conformity with the law and used only as a mean of last resort, for the shortest appropriate period of time;
- d) institute legislative and institutional monitoring mechanisms to prevent the arbitrary arrest and detention of children;
- e) prosecute and punish all those who arbitrarily arrest or detain children.

117 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002. p. 21-22.

118 - *Ibid.* p. 20-23

119 - *Ibid.* According to the SOAT, 173 boys who now reside in detention centers were convicted for public order offences in 1998 as opposed to 49 in 1999, and 2 in 2000.

c. Death penalty and life imprisonment

Sudan is under an obligation to ensure children's right to life in accordance with article 37 of the Convention, which states that "neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age." OMCT believes that both the death penalty and life imprisonment, even when there is a possibility of release, such as a presidential pardon, inflict severe psychological and developmental suffering on condemned children and infringe article 37 (b) of the Convention.¹²⁰ OMCT is very concerned that some Sudanese provisions prescribe the death penalty and life imprisonment for children.

Article 33, paragraph 3 of the Penal Code stipulates that, "except for crimes of brigandry,¹²¹ a sentence of life imprisonment may not be handed down to any person under 18 years of age."¹²² OMCT is concerned that the clause excluding children who commit crimes of brigandry from protection against life imprisonment is not in accordance with article 37 and would recommend that the Government amend the Penal Code in order to ensure that no children under 18 are sentenced to life imprisonment.

OMCT is concerned that several sections of the penal code prescribe a sentence of capital punishment. Section 126 of the Penal Code dictates that a Muslim who commits apostasy by deserting to another faith is subject to the death penalty.¹²³ Chapter 3, Section 27 of the Penal Law allows the execution of juveniles who have committed crimes of *hadd* or *qasas*.¹²⁴ OMCT is very concerned about a report stating that two 14 year old children were sentenced to death for the crimes of murder and armed robbery (*Harraba*) under articles 168, 175, 182 and 183 of the 1991 Penal Code.¹²⁵

120 - World Organisation Against Torture (OMCT), Mannerheim League for Child Welfare, *Outcome document for the International Conference on Children, torture and other forms of violence: Facing the facts, forging the future*, 27 November – 2 December, 2001, Tampere, Finland.

121 - Brigandry is synonymous with plundering or looting

122 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002, para. 42

123 - "ARAB CHRISTIAN BLOCKED FROM LEAVING SUDAN: Ex-Muslim Targeted for 'Crime of Apostasy'", Barbara G. Baker. Compass News Direct, 2002.

124 - Sudan Human Rights Organization (SHRO) December 26, 2001 *Memorandum to the U.N. Human Rights Commission on Sudan Penal Law* <http://www.shro-cairo.org/reports/unmemorandum.htm>

125 - OMCT Case SDN 100702.1/100702.1.CC, see also sections 4.3 and 5 of this report.

OMCT is particularly concerned about article 146 of the 1991 Penal Code, which states:

“Whoever commits the offence of adultery shall be punished with:

- i. Execution by stoning when the offender is married (muhsan).
- ii. One hundred lashes when the offender is not married (non-muhsan).
- iii. Male, non-married offenders may be punished, in addition to whipping, with expatriation for one year.”

OMCT condemns these punishments as deprivation of the right to life and torture, inhuman and degrading punishment, violations of articles 6 and 37 of the Convention.

OMCT strongly regrets that the death penalty and life imprisonment of children is prescribed for offences that are related to marriage status, considering that the state legalizes and facilitates child marriages.¹²⁶ Because Muslim boys are allowed to marry at the age of ten and Muslim girls may be given for marriage by a legal guardian at the

age of maturity if they so consent, and non-Muslim boys and girls under the age of 21 may marry with the written consent of a legal guardian, a child under the age of 18 who is convicted of adultery could be subject to the death penalty under article 146 of the 1991 Penal Code.¹²⁷

OMCT would urge the government to abrogate and re-evaluate the 1991 Penal Code and penal procedure and subsequently establish punishments in accordance with articles 6, 37 and 40 of the Convention. OMCT would urge the Government to take measures to ensure that neither capital punishment nor life imprisonment is imposed for crimes committed before 18 years of age.

5.2 Procedure

a. The right to legal representation

Article 37 of the Convention states that, “every child .. shall have the right to prompt

126 - Article 15 of the Constitution. Further specifications about marriage are codified under the Personal Affairs, Personal Laws of 1991, the Personal Status of Muslims Act of 1991, and the Marriage of Non-Muslims Act of 1926, which state that Muslim girls may marry at the age of 10 provided that they have the consent of a male guardian and that all other marriages of minors are based on consent. See the OMCT report on Violence Against Girls in Sudan.

127 - CRC/C/65/Add.17, paragraph 36 with specific reference to the Personal Status of Muslims Act of 1991 and the Marriage of Non-Muslims Act of 1926.

access to legal and other appropriate assistance.”

Sudanese judicial guarantees are enshrined in article 31 of the Constitution which ensures the right to an effective remedy, stating, “All persons have a right to an effective remedy and no person may be subjected to criminal proceedings or deprived of the right to bring a claim at law, except in accordance with the law.” According to article 32 of the Constitution, “a suspect of a crime .. has the right to a speedy and just trial and the right to defend himself.” Furthermore,

“the Judiciary Act 1986, the Civil Procedures Act 1983, the Criminal Procedures Act and the Thirteenth Constitutional Decree Guarantee that .. in the adjudication of any criminal charge the accused has the right to have adequate time and facilities for the preparation of his defense, and to communicate with a counsel of his own choosing, .. to defend himself in person or through legal assistance

without payment, if he does not have sufficient means to pay for it.”¹²⁸

Despite the aforementioned legislative provisions, OMCT is concerned that children in Sudan are denied legal representation. OMCT is concerned by the report of the SOAT which states that children arrested by the Security of the Community Police are taken to “Instant Courts” (formerly known as the Public Order Courts), established under the 1998 State of Emergency Act, where they are denied legal representation and subsequently denied access to their right to appeal.¹²⁹

OMCT is especially concerned by recent information relating the use of similar “Special Courts” in Darfour Province, which were also established by the 1998 State of Emergency Act, and which reportedly deny children the right to representation and the right to appeal.¹³⁰ These courts, which operate with only two military judges and one civil judge, forbid lawyers to appear or to question prosecution witnesses.¹³¹ Plaintiffs may only appeal their cases if sentenced to death or amputation and the decision of the first appeal is a final decision.¹³²

128 - CCPR/C/75/Add.2.

129 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002

130 - OMCT Urgent Appeal, 10/07/2002. Case SDN 100702, Child Concern 100702.CC; OMCT Urgent Appeal , 23/07/2002. Case SDN 100702.1/100702.1.CC

131 - Ibid.

132 - Ibid.

OMCT would urge the Government to take measures to ensure fair and prompt trials for all children accused of criminal offenses. OMCT would also urge the Government to take measures to ensure that children deprived of their liberty have prompt access to legal and other appropriate assistance. More specifically, OMCT would urge the Government to ensure basic procedural safeguards for children who are accused of having infringed the penal law such as the right to counsel and the right to the presence of a parent or legal guardian.

b. Impunity

The Government Report states that “there is nothing to prevent the courts from admitting any complaint lodged by children to the effect that an offence has been committed against them.”¹³³ However, OMCT remains gravely concerned that the complaints of children are not brought to court or repeatedly go un-addressed in Sudan. None of the cases of torture earlier described¹³⁴ were investigated or prosecuted by the Government. While Sudanese policy does not prohibit children from bringing complaints to court, there is nothing in place to

proactively encourage or help them bring claims.

OMCT would call on the Government to prosecute all those who violate children’s rights so as to not place an undue burden on children who are already victims of bringing charges against those who brutalize and abuse them.

c. Children’s courts

As aforementioned, Sudan is under an obligation arising from article 40 of the Convention to recognize the right of every child alleged as having infringed the penal law to be treated in a manner which, *inter alia*, takes the child’s age, emotional, mental and intellectual maturity into account. On the basis of this standard, OMCT believes that offenders under the age of 18 are entitled to be tried before a juvenile court.

The Government Report states that “there are now four courts which deal specifically with juvenile cases: three in Khartoum state and one in Al-Obeid in North Kordofan state. The Chief Justice also recently issued a directive on the establishment of courts in

all states of the Sudan.”¹³⁵ OMCT welcomes the establishment of juvenile courts in Sudan. However, based on the aforementioned reports of arbitrary arrests and detention,¹³⁶ impunity of police officers,¹³⁷ and unfair trials in courts established under the State of Emergency Act,¹³⁸ OMCT is concerned that Sudanese judicial procedures have resulted in the violation of children’s rights in lieu of providing children with special legal protections.

OMCT would request that the Government provide more specific information pertaining the procedure and practice in juvenile courts, including information about what sets these courts apart from adult courts. OMCT would call on the Government to ensure that all branches of the juvenile justice system, including and especially children’s courts, implement measures consistent with the Convention, and with the U.N. Standard Minimum Rules for the Administration of Juvenile Justice, particularly with the Beijing Rules, the Riyadh

Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

d. Training of law enforcement personnel, judges and other administration of justice officials

Article 40 states that “every child alleged as, accused of, or recognized as having infringed the penal law” is guaranteed to “have the matter determined without delay by a competent, independent and impartial authority or judicial body.” In addition, rule 12 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice states: “In order to best fulfill their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained.” The commentary following this rule extends its application to all those involved in the administration of juvenile justice.¹³⁹

In its recent Government report, Sudan cites several measures that it took in the form of events held to educate various officials about the Convention.¹⁴⁰ OMCT does

135 - CRC/C/65/Add.17

136 - See section 5.1 (b) of this report

137 - See section 5.2 (b) of this report

138 - See section 5.2 (a) of this report

139 - United Nations Standard Minimum Rules for the Administration of Juvenile Justice, “The Beijing Rules”, adopted by General Assembly Resolution 49/33. http://www.unhcr.ch/html/menu3/b/h_comp48.htm

140 - CRC/C/65/Add.17, para. 27

welcome these efforts on the part of the Government. Nevertheless, in view of the numerous instances of violence against children outlined in this report, OMCT fears that these may be mere conciliatory measures. OMCT would therefore request that the government demonstrate the effectiveness of these educational events by pointing out specific improvements in the situation of children who come into contact with administrators of juvenile justice that might be credited to these trainings.

OMCT is concerned that there are no provisions in Sudanese legislation that call for competent or educated law enforcement personnel, judges or other administration of justice officials. Furthermore, there are no

legislative provisions that require officials or law enforcement personnel to be educated about the rights of children. Requirements for these positions are usually limited to degrees in Islamic law and all offices are appointed by the President, or by government representatives who were themselves appointed by the President. OMCT is further concerned about a SOAT report, which states that police officers of the lowest rank are extremely poorly educated and trained.¹⁴¹

OMCT would recommend that the government place children under the charge of competent educated and trained authorities who are aware of the needs and concerns specific to children.

141 - Sudanese Organization Against Torture (SOAT), *Annual Report on the Human Rights Situation in Sudan*, 2002, para. 72

VI. Conclusions and Recommendations

OMCT is extremely concerned about the situation of children in Sudan, in particular, that children are at a high risk to be subject to various forms of violence and cruel, inhuman, or degrading treatment and punishment. OMCT would like to make several conclusions and recommendations, both legislative and practical, that could lead to the institution and implementation of children's rights.

Regarding the situation of armed conflict, OMCT would recommend that the Committee on the Rights of the Child:

- urge the Government to:

- immediately ratify the Protocol Additional to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts of June 1977;

- sign and ratify the Optional Protocol to the Convention on the Involvement of Children in Armed Conflict;

- immediately implement Human Rights Commission resolution 2002,

- set the minimum age for the recruitment of children at the age of 18 by harmonizing its legislation and ensure that halting the recruitment of under 18 year-olds is a priority;

- repeal the Compulsory Military Service Act, so that children under 18 may not be called to serve in the armed forces and repeal legislation making military service a precondition for entry into a university;

- take all other feasible measures to ensure that under 18 year-olds do not take a direct part in hostilities and demobilize, rehabilitate and reintegrate all former child soldiers,;

- provide the Committee information about the whereabouts and status of children who were fighting with the Southern Sudanese Independence Movement/Army;

- ensure that all armed forces cease bombing attacks on civilians in order to preserve children's right to life and protect them during an armed conflict and otherwise respect fully international law applicable to the rights and protection of children in armed conflict;
- cease attacks on food relief operations, halt raids of villages where livestock or crops are looted or destroyed, and grant domestic food aid and encourage the construction of civil society so that food might be produced;
- instate, where appropriate, provisions for the protection of children, including the disarmament, demobilization and reintegration of child combatants;
- genuinely pursue a peace process with a view to ensuring permanent guarantees and protections for children;

Regarding the situation of refugee and internally displaced children, OMCT would recommend that the Committee on the Rights of the Child:

- urge the Government to:
 - provide specific information about the domestic laws and procedures applicable to the child who is considered a refugee or seeking asylum;
 - provide assistance and reintegration for all refugee children;
 - collect and provide further statistics about the numbers of internally displaced children in Sudan and provide the Committee with information on the overall situation of internally displaced children, their particular needs, and what specific legislative provisions offer protections to internally displaced children;
 - provide reintegration for all internally displaced children.

Regarding the situation of discrimination against children, OMCT would recommend that the Committee on the Rights of the Child:

- urge the Government to:
 - provide information about measures they will take to reduce economic and social disparities between the north and the south of the country;
 - immediately halt discriminatory practices such as forced prayer and religious study in detention centers and camps;
 - ensure that all other harassment, brutal treatment, and violence against children and families on the basis of their religious practice or preference is immediately stopped and prosecute all those who discriminate against children;

Regarding the definition of the child, OMCT would recommend that the Committee on the Rights of the Child:

- urge the Government to:
 - ratify ILO Convention 138 and harmonize legislation regarding the minimum age for employment accordingly;
 - provide information about legal regimes applicable to children between age 15 (in cases where a child manifests external signs of puberty and can therefore be considered mature at 15) and age 18;
 - amend existing legislation in order to establish an age of majority that is fixed at age 18, equal for boys and girls, and consistent with the whole of the Convention and its general principles.

Regarding the situation of slavery and related abduction and child trafficking within the Sudan and abroad, OMCT would recommend that the Committee:

- urge the Government to:
 - sign and ratify ILO Convention 182 on the Worst Forms of Child Labour;
 - amend the provisions of chapter XVI of the 1991 Criminal Code to state that “the sale, trafficking and abduction of children and the perpetration of such offences is prohibited”;
 - provide statistical information about slavery and trafficking within and across the borders of Sudan;
 - provide the Committee with specific information about their campaign against the trafficking of children abroad and about other measures they will take to combat child trafficking abroad;
 - implement Human Rights Commission Resolution 2002/16;
 - immediately prosecute and punish those found guilty of being a party to, or

directly participating in, the abduction, trafficking, sale or enslavement of human beings;

- guarantee freedom, rehabilitation and reintegration to all children who are slaves or forced or bonded laborers or those born in captivity.

Regarding the torture and cruel, inhuman and degrading treatment or punishment of children, including the situation of children in camps and detention centers, OMCT would recommend that the Committee on the Rights of the Child:

- urge the Government to:
 - respond to allegations of torture and other cruel, inhuman or degrading treatment or punishment of children in Sudan;
 - consider torture a crime under the criminal law so that children can seek legal redress and so that those who sponsor, command or commit torture may be brought to justice and subsequently prosecute all those who are found to have

inflicted torture, cruel inhuman or degrading treatment or punishment;

- abolish all legislation prescribing torture and other ill-treatment, including corporal punishment and subsequently prosecute and punish those who prescribe torture and ill-treatment;

- provide detailed information about the status of Al Huda Camp and Kober prison and the whereabouts of the children who were imprisoned there in 1996 and 1997;

- provide adequate medical care and basic resources to children in camps and detention centers, ensuring that they are properly, regularly fed and that facilities are clean and sanitary;

- institute monitoring mechanisms at all state sponsored camps where children are held and issue accurate reports about the population, health, development and welfare of children held there;

- take measures to ensure the physical and psychological recovery and reintegration of children who have been tortured or otherwise ill-treated.

Regarding the juvenile justice system, OMCT would recommend that the Committee on the Rights of the Child:

- urge the Government to:

- take the special needs of children into account in all legislation, especially in the criminal law, in accordance with international guidelines and custom;

- ensure that all branches of the juvenile justice system, including and especially children's courts, implement measures consistent with the Convention, and with U.N. Standard Minimum Rules for the Administration of Juvenile Justice, particularly with the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;

- provide more specific information pertaining the procedure and practice in juvenile courts, including information about what sets these courts apart from adult courts;

- raise and harmonize the age of criminal responsibility in accordance with article 40 of the Convention, following the

recommendation of the Committee that the age limit ought to be set as high as possible;

- abrogate and re-evaluate the 1991 Penal Code and penal procedure and subsequently establish punishments in accordance with articles 6, 37 and 40 of the Convention and in so doing,
- clearly outline penal offenses in their criminal code and arrest juveniles under specific criminal provisions;
- outlaw “status” offences;
- ensure that capital punishment and life imprisonment are not imposed on persons below 18 years of age;
- ensure that the arrest, detention and imprisonment of a child is in conformity with the law and used only as a means of last resort, for the shortest appropriate period of time;
- institute legislative and institutional monitoring mechanisms to prevent the arbitrary arrest and detention of children;

- prosecute and punish all those who arbitrarily arrest or detain children;

- ensure that children deprived of their liberty have prompt access to legal and other appropriate assistance;

- ensure fair and prompt trials for all children accused of criminal offenses, more specifically, ensure basic procedural safeguards for children who are accused of having infringed the penal law such as the right to counsel, the right to the presence of a parent or guardian and the right to confront and cross-examine witnesses;

- place children under the charge of competent educated and trained authorities who are aware of the needs and concerns specific to children;

- demonstrate the effectiveness of educational events for administration of juvenile justice officials by pointing out specific improvements in the situation of children who come into contact with administrators of juvenile justice that might be credited to these trainings.



COMMITTEE ON THE RIGHTS OF THE CHILD
31st Session - Geneva, 18 September - 4 October 2002

Concluding observations
of the Committee
on the Rights of the Child:
Sudan

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

1. The Committee considered the second periodic report of Sudan (CRC/C/65/Add.17) at its 817th to 818th meetings (see CRC/C/SR.817-818), held on 24 September 2002, and adopted¹ the following concluding observations.

A. INTRODUCTION

2. The Committee welcomes the submission of the State party's second periodic report and the written replies to its list of issues (CRC/C/Q/SUD/2). The Committee appreciates the informative written replies to the list of issues which were submitted, and notes the constructive dialogue held with the State party's delegation.

B. FOLLOW-UP MEASURES UNDERTAKEN AND PROGRESS ACHIEVED BY THE STATE PARTY

3. The Committee notes the State party's progress in assisting the hundreds of thousands of persons displaced from their homes during the armed conflict, and the progress made in addressing the problem of land mines.

4. The Committee notes the adoption of the Constitution of the Sudan, providing for human rights and freedoms, and which entered into force on 1 July 1998.

5. The Committee welcomes: the establishment of children's and women's rights services within several ministries and bodies; the establishment of a Commission on Human Rights and Public Obligations in the National Assembly; the establishment of the Sudan National Committee for the Eradication of Harmful Practices; the State party's various measures to improve respect for the rights of women, including the campaign against female genital mutilation, against early

marriage, and the encouragement of child spacing.

C. FACTORS AND DIFFICULTIES IMPEDING THE IMPLEMENTATION OF THE CONVENTION

6. The Committee notes the extremely negative impact of the armed conflict on children and notes that it has created conditions in which even the minimum implementation of the Convention is difficult to realize. In view of the *de facto* control by non-State actors of areas of the State Party's territory, notably in southern Sudan, the Committee emphasises the full responsibility of the State party, and invites all other parties to respect the implementation of child rights within these regions.
7. The Committee further notes the current and long-standing economic difficulties, including high foreign debt and dependency on declining foreign assistance.

D. PRINCIPAL SUBJECTS OF CONCERN, SUGGESTIONS AND RECOMMENDATIONS

D1. GENERAL MEASURES OF IMPLEMENTATION

8. The Committee expresses its concern that the large majority of the concerns and recommendations (CRC/C/15/Add.6.) it made upon consideration of the State party's initial report (CRC/C/3/Add.3) in 1993 have been insufficiently addressed and that many of the same concerns and recommendations are made in the present document.
9. The Committee recommends that the State party makes every effort to address those recommendations from the concluding observations to the Initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations to the 2nd periodic report.

Legislation

10. While noting the ongoing consideration of a draft children's code, the Committee takes note of resolution (2000/18) of the

Commission on Human Rights and expresses its concern that:

- a) domestic legislation across the whole of the country, including in southern Sudan, is not in full conformity with the Convention.
- b) The State Party has yet to ratify a number of core international human rights treaties.

11. The Committee recommends that the Sudanese authorities:

- a) Make every effort to bring all domestic legislation, including with regard to southern Sudan, into line with the Convention, through, among other things, advocacy targeting the various bodies within the country responsible for adopting legislation.
- b) implement fully existing legislation that safeguards children's rights.
- c) Sign and ratify the African Charter on the Rights and Welfare of the Child, the Convention against Torture and the Convention on the Elimination of All Forms of Discrimination against Women and proceed with ratification of the Optional protocol to the Convention on the Rights of the Child on the involvement of

children in armed conflicts, the Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and their Destruction.

Resource allocation

12. The Committee is concerned that insufficient attention has been paid to article 4 of the Convention regarding the implementation to the “maximum extent of...available resources” of economic, social and cultural rights of children. Moreover, while appreciating that decentralization of services, particularly in the areas of health and education, allows authorities to respond better to local needs, the Committee is concerned that this delegation of responsibility without adequate resource allocation results in serious deficiencies in the provision of these services for children, especially in the poorer areas. It emphasizes that the State party is responsible for ensuring that resources reach the most vulnerable groups during the period of economic reform and structural adjustment.

13. The Committee recommends that the State party:

- a) prioritise allocation of resources to the maximum extent for the economic, social and cultural rights of children at the national and local levels for the implementation of the Convention; and
- b) identify the amount and proportion of the national and local budgets spent on children through public and private services, NGOs, and international development aid, and evaluate the impact and effects of the expenditures and privatization; and
- c) study the impact of structural adjustment on the costs, quality, accessibility and effectiveness of services for children in order to prevent a decline in the services.

Co-ordination

14. Noting the largely advisory role of the National Council for Child Welfare in the area of child welfare, the Committee is nevertheless concerned that there remains a lack of administrative coordination and cooperation at the national and local government levels and civil society, which makes it difficult to

achieve a comprehensive and coherent child rights policy.

15. The Committee recommends that the State party:

- a) ensure that a central and permanent mechanism, which is adequately resourced, coordinates the implementation of the Convention, intersectorally as well as between national and local levels of governments and civil society; and
- b) prepare and implement a national policy and plan of action for children, including the implementation of the Convention, that is comprehensive, human rights-based and undertaken through an open, consultative and participatory process at the national and local level.

Monitoring structures

16. While noting the work of the Government's advisory council for human rights, the Committee is nevertheless concerned at the absence of an independent mechanism with the mandate to regularly monitor and evaluate the progress in the implementation of the Convention, and which is empowered to receive and address complaints.

17. The Committee recommends that the State party:

- a) establish an independent national human rights institution in accordance with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134), to monitor and evaluate progress in the implementation of the Convention at the national and at the local levels. This institution should be accessible to children, empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner, and address them effectively; and
- b) seek technical assistance from, among others, the Office of the High Commissioner for Human Rights and UNICEF.

Data

18. Noting the very serious lack of data, the Committee welcomes information by the delegation of steps being taken to build an information system based on the Multiple Indicator Cluster Survey.

19. The Committee recommends that the State party:

- a) establish an effective mechanism for the

systematic collection of disaggregated quantitative and qualitative data incorporating all the areas covered by the Convention and covering all children below the age of 18 years.

- b) make use of indicators and data in the formulation of policies and programmes for the effective implementation of the Convention.
- c) seek technical assistance from, among others, UNICEF.

Co-operation with NGOs and IGOs

20. The Committee recognizes the important role of civil society, as well as international organizations under the prevailing conditions, in the implementation of the provisions of the Convention, and it is concerned at the insufficient efforts by the State party to fully cooperate with and facilitate their efforts.

21. The Committee recommends that the State party strengthen its cooperation with NGOs and international organizations, and continue to ensure the safety of all NGO and IGO personnel in the course of their work on behalf of children.

Training/Dissemination of the Convention

22. The Committee notes with concern that awareness of the Convention amongst professionals working with and for children, and the general public, including children themselves, remains low. The Committee is concerned that the State party is not undertaking adequate dissemination, awareness-raising and training activities in a systematic and targeted manner.

23. The Committee recommends that the State party:

- a) strengthen, expand, and make on-going its programme for the dissemination of information on the Convention and its implementation among children and parents, civil society and all sectors and levels of government, including initiatives to reach those vulnerable groups who are illiterate or without formal education;
- b) develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of

detention for children, teachers and health personnel, and religious leaders); and

- c) seek assistance from, among others, the Office of the High Commissioner for Human Rights and UNICEF.

D2 DEFINITION OF THE CHILD

24. The Committee is concerned that the definition of the child is unclear under Sudanese law, and is not in conformity with the principles and provisions of the Convention. For example, minimum ages may be determined by arbitrary criteria, such as puberty, and discriminate between girls and boys, and in some cases are too low (i.e. the minimum age of marriage is as low as 10 years).

25. The Committee recommends the State party to review its legislation so that the definition of the child, age of majority, and other minimum age requirements conform to the principles and provisions of the Convention, are gender neutral in particular, and ensure that they are enforced by law.

D3. GENERAL PRINCIPLES

Non-discrimination

26. The Committee is concerned that:

- a) There are significant inequalities regarding access to basic health and education services, between children living in different parts of the country, and most especially between southern Sudan and the rest of the country.
- b) there is discrimination with regard children born out of wedlock, children with disabilities, refugee children, and discrimination on religious and ethnic grounds;
- c) Throughout the State Party traditional patterns of discrimination limit the opportunities available to girls and women.

27. The Committee recommends that the State party:

- a) ensure that all children, regardless of the region of the country in which they live, enjoy equal respect for their rights, including with regard to basic services.
- b) End all discrimination against children,

giving particular attention to that based on religious beliefs.

- c) Conduct a study to assess the scope and causes of discrimination between boys and girls, and take steps to address such discrimination giving particular attention to the impact of traditional and cultural practices upon girls and women with a view to adopt a proactive and comprehensive strategy for the elimination of discrimination.

28. The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of General Comment no 1 on article 29(1) of the Convention (aims of education).

Best interests of the child

29. The Committee is concerned that in actions concerning children, the general principle of the best interests of the child

contained in article 3 of the Convention is not always a primary consideration, such as in matters relating to family law.

30. The Committee recommends that the State party review its legislation and administrative measures to ensure that article 3 of the Convention is duly reflected therein and that this principle is taken into account when administrative, policy, court or other decisions are made.

Child participation and respect for the views of the child

31. Welcoming efforts to establish children's parliaments, the Committee remains concerned that respect for the views of the child, especially girls, are not often respected and may be seen as contrary to traditional concepts of the role of the family, clan and tribe.

32. The Committee recommends that the State party:

- a) Ensure full respect for the views of the child and consider ways of ensuring that a child's views are given due consideration according to the age and maturity of the

child, within the context of the family, clan and tribe.

- b) Give particular attention to ensuring respect for the views of girls.

D4. CIVIL RIGHTS AND FREEDOMS

Name and nationality

33. Noting the efforts made by the State Party to establish a civil registry, the Committee nevertheless is extremely concerned that large numbers of children, as high as 70% in some parts of the country, are not registered.

34. The Committee recommends that ongoing efforts be continued and strengthened to improve birth registration throughout the country toward ensuring that all children are registered at birth or as soon as possible afterwards, and are provided with birth certificates.

Ill-treatment and violence

35. The Committee is concerned that corporal punishment is widely practiced in the State party, including within the family, schools, and

other institutions; that children have been the victims of violence by, among others, the police; and that instances of torture, rape and other cruel, inhuman and degrading treatment have been committed against children in the context of the armed conflict.

36. The Committee recommends that the State party:

- a) Prohibit under law the practice of corporal punishment in the family, in schools and in all other contexts and make use of legislative and administrative measures, as well as public education initiatives to end the use of corporal punishment including, inter-alia, the provision of information on alternative non-violent methods of discipline.
- b) Prevent all forms of violence against children and make sure that perpetrators of violence against children, including the police are prosecuted.
- c) Immediately end the practice of detaining children in camps where they suffer torture, cruel and inhuman degrading treatment or punishment and make sure that those responsible for these treatments and punishments are brought to justice.

d) Take into consideration the other recommendations of the Committee adopted on its days of general discussion on violence against children (CRC/C/100, para. 688, and CRC/ C/111, paras. 701-745);

e) Seek assistance from, among others, UNICEF and WHO.

D5. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

37. The Committee is concerned that:

- a) Widespread and severe poverty, the disruption family life by war, famine and related population displacement have seriously weakened the family environment of massive numbers of children within the State Party.
- b) the severe legal penalties applied to women who become pregnant outside of marriage are such that many women and adolescent girls seek to conceal their pregnancies and then abandon their new born children, and that the survival rate of these children is extremely low.

38. The Committee recommends that the State party:

- a) Assess the scope of problems faced by children in the realisation of their right to a family environment and take urgent action to strengthen its support to the family.
- b) Give particular attention to the protection of children born out of wedlock and ensure the protection and support of their mothers.

Abuse

39. The Committee is concerned that physical and psychological abuse occurs within the family but is not adequately monitored, reported upon or addressed.

40. The Committee recommends that the State party:

- a) establish effective child-sensitive procedures and mechanisms for the reporting, monitoring, and investigations of instances of child abuse, and to intervene where necessary.
- b) provide child victims of abuse with the appropriate medical and psychological

support, including recovery and social reintegration assistance for child victims and their families.

- c) strengthen the education provided to young parents in the care they should give to their children and in the prevention of abuse and neglect.
- d) Take into consideration the recommendations of the Committee adopted on its days of general discussion on children and violence (CRC/C/100, para. 688, and CRC/C/111, paras. 701-745);
- e) Seek assistance from, inter-alia, UNICEF and WHO.

Alternative care

41. Noting the breakdown of many families and extended family networks, the Committee is concerned that there are insufficient alternative care mechanisms to provide for children in need of such care and that existing mechanisms need to be strengthened.

42. The Committee recommends that the State party:

- a) Strengthen and extend alternative care mechanisms, and take all necessary measures to provide children separated from their parents with family type alternative care (e.g. by strengthening the capacity of extended family and increase the availability of quality foster care).
- b) ensure that the rights of children in need of alternative care are fully protected.
- c) seek technical cooperation from UNICEF in this regard.

D6. BASIC HEALTH AND WELFARE

43. The Committee notes the progress with regard to child immunization programmes but remains deeply concerned at the very poor availability, accessibility and quality of basic health care services. The Committee is concerned, among other things, at the high infant, child and maternal mortality, significant inequalities in the provision of health care services between the north and the south of the country, the very limited access to safe drinking water responsible for 40% of deaths of

children under-5, and other serious health problems like malaria, acute respiratory diseases, lack of iodine and malnutrition.

These and other concerns of the Committee regarding health care are reflected in the following recommendations:

44. The Committee urgently recommends that the State party:

- a) Take immediate action to reduce infant, child and maternal mortality rates.
- b) Strengthen the provision of health care services, including with regard to management, staffing, equipment, and medical supplies, giving particular attention to the decentralisation of responsibility for services to local authorities.
- c) Reduce inequalities in the levels of health of children in the State Party through, inter-alia, improving access to safe water and adequate sanitation and strengthening the availability of health services in rural areas.
- d) Establish adequate and effective services for children who have been exposed to highly traumatic events.

- e) take immediate action to address preventable health problems among children including with regard to iodine deficiency, malaria, diarrhoea, acute respiratory disease, measles, meningitis and malnutrition.
- f) Ensure the availability and accessibility of essential drugs.
- g) Seek technical assistance from, among others, UNICEF and WHO.

Children with disabilities

45. Encouraged by progress indicated by the delegation, the Committee remains concerned with societal stigmatization and discrimination against disabled children, the lack of disaggregated data and the very limited services and opportunities offered to those children.

46. In the context of the UN Guidelines on Disabilities and the results of the Committee's Day of General Discussion on "The Rights Of Children With Disabilities" (6th October 1997) the Committee recommends that:

- a) Effective collection of disaggregated data

be established with regard to children with disabilities.

- b) every effort be made to end traditional beliefs and stigma prejudicial to children with disabilities, including through education and information programmes.
- c) ensure the integration within the State party's child rights policy of perspectives of the rights of children with disabilities with regard to, inter-alia, non-discrimination, participation, survival and development, health, education (including vocational education for future professional employment) and integration in society.
- d) the provision of health services for children with disabilities be significantly strengthened.
- e) legislative and administrative provisions should be adopted and implemented, as needed, to ensure that children with disabilities have access to public buildings, including to hospitals and schools.
- f) strengthen the assistance, including both financial assistance and counselling, provided to the families of children with disabilities.

g) seek international cooperation from, inter alia, UNICEF, in this regard.

Harmful traditional practices

47. While noting the efforts undertaken to end female genital mutilation, the Committee remains deeply concerned that it continues to be practiced widely.

48. The Committee recommends that the State party continue and strengthen its efforts to end the practice of female genital mutilation and to seek cooperation with other countries in the region with a positive experience in combating this harmful practice. Religious and community leaders should be mobilized in this regard.

HIV/AIDS

49. The Committee is seriously concerned by reports, including in the State party report, that HIV/AIDS infection rates are likely to rise, and the lack of adequate measures in the area of prevention, care and treatment.

50. The Committee recommends that the State party Integrate into its policies and practices

the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37) in consultation with and participation of religious leaders.

51. Noting the positive progress made by the State Party in establishing a social security network in 14 States, the Committee is convinced that social security coverage needs to be extended further and strengthened.

52. The Committee recommends that the State party continue and strengthen its efforts to provide social security protection to children and their families.

D7. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

53. The Committee notes the adoption of the General Education Act 2002, the establishing of a girls' basic education service and of an education service for nomadic children but it remains concerned at:

- the very low level of public spending on education
- the very low level of enrolment in pre-school, primary and secondary

schools due to, among other things, the fact that education is not compulsory and that a birth certificate is required for enrolment

- that the drop out rate is very high and that many children do not complete their primary education

54. The Committee recommends that the State party:

- a) Significantly increase public spending on education.
- b) Ensure that primary education is free and compulsory for all children.
- c) Continue and strengthen efforts to increase enrolment in pre-school, primary and secondary education through, inter-alia, increasing the numbers of schools, classrooms and teachers, and establishing flexible forms of school registration which do not require the presentation of a birth registration certificate for those children who do not have one.
- d) Reduce the numbers of children dropping out from education by, inter-alia, enforcing compulsory education requirements, providing additional financial support to cover the costs of education, and through the use

of public information campaigns on the value of a child's right to education.

- e) Give particular attention to ensuring the enrolment in school of girls, children with disabilities, refugee children and children from nomadic groups, and continue and strengthen efforts to provide special education and mobile education facilities for those children with disabilities or nomadic children, respectively, in need of them.
- f) Strengthen education infrastructure and resources, including with regard to the provision of sufficient resources to local authorities, the construction of classrooms and schools, the provision of materials and school equipment, the revision and updating of school curricula and the improvement of teacher training.
- g) Make particular efforts to improve access to education in southern Sudan.
- h) Improve the opportunities for children to have access to tertiary education.
- i) Implement the recommendations and aims contained in the State Party report in paragraphs 292 and 235.

j) in the light of the Committee's general comment on article 29 (1) of the Convention on the aims of education (CRC/GC/2001/1, CRC), take measures to strengthen the accessibility, quality and management of schools and take action to address problems identified.

55. The Committee is deeply concerned at the fact that the availability, accessibility and quality of education in the southern part of the country is much worse than the rest of the country (e.g. only 16-18% of children have access to education and not more than 20% of them are girls, the drop out rate is still high; teachers are not paid salaries and most of them are not qualified; schools are often too far away and education is regularly disrupted by the armed conflict; and availability of educational material is very limited).

These and other concerns lead to the following recommendations, particularly for the southern part of the country.

56. The Committee recommends that:

a) Measures be urgently implemented to raise the numbers of children enrolling in education in the State Party and, as far as

possible, that children be supported toward enrolment at the correct age.

b) Teacher training be significantly strengthened through, inter-alia, improving the quality of training and significantly raising the numbers of teachers trained, including teachers able to teach in locally spoken languages.

c) Implement measures to improve children's access to schools through, inter-alia, the provision of transport to schools over a certain distance away or the establishment of additional schools in greater proximity to children.

d) Give particular attention to increasing the number of girls enrolling in and completing education.

e) Ensure appropriate use of the new curriculum.

f) Seek technical assistance from UNICEF in this regard.

D8. SPECIAL PROTECTION MEASURES

Refugee and internally displaced children

57. The Committee is concerned at the large numbers of Sudanese children which continue to live as refugees in neighbouring countries; that refugee children from neighbouring countries do not enjoy all their rights contained in the Convention, in accordance with article 2; the situation of internally displaced children; and reports of forced evictions for the purposes of oil explorations.

58. The Committee recommends that the State party:

- a) Strengthen its efforts to secure the voluntary, safe and durable return of Sudanese refugee children and their families, in respect of all international standards.
- b) Continue and strengthen its efforts to provide protection to children and their families from neighbouring countries who seek shelter as refugees within the Sudan.
- c) Make every effort to provide assistance to IDPs and support toward their resettlement following displacement.

d) Continue efforts to support family reunification; and

e) Ensure that oil exploration activities do not lead to the forced displacement of children and their families and that the rights of all children in regions where these activities are undertaken are respected.

Children in armed conflict

59. While noting the demobilisation of some children, the Committee is deeply concerned that:

- a) that children are still being used as soldiers by the Government and opposition forces.
- b) Landmines continue to pose problems for the safety of children, including in regions where armed conflict is no longer taking place.
- c) Government forces have conducted indiscriminate bombing of civilian areas, including of food stocks.
- d) access of needy populations by humanitarian organizations have sometimes been impeded.

60. The Committee recommends that the State party, and as far as applicable other relevant actors:

- a) end all recruitment and use of children as soldiers in accordance with applicable international standards, complete of demobilisation and rehabilitate those children who are currently serving as soldiers and comply with the Commission on Human Rights resolution (2000/18).
- b) end the military recruitment of professionals working with children, such as teachers.
- c) Include the respect for children's rights in any negotiated agreement to end the armed conflict;
- d) Ratify and fully implement the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and their Destruction.
- e) Respect the provisions of the Conventions' article 38 and the related provisions of international humanitarian law with regard to the protection of civilians, including children, in times of armed conflict.

- f) Guarantee the access of humanitarian assistance to populations in need, respecting also the rights of children among civilian populations to, among others, food, water, medical care and adequate housing.
- g) Fully cooperate with the UN verification team investigating alleged abuses against civilians, including children, during the armed conflict.

Slavery and abduction

61. The Committee welcomes the work of the Committee for the Eradication of Abduction of Women and Children, in relation to the phenomenon of inter-tribal abductions. It remains concerned that the State Party's legislation does not adequately prohibit slavery or sanction its perpetrators; and that thousands of children have been the victims of slavery and abduction, in the context of the armed conflict, as well as for commercial gain (i.e. sold as servants, agricultural labourers, concubines, or forcibly recruited as soldiers).

62. The Committee recommends that the State party:

- a) Ensure the prohibition of child slavery under domestic legislation and in accordance

with the Convention and other relevant international standards.

- b) end all forms of slavery and abduction of children within the State Party and, in this context urgently implement the provisions of the Commission on Human Rights resolution (2000/18).
- c) prosecute those persons engaged in the abduction, sale, purchase, or illegal forced recruitment of children
- d) Continue and strengthen the work of the Committee for the Eradication of Abduction of Women and Children, including through making available greater financial resources and giving the Committee more authority at the regional and local level.
- e) Provide assistance to children returning from slavery or abduction in order to reintegrate them in their families and communities.
- f) Seek international cooperation in this regard.

Economic exploitation

63. The Committee is concerned that:

- a) Many children, including children under 15, conduct regular labour, including in the form of heavy work responsibilities within the family.
- b) The large scale and intensity of work demands placed upon children prevents many children from attending school.
- c) Some child labourers are the victims of economic exploitation and work in very poor conditions, including without insurance or social security benefits, with very low wages, for long hours and in dangerous and/or abusive conditions.

64. The Committee recommends that the State party:

- a) Make greater efforts to reduce the numbers of children engaged in regular labour, with particular emphasis on younger children.
- b) Make every effort to ensure that children do not work under conditions which are harmful to them and benefit from appropriate wages and other work related benefits.

- c) Make every effort to ensure that those children who do work continue to have access to formal education.

Sexual exploitation

- 65. The Committee is concerned at increasing instances of sexual exploitation of children, including through prostitution.
- 66. The Committee recommends that the State party strengthen its efforts to address the sexual exploitation of children.

Street children

- 67. Noting the adoption by the President of a decision on 19 June 1999 “to deal with the problem of street children”, the Committee remains concerned that:
 - a) There are large numbers of children living on the street in urban areas and that these children are vulnerable to, among others things, sexual abuse, violence, exploitation, and the abuse of various substances and that they lack access to education and adequate health services.

- b) street children are classified as "vagrants" in the context of Sudanese Government practices.

68. The Committee recommends that the State party:

- a) Amend its definition and policies with regard to street children, ensuring that these children are seen as victims of their circumstances and are not criminalized.
- b) Make additional efforts to provide protection to children living on the street and to ensure their access to education and health services, including substance abuse counselling;
- c) Proceed with the implementation of the “national project to combat the problem of street children” ensuring that this project is in full conformity with the Convention and addresses the concerns raised in the present concluding observations.
- d) Seek international cooperation from, among others, UNICEF.

Juvenile justice

69. Noting the reference to a juvenile court project in the State party's response to the list of issues, the Committee is concerned that the holistic approach to addressing the problem of juvenile crime advocated in the Convention, including with respect to prevention, procedures, and sanctions has not been sufficiently taken into consideration by the State party. The Committee is concerned that the age of criminal responsibility is too low as a child may be punishable by detention in reformatory from the age of 7.

70. The Committee recommends that the State party:

- a) Raise the minimum age of criminal responsibility;
- b) establish a system of juvenile justice that fully integrates into its legislation and practice the provisions of the Convention, in particular articles 37, 39 and 40, as well as with other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Guidelines for

Action on Children in the Criminal Justice System;

- c) Ensure that all children under age 18 benefit from the protection of juvenile justice standards.
- d) Guarantee that sentences of capital punishment cannot be given for acts committed when the perpetrator was a child under 18 and that life imprisonment without possibility of release can similarly also not be handed down.
- e) end the imposition of corporal punishment, including flogging, amputation and other forms of cruel, inhuman or degrading treatment and punishment to persons who may have committed crimes while under 18; and
- f) Ensure that children in situations of homelessness, unaccompanied status, begging and other similar situations are not criminalized.

Ratification of the optional protocols

71. The Committee recommends that the State party ratify:

- a) the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts.
- b) As well as, the Optional protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography Dissemination of the report, written answers, concluding observations.

Dissemination of the report, written answers, concluding observations

72. The Committee is concerned that the State Party's periodic report was not made widely available and did not fully reflect NGO concerns.

73. In light of article 44, paragraph 6, of the Convention, the Committee recommends that the report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the

relevant summary records and concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within all levels of administration of the State party and the general public, including concerned non-governmental organizations.

Reporting

74. In light of the recommendation on reporting periodicity adopted by the Committee and described in its report of the 29th Committee session (CRC/C/114), the Committee, aware of the considerable delay in the State party's reporting, underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States' responsibilities to children under the Convention includes ensuring that the UN Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by State parties is crucial. The Committee recognises that some State parties experience difficulties in initiating timely and regular

reporting. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its 3rd and 4th reports

in one consolidated report by the 1 September 2007. The Committee expects the State Party to report thereafter every 5 years, as foreseen by the Convention.

The World Organisation
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