

AFRICAN UNION

**African Committee of Experts on the
Rights and Welfare of the Child**



"An Africa Fit for Children"

UNION AFRICAINE

**Comité Africain d'Experts sur les Droits
et le Bien-être de l'Enfant**

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**RECOMMENDATIONS OF THE AFRICAN COMMITTEE OF EXPERTS
ON THE RIGHTS AND WELFARE OF THE CHILD TO THE
GOVERNMENT OF THE REPUBLIC OF THE SUDAN ON THE INITIAL
REPORT ON IMPLEMENTATION OF THE AFRICAN CHARTER
ON THE RIGHTS AND WELFARE OF THE CHILD**

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The African Committee of Experts on the Rights and Welfare of the Child presents its compliments to the Government of the Republic of The Sudan and would like to extend to the latter its gratitude for submitting to it, within the prescribed timeframe, The Sudan's initial report on the status of implementation of the African Charter on the Rights and Welfare of the Child in conformity with Article 43 thereof, and for having accepted to present and discuss the said report at the 20th session of the Committee held in Addis Ababa, Ethiopia, from 12 to 16 November 2012.

The Committee commends the State Party for having fielded a robust high-level delegation led by Madam Amal Abdula Mahamoud, Secretary General of the National Council for Child Welfare (NCCW). Following consideration of this report, the Committee has the honour to address to the Government of the Republic of The Sudan, the following observations and recommendations:

Article 1: OBLIGATION OF STATES PARTIES

The Committee commends the Government of the Republic of The Sudan for having adopted several constitutional and legal texts guaranteeing the rights of the child and for having taken children's rights on board in the constitutional and legal framework of peace agreements.

The Child Act of 2010 has narrowed much of the gap in terms of the texts governing a large number of child related issues. Besides, many of its provisions are consistent with the criteria outlined in the African Charter on the Rights and Welfare of the Child.

However, the Committee remains concerned at the fact that the Act does not expressly proscribe child marriage. Furthermore, The Sudanese Government's Initial Report has highlighted the deficit of statistics and data on the situation of children.

The Committee recommends to the Government of the Republic of The Sudan to undertake the necessary steps to implement the provisions of the 2010 Child Act and put in place a permanent system for gathering disaggregated data on the situation of children.

Article 2: DEFINITION OF A CHILD

The Committee commends the Government of the Republic of The Sudan for having incorporated in the 2010 Act (Article 4) a definition of a child in accordance with the provisions of the Charter.

The Committee notes with concern that there are other definitions of a child in certain extant laws, namely, the 1991 Criminal Law and the Act governing staff regulations and rules which do not take the age criteria into account, even though all other conflicting provisions have been abolished pursuant to the provisions of the Act.

The Committee therefore recommends to the Government of the Republic of The Sudan to introduce one or several legislative reform measures to define only one majority age in line with the provisions of the Charter and the Child Act.

Article 3: NON-DISCRIMINATION

The Committee commends the Government of the Republic of The Sudan for the measures it has taken to protect the child from any form of unjust discrimination. Efforts have also been deployed to combat all forms of discrimination.

However, children of unknown parentage and displaced children are still subject to social discrimination.

The Committee recommends to the Government of the Republic of The Sudan to pursue awareness-building actions among the various segments of the society. Besides, awareness-building measures need to be intensified and all the necessary action taken to ensure that no displaced child and children living in the streets are subjected to discrimination.

Article 6: NAME AND NATIONALITY

The Committee notes with satisfaction that the nationality act has been amended to make it compliant with the existing constitutional text, and this is a most welcome step. However, the procedures for acquiring Sudanese nationality in respect of a child born by a Sudanese mother and a foreign father need to be facilitated. Measures are being taken to ensure and facilitate registration of births.

The Committee however remains concerned at the fact that many births in remote areas are not registered.

The Committee recommends to the Government of the Republic of The Sudan to take appropriate measures to provide the means necessary to cover the entire national territory in terms of structures for enlisting birth declarations and enhance the capacities of such structures, thereby considerably increasing the rate of birth registration.

The Committee suggests that secondary or mobile civil status centres be established to more easily reach out to the populations and thus facilitate registration of births and deaths.

Article 7: FREEDOM OF EXPRESSION

The Committee notes with satisfaction that the Government of the Republic of The Sudan guarantees for each child the right to express his/her opinion freely and to participate effectively in appropriate judicial, administrative or educational processes, subject to his/her age and level of maturity.

It also notes that Sudanese children have participated in several international activities and fora and that children's parliaments have been established in some states.

The Committee recommends to the Government of the Republic of The Sudan to take appropriate steps to establish children's parliaments in all the states and continue promoting children's participation in decisions on matters that concern them.

Article 11: EDUCATION

The Committee notes with satisfaction that the Act prescribes that the State shall provide free and compulsory basic education at primary school and by means of adult education curricula.

It notes with concern that the aforementioned provisions are yet to be applied on ground because the report points out that a gap still exists between the legislation and implementation of free education, as evidenced by the high number of school dropouts due to the fees imposed by educational institutions.

The Committee is also concerned at the fact that many schools are constrained by lack of teachers, as well as by insufficient classrooms and desks.

The Committee recommends to the Government of the Republic of The Sudan to undertake measures to apply the texts regarding free education and also to build and equip schools close to residential areas that are lacking in that regard, with separate potable water and sanitary facilities.

Article 13: HANDICAPPED CHILDREN

The Committee notes with satisfaction that the Government of the Republic of The Sudan has ratified the International Convention on the Rights of Persons with Disabilities and that a 2009 national Act on the disabled provides for the exemption of disabled persons from school fees with access to professional life in State organs.

It notes with concern that the Republic of The Sudan does not have statistical data on the different types of disability and on the number of children with disabilities, to be able to design programmes suited to their needs.

The Committee recommends to the Government of the Republic of The Sudan to put in place a system for gathering data on disabled children, disaggregated by type and nature of disability.

It recommends that the Government of the Republic of The Sudan to take measures in synergy with civil society organizations to sensitize the populations on the rights of disabled children and combat any form of discrimination directed against them.

The Committee proposes to the Government of the Republic of The Sudan to adopt a policy for educational and social integration of children with disabilities and facilitate their movement to anywhere they may want to access (access ramps during construction of public buildings).

It recommends that the Government of the Republic of The Sudan establish specialized institutions with devices and equipment appropriate for education and rehabilitation of disabled children.

Article 14: HEALTH AND HEALTH SERVICES

The Committee is gratified that the Constitution of the Republic of The Sudan upholds the right of the child to medical care, infant and maternal protection and promotion of gender equality. It is also gratified that the Child Act provides for maternity leave, breast feeding hours, vaccination and other rights aimed at improving the health condition of children, and for a policy to promote maternal and infant health services.

However, all these measures have not been effective due to the weakness of human resources and institutional capacities as well as inadequate financial allocation.

The Committee notes with concern that, despite the efforts deployed to halt the propagation of HIV/AIDS virus, the prevalence rate has continued to surge.

It also notes that the number of children suffering from serious malnutrition is on sharp increase.

The Committee recommends to the Government of the Republic of The Sudan to provide the key basic health services such as vaccination, nutrition and ante-natal care in all the health structures of the country.

It proposes to the Government of the Republic of The Sudan to continue with the awareness-raising actions so as to reduce the prevalence of HIV/AIDS.

The Committee recommends to the Government of the Republic of The Sudan to support the organizations operating in the health domain thus enabling them to play their role and contribute to reducing the rate of maternal and infantile mortality.

Article 15: CHILD LABOUR

The Committee notes with concern that child labour is widespread in The Sudan.

Besides, the Child Act proscribes only the labour of children less than 14 years of age, and excludes labour in pastures and agricultural work which do not pose any danger and are not hazardous to their health, whereas such labour is equally dangerous and prevents the child from attending school.

The Committee recommends to the Government of the Republic of The Sudan to undertake measures to protect children subjected to the worst forms of labour and align the legal age for work with the obligation to attend school.

It recommends to the Government of the Republic of The Sudan to take measures to remedy the economic reasons which give rise to the worst forms of child labour and enhance the financial and human capacities of the competent institutions to ensure that child labour is banned in keeping with international standards, thus allowing the children to continue with their education.

Article 16: PROTECTION AGAINST CHILD ABUSE AND TORTURE

The Committee notes with satisfaction that the Child Act incriminates cases of violence against children such as rape, abduction, sale and human organ trafficking. However, many aspects of violence against children persist.

It also commends the Government of the Republic of The Sudan for proscribing sanctions inflicted on children in educational institutions and for the adoption of the National Action Plan 2008-2012 for combating violence against children.

The Committee is, however, concerned at the huge number of reports of sex abuse, physical aggression and negligence. Flogging is still practised in certain schools.

The Committee recommends to the Government of the Republic of The Sudan to undertake measures to effectively punish the authors of violence against children.

It also recommends to the Government of the Republic of The Sudan to enact laws banning all forms of corporal punishment at school and to opt for non-violent and educative sanctions.

The Committee, lastly, recommends evaluation of implementation of the National Action Plan 2008-2012 for combating violence against children and use the lessons learnt to elaborate future action plans.

Article 17: ADMINISTRATION OF JUVENILE JUSTICE

The Committee notes that, by virtue of the Child Act, no criminal proceedings shall be instituted against a child in conflict with the law and the Act allows for special measures to be taken to address cases of children of 12 to 18 years of age. Moreover, the Act provides that any child found guilty by a criminal court of having committed a crime shall not be sanctioned by such court; instead, a record of the court proceedings shall be forwarded to a competent juvenile court to decide the appropriate action to be taken on the matter of the child.

The Committee recommends to the Government of the Republic of The Sudan to ensure that the procedures set forth in the Child Act on the trial of delinquent children are duly applied.

It recommends to the Government of the Republic of The Sudan to establish tribunals for children in all jurisdictions and appoint specialized judges thereto.

The Committee also recommends to the Government of the Republic of The Sudan to create quarters for minors in detention centres where such quarters do not exist and opt for punishment alternative to custodial sanction.

Article 18: PROTECTION OF THE FAMILY

The Committee commends the Government of the Republic of The Sudan for efforts it has deployed to provide social and psychological assistance to children deprived of the family environment.

It notes with concern the increasing number of children with unknown parentage abandoned by their parents in relation to the reception capacity of the placement structures and the rate of mortality in the existing structures.

The Committee recommends to the Government of the Republic of The Sudan to build children's placement structures, equipped and adequately staffed for children deprived of the family environment.

It also suggests that minimum standards be defined for the structures and children reception homes, that family guardianship be emphasized and nannies trained to that effect.

Article 21: PROTECTION AGAINST HARMFUL SOCIAL AND CULTURAL PRACTICES

The Committee notes with concern that the Child Act does not proscribe excision which remains quite widespread in The Sudan. It also expresses concern at early and forced marriage of young girls.

The Committee recommends to the Government of the Republic of The Sudan to expressly ban, by law, female genital mutilation such as excision and set the minimum age of marriage at 18 years in conformity with the Charter.

Article 22: ARMED CONFLICTS

The Committee notes with satisfaction that the Armed Forces Act and the Peace Agreements in respect of protection of the rights of the child set the age of recruitment at 18 years in conformity with African Charter on the Rights and Welfare of the Child.

The Committee proposes to the Government of the Republic of The Sudan to ensure that all parties to armed conflict in Darfur respect the rules of international humanitarian law and take all appropriate measures to provide the affected children with psychological and social support and also actualize a programme of reintegration for demobilized children in Darfur.

Article 23: REFUGEE CHILDREN

The Committee notes that the policy of the Republic of The Sudan on refugees is based on relevant international and regional conventions to which the country is party.

The Committee proposes to the Government of the Republic of The Sudan to take specific measures to determine the status of refugees and ensure that a child seeking to obtain refugee status receives the necessary protection and care.

Article 30: CHILDREN OF IMPRISONED MOTHERS

The Committee notes with concern that mothers have continued to be imprisoned with their babies.

The Committee recommends to the Government of the Republic of The Sudan to take urgent measures to create women detention structures in accordance with Article 30 of the Charter and to use punishment alternative to imprisonment for expectant women and mothers accompanied by their children.

GENERAL COMMENTS

The African Committee of Experts on the Rights and Welfare of the Child notes with satisfaction the efforts invested by the Government of the Republic of The Sudan to publicize the rights of the child as enshrined in the Charter. It however recommends to the State Party to popularize the Charter very widely by translating same into the major national languages.

The Committee also observes that the Government of the Republic of The Sudan has adopted several texts and taken measures to protect and promote the rights and welfare of the child.

However, it is noteworthy not only that certain texts do not conform with the Charter but also that some of the provisions are not such as can ensure full protection of children. The Committee recommends to the State Party to harmonize the texts in question with the African Charter on the Rights and Welfare of the Child, incorporate the rights of the child as priority in all national development policies, programmes and strategies, and allocate sufficient budget to the various programmes and sectors relevant to implementation of the rights and welfare of the child.

The Committee therefore invites the Government of the Republic of The Sudan to submit its second and third periodic reports on implementation of the Charter in only one consolidated report before July 2016.

The African Committee of Experts on the Rights and Welfare of the Child avails itself of the opportunity to renew to the Government of the Republic of The Sudan the assurances of its highest consideration.

Done at Addis Ababa, 15 July 2013