

**OHCHR Universal Periodic Review - Sudan**  
**UNICEF/Sudan**  
**October 2010**

This report, prepared by UNICEF/Sudan, focuses on the progress made in Sudan towards the realisation of the rights of children as reflected in the Convention on the Rights of the Child and its additional Protocols. The report, which builds on the Concluding Observations by the Committee on the Rights of the Child (October 2010), is not an exhaustive evaluation of the implementation of policies or legislation on child rights.

**I. Background and Framework**

**A. Scope of international obligations**

Sudan has ratified/acceded to the following Conventions related to the rights of the Child:

- Convention on the Rights of the Child (1990)
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2004)
- Optional Protocol to the Convention on the rights of the Child on involvement of children in armed conflict (2005)
- Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (2003)
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Convention) (2003).
- Geneva Conventions of 12 August 1949 I-IV (1957)
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (2006).
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (2006)
- Convention on the Rights of Persons with Disabilities (2009)
- African Charter on the Rights and Welfare of the Child (2005)
- Convention relating to the Status of Refugees (1974)
- Protocol Relating to the Status of Refugees (1974)
- International Covenant on Civil and Political Rights (1986)
- International Covenant on Economic, Social and Cultural Rights (1986)

**B. Constitutional and legislative framework**

The Child Rights Acts

Sudan promulgated the new Federal Child Act in early 2010. Southern Sudan adopted a Child Rights Act in 2008. Both laws define a child as any person under the age of 18 years. The 2010 Federal Child Act raises the age of criminal responsibility from 7 to 12 years, criminalises child exploitation and abuse. The Act also establishes a comprehensive juvenile justice system, which includes a Child Court as well as specialised “Family and Child Protection Units” to deal with children in contact with the

law, whether offenders, victims or witnesses. The 2008 Southern Sudan Child Act puts the minimum age of criminal responsibility at 12 years and contains strong provisions for the protection of children in contact with the law, including restorative justice arrangements. The Federal Act does not criminalise female genital mutilation (FGM) unlike the previous Act of 2007. However, FGM is still criminalised in three states in the north of Sudan; namely, Southern Kordofan, West Darfur and Gedaref. The Southern Sudan Act criminalises FGM in all ten southern states. Administrative guidelines and measures for the implementation of both Acts are not yet in place.

The Sudan Armed Forces Act (2007) criminalises the recruitment of persons under 18 years old, in line with the Child Rights Acts. The two Child Rights Acts also have provisions for the release and reintegration of children associated with state armies, police forces and non-state armed actors, and the provision of assistance to children victims of armed conflict, such as psycho-social support, family, social, educational and economic re-integration services. Notwithstanding, the development of measures for effective application of these provisions through training, capacity building and prevention programmes, and a system of sanctions and disciplinary measures is still pending. The recruitment, use and association of children constitutes a reality, especially in the Darfur context and in seven states out of the 10 states in Southern Sudan.

### **C. Institutional and human rights structure**

#### Human rights institutions

As noted by the Committee on the Rights of the Child to the 2010 Sudan CRC report, an independent Human Rights Commission to monitor the implementation of the CRC has not yet been established despite the adoption of the National Human Rights Commission Act in April 2009<sup>1</sup> and the establishment of the Southern Sudan Human Rights Commission. In this regard, the Committee urged the Government of Sudan to ensure that the Commission gives priority to the review of complaints of child rights violations, the adoption of appropriate remedial action and is provided with sufficient financial and human resources.

### **D. Policy measures**

The Government of National Unity has adopted two national action plans; namely, the 2007-2011 plan to combat violence against children, and the 2007-2018 plan to end female genital mutilation (FGM). However, the Committee on the Rights of the Child expressed concern at the lack of a comprehensive, rights-based plan of action for the full and effective implementation of the Convention. The Committee recommended that the State party develop a national plan of action for the implementation of children's rights and adopt a holistic child rights approach to implementing the Convention.

## **II. Promotion and protection of human rights on the ground**

### **A. Cooperation with international human rights mechanism**

---

<sup>1</sup> CRC/C/SDN/CO/3-4

Sudan reported to the Committee on the Rights of the Child on the implementation of the CRC and its Optional Protocol on involvement of children in armed conflict. The Committee issued its concluding observations in October 2010.

## **B. Implementation of international human rights obligations**

### **a) Non discrimination**

The non-discrimination principle is reiterated in both the Federal Child Act (2010) and the Southern Sudan Child Act (2008). The Committee on the Rights of the Child expressed its concern that unwed mothers and children born out of wedlock continue to suffer social discrimination and recommended that the government take effective steps to address discrimination. The Committee also expressed particular concerns on the realisation of the rights set out in the CRC for non-Muslim children in the North.

### **b) Right to life, liberty and security of the person**

#### Child and infant mortality

Southern Sudan records the highest child and infant mortality rates in the country, with rates reaching 135% among children under 5 and 102/100 live births among infants. A combination of factors explains this worrisome phenomenon, including high incidence of preventable diseases, poor healthcare quality, and insufficient healthcare facilities and qualified personnel. These are important concerns in regard to children's survival and growth.

#### Children affected by Armed Conflict

Children continue to bear the burden of armed violence and conflict in parts of the county and to be victims of abuses and grave violations of their rights, including killing and maiming, rape and sexual violence, recruitment and use by state and non-state actors as well as being denied access to humanitarian assistance.<sup>2</sup> Children and teenagers also continue to be disproportionately affected by internal displacement both in numbers and in terms of the nature of risks to which they are exposed.<sup>3</sup>

In accordance with the 2005 Comprehensive Peace Agreement (CPA), the Sudan Armed Forces (SAF) and Sudan People's Liberation Army (SPLA) committed to release all children within their ranks within six months after the signature of the Agreement. Notwithstanding the adoption of new legislation, the signature of an Action Plan by SPLA in November 2009 for the release of all children who are still associated with SPLA by the end of 2010 and the establishment of a Child Rights Unit within SAF, children are still associated or being recruited by armed forces.

As highlighted by the Committee on the Rights of the Child, adoption and effective implementation of action plans, release of children from the armed forces and groups and the prevention of recruitment remain serious concerns.

---

<sup>2</sup> Report of the Secretary General on Children and Armed conflict (A/64/742-S/2010/181) and the last report of the Secretary-General on children and armed conflict in the Sudan (S/2009/84).

<sup>3</sup> A/HRC/15/58

The rise of localized armed conflicts and inter-tribal clashes in Southern Sudan and Darfur in 2009-2010, have been often characterized by the targeting of civilians, particularly women and children.

Recent reports received by UNICEF in Southern Sudan suggest that there are also children associated with the Joint Implementing Units made of the SPLA and the SAF. There are also reports of children in the Wild Life Services, in the police, in civil defence forces and in village vigilante groups created by community members to enhance security in their localities.

The protracted presence of the Lord's Resistance Army (LRA) in Southern Sudan is a serious concern. Abduction, killing and maiming, rape destruction of family property and livelihood, and displacement are some of the grave violations against boys and girls in areas where LRA incursions are reported.

#### Death penalty

A serious concern is the application of the death penalty to children by some courts. The 2010 Federal Child Act prohibits the application of the death sentence on children. However, under article 36 of the Sudan Interim Constitution, death penalty may be imposed on persons below the age of 18 years in cases of retribution or *hudud*. The Committee on the Rights of the Child reminded Sudan that the application of the death penalty to children is a grave violation of Articles 6 and 37 (a) of the CRC.

#### Child labour, forced labour and children living and/or working in the streets

Work of children under 14 years old is prohibited by the Federal Child Act. However, national legislation does not include any regulations regarding hazardous work, employment conditions, or measures to monitor application of the minimum age for work and employment. The Committee on the Rights of the Child also expressed its concern over the abduction of children for the purpose of forced labor and the *de facto* impunity enjoyed by perpetrators. The Southern Sudan Child Act has no provisions on minimum age.

A related concern is the high number of children living and working on the streets in major Sudanese cities, including Khartoum State and major towns in Southern Sudan. In this regards, the Committee recommended Sudan to take effective steps to *inter alia* address the root causes of this phenomenon as well as to ensure that children living in the street are not treated as offenders and/or sent to closed camps.

#### Violence against women and girls

Data from the Sudan Household Survey of 2006 (2006 SHS) show that FGM/C is a widespread practice in Sudan. While prevalence rates vary from region to region, it is estimated that 89% of girls and women aged 15-49 in the northern part of the country have undergone some form of FGM/C. While the Interim Constitution condemns harmful practices, there is no federal law to legally ban FGM/C. The Child Act of Southern Sudan, the Prevention of Female Genital Mutilation State Act of South Kordofan (2008) prohibit and criminalise female genital mutilation. The new Federal Child Act of 2010 does not prohibit the practice.

Limited data on child marriage are available. The 2006 SHS estimated that the prevalence of girls married before the age of 15 in Sudan is 8.5%. However, in Southern Sudan, the prevalence is higher than the average for Sudan. Similarly, early and forced marriages are not criminalised. The practice of early and forced marriage has a negative impact on girls' health status as well as their education and social development.

#### Corporal punishment

The Federal Child Act (2010) prohibits corporal punishment in schools. Nevertheless corporal punishment, particularly caning and flogging, is widely practiced in schools, in homes, at justice courts and prisons.

### **c) Administration of justice and the rule of law**

#### Juvenile Justice

Both the Federal and the Southern Sudan Child Acts provide for restorative justice and diversion services for children in conflict with law. However, the laws are not yet enforced. There is only one juvenile court in Sudan (in Khartoum) and no reformatories outside of Khartoum. Some Sudanese courts still use apparent physical maturity (puberty and *facies*) to assess the age of criminal responsibility, which results in some children under 18 treated as adults by the justice system. Children continue to be prosecuted by adult courts and detained with adults.

Lawyers, judges and traditional courts are not sufficiently trained on juvenile justice. There is a need to implement the Federal Child Act provisions related to the establishment of a juvenile justice system. In Southern Sudan the GoSS needs to continue with the ongoing efforts to strengthen the administration of juvenile justice in the southern states.

### **d) Right to social security and adequate standard of living**

#### Right to health

The rural healthcare system in all parts of Sudan requires urgent attention. Primary healthcare facilities and rural hospitals are poorly staffed with trained health personnel and lack essential medical equipment. The medical doctor to population ratio ranges from one specialist for every 5,000 people in Gezira state, to one for every 700,000 in West Darfur State. The pattern is similar for other medical staff. There are very few specialists in the southern states. Hospital beds per population vary widely from one bed/-400 persons in the Northern State to one bed/+7,000 persons in West Darfur.

As noted by the Committee on the Rights of the Child, the vast majority of the Sudanese population, particularly in remote and rural areas, do not have ready access to potable water or adequate sanitation facilities. The Committee is particularly concerned at reports that up to 40% of primary schools in Northern Sudan lack water and sanitation facilities. The Committee is concerned that the living conditions of children and their families in situations of extreme poverty massively impede the holistic development of children's capacities.

### Birth registration

Although the Federal Child Act (2010) and the South Sudan Child Act (2008) provide for free birth registration, centralisation of birth registration facilities in Southern Sudan, the inadequacy of birth registration facilities, fees required for obtaining birth certificates and general lack of awareness among the public of the importance of birth registration contributes to the lack of registration of children at birth. The 2006 Sudan Household Health Survey (SHHS) shows that about 32.6% of under five-year-olds are registered in Sudan, with the registration rates ranging from 70.2% in Khartoum State to 1.1% in Lakes State.<sup>4</sup>

### **e) Right to education**

The overall basic education situation in Sudan varies significantly from one region to the other. Sudan's Interim Constitution and Child Act provide for free and compulsory basic education. However, in practice, many children cannot access school because of school fees. In addition, many girls do not attend school. The net enrollment rate in Southern Sudan is estimated at 48% , only 25% of children enroll at the age of six, and the primary school completion rate stands at a low 12%. Due to protracted armed conflict and ongoing instability, the majority of children in Southern Sudan do not receive primary or secondary education.

Similarly, children in Darfur, especially those living in rural areas or IDPs camps, have limited access to primary or secondary education. In Eastern Sudan, a large number of children are also out of school.

The Committee also noted with concern the extremely low budget allocations for education, resulting in the lack of availability of trained teachers, poor school infrastructure and a chronic shortage of supplies and equipment.

### **f) Right of refugee children and asylum seekers**

Refugee children continue to be a concern in the East of the country where, for instance a total of 1,311 unaccompanied and separated children have been registered in 2009, the majority of which being boys.

Sudan has ratified the 1951 Convention relating to the Status of Refugees as well as its Protocol. The 1974 Asylum Act, however, does not include specific procedures relating to refugee status determination for children, neither does it address the special needs and vulnerabilities of asylum seeking children. Besides, due to Sudan's policy of requiring asylum seekers and all refugees to reside in camps, children's opportunities to access to education, healthcare and other basic services are constrained. In this respect, the Committee on the Rights of the Child recommended that Sudan ensure through measures, including legislation, that refugee and asylum seeking children are afforded effective

---

<sup>4</sup> SHHS, 2006

protection from all forms of abuse, neglect and exploitation as well as access to education, health care and other essential services and that the principle of *non refoulement* is applied in all decisions related to asylum seeking children.

### **III. Achievement, best-practices and constraints**

UNICEF acknowledges that the Government of National Unity and GoSS face several constraints in implementing the full scope of its CRC obligations due to the country's political and economic present challenges.

Sudan has made considerable progress in putting in place a legal system that emphasises the rights of the child in line with the CRC. The establishment of Family and Child Protection Units (FCPU) within the police in many states and the establishment of the Child Rights Unit within Sudan Armed Forces are also positive measures. However, there is a need to review the organisation of the FCPU and improve their capacity on several issues, including provision of health and social services for victims/survivors of violence, exploitation and abuse.

In Southern Sudan UNICEF, UNFPA and UNIFEM are assisting the Government to establish and operate Special Protection Units (SPU) within the police to ensure the protection of the rights of children who come into contact with the law and women victims of violence. To date, three of the eight planned SPU are operational. Special efforts have been made to release and facilitate the reintegration of children associated with armed forces and groups in Darfur, while in Southern Sudan 200 children have been released from SPLA in 2010. These 200 children along with 580 other vulnerable children are currently receiving a variety of reintegration services.

Another positive development the directive recently issued by the Federal Ministry of Education banning corporal punishment in schools. In Southern Sudan, the "Go-to-School Initiative" has led to an increase in school attendance. In 2010, additional 300,000 children have enrolled in schools compared to the previous school year. GoSS and its partners are in the process of developing an Education Sector Plan, which will consolidate sector policies and strategies into implementable outputs and a result-based framework.

The Southern Sudan War Disabled, Widows and Orphans Commission Policy Framework specifically addresses how to mainstream the needs of war-orphaned children who make up majority of street children. The Commission has established the Directorate for War Orphans whose responsibilities include overseeing implementation of projects, programmes and activities on vulnerable war orphans and evaluate the projects/programmes. It also collaborates with the Ministry of Gender, Child and Social Welfare and the Southern Sudan Human Rights Commission to promote the social and economic welfare and rights of the war orphans.

All efforts towards the attainment of the MDGs in Sudan particularly as pertaining to the survival component face challenges at many fronts. Maternal mortality ratio is very high and so is child mortality. This translates into thousands of deaths and illness jeopardizing education opportunities for children and affecting the welfare of mothers all over Southern Sudan and in particular in rural and conflict affected areas in the North. UNICEF, working with the governments and other partners are involved in the acceleration of child survival interventions

based in communities and in facility/intuitions- the few and functional- with aim to tackle these challenges. Nevertheless, the needs are immense and greater focus and efforts are needed.

#### **4. Key Priorities, Initiatives and Commitments**

While further developing and consolidating the legal framework, serious and immediate attention needs to be paid to developing a policy and regulatory framework that would guide the implementation of the Federal Child Act. In parallel, the capacity of government mechanisms and institutions that are mandated by legislation to carry out the legal provisions also need to be developed. It is only through a comprehensive approach that Sudan would be able to meet its obligations under the CRC. In order to achieve this goal, resources have to be made available through a child- and family-oriented social budgeting policy. In its last concluding observations, noting that current allocation of resources are inadequate, the Committee on the Rights of the Child urged Sudan to prioritise specific budgetary allocation for the implementation of children rights.

The Government of National Unity (GoNU) and Government of Southern Sudan (GoSS) should take all effective measure to ensure protection and care of children who are affected by armed conflict, including by ensuring full, unimpeded and secure access for humanitarian assistance to children by humanitarian organisations and by ending impunity for perpetrators of violations of children's rights. The GoSS needs to provide adequate security and protection to the population living in areas where the LRA are prone and where they have been launching attacks and abducting children.

The GoNU should ensure that death penalty is not carried out on persons under the age of 18, including in cases of retribution or *hudud*, and to replace any death sentences already passed on persons under 18 with an appropriate alternative sanction. The GoNU should take all necessary measures to ensure that persons under the age of 18 associated with armed state and non-state actors are treated in accordance with the Paris principles and Sudan's international obligations.

The GoNU and GoSS should take urgent and effective measures to immediately end the recruitment and re-recruitment of children of armed state and non-state actors, including through the effective monitoring of the recruitment process at all levels of the military as well as to ensure that offenders are prosecuted, in accordance with Sudan's international obligations and national legislation.

The governments should accelerate the identification, registration, family reunification and sustainable reintegration of separated and unaccompanied children, including children associated with armed state and non-state actors and children living on the streets..

The GoNU should pass legislation at the federal level to expressly prohibit female genital mutilation and early marriage and ensure that such legislation is enforced in practice. Likewise, GOSS should also pass and implement effective legislation that prohibits the practice of child marriages in southern Sudan.

The GoNU and the GoSS should fully implement the concluding observations of the Committee on the Rights of the Child as well as the recommendations of the Security Council Working Group on Children and Armed conflict. In Addition, the SPLA should implement in full the Action Plan of 2009 in which it committed to release all children within its ranks.

#### **IV. Capacity building and technical assistance provided by UNICEF**

UNICEF is providing technical and financial assistance to GNU and GOSS on a number of issues related to the implementation of the CRC.

UNICEF supports the training of SAF and SPLA on children's rights and protection through the Child's Rights Unit (SAF) and the Child Protection Units (SPLA). UNICEF provides technical and financial support for the release, family reunification and reintegration of children associated with armed state and non-state actors. Although the DDR program is taking place and has marked achievements, effective reintegration needs to be strengthened. Children are voluntarily going back to the armed forces and groups where they can find food, assistance, a salary, and in some cases education.

UNICEF is also working closely with the Ministry of Social Welfare in Khartoum, Southern Kordofan and Darfur and to address the issue of children living and working in the streets. UNICEF provides technical and financial assistants to training of social workers, family tracing and reunification activities and support to poor families and de-institutionalisation of closed detention centres for children living in the streets. In Southern Sudan UNICEF provides technical assistance to the Ministry of Gender, Children and Social Welfare at the regional level and ministries of social development in the states to provide care and protection services for children.

UNICEF in Sudan continues to support the wide dissemination of the Federal Child Act and the Southern Sudan Child Act to policy makers, lawyers, judges, social workers, teachers, civil society organisations, faith based organisations and government officials at regional and state level. UNICEF Southern Sudan Area Programme works closely with and builds the capacity of the Ministry of Legal Affairs and Constitutional Development, the Judiciary and the Ministry of Interior. Similarly Unicef Northern Sudan Area Programme provides financial and technical support to the police. In close co-operation with GoNU, local NGOs and traditional leaders, UNICEF has launched a public awareness campaign on FGM/C in North Sudan.