



# Children's Rights in the Sudan – an Analysis Based on the CRC Reports

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## Foreword

The next report from the Sudan to the UN Committee on the Rights of the Child is due in September 2007. In order for Save the Children Sweden (SCS) to get a better understanding of the process up to now, this analysis was conducted.

However, it is important to keep in mind that the last reports were submitted years ago. Hence, information and statistics is a bit out-dated and might have changed since then. Maybe even more important to notice is the fact that they were written well before the signing of the Comprehensive Peace Agreement (CPA). SCS would like to understand the history but emphasises that time has changed and that with the CPA signed a new future for the Sudan can be written.

We would therefore like to share this report with people and institutions working to improve the rights of children in the Sudan. It is our hope that this background will facilitate the process of writing the next report to the UN Committee on the Rights of the Child due in 2007.

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# Acronyms

AIDS	Acquired Human Immunodeficiency Syndrome
AMAL	Friends of Children Society, Sudanese non-governmental organisation
CEAWC	Committee for the Eradication of Abduction of Women and Children
CPA	Comprehensive Peace Agreement
CRC	Convention on the Rights of the Child
FGM	Female Genital Mutilation
GDP	Gross Domestic Product
GNP	Gross National Product
HIV	Human Immunodeficiency Virus
ILO	International Labour Organization
NCCW	National Council for Child Welfare
NGO	Non-Governmental Organisation
OLS	Operation Lifeline Sudan
PDF	Popular Defence Forces
SCS	Save the Children Sweden
SPDF	Sudan People's Democratic Front
SPLA	Sudan People's Liberation Army
SPLM	Sudan People's Liberation Movement
SRRC	Sudan Relief and Rehabilitation Commission
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
WHO	World Health Organization

# I. Introduction

## I.1 The CRC and the Reporting Process

The *Convention on the Rights of the Child* (CRC)<sup>1</sup> was adopted by the United Nations General Assembly on 20 November 1989 after ten years of careful drafting and became legally binding on the parties to it in September 1990. It is the most universally accepted human rights instrument in history and has been ratified by 192 countries (only Somalia and United States have not ratified). The CRC is the first legally binding international instrument that incorporates the whole spectrum of human rights – civil and political rights as well as economic, social and cultural rights and it applies to all children under the age of eighteen. The CRC emphasises that children are holders of rights and that these rights are entitled to every child everywhere in the world. Furthermore, it puts equal emphasis on all of the rights and there is no hierarchy of these human rights. Hence, the articles of the Convention are indivisible, interdependent and interrelated. This is an important key to interpreting the Convention.

The governments that have ratified the CRC are committed to taking the necessary legal, administrative and other measures to implement the Convention. In order to monitor the states' implementation of the Convention, the *UN Committee on the Rights of the Child*<sup>2</sup> was established in 1991 (in accordance with article 43 of the CRC). The governments are required to submit regular, detailed reports to the Committee, describing the situation of children's rights in their country and the measures taken to meet their obligations and responsibilities outlined in the Convention.<sup>3</sup> Governments are urged to involve all sectors of society in the preparations of their reports.<sup>4</sup>

### I.1.1 The CRC and the Republic of Sudan – a Country Devastated by War

By signing the CRC in July 1990 and ratifying it on 2 September the same year, the Republic of Sudan was one of the first countries to accede to the Convention. The *Initial Country Report*<sup>5</sup> of the Sudan was submitted timely in September 1992. The Committee on the Rights of the Child took this report into consideration at its third session in January 1993<sup>6</sup> and presented its *Preliminary Observations* one month later. However, due to the complex situation in the war torn country and, hence, the extraordinary difficulties facing children in the Sudan, the Committee requested additional information from the Sudanese Government on specific areas of concern.<sup>7</sup> In accordance with the Committee's request, the Sudan submitted an *Additional Initial Country Report*<sup>8</sup> in August 1993, which the UN Committee reviewed and discussed at its fourth session in September the same year, when its members met with representatives of the Sudanese Government in Geneva.<sup>9</sup> In October 1993, the Committee published its *Concluding Observations*, providing comments and recommendations on the implementation of children's rights in the Sudan. Noteworthy,

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<sup>1</sup> Refer to Appendix I for a full copy of the CRC.

<sup>2</sup> Hereafter also called "UN Committee" or only "Committee".

<sup>3</sup> States Parties to the Convention on the Rights of the Child are required to submit their initial report within two years of ratification and after that their periodic reports every five years. CRC Article 44.

<sup>4</sup> [www.unicef.org/crc/introduction.htm](http://www.unicef.org/crc/introduction.htm), International Save the Children Alliance, 2005, p. 13.

<sup>5</sup> This report will often be referred to as "first CRC report", "first report" or "initial state report".

<sup>6</sup> The content of the discussions at these meetings are captured in Committee on the Rights of the Child: *Summary Records of the 69<sup>th</sup> – 71<sup>st</sup> meeting*.

<sup>7</sup> The principal subjects of concern included: non-compatibility of national legislation with the principles of the CRC; international co-operation; effects of armed conflict on children; internally displaced children and refugees; forced labour and slavery; and juvenile justice. Committee on the Rights of the Child, 18 February 1993, paras. 7-13.

<sup>8</sup> Initial Country Report, Addendum, 2 August 1993.

<sup>9</sup> The content of the discussions at these meetings are captured in Committee on the Rights of the Child: *Summary records of the 89<sup>th</sup> –90<sup>th</sup> meeting*.

no alternative reports to the Sudan's first CRC report were published and submitted to the UN Committee.

The Sudan's *Second Periodic Report*<sup>10</sup>, due in September 1997, was submitted in July 1999 and covers the period between 1993 and 1997.<sup>11</sup> Two alternative reports were also submitted to the UN Committee. The non-governmental organisation *AMAL* (Friends of Children Society) brought together a number of NGOs<sup>12</sup> working for children's rights in the Sudan and produced an alternative report in June 2002, with comments on, as well as reactions and questions to the Government's second CRC report.<sup>13</sup> Furthermore, *SPLM* (Sudan People's Liberation Movement) and *SPDF* (Sudan People's Democratic Front)<sup>14</sup> published an alternative report<sup>15</sup> in November 2000. The UN Committee considered the Sudan's Second Periodic Report, together with the Government's *Written Replies to the UN Committee's List of Issues* (submitted in August 2002), at its thirty-first session in September 2002.<sup>16</sup> The following month, the Committee's *Concluding Observations*, with comments and recommendations in relation to the Sudan's second CRC report, was published. Due to the delay in the Sudan's reporting on the CRC, the Committee adopted an exceptional measure to help the Government to catch up with its reporting obligations and invited the Sudan to submit its third and fourth periodic reports in one consolidated report by 1 September 2007.<sup>17</sup>

After more than forty years of devastating civil war - which for the most part took place in Southern Sudan, caused almost two million civilian casualties and forced more than four million people to flee their homes - peace was brought to the country when the Sudanese Government and SPLM/A signed the Comprehensive Peace Agreement (CPA) in January 2005.<sup>18</sup> The agreement ushered a new era of peace building and reconciliation; resettling and reconstruction; as well as democratisation and state building in the Sudan, but also posed huge challenges of rebuilding a country with enormous needs and constraints; a country in which a whole generation has grown up with no other reality than that of war and conflict. It is in this new era of hope and aspirations, as well as difficulties and constraints that the preparations for the next periodic report on the CRC will take place.

## 1.2 Purpose of Study

The purpose of this paper is to make an analysis of the Sudan's two CRC reports, as well as the alternative reports, using the programme areas of Save the Children Sweden as the analytical framework. Considering that the Sudan's next CRC report is due in September 2007, this study will provide an important background to and platform for the preparations of the up-coming reporting process. With the recent positive development of peace in the Sudan, the writing of the next CRC report will take place in a dynamic environment of transformation, which will hopefully consist of inclusive participation,

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<sup>10</sup> This report will also be referred to as "second CRC report" or just "second report".

<sup>11</sup> Even though the Sudan's Second Periodic Report was submitted in July 1999, the document was transformed into a UN document with a specific UN code (CRC/C/65/Add.17) etc. in 2001. Hence, the report will be referred to as Second Periodic Report, 2001 in this study.

<sup>12</sup> Among these NGOs were: Khartoum Center for Human Rights and Environmental Development, War child, Sabah Society for Child Welfare and Development, Hope and Home - Sudan, Mutaawinat Group, Sudanese Gender Center, Save the Children Sweden, and Sudanese Studies Center.

<sup>13</sup> This initiative was supported by Save the Children Sweden.

<sup>14</sup> In 2002, SPDF allied with SPLM and the two liberation movements merged into one. Hence, this paper will only be referring to SPLM when discussing the alternative report focusing on Southern Sudan and the situation of children in this part of the country. <http://news.bbc.co.uk/1/hi/world/africa/1747667.stm>

<sup>15</sup> This report will be referred to as "SPLM alternative report" or just "SPLM report".

<sup>16</sup> The discussions at this meeting are captured in Committee on the Rights of the Child: *Summary Record of the 817<sup>th</sup> Meeting*, 27 September 2002.

<sup>17</sup> Committee on the Rights of the Child, 9 October 2002.

<sup>18</sup> [http://en.wikipedia.org/wiki/Second\\_Sudanese\\_Civil\\_War](http://en.wikipedia.org/wiki/Second_Sudanese_Civil_War)

transparency and genuine willingness to compile an honest and constructive report that covers all aspects of Sudanese children's situation, as well as all regions of the country.

Consequently, the main purpose of this paper is not to provide an up to date situation analysis of children in the Sudan, but to summarise and structure the content of the previous reports on the implementation of the children's rights in the north as well as in the south of the country, in order to facilitate the preparations for the forthcoming CRC report. In this regard, it is important to emphasize that this study is based on historical documents, written in a time when the civil war was still ongoing and the conflict between the north and the south was a reality that overshadowed every aspect of life in the Sudan. Therefore, the reports submitted by the fighting parties to the UN Committee on the Rights of the Child during that period could generally be characterised by accusations of each others' child rights violations.

## 2. General Comments on the Reports

Considering the fact that the Sudan was in the middle of an ongoing and devastating civil war when ratifying the CRC, the timely submission of the Initial Country Report appears as a great achievement. However, the report is very brief and does not elaborate considerably on the different articles of the CRC. Sections on crucial issues like children affected by armed conflicts, children with disabilities and children in conflict with the law are kept short, whereas other parts of the report contain repetitions; the section on leisure and cultural activities, for example, is given a substantial portion of the report, in which different cultural events are described in detail. The first CRC report is mainly focused on the legislative and policy level, but does not provide much information on how the regulations and objectives are implemented or whether the different programmes and institutions mentioned are functional. Even though the report does mention constraints and challenges that hinder the implementation of children's rights, statements like "the Sudan is in the forefront of the countries that have signed the Convention"<sup>19</sup> indicates the focus on the great willingness to prioritise and implement the CRC, but at the same time, lack of attention on the huge challenges and obstacles that do exist in the Sudan. Furthermore, the first CRC report does not provide any information on how the reporting process took place, who were invited to participate and in what way the information was collected and compiled. Finally, the report is primarily focusing on the northern part of Sudan, with very limited information and data on the situation of children in southern Sudan. The Additional Initial Country Report contains further information on issues that were of concern to the UN Committee in its Preliminary Observation - including the situation of displaced, homeless and refugee children, health service and education - but does not provide any in depth analysis.

The comments regarding the first report's main focus on the legislative and policy level, relatively limited attention on obstacles and constraints, as well as the lack of information about Southern Sudan, are applicable also to the Second Periodic Report. However, the second CRC report is more informative and well structured than the first report, and it follows the guidelines regarding the form and contents of periodic report, issued by the UN Committee (which the first report does not fully comply with). The preparations for the second report started in 1996, when a national committee, chaired by the Secretary-General of the National Council for Child Welfare was formed to compile the report.<sup>20</sup> This committee consisted of representatives of several Ministries, including Health, Education, Labour, Finance, Social Planning and Foreign Affairs, as well as the Advisory Council for Human Rights, the Zakat<sup>21</sup> Office, national and international organisations and UN bodies. When collecting information, the committee relied on the Central Office of Statistics, UNICEF and WHO, as well as field surveys and replies to questionnaires that had been prepared and circulated to all states in the country. Several workshops were held on different topics, such as the role of the judiciary in implementing the CRC. The first draft of the report was discussed in a national workshop, which involved politicians, child experts and representatives of local and international voluntary organisations and the media. After incorporating amendments in several drafting phases the report was approved by the committee. However, the report does not give any information on the level of NGO participation or in what way the views of civil society were taken into consideration, nor whether any children participated in preparing the report.

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<sup>19</sup> Initial Country Report, 1992, para 29.

<sup>20</sup> Second Periodic Report, 2001, para. 2.

<sup>21</sup> Zakat is the amount of money that every adult Muslim (mentally stable, free and financially able) has to pay to support specific categories of people; in other words the Islamic way of taxation. The word Zakat means both "purification" and "growth". The possessions are purified by setting aside a proportion for those in need and, like the pruning of plants, this cutting back encourages new growth. <http://www.islamicity.com/mosque/Zakat/#learn>

In 1995, SPLM and SPDF made a written commitment to endorse the CRC by signing the Operation Lifeline Sudan (OLS) Ground Rules Agreement.<sup>22</sup> Shortly thereafter they embarked on the project of describing, documenting and analysing the situation of children in southern Sudan, with the assistance of UNICEF, Save the Children UK and Save the Children Sweden. This report is, however, not an alternative report in the traditional meaning. It is not produced by a non-governmental organisation (even though NGOs provided assistance), but by two liberation movements; nor is the report written in response to the second state party report<sup>23</sup>, but aims at capturing the situation of children in the southern part of Sudan, which, according to SPLM had been and would be left unreported in the Government reports:<sup>24</sup>

*This report is not intended as a critique of the Government submission but rather as a report on a previously unreported population.*<sup>25</sup>

The SPLM Alternative Report is structured according to the guidelines of the UN Committee and, hence, has the format of a state party report. It sets out in a rather self-critical tone:

*This report has been prepared with a measure of self-criticism intended to make it a form of internal audit in order to build our own capacities to address children's issues as a priority, even as other demands cry out for attention in an environment of protracted war and natural disaster.*<sup>26</sup>

The SPLM report identifies several obstacles met during the reporting process, above all the limited capacity within the liberation movement, which meant that considerable training and assistance from international organisations (see above) were required, but also the ongoing conflict, poor infrastructure and difficulties of communication within southern Sudan, which caused severe problems to collect accurate data and conduct field research. As a result, the report is, to a great extent, based on secondary sources of information. In addition, due to the limited development of local NGOs during the time of conflict in southern Sudan, few local groups were involved in the preparations of the report.

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<sup>22</sup> Operation Lifeline Sudan (OLS) was established in April 1989. It is a consortium of two UN agencies, UNICEF and the World Food Programme, and more than 35 non-governmental organizations. While operating in Southern Sudan after a devastating famine, which was a result of drought and the ongoing civil war, OLS negotiated with the Government of Sudan and the Sudan People's Liberation Movement/Army (SPLM/A) to deliver humanitarian assistance to all civilians in need, regardless of their location. <http://www.un.org/av/photo/subjects/sudan.htm>

<sup>23</sup> The alternative report of the SPLM and SPDF was in fact submitted before the Sudan's second CRC report was made available. The statement "the Government of Sudan submitted a report to the Committee during the 1992 reporting period and intends to do so again for the current one", shows that SPLM and SPDF had not had access to the second CRC report when preparing their alternative report. SPLM Alternative Report, 2000, p. 4.

<sup>24</sup> Since the Khartoum Government has little access to the vast majority of territory and or population in Southern Sudan, it cannot report on the situation in these areas, according to the SPLM. SPLM Alternative Report, 2000, p. 4.

<sup>25</sup> SPLM Alternative Report, 2000, p.4.

<sup>26</sup> SPLM Alternative Report, 2000, p. 4

### 3. The Four General Principles of the CRC

The Convention on the Rights of the Child builds on four general principles: non-discrimination, best interests of the child, the child's right to survival and development and the child's opinion (which are stipulated in articles 2, 3, 6 and 12 of the CRC). These four articles form the umbrella provisions of the Convention and the guiding principles for interpreting all its articles. Since these principles are fundamental and overarching they are provided a separate section in this paper. This section will also serve as a general introduction to the content of the Sudan's CRC and alternative reports, which will be more carefully described and analysed in section four.

#### 3.1 Non-Discrimination (CRC Article 2)

All rights specified in the CRC apply to all children without exception. It is the States' obligation to protect children from any discrimination, to identify the most vulnerable and disadvantaged children within their borders, including non-citizens and refugees<sup>27</sup>, and take affirmative action to ensure that the rights of these children are realised.

Neither the Sudan's first CRC report nor its additional initial report addresses the principle of non-discrimination.<sup>28</sup> The second CRC report, on the other hand, provides the issue a separate section, which is mainly focused on the different legal provisions that protects its citizens from discrimination, including the stipulation that all Sudanese participate on an equal footing in political, economic social and cultural life. However, these provisions do not specifically mention children, nor do they address the situation of non-citizens. Having presented the existing judicial structures the report goes straight to the conclusion that "consequently, there is no discrimination in the Sudan, in conformity with the provisions of the Convention on the Rights of Child"<sup>29</sup>, without providing any information on the implementation of the legal provisions and the actual situation on the ground. The subsequent paragraphs, which focus on economic, social and geographical disparities, do, however, indicate that discrimination does exist in the Sudan, in particular with regards to *girls*, children with *disabilities*, children born *out of wedlock*, *refugee* children and children in *poor states*. But also in this section the focus is exclusively on the policy and legal framework adopted to protect these groups from discrimination and no further information is given as to why these groups would need legal protection, how or why the discrimination takes place.

The SPLM alternative report states that the principle of non-discrimination is an important basis upon which the movement seeks to bring together the diverse population of southern Sudan. According to SPLM's manifesto: "all persons are to be equal before and under the law in the spheres of political, social and cultural life and in every other respect".<sup>30</sup> At the same time, the report acknowledges that developing the structures to put those principles into practice and work against deeply ingrained hierarchical and often discriminatory patterns is a big challenge, not least in an environment of conflict. The SPLM report also highlights that traditional patterns of discrimination have especially limited the opportunities of girls in southern Sudan; a constraint, which is still to be overcome.

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<sup>27</sup> The enjoyment of rights stipulated in the CRC are not limited to children who are citizens of a State Party, but must – if not explicitly stated otherwise in the CRC – also be available to all children within the State's territory, including asylum-seeking, refugee and migrant children. Committee on the Rights of the Child, 2005, para. 12.

<sup>28</sup> According to the guidelines of the UN Committee, this issue should be dealt with under the section "General Principles" in the state party reports, where the four general principles (CRC Articles 2, 3, 6 and 12) are to be discussed. The Sudan's first CRC report does have a section called "General Principles", but it only contains information on the principle of right to survival and development. There are no other references made to the article of non-discrimination in other parts of the report.

<sup>29</sup> Second Periodic Report, 2001, para. 57.

<sup>30</sup> SPLM Alternative Report, 2000, p. 16.

### 3.2 Best Interests of the Child (CRC Article 3)

The principle of the best interests of the child is a major building block of the CRC and one of the most discussed terms in the Convention. It emphasises that consideration of the best interest of the child shall be the guiding principle of all decisions and actions involving children. The term is recurring in the different articles of the CRC.

Whereas the first CRC report is silent on the best interests of the child<sup>31</sup>, the second periodic report states that the Sudan devoted attention to this principle long before the Convention was adopted. Several laws, directly or indirectly, guarantee this principle, including the Labour Act and the Juvenile Welfare Act. However, there is no reference to any legislation, which stipulates that the best interest of the child is to be the general, overarching principle guiding all decisions concerning children in the Sudan. The second CRC report also identifies a number of fundamental problems in the implementation of this principle, including the embargo against the Sudan, the civil war, the external debt burdens, poverty, and inadequacy of foreign aid and assistance.

At the time of the submission of the SPLM alternative report, there were no specific laws that stipulated the concept of the best interests of the child in southern Sudan.<sup>32</sup> Even though the primacy of children is deeply embedded in the traditions and customs of the cultures of southern Sudan, the interpretation of what is in the best interest of the child is seen as the responsibility of the child's parents, extended family or community.<sup>33</sup> A child's responsibility for domestic duties is, for example, often given priority over educational opportunities and other areas of development, in particular among girls. The SPLM report provides further information on occasions where local practices may go against the best interest of the child. In decisions about the custody of a child who has lost one or both parents, the father's family is often given priority, and the relationship the child has developed with other family members is not considered, even in cases where the mother is still present and eager to maintain the custody of her child. The practice of abducting children in times of tribal conflicts (see section 4.1.2.1) is another problem that counteracts the best interests of the child in southern Sudan.

### 3.3 The Child's Right to Survival and Development (CRC Article 6)

Every child has the right to life and survival, but also constructive development. A basic concept of the CRC is that children, within themselves, carry the potential for their own development. Article 6 emphasises that all children should be allowed and supported to develop their capacities.

According to the first CRC report, the right of the child to life is protected by the Criminal Law Act of 1991, which condemns homicide and prohibits execution of a pregnant woman before she has given birth. According to the second CRC report, the Sudanese government has adopted the measures needed to guarantee the child's right to life and to create an environment conducive to ensuring the survival and development of the child in all aspects - physically and mentally; spiritually, morally and psychologically; as well as socially. This is done by different short-term and long-term programmes and is

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<sup>31</sup> As in the case of non-discrimination, the first CRC report does not provide any specific section for the principle of the best interests of the child (in contrast to the guidelines of the UN Committee). Consideration of the child's interest is, however, mentioned a few times in the report in relation to the juvenile justice system. In paragraph 161 it is stated that the court should be provided information that will assist it in taking a decision, which is in the *young person's interest*; whereas paragraph 164 stipulates that the child's lawyer shall be empowered to exercise, in the *interest of the young person* any remedy referred to in the sentence pronounced against him. The third reference is made in paragraph 53, which says that the Criminal Law Act of 1991 refer to the protection of the *higher interests of the child*.

<sup>32</sup> However, section 5 of the Draft Children's Bill 2005 for Southern Sudan stipulates: "The best interests of the child shall be the primary consideration in all actions concerning the child undertaken by any person or authority, including parents."

<sup>33</sup> SPLM Alternative Report, 2000, p. 16.

affirmed in a number of laws. No further information is, however, provided on the content and implementation of these programmes or the legislative measures. The Penal Code of 1991 provides protection against suicide in children and punishes the incitement of a child to commit suicide, as well as any breach of the legal obligation towards a disabled person.<sup>34</sup>

The alternative report of SPLM states that even though the right to life, survival and development is embodied in the laws and Constitution of SPLM, it is clearly one of the most seriously impaired rights in southern Sudan. In an environment of conflict, displacement, drought and hunger this fundamental right is severely threatened. Hence, the SPLM alternative report identifies the implementation of the right to survival and development as the greatest challenge for the southern Sudanese people.

### 3.4 The Child's Opinion (CRC Article 12)

According to article 12 of the CRC, governments are obliged to ensure that children are listened to and their views sought and considered in matters that affect their lives. This provision applies both to individual cases and to children collectively. Children should be encouraged to participate in decision-making both within the family and school life.

According to the second CRC report, the legislation in the Sudan emphasises the right of children to freely express their opinions in all matters affecting them. This includes the right for children to be heard in judicial and administrative proceedings affecting them. The Civil Procedures Act of 1993 stipulates the right of the child to institute legal proceedings through his or her legal guardian and the Evidence Act provides the right of children to give testimony.

The SPLM alternative report points out that in a culture like the Sudanese, where the supremacy of the family, clan and tribe is treated far above that of any individual, respect for the views of children often runs deeply contrary to traditions and instinct for survival of the community.<sup>35</sup> In general, children have no right to provide input in decision-making until they have made the passage to adulthood. This tradition is also reflected in the SPLM Penal Code, which stipulates that:

*persons under the age of fourteen have not attained sufficient maturity of understanding to judge the nature and consequences of actions and, presumably, render opinions on decisions relevant to society in general.*<sup>36</sup>

Girls' contributions and inputs have even less influence than boys'; a condition that extends beyond the initiation to adulthood. In some communities the (boy) child may be entitled to make important decisions concerning his life, like joining the army, from the time he is "marked". However, since the marking often takes place before the age of eighteen, it counteracts the efforts to keep children from joining the military service.

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<sup>34</sup> Second Periodic Report, 2001, paras 76-78.

<sup>35</sup> SPLM Alternative Report, 2000, p. 17.

<sup>36</sup> SPLM Alternative Report, 2000, p. 17.

## 4. Children's Rights in the Sudan Related to the Programme Areas of Save the Children Sweden

This section provides a more detailed analysis of the content of the CRC reports and the SPLM alternative report, from the perspective of the programme areas of Save the Children Sweden. It aims at identifying the Sudan's position, achievements and constraints in relation to ten of its eleven programme areas.<sup>37</sup> The comments, criticism and recommendations from the NGO alternative report and the UN Committee, will also be taken into consideration.

### 4.1 Programme Area One: Children, Exploitation and Abuse (CRC Articles 1, 19, 32, 33, 34, 35, 37)

#### 4.1.1 Sexual Exploitation and Abuse

Whereas the first CRC report leaves out the issue of sexual exploitation and abuse, the second report states that:

*Offences in which children are used to perpetrate immoral acts are a rare occurrence in the Sudan owing to the religious background of Sudanese society and the upright conduct which prevails.*<sup>38</sup>

The Sudanese legislation provides preventive measures by addressing matters of sexual deviancy and categorically prohibiting prostitution and immoral behaviour, as well as the production, publication, distribution or use of indecent books and photographs. According to the second CRC report, these judicial provisions effectively prevent any sexual exploitation and abuse of children in the country, which is also an explanation as to why the report cannot provide any further information on the issue:

*Owing to the preventive and deterrent laws in place, sexual abuse and exploitation are non-existent in the society. Consequently, no detailed data on the phenomenon are available.*<sup>39</sup>

In contrast to the state reports, the UN Committee expressed its concerns at the increasing instances of sexual exploitation of children, including through prostitution, in the Sudan. The Committee therefore recommended the Government to strengthen its efforts to address this problem.<sup>40</sup>

##### 4.1.1.1 Legal Minimum Age of Marriage

In the Sudan the basis for marriage is maturity, which signals the end of childhood and is attained when an individual becomes fully rational and discerning and, hence, is considered intellectually, mentally and physically mature.<sup>41</sup> According to the second CRC report, maturity is marked in two ways; the first being the appearance of outward signs, such as puberty, including pubic hair and, in the case of girls, menstruation and the ability to conceive; whereas the second way is the attainment of full legal age, on which jurists hold differing views and on which the Sudanese laws are at variance.<sup>42</sup> According to the Personal Status of Muslims Act of 1991, the minimum marriageable age for Muslims is ten years for

<sup>37</sup> These programme areas are presented in Appendix 2. The eleventh programme area: "Save the Children Sweden's Knowledge Management, Competence Development and Rights-Based Programme Planning" is not included in this study.

<sup>38</sup> Second Periodic Report, 2001, para. 378.

<sup>39</sup> Second Periodic Report, 2001, para. 427.

<sup>40</sup> Committee on the Rights of the Child, 9 October 2002, para. 65-66.

<sup>41</sup> Second Periodic Report, 2001, para. 30.

<sup>42</sup> It is worth noting that even though the CRC defines a child as any person under 18 years, it also gives State parties room to define a child according to their own legislations: "For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier." Convention on the Rights of the Child, Article 1.

both boys and girls. However, the marriage of a young girl requires that the judge gives his permission, that the husband is deemed suitable and that the dowry equals that of the girl's peers; requirements which are "stipulated out of concern for girls and in order to prevent any form of exploitation."<sup>43</sup> The legal minimum age of marriage for non-Muslims, regulated in the Marriage of Non-Muslims Act of 1926, is 15 years for boys and 13 years for girls. However, if either one of the couple to be married is under 21 years old (and is not widowed or divorced) the written consent of the father, mother or guardian is required.

According to the SPLM alternative report, there are no laws stipulating a minimum legal age of marriage in southern Sudan. Traditionally, a girl is considered ready for marriage on the advent of menstruation. Since the bride's family customarily receives a substantial bride-wealth from the groom's family in accordance with the marriage agreement, the pressure to marry off a family's girls is ever present, not least in a situation of economic hardship. Girls are also married off early because of the perception that the older they get the less likelihood of finding suitors. The marriageable age of boys is usually much higher than for girls, in particular in the pastoral communities, since they need enough cattle to settle the required bride price in order to get married. Consequently, in many families girls are married off first so that the family can obtain the cattle with which to pay the boys' bride price.<sup>44</sup>

Changing the customs of early marriage, especially with regards to girls, is identified as one of the most important challenges for the implementation of the CRC, by the SPLM report. With awareness raising initiatives, increasing exposure and access to education and additional opportunities for both girls and boys, SPLM hopes to see a decline in the tradition of early marriage, as well as of bride wealth. In this context, the movement refers to studies, which indicate that when educational opportunities are given to girls, parents are inclined to keep their daughters in school longer, since it will increase the likelihood to receive greater wealth at the time of marriage.<sup>45</sup>

The UN Committee raised its concerns about the minimum age of marriage being determined by arbitrary criteria like puberty, which discriminates between girls and boys. Furthermore, the Committee considered the legal minimum age of marriage of ten years as being too low. The Committee therefore recommended the Government to review its legislation so that the definition of the child, age of majority and other minimum age requirements conform to the CRC and are gender neutral. It also recommended the Sudan to ensure that the laws are enforced.<sup>46</sup>

#### **4.1.2 Economic Exploitation and Harmful Child Work**

The Labour Act of 1997 provides legal protection for children against harmful child work and was enacted to unify and harmonise the labour legislation in the countrywide system of federal governments as well as ensuring conformity with the CRC. According to the Labour Act, employment of children under the age of 16 years is prohibited.<sup>47</sup> However, the Act also provides exceptions, by stipulating that children under the age of 12 years may be employed in government-run training schools, non-profit-making workshops, business owned by the child's family and when the child works under a contract of industrial apprenticeship.<sup>48</sup> The Act also stipulates that no child under the age of 15 may be

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<sup>43</sup> Second Periodic Report, 2001, para. 54.

<sup>44</sup> There is, consequently, a great challenge to intermarry international conventions with the local African traditions on the definition of the child.

<sup>45</sup> SPLM Alternative Report, 2000, p. 13-14.

<sup>46</sup> Committee on the Rights of the Child, 9 October 2002, para. 24-25.

<sup>47</sup> Second Periodic Report, 2001, para. 400.

<sup>48</sup> According to the *Industrial Apprenticeship Act* an industrial apprentice is not regarded as a labourer and cannot be taken on until he or, if he is under 21 years, his guardian, has signed a contract of industrial apprenticeship with the employer. The law

employed unless he or she has a guardian who remains with him or her in the workplace. Employment as domestic servant requires a certificate of identity authorized by the police, according to the Domestic Servants Act of 1955. Issuance of a certificate of identity to any person under the age of 15 years is prohibited.

Furthermore, the Labour Act states that children may not be employed overtime or on weekly or official holidays; the normal working hours being seven hours, interspersed with a one-hour period of rest with pay. All children must undergo a full medical examination prior to employment and thereafter at regular intervals and employers must post a copy of the legal regulations on child employment clearly visible in the workplace. Employment of children in hazardous activities is forbidden.<sup>49</sup> Furthermore, the competent minister is vested with the authority to specify additional activities considered to be hazardous.<sup>50</sup> In accordance with the Labour Act, the Juvenile Welfare Act also aims at preventing exploitation of children in the Sudan. It stipulates the establishment of a juvenile police force, which, among others, is responsible for combating the illegal employment of children.

The second CRC report emphasises that harmful child work cannot be eradicated through legislative means and official measures alone, but has to be addressed by policies and programmes as well. Children who enter the labour market are deprived of social and health services. Among the proposed short-term policies to remedy this problem are: improved social welfare; development of occupational health services in all sectors; and training courses for working children. Education is the first mentioned component of the long-term policies, described in the report. Since educational failure is one of the main reasons as to why children drop out of school and start working, resources should be provided to keep children in school. Vocational training is regarded as an essential complement to education, as it furthers the preparation of a trained workforce in line with the needs of the labour market. The third long-term policy is related to the family's need for economic support, which is closely linked to children's early entry to the labour market. Therefore, comprehensive programmes have been formulated to examine the circumstance of these families and provide them with material support. The report does, however, not give any information on whether these policies and programmes are operational, but states that efforts are under way at the grass-roots and voluntary levels, as well as in employers' organisations, to implement policies relating to child programmes.

Nevertheless, the figures on child employment provided by the second CRC report indicate that a substantial part of the Sudanese workforce consist of children. According to data provided by the Ministry of Labour in 1996, 2 619 685 children between 6 and 9 years old were working, which equals 46 per cent of all children in this age group. Among children between 10 and 14 years, 3 062 159 (or 54 per cent) boys and girls were working.<sup>51</sup> Important to notice is, however, that no further information is provided on the type or amount of work that these children undertake.

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also gives the competent authorities the right to enter and inspect any establishment or question any person responsible for its management. Second Periodic Report, 2001, para. 403.

<sup>49</sup> Article 1 of the Labour Act stipulates that children may not be employed in any of the following activities, since they are considered to be harmful: carriage of heavy loads; mining, quarrying and activities carried out underground or underwater; operation of steam boilers, iron furnaces and foundries; activities entailing exposure to lead and lead derivatives, toxic or harmful substances; activities involving x-rays and radiation; and maintenance of machines.

<sup>50</sup> In 2003, the Sudanese government ratified The Worst Forms of Child Labour Convention, 1999 (ILO Convention no. 182), which applies to all persons under the age of 18 and calls for "immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency." The Convention defines the worst forms of child labour as: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. Article 3, ILO Convention no. 182.

<sup>51</sup> Second Periodic Report, 2001, para. 416.

The UN Committee expressed its concern at the fact that many Sudanese children, including children under 15, regularly work and bear heavy responsibilities within the family. The large scale and intensity of workload placed upon children prevents many of them from attending school. The Committee was concerned that some children are victims of economic exploitation and work in very poor conditions, without insurance or social security benefits, with very low wages, for long hours and in dangerous and abusive conditions. As a result, the Committee recommended the Sudanese Government to make greater efforts to reduce the number of child labourers, with particular emphasis on younger children; to make every effort to ensure that children do not work under harmful conditions, that they receive appropriate wages and other work-related benefits; and to take measures to ensure that children who work continue to have access to formal education.<sup>52</sup>

The alternative report provided by AMAL, highlights the fact that the Labour Act stipulates different minimum ages for employment, which is confusing and problematic. Furthermore, the report points out that by allowing children under the age of 15 to work, the Labour Act contradicts the ILO regulations.<sup>53</sup>

#### 4.1.2.1 Abduction of Children

An issue of great concern in the reports referred to in this study is the abduction of children. This worrying practice dates back several decades and stems from inter-tribal disputes over water resources and grazing rights. The problem is particularly acute among tribes living in close proximity, especially when resources diminish as a result of drought and other climate changes.<sup>54</sup> According to the UN Committee, thousands of children have been abducted in the context of the armed conflict, where children have been forcibly recruited as soldiers, as well as used for commercial gain and economically exploited.<sup>55</sup>

The first CRC report points out the serious problem of children being captured by the rebellion and forced to take part in the war. These children were kept in difficult conditions, where they constantly had to face the atrocities of the armed struggle and sometimes were even used as human shields.<sup>56</sup> According to the second CRC report, Sudanese children who had fled to refugee camps in neighbouring countries had been abducted and recruited as child soldiers by the rebel movement. About 5000 children were, for example, abducted from the Sudanese refugee camps in Kenya in 1992.<sup>57</sup> Information received from Uganda indicated that Sudanese children were also regularly abducted from the refugee camps in northern Uganda. The second state report emphasises that these children are Sudanese, for whom the Government of the Sudan is responsible. Furthermore, these children are in a special situation, which requires special treatment, and they should be repatriated and reunified with their families.<sup>58</sup> The Criminal Code of 1991 provides legal protection against the sale, trafficking and abduction of children in the Sudan, according to the second CRC report. This legislation also provides a ban against forced labour.<sup>59</sup>

According to the SPLM alternative report, the abduction of children by the Popular Defence Forces (PDF) and other armed groups aligned to the Sudanese Government was one of the most disturbing problems, which beset the people of southern Sudan. These

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<sup>52</sup> Committee on the Rights of the Child, 9 October 2002, paras. 63-64.

<sup>53</sup> The ILO Minimum Age Convention, 1973 (no. 138) stipulates that the minimum age for employment should be 15 years. For countries whose economic and educational facilities are insufficiently developed, the age can initially be set at 14 years. The Sudanese Government ratified the ILO Convention no. 138 in 2003.

<sup>54</sup> Written Replies to List of Issues, 2002, p. 27.

<sup>55</sup> Committee on the Rights of the Child, 9 October 2002, para. 61.

<sup>56</sup> Initial Country Report, 1992, para. 65.

<sup>57</sup> Second Periodic Report, 2001, para. 141.

<sup>58</sup> Second Periodic Report, 2001, para. 147.

<sup>59</sup> Second Periodic Report, 2001, para. 381.

abductions, carried out with violence, destruction and for financial gain, have hit the civilian population severely. In particular troubling were the cases of abduction of girls and women, mainly from Bahr el Ghazal province.<sup>60</sup> The SPLM civil authorities have taken measures to document the names and ages of those missing in the aftermath of the abductions and made attempts to locate the children. Those who are returned are often disoriented, emotionally disturbed and have a difficult time adjusting to their family and community.

It is difficult to know how many people that have been abducted in the Sudan. According to some estimates the number is as high as 14 000.<sup>61</sup> The experiences of these people are wide range and vary from slave-like practices of severe abuse and economic and sexual exploitation, to some cases of sponsorship or adoption.<sup>62</sup>

In May 1999, the Sudanese Government addressed the problem of abduction by establishing the Committee for the Eradication of Abduction of Women and Children (CEAWC). In 2002, CEAWC was made directly responsible to the President with the goal to eliminate the practice of abduction of women and children once and for all. In order to address the root causes of the problem, the Committee was made responsible for executing development programmes in the affected regions to bring about peace and peaceful coexistence at local level. In cooperation with partners in the international community, including UNICEF, European Union and British and Swedish child rights organisation, the Committee has set up programmes to returning abducted children whose parent live in rebel-controlled areas to their homes. In 2002, the Committee, had, since its establishment, gathered information about 1500 missing women and children, of whom 600 had been reunited with their parents.<sup>63</sup>

The UN Committee welcomed the work of the Committee for the Eradication of Abduction of Women and Children, but remained concerned that the Sudanese legislation does not adequately prohibit slavery or sanction those engaged in it.<sup>64</sup> Therefore, it recommended the Government to: ensure that child slavery is prohibited under domestic legislation; end all forms of slavery and abduction of children within the country; prosecute those persons engaged in the abduction, sale, purchase or illegal forced recruitment of children; continue to and strengthen the work of the CEAWC, including increasing the financial resources and giving the Committee more authority at the regional and local levels; and provide assistance to children returning from abduction with reintegration in their families and communities.<sup>65</sup>

#### 4.1.2.2 Street Children

The first and second CRC reports do not give the situation of street children in the Sudan much attention, nor do the two alternative reports. Children living on the street are, however, indirectly mentioned in the two CRC reports, as they are included in the category of vagrant children. According to the Juvenile Welfare Act a vagrant is defined as a child who is vulnerable to criminal behaviour, homeless, sleeps on the street, is unemployed or engages in begging and is without a family provider or has escaped from the control of his parents.<sup>66</sup> Arrangements for vagrant children are determined by the

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<sup>60</sup> SPLM Alternative Report, 2000, p. 14-15, 30.

<sup>61</sup> The Commission to Eliminate the Abduction of Women and Children (CEAWC) as well as the Dinka Chiefs Committee (DCC) estimate that around 14 000 people have been abducted. International Eminent Persons Group, 2002, p. 42.

<sup>62</sup> In 2002, the International Eminent Persons Group produced the report *Slavery, Abduction and Forced Servitude in Sudan* after a fact-finding mission to the Sudan. The Group found that abduction of civilians by the armed forces of all sides in the war was commonplace. The Group was, however, unable to establish the scale of abduction in the Sudan.

<sup>63</sup> Committee on the Rights of the Child, 27 September 2002, para. 43.

<sup>64</sup> The Draft Interim National Constitution of the Sudan, 2005, stipulates in its Bill of Rights that "Slavery and the slave trade in all their forms shall be prohibited; no one shall be held in slavery or servitude. No one shall be required to perform forced or compulsory labour except as a penalty by a court of law for certain crimes as determined by law."

<sup>65</sup> Committee on the Rights of the Child, 9 October, 2002, para. 62.

<sup>66</sup> Second Periodic Report, 2001, para. 155.

court, which may hand the child over to one or both parents or the legal guardian, entrust the child to a charitable society, a care institution or put the child on probation. At the same time, the second CRC report states that institutional care should be used only as a last resort and that the family and community offer the best form of care.<sup>67</sup>

In its Written Replies to the UN Committee's List of Issues, the Government does, however, provide some statistics on street children, even though the frequent movements of children from one place to another make it difficult to gather accurate data for every part of the country. The data available indicate a considerable increase in the number of boys and girls living and working on the street during the past two decades. In 1982 there were about 12 000 street children in the country, whereas in 1991 the number had risen to 14 336 in the State of Khartoum and 36 931 in the northern States. Around 34 000 street children were counted in Khartoum in 2000, of which 28 000 were living occasionally and 6000 permanently on the streets. Only 0.4 per cent of the street children were girls in 1982. In 1991 the proportion of girls was estimated at 2.5 per cent, and in 2000 15 per cent of the street children in the State of Khartoum were girls.<sup>68</sup>

In June 1999, the President of the Sudan adopted a decision to deal with the problem of street children and entrusted this task to the National Council for Child Welfare (NCCW, see section 4.9).<sup>69</sup> As part of the national project to combat the problem of street children, a national commission has been established to coordinate the activities of NCCW, the relevant ministries, civil society organisations, the States and the Arab Council for Childhood Development. Furthermore, a study of street children has been carried out in the State of Khartoum, in cooperation with UNICEF and Oxfam. The outcome, results and responses of this study are, however, not provided by the Government in its Written Replies.<sup>70</sup>

In its Concluding Observations on the Sudan's second CRC report, the UN Committee took note of the Presidential decision mentioned above, but remained concerned that there were large numbers of children living on the street in the urban areas. These children are vulnerable to sexual abuse, violence, exploitation and abuse of various substances etc. Moreover, children living on the street lack access to education and adequate health services. The Committee also expressed its concerns at the fact that street children are classified as "vagrants" in the context of government practices. Accordingly, the Committee recommended the Government to amend its definition and policies with regard to street children and ensure that these children are seen as victims of their circumstances and not as criminals; make additional efforts to provide protection to street children and to ensure their access to education and health services, including substance abuse counselling; proceed with the implementation of the project to combat the problem of street children, initiated by the President, and ensure that it is in full conformity with the CRC.

#### 4.1.2.3 Drug Abuse

The legislative measures adopted to protect children from drug abuse include the Sudanese Criminal Code of 1991 and the Narcotic Drugs and Psychotropic Substances Act of 1994. These regulations stipulate severe penalties for cultivators, distributors, traffickers, users and transporters of narcotic drugs and psychotropic substances. When a child is criminally exploited to perpetrate any act against these laws, responsibility for the consequences lies with the person who used him or her.<sup>71</sup>

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<sup>67</sup> Second Periodic Report, 2001, paras. 156, 158.

<sup>68</sup> Written Replies to List of Issues, 2002, p. 18.

<sup>69</sup> Written Replies to List of Issues, 2002, p. 31.

<sup>70</sup> Written Replies to List of Issues, 2002, p. 33.

<sup>71</sup> The *Narcotic Drugs and Psychotropic Substances Act* stipulates the death penalty or life imprisonment for the enticement and exploitation of children in connection with the crime of transporting, delivering and sale of narcotic drugs. This regulation

A national committee has been formed to combat narcotic drugs in the Sudan. In South Darfur and southeastern Sudan where the Indian hemp plant is cultivated, the committee has waged seasonal campaigns to eliminate this cultivation by informing farmers that this activity is illegal and encouraging them to grow alternative cash crops, such as rice, sugar cane and sorghum instead. Non-repayable grants were attracted to provide funding for those farmers who embarked on the project. According to the second CRC report, children have not been involved in drug production in these areas. The committee also works with awareness raising, by holding seminars and lectures at universities and schools. Plans have been made to develop a curriculum at the Ministry of Education in order to inform and protect children from drugs. Research is considered as one of the most important measures in the fight against drugs. Studies of some of the substances used in industries have been conducted, in particular among homeless children.<sup>72</sup>

In the Sudan, alcoholic substances are prohibited by law, even for adult Muslims. The opportunity to drink alcohol is therefore very limited for Sudanese children, according to the second CRC report. The first CRC report states that alcohol consumption is an absolute crime, for which the age factor is not taken into account<sup>73</sup> (see section 4.9.2 for further discussions on minimum age for criminal responsibility).

#### 4.1.3 Violence and Corporal Punishment

The first CRC report clearly states that flogging is used as a disciplinary measure in the Sudan. According to the Criminal Code of 1991 the court may discipline a child who has reached the age of 10 and been charged with committing an offence with the punishment of whipping, not exceeding 20 lashes.<sup>74</sup> In its comments on the Sudan's first CRC report, the UN Committee expressed its concern at the use of flogging as disciplinary measure, which is non-compatible with the CRC, and recommended the total abolition of this practice.<sup>75</sup> When representatives of the Government of the Sudan met with the UN Committee in Geneva to discuss the first CRC report, the Sudanese delegation announced that a committee had been established to review all laws pertaining to children and to determine whether they were consistent with the CRC. This committee had recommended the abolition of flogging as means of punishment.<sup>76</sup>

However, the second CRC report does not provide any indications on the fact that the recommendation mentioned above (which was submitted to the Prime Minister) had been taken into consideration. The use of corporal punishment, in the form of flogging, is still used in homes, in the juvenile justice system and in schools. According to the second CRC report:

*flogging is a light punishment which is carried out within reasonable boundaries so that parents can teach their child a lesson and never reaches the point of causing harm.*<sup>77</sup>

The second CRC report provides further information on the regulations surrounding flogging as a punishment for young offenders and how it is to be carried out. According to the Criminal Procedures Act of 1991, a medium-sized whip should be used to administer each lash in a single moderate stroke, which breaks neither skin or bone and which is directed away from the face, head and other vital areas of the body. The state of health of the person sentenced must be taken into account, to ensure that the individual concerned endures no greater harm than intended by the punishment. Consequently, the judge must

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closes the loopholes, which previously made it possible to turn the child's lack of criminal responsibility to advantage. Second Periodic Report, 2001, para. 419.

<sup>72</sup> Second Periodic Report, 2001, paras. 423-424.

<sup>73</sup> Initial Country Report, 1992, para. 33.

<sup>74</sup> Initial Country Report, 1992, para. 163.

<sup>75</sup> Committee on the Rights of the Child, 1993, para. 7.

<sup>76</sup> Committee on the Rights of the Child, 11 November 1993, para. 16.

<sup>77</sup> Second Periodic Report, 2001, para. 376.

order a halt to the flogging if it becomes apparent that the offender's state of health will not longer enable him to withstand the remainder of the punishment.<sup>78</sup>

When it comes to the use of flogging as a disciplinary measure in the education system, the School Regulations of 1993 permit flogging in cases of utmost necessity, even though it must be limited to four lashes and not cause intense pain. The matter must first be taken up with the school principal and consideration given to the pupil's state of health. However, flogging is prohibited as a punishment for girls. Furthermore, the School Regulations stipulates that the teacher must refrain from punishment when in a state of anger and irritation, resist from rudeness and excuse the errors of pupils, lean towards moderation in punishment and exercise caution and care. Corporal punishment must be carried out in segregation and the teacher is not allowed to cane or kick pupils, or strike them on the face or head. In addition, the name of the pupil punished must be registered together with the type of punishment and reasons for it. The School Regulations also stipulate that flogging is prohibited as a collective punishment, as are verbal assaults and abuse. Having explained these legislative guidelines on corporal punishment, the second CRC report makes the following conclusion:

*It is clear(...) that the intention behind any measure taken against a child is not to inflict torture, cruelty or insult or even simply to impose punishment. On the contrary, the intention is to correct and discipline.*<sup>79</sup>

According to the SPLM alternative report, corporal punishment is frequently used both in schools and at home in southern Sudan. Parents exercise wide ranging leeway with few limitations when disciplining their children, unless it reaches a point where the community deems the disciplinary measures abusive and reacts, for example by placing the affected child in a suitable alternative home until the situation can be resolved. The standards of what is considered acceptable vary, however significantly from one community to another and no specific sanctions are defined.<sup>80</sup> In addition, the civil war and its related negative effects, including disruption, displacement and insecurity, have broken down many of the traditional structures that provided children with protection against violence and abuse. (See section 4.2.2 for further information on this issue). Moreover, cases of torture and inhuman treatment of children, including rape and detention of children in camps, have been documented within the context of the civil war. SPLM has reviewed these occurrences and issued firm instructions against such abuses by their members. The measures in place have shown positive results based on a sharp decline of complaints. The SPLM report also states that information on cases of torture or cruel, inhuman and degrading treatment or punishment of children abducted by Government forces have reached families of the victims.<sup>81</sup>

The SPLM Penal Code does not specifically prohibit the use of torture or cruel, inhuman or degrading treatment or punishment, nor is there any such provision included in the Programme or Constitution of the SPLM, either for adults or children.<sup>82</sup> The Penal Code permits whipping of children above the age of 10. However, the Code does not provide any regulation that protects children below that age from other forms of punishments.<sup>83</sup>

In its Concluding Observations on the second CRC report, the UN Committee expressed its concern at the fact that corporal punishment is widely practiced in the Sudan,

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<sup>78</sup> Second Periodic Report, 2001, para. 109.

<sup>79</sup> Second Periodic Report, 2001, para. 112.

<sup>80</sup> SPLM Alternative Report, 2000, p. 20.

<sup>81</sup> SPLM Alternative Report, 2000, p. 20

<sup>82</sup> The Draft Children's Bill for Southern Sudan 2005, article 18, stipulates that every child has the right to be protected from torture, degrading treatment and corporal punishment. Furthermore, according to the Interim Constitution of Southern Sudan, 2005, article 21(f), "Every child has the right to be free from corporal punishment and cruel inhuman treatment by any person including parents, school administrations and other institutions."

<sup>83</sup> SPLM Alternative Report, 2000, p. 19.

within the family and schools as well as other institutions. The Committee was also concerned that children have been the victims of violence, among others by the police, and that acts of torture, rape and other cruel, inhuman or degrading treatment have been committed against children in the context of the armed conflict. As a result, the Committee recommended the Sudanese Government to prohibit corporal punishment in the family, in schools and in all other contexts, and make use of legislative and administrative measures, including public education initiatives and provision of information on alternative non-violent methods of discipline, to end the practice of corporal punishment. The Committee also advised the Government to prevent all forms of violence against children and make sure that perpetrators of violence against children, including the police, are prosecuted; and to immediately end the practice of detaining children in camps where they suffer torture and other cruel, inhuman or degrading treatment or punishment, and make sure that those responsible for such acts are brought to justice.

## 4.2 Programme Area Two: Children Without Sufficient Family Support (CRC Articles 5, 9, 10, 18, 20, 21, 22, 25, 37)

### 4.2.1 Parental Guidance and Responsibility

The structure of the family in the Sudanese society is made up of the father and the mother, who represent the smaller family, whereas the extended family incorporates other relatives in the child's environment. This structure is affirmed in various laws, including the Personal Status of Muslims Act of 1991 and the Penal Code of 1991, which regulate the rights and duties of parents and other persons who are legally responsible for providing appropriate guidance to the child. The first mentioned Act, which is consistent with Muslims beliefs, emphasises that priority and preference should be given to the interest of the child by providing food, clothing, shelter and a sound upbringing. In accordance with article 18 of the CRC, the Sudanese laws regulating public health and education underlines the joint responsibility of parents for the upbringing and development of the child, according to the second CRC report. These laws also stress compliance with the principles of non-discrimination and respect for the views of the child in accordance with his or her level of development.<sup>84</sup> The responsibility of parents or guardians to provide payments of maintenance for the child is affirmed in the Acts on Civil Status. However, due to the strong social pressure, the phenomenon of escaping from this responsibility is rare in the Sudan, according to the first CRC report:

*Religious beliefs, legislative text, customs and all other means of social regulations combine to create a feeling of shame in anyone who evades his responsibility towards his children, either in the family context or after the family has been dissolved.*<sup>85</sup>

According to the first CRC report, the main obstacles to functional parental guidance is the lack of education among parents, in particular women, who had an average illiteracy rate of 83 per cent<sup>86</sup> when the first report was submitted; and the severe poverty in the country. The second report states that various laws and measures have been adopted to offer family counselling services and information on the rights of the child within family life. The Adult Education Act gives the right to adults who missed out education to enrol in specific programmes aimed at enhancing their capacity to fulfil their duties towards their children. The establishment of several voluntary organisations under the Voluntary Work Act of 1995 have provided training opportunities for social workers to disseminate

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<sup>84</sup> The second CRC report does, however, not mention the names of these laws or make any quotations.

<sup>85</sup> Initial Country Report, 1999, para. 55.

<sup>86</sup> This figure was even higher in rural and remote regions. Initial Country Report, 1992, para. 49.

information on parental guidance to families. At the federal and state levels, the Government is formulating and implementing programmes to provide cash and material support to poor families, according to the second CRC report.<sup>87</sup>

#### **4.2.2 The Extended Family Under Pressure**

The traditional family structure, which used to provide a strong network of guidance, assistance and support for children, has been severely undermined and disrupted by the civil war in the Sudan. According to the second CRC report, the civil conflict eroded the basic service structures in the war zones and forced entire communities to flee from their homes, which often involved transformation from rural to urban living. This drastic demographic shift radically altered the family and community networks, which prevailed among families and tribes. Life away from the rural home further encouraged the breakdown of support systems, where children were the focus of the extended family.

The SPLM alternative report also brings up the problem of the disintegration of the extended family and discusses its negative consequences for children. The network of family members, helping and providing training to parents in the complex task of child upbringing, has served the communities of southern Sudan well for generations. However, the disruption of war, famine and displacement has ruptured these networks in many ways. The war has claimed over a million lives and separated more than 20 000 children from their parents in southern Sudan, and, as a result, the capacity of families and communities to provide the desired level of care to the children have been severely reduced.<sup>88</sup> Communities, which for long had been self-sufficient and able to endure the harsh life of subsistence agriculture, have lost their leaders, their perspective and deep sense of values and tradition. Under such circumstances it is almost impossible to create preconditions for a normal childhood and family environment. SPLM has sought the assistance of UNICEF, as well as international NGOs to address some of the problems. Several programmes have been initiated to improve the child and family welfare in southern Sudan, which focus on revitalising existing family and community structures through capacity building, training and support. The needs are, however, immense. More than 80 per cent of the unaccompanied minors in southern Sudan have been exposed to highly traumatic events and many suffer from persistent stress, nightmares and anti-social behaviour.<sup>89</sup> In addition, SPLM is concerned that physical and psychological abuse takes place within the family behind closed doors without being reported, due to the disruption of the traditional protection mechanisms provided by the extended family and community. Hence, no detailed incidence rates are available.<sup>90</sup>

The UN Committee expressed its concern at the widespread and severe poverty, and the disruption of family life caused by war, famine and displacement, which has seriously weakened the family environment of children in the Sudan. It was also concerned that physical and psychological abuse occurs within the family, but is not adequately monitored, reported upon or addressed. The Committee encouraged the Government to establish effective child-sensitive procedures and mechanisms for the reporting, monitoring and investigation of cases of child abuse within the family, and intervene where necessary; as well as providing child victims of abuse with appropriate medical and psychological support, including recovery and social reintegration assistance for their families. Furthermore, the Committee recommended the Sudan to strengthen the education provided to young parents in the care of their children and the prevention of child abuse and neglect.

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<sup>87</sup> Second Periodic Report, 2001, para. 117.

<sup>88</sup> SPLM Alternative Report 2000, p. 20.

<sup>89</sup> SPLM Alternative Report 2000, p. 21.

<sup>90</sup> SPLM Alternative Report, 2000, p. 22.

### **4.2.3 Protection and Care of Children Deprived of a Family Environment**

The Personal Status of Muslims Act of 1991 regulates the alternative care for children, who are temporarily or permanently deprived of their family environment, or who, in their best interest, are not permitted to stay in that environment. According to this Act the maintenance, education, upbringing and care of the child should take place in a manner consistent with the rights of the guardian and the interests of the minor. The Child Welfare Act of 1971 regulates the means of dealing with children whose parents are unknown and stipulates that social workers must be appointed to find an appropriate person to care for them. The carer must share the same religion as the child, love the child as his own and provide him or her with suitable accommodation, food, clothing, medical care and education.

At the state level, the Ministry of Cultural and Social Affairs run institutions that take care of children of unknown parents. A number of voluntary organisations and NGOs also offer shelter to orphans and children who are deprived of or separated from their parents. The existing institutions for the placement of children are, however, in need of refurbishment. According to the second CRC report, it is time to carry out such refurbishment and to establish homes for young people who are homeless, but the low level of support provided by foreign voluntary organisation and UN agencies working in the Sudan has had an adverse effect on improving the conditions of children institutions. Besides the problem of inadequate funding allocated to care institutions, the lack of trained personnel and increasing numbers of disabled persons are identified as major obstacles to a functional care of children deprived of a family environment in the Sudan.<sup>91</sup> At the same time, the second report also states that in the absence of one or both parents, the government authorities, voluntary organisations and social funds provide parents or legal guardians with the assistance needed to help them take care of their children, often by shouldering the full costs, which seems to imply that funding is available.<sup>92</sup>

Taking note of the breakdown of many families and extended family networks, the UN Committee was concerned that there were insufficient alternative care mechanisms to provide for children deprived of a family environment, and a need for existing mechanisms to be strengthened. Consequently, the Sudanese Government was recommended to take all necessary measures to provide children separated from their parents with family-type alternative care, for example by strengthening the capacity of the extended family and increasing the capacity of quality foster care.

### **4.2.4 Orphans**

Despite the fact that a substantial number of Sudanese children have lost one or both parents in the civil war, not much is said on the issue of orphans, neither in the two state reports nor in the alternative reports. None of the reports provide any information on the number of orphans in the country. Even though the UN Committee asked the Sudanese Government to submit data on the number of orphans and abandoned children in its List of Issues, the Government's Written Replies to the List of Issues leaves out this information.

According to the first CRC report, the Sudanese Government is trying to protect orphans by giving priority to family protection within the natural family or, if necessary, in a foster family, which is the essence of the kafalah system (see section 4.2.5 below).

The SPLM alternative report points out that orphans used to be cared for by members of the extended family, but since this safety net has been severely eroded (see above) the capacity to take care of the many vulnerable orphaned children is very limited.

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<sup>91</sup> Second Periodic Report, 2001, para. 152

<sup>92</sup> Second Periodic Report, 2001, para. 115.

#### 4.2.5 Adoption

Under Islamic law adoption is prohibited under any circumstances. However, the Islamic Shariah encourages the *kafalah* (foster placement) system of caring for children, which is designed to strengthen the resources of the natural family or the foster family. Foster children who are cared for under this system do not have the right to inherit, but they may be saved from impoverishment on the death of the foster carer by means of bequest; a right which is stipulated in the Personal Status for Muslims Act. Laws of non-Muslims confessions do, however, allow and regulate adoption in the Sudan, but the CRC reports do not provide any information on the name or contents of these laws. In 2002, a total of 52 children (30 boys and 22 girls) were adopted in the state of Khartoum.<sup>93</sup>

### 4.3 Programme Area Three: Children in Armed Conflict and Disaster (CRC Articles 22, 38, 39)

During the last decades the African continent has been severely hit by armed conflicts and civil strife, as well as natural disasters causing drought and famine. These tragedies have affected an enormous amount of people, including children, who have been separated from their families, forced to leave their homes, abducted and recruited as soldiers, not to mention all the horrible sights and traumatic experiences of suffering they have had to face. The Sudan, Africa's largest country, has been deeply affected by these events, being a host to refugees from neighbouring countries hit by conflicts and natural disasters, but also experiencing a devastating and prolonged civil war within its own borders.

#### 4.3.1 Refugees

Because of the Sudan's geographical location, surrounded by eight bordering countries<sup>94</sup>, many of which have been torn apart by armed conflicts and natural disasters; and its long tradition of humanitarian relief, the Sudan has experienced a massive influx of refugees from neighboring countries from the early 1960s and onwards. At one point, 10 per cent of Africa's and 6 per cent of the world's refugees were seeking shelter in the Sudan, many of which were children.<sup>95</sup> All refugees received a warm and humane welcome, even though this huge influx caused enormous problems, not least considering the already tensed situation due to the civil war and the many internally displaced persons in the Sudan (see below).<sup>96</sup> According to the UN Committee, the Sudan deserves recognition from the international community for its immense intake of refugees, a phenomenon, which seemed to have cause little tension with the local community.<sup>97</sup>

The Sudan has a progressive legislation that regulates the rights of refugees. The Asylum Act of 1974 allows refugees to reside, work and travel with no restrictions on their movements. The definition of refugees provided by the Act expressly includes children and war orphans, which, according to the second CRC report, indicates the Sudan's genuine concern to provide protection for refugee children.<sup>98</sup> Furthermore, according to the Asylum Act there is no discrimination, in any aspect of life, against refugee children, to whom Sudanese laws apply in the same way as to Sudanese children.<sup>99</sup> This means that refugee children have the same right to education, health, legal protection etc. as other

<sup>93</sup> Written Replies to List of Issues, 2002, p. 7.

<sup>94</sup> The Sudan borders with Egypt to the north, Libya to the northwest, Chad and the Central African Republic to the west, Democratic Republic of Congo, Uganda and Kenya to the south, and Ethiopia to the east.

<sup>95</sup> Data provided by the Sudanese delegation at the 90<sup>th</sup> Meeting of the Committee on the Rights of the Child, 5 October 1993, para. 31

<sup>96</sup> Second Periodic Report, 2001, para. 319.

<sup>97</sup> Summary Record of the 90<sup>th</sup> Meeting of the Committee on the Rights of the Child, 1993, CRC/C/SR/90, para. 40.

<sup>98</sup> Second Periodic Report, 2001, paras. 320-321.

<sup>99</sup> Second Periodic Report, 2001, para. 62.

children in the Sudan.<sup>100</sup> However, as pointed out in the CRC reports and in the discussions with the UN Committee, the Sudanese Government is highly dependent on the assistance of the international community, including UNHCR, as well as international, regional and local voluntary organisations and NGOs in financing relief operations and implementing the rights of refugees. Nevertheless, the second CRC report highlights that the assistance provided by UNHCR has continuously diminished during the years, despite the fact that the number of refugees has remained more or less the same.<sup>101</sup>

At the same time as refugees from neighbouring African countries have found a haven in the Sudan, a substantial number of refugees, including children, have fled the country in the wake of the civil war. At the time of the submission of the second CRC report, there were about 20 000 unaccompanied Sudanese children in the Kakuma refugee camp in northern Kenya, as well as large groups of unaccompanied children in Uganda and in the Democratic Republic of Congo. Furthermore, information indicated that there were some 4000 unaccompanied children in Cuba, who had been sent there by the rebel movement to receive military training.<sup>102</sup>

The UN Committee was concerned that large numbers of Sudanese children continue to live as refugees in neighbouring countries and recommended the Government to strengthen its efforts to secure the voluntary and safe return of the Sudanese refugee children and their families.

#### 4.3.2 Internally Displaced Children

The civil war in the Sudan also resulted in a substantial number of internally displaced people, who had to leave their homes and became refugees in their own country. However, relatively little is said about internally displaced children in the reports referred to in this study.

The SPLM alternative report points out that among the many internally displaced children, some are accompanied by a parent or relative, whereas others, who got lost in the confusion of fighting, fled to safer towns in the Sudan or to camps, are unaccompanied. With regard to the latter group, some were to be found at internal relocation centers within southern Sudan, others in “peace camps”<sup>103</sup> and some just wandering around in search for food, shelter and safety.<sup>104</sup>

Among the measures taken to address the problematic situation of internally displaced children, mentioned in the CRC reports, are the efforts of Operation Lifeline Sudan (OLS). However, no further information is provided on how or where OLS addressed the situation of internally displaced children. Furthermore, the second report draws attention to The Assistance Project for Displaced Persons, which aims at providing children, displaced by drought and war, with educational opportunities in their new locations. The project, which benefits the southern states and a few states in northern Sudan, has reached around 250 000 children, 40 per cent of them being girls.<sup>105</sup>

In its Concluding Observations on the second CRC report, the UN Committee recommended the Sudanese Government to make every effort to provide assistance and support to the resettlement of internally displaced persons.

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<sup>100</sup> However, the requirement of a birth certificate for school admission inhibits the possibilities of refugee children to attend school. Committee on the Rights of the Child, 31 August 1993, para. 30; Second Periodic Report, 2001, para. 225. See section 4.4.4 for further discussion on this issue.

<sup>101</sup> Second Periodic Report, 2001, para. 321.

<sup>102</sup> Second Periodic Report, 2001, paras. 130, 133.

<sup>103</sup> Government-controlled camps referred to as “peace villages”, which were deployed in various parts of the Sudan from 1991. Some Notes on the Sudan, 2000 <http://www.ae086.dial.pipex.com/351fct.html>

<sup>104</sup> SPLM Alternative Report, 2000, p. 28.

<sup>105</sup> Second Periodic Report, 2001, para. 247.

### 4.3.3 Recruitment and Demobilisation of Child Soldiers

As described above, the civil war in the Sudan has had a devastating effect on numerous children. One of the groups most seriously affected by the prolonged and grim armed conflict is the child soldiers. These children have been directly involved in the fighting and their traumatic experiences of violence and suffering have caused scars for life.

According to the first and second CRC report, the rebel army included a substantial number of children. The precise location and numbers of children detained by the rebel movement were, however, not known. The living conditions of these children were extremely harsh; their right to life was in danger every day, they were often treated inhumanely and had no support structures. Furthermore, those families, who had refused to hand over their children to the rebel army, had been punished with fines, seized cattle or threats, according to the second CRC report.<sup>106</sup>

The SPLM report underlines that regardless of how the child soldiers got involved in the military, whether through voluntarily enlistment, forced recruitment or on the directive of a community leader or chief, the SPLM recognizes the profound long-term damage this involvement has caused the individual child and the society as a whole.<sup>107</sup> In 1999, SPLM issued a written commitment to prohibiting the use of children under the age of 18 years as soldiers, ensuring demobilisation, rehabilitation and social reintegration of child soldiers that may have been recruited in the SPLA. With the support of UNICEF, Save the Children Sweden and Save the Children UK, SPLM has therefore initiated a four-part program of demobilising anyone in the SPLA under the age of 18, which focuses on: training and awareness raising among military commanders; locating and registering soldiers under 18; uniting unaccompanied minors with family members and their community; and providing training and educational alternatives for de-mobilised youth both in transition settings as well as in their home communities. In implementing this programme the vision of SPLM is:

*set beyond the (...) struggle for self-determination and toward the future of southern Sudan and the realisation that the future will require skilled, educated and well adjusted young people whose commitment to peace can further the development of the country.*<sup>108</sup>

However, despite the commitment to demobilisation, implementation of the programme is not without obstacles. Initially, SPLA military commanders were reluctant to the demobilisation initiative; something that was largely overcome through awareness raising efforts, involving NGOs, community leaders and the SPLM leadership. At the time of the submission of the SPLM report, information on 706 children had been gathered and registered. As part of the registration programme, the child soldiers, once registered, are moved from their unit to a transition camp, where an assessment is made as to whether they are able to return to school in their community or if additional service, including rehabilitation, are required. In consultation with the child's family, the boy or girl may remain at the transition centre for vocational training, schooling or psycho-social care to facilitate the adjustment when he or she returns home. Because of the mobile nature of many SPLA units, it has proven time-consuming and difficult to identify all child soldiers, in particular during times of conflict. The SPLM report also acknowledges that it has been difficult to co-ordinate all facilities and resources needed to reintegrate the child soldiers effectively, with care and understanding. Due to these circumstances, the anticipated target of demobilising the majority of child soldiers by June 1999 was not achieved.<sup>109</sup> In addition, identifying a child's exact age is not a straightforward process in southern Sudan. Since

<sup>106</sup> Second Periodic Report, 2001, para. 135.

<sup>107</sup> SPLM Alternative Report, 2000, p. 29.

<sup>108</sup> SPLM Alternative Report, 2000, p. 29.

<sup>109</sup> From 2001, more than 16 000 children were allegedly demobilised by the SPLA, including an estimated 600 girls. However, in 2004, between 2500 and 5000 children were still serving the SPLA and recruitment of children continued to take place in the SPLA-held territories, according to the Child Soldiers Global Report 2004.

records of births are generally not maintained (see section 4.5.1), and children often do not know their exact age, distinguishing those who are under 18 is often a matter of judgement.

According to article 38 of the CRC, States Parties shall take all feasible measures to ensure that children under 15 years of age do not take part in hostilities and, hence, shall refrain from recruiting any person who has not attained the age of 15 into their armed forces. However, the Optional Protocol to the CRC on the involvement of children in armed conflicts raises the minimum age for taking part in hostilities, compulsory and voluntary recruitment to 18 years.<sup>110</sup> In August 2002 the Sudan ratified the Optional Protocol. However, the national legislation is not fully compatible with the regulations of the Protocol. According to the People's Armed Forces Act of 1986, all those who are fit and healthy and capable of bearing arms are regarded as a reserve force and may be called upon to serve in the armed forces whenever the need arises, which means there is no minimum age for reserve forces. The minimum age for recruitment to the government Popular Defence Forces (PDF), which was established as a paramilitary force by the Popular Defence Forces Act of 1989, is 16 years. According to the second CRC report, enlistment in the PDF is voluntary.<sup>111</sup> Nevertheless, according to the Child Soldiers Global Report 2004, forced recruitment has allegedly occurred.<sup>112</sup> Furthermore, the alternative report published by AMAL, states that there is ample evidence that the Popular Defence Forces have been used as combat forces.<sup>113</sup>

While noting the demobilisation of some children in the Sudan, the UN Committee was deeply concerned that children were still being used as soldiers by the Government<sup>114</sup> and opposition forces.<sup>115</sup> According to information from UNICEF, an estimated 17 000 children remained in government, SPLA and militia forces in 2004.<sup>116</sup> Furthermore, the Committee was concerned at reports of forced eviction of children for the purpose of oil exploration.<sup>117</sup> Hence, the Committee recommended the Sudanese Government to end all recruitment and use of children as soldiers, as well as complete demobilisation and rehabilitate child soldiers. It also recommended the Sudan to ensure that oil exploration activities do not lead to the forced displacement of families, including children, and that the rights of all children in regions where these activities take place are respected.

#### ***4.3.4 Family and Community Reunification and Rehabilitation***

Among the priority measures adopted in favour of displaced and unaccompanied children, refugee children and children who have been abducted or recruited as soldiers, the Sudanese Government has prepared programmes aimed at reunifying these children with their families, according to the second CRC report. However, no further information is provided on the policy or implementation of these programmes. The UN Committee recommended the Government to continue its efforts to support family reunification.

Also the SPLM report identifies the reunification of refugee and internally displaced children with their families and communities as an issue of high priority. The process of

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<sup>110</sup> The Optional Protocol on Children in Armed Conflicts entered into force on 12 February 2002. Article 1-3 stipulate 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; ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces; raise the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the CRC, taking account of the principles contained in that article and recognizing that under the Convention persons under the age of 18 years are entitled to special protection.

<sup>111</sup> Second Periodic Report, 2001, para. 39.

<sup>112</sup> Child Soldiers Global Report, 2004, p. 1.

<sup>113</sup> AMAL Alternative Report, 2002, p. 5.

<sup>114</sup> Committee on the Rights of the Child, 9 October 2002, para. 59. According to Child Soldiers Global Report 2004, child soldiers had been forcibly recruited by the paramilitary PDF and by government-backed militias.

<sup>115</sup> Committee on the Rights of the Child 9 October 2002, para. 59.

<sup>116</sup> Child Soldiers Global Report 2004, p. 1.

<sup>117</sup> Committee on the Rights of the Child, 9 October 2002, para. 57. Southern Sudanese children living in oil regions and the slums of Khartoum had been allegedly recruited by government and southern government-backed militia forces, trained in camps, and forced to defend oil fields in Western Upper Nile. Child Soldiers Global Report 2004, p. 1.

finding the community and family members has, however, proved to be difficult, time consuming and resource demanding. In addition, the disruption caused by the war and the fragile state of the communities and villages to which the children are to be returned, require that the reunification efforts assess the capacity of the communities and that they are coordinated with other development initiatives. Establishment of schools has been an important factor in the reunification efforts. UNICEF, Save the Children Sweden and the SPLM and SPDF humanitarian wings, SRRA and RASS<sup>118</sup> have taken the crucial role of schools one step further by initiating a programme of psycho-social care into the schools. More than 20 teachers have been trained to provide psychosocial assistance in their schools and communities, by supporting returning refugees and demobilised child soldiers, strengthening and restoring the overall family environment, as well as providing conflict resolution. Furthermore, follow-up has been organised and support groups have been formed. The results of this initiative have been promising, according to the SPLM report. Behavioural problems among the children have improved and participation in recreational activities has increased. Another positive outcome is that important new understanding on the psychosocial needs of children subjected to war related traumas has been gained.<sup>119</sup>

## 4.4 Programme Area Four: Children's Right to Non-Discrimination (CRC Articles 2, 23, 30)

### 4.4.1 Girls

The SPLM alternative report points out that the girl child in southern Sudan is discriminated against in several ways. Due to a complex array of material, social and cultural constraints, girls are often hindered to attend school; fewer than 20 per cent of the pupils enrolled in schools in southern Sudan are girls.<sup>120</sup> Traditionally, a great responsibility is placed on girls to help out at home and prepare for motherhood. The competing demands placed on girls to carry out domestic duties increasingly command their time and attention, and severely limits their possibility to attend school. In addition, lack of clothing brings further gender disparity into school enrolment, since girls are increasingly reluctant to attend school naked, as they grow older. In order to address the traditional patterns of discrimination against girls, SPLM has initiated affirmative programmes aiming at strengthening the role of women in the society. Women's groups have been encouraged throughout southern Sudan and women have been promoted into non-traditional roles, among others within the military, business and politics, according to the SPLM alternative report.<sup>121</sup>

According to the second CRC report, gender-based differences, exclusions and preferences are non-existent in law as well as in administrative practices, education, health and labour relations in the Sudan.<sup>122</sup> The report does, however, indicate that girls are subject to discrimination in the Sudan. Also in this report, access to education is identified as one important area where girls are treated unfavourably. According to a study prepared by the Ministry of Education, there are a number of factors that cause girls to leave or never start attending school, including poverty; domestic responsibilities; tendency among certain communities to oppose the education of girls; early marriage and long distance

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<sup>118</sup> In February 2003, the humanitarian wings of SPLM/A and SPDF, the Sudan Relief and Rehabilitation Association (SRRA) and the Relief Association of South Sudan (RASS) merged. They will now operate as one relief body for the SPLM/A under the name Sudan Relief and Rehabilitation Commission (SRRC). In 2002, the two liberation movements SPLM and SPDF had merged into one (see footnote 14). All Africa News Agency Bulletin No. 06/03, 17 February, 2003.

<sup>119</sup> SPLM Alternative Report, 2000, p. 28-29.

<sup>120</sup> SPLM Alternative Report, 2000, p. 25.

<sup>121</sup> SPLM Alternative Report, 2000, p. 16.

<sup>122</sup> Second Periodic Report, 2001, para. 63.

between school and home.<sup>123</sup> In cooperation with UNICEF, the Ministry of Education has engaged in efforts to run educational seminars for parents, where folklore is used as a means of expressing the importance of education for girls to local communities. The Ministry of Education has also created a special unit to reduce gender disparities in education, the Sudanese delegation informed the UN Committee when the second CRC report was taken into consideration.<sup>124</sup>

The UN Committee expressed its concern that, throughout the Sudan, traditional patterns of discrimination limit the opportunities available to girls and women. As a result, the Committee recommended the Government to conduct a study to assess the scope and causes of discrimination between boys and girls and take steps to address this problem, giving particular attention to the impact of traditional and cultural practices upon girls and women.

#### 4.4.2 Children with Disabilities

Children with disabilities are provided legal protection under the Welfare of Disabled Persons Act of 1994, which, according to the second CRC report, encompasses all the provisions necessary to ensure that disabled persons are not discrimination against.

According to the fourth population census (1993), there were 90 248 children with disabilities in the northern states of the Sudan.<sup>125</sup> Of these, 59 per cent were boys and 41 per cent girls; 31 per cent lived in urban and 69 per cent in rural areas. A majority of these children, 42.5 per cent, had physical disabilities, whereas 23 per cent had hearing and speech impairment and 14.5 per cent were mentally disabled.<sup>126</sup> However, accurate statistics and data on disabled persons in the country are unavailable, the second report states. Other constraints mentioned in the second report are lack of transport and inadequate curricula, training and information and the fact that activities of voluntary organisations that focus on children with disabilities do not extend to other states than Khartoum. According to the second CRC report, there were eleven institutions in the country offered support and rehabilitation to disabled children, all located in state of Khartoum. Two of the institutions were government-run and the remainder run by voluntary organisations, societies or individuals. These institutions were specialised in education and rehabilitation, but working with meagre facilities. Hence, their capacity was very limited; only 32 per cent of the disabled children in the Khartoum state were successfully rehabilitated<sup>127</sup>, due to the high costs of educating a disabled child; the small number of institutions and centres catering to disabled children; and the inability to start up extra classes in the existing institutions.<sup>128</sup> Noteworthy, children with physical disabilities do not attend any institutions, but are instead mainstreamed into regular schools, according to the second CRC report. However, according to estimates provided by the Department of School Health in October 2000, only 1001 children with disabilities were integrated into public schools in the State of Khartoum.<sup>129</sup>

In its Written Replies to the UN Committee's List of Issues, the Government describes the development of services for and attitudes to persons with disabilities in the Sudan as evolving through four phases. The first phase is characterised by the dissemination of certain mistaken beliefs about children with disabilities, who are therefore *rejected* and

<sup>123</sup> Second Periodic Report, 2001, para. 256.

<sup>124</sup> Committee on the Rights of the Child, 27 September, 2002, para. 31.

<sup>125</sup> Due to the insecurity southern Sudan was omitted in this census, which produced a population figure of 24.9 million people. In 2003, the United Nations Population Division estimated the Sudan's total population at 33.6 million people. <http://lcweb2.loc.gov/frd/cs/profiles/Sudan.pdf>

<sup>126</sup> Second Periodic Report, 2001, para. 169.

<sup>127</sup> The figures provided by the NGO alternative report on ratios of institutions to number of children in need of special services, are telling: *vocational training*: 1:90 248; *family help*: 1:18 050 children; *education and rehabilitation institution*: 1:8204 children. AMAL Alternative Report, 2002, p. 10.

<sup>128</sup> Second Periodic Report, 2001, para. 170.

<sup>129</sup> Written Replies to List of Issues, 2002, p. 12.

marginalized by the society, which is unwilling to accept these children. During the second phase the problem is acknowledged and addressed through provisions of *institutional care*, where local communities begin to care for disabled children by housing them in institutions that are cut off from society. Phase three is the *training and rehabilitation* phase, when the attitudes towards children with disabilities begin to change. Education, counselling and training for employment is directed towards the disabled, but still through special institutions and centres. Finally, there is the *integration* phase when children with disabilities are offered educational services via the regular education system. No timeframe is provided in the description of this evolution and it is not clear whether the Government considers the Sudan to have reached the final phase. However, in relation to the integration phase it is stated that a programme has been implemented to provide training for kindergarten instructors and teachers in the Khartoum state; and around 250 children with various disabilities have been integrated into kindergartens.<sup>130</sup>

According to the SPLM report, information on disabled children in southern Sudan is scarce and no concrete data is available. Considering the ignorance of basic antenatal and postnatal health care, poor nutrition, harmful cultural traditions and the effects of the war, it can, however, be estimated that the population of disabled children is significant. The issue of disability is often surrounded with a range of traditional beliefs and stigma. Due to taboos associated with disabilities and birth defects it is common that children with disabilities are kept inside the house, hidden or even killed at birth. Communities are often ill equipped to address the needs of these children. Furthermore, the services available for children with disabilities are few and inadequate. Educational facilities and resources for children with disabilities are almost non-existent throughout southern Sudan. Bearing in mind the increasing number of refugee and internally displaced children returning to their homes, many with disabilities due to the war, there is a great need to create awareness on the issue of disability and bring the problem to the public consciousness. To dispel the stigma and taboos related to children with disabilities is of utmost importance, since it would release community resources, which, when linked with external technical expertise, would lead to improved services and support for these children, according to the SPLM alternative report. Investigation, research and documentation are needed to discern causes and possible solutions to the situation of children with disabilities. A programme has therefore been initiated to conduct a survey of disabled children in combination with vaccination programmes.<sup>131</sup>

The UN Committee expressed its concern at the societal stigmatisation and discrimination against disabled children in the Sudan, as well as the lack of disaggregated data and the very limited services and opportunities offered to these children. It recommended the Sudanese Government to undertake effective collection of disaggregated data on children with disabilities; to bring an end to traditional beliefs and stigma prejudicial to children with disabilities, including through education and information programmes; and to strengthen the assistance to the families of children with disabilities, as well as the provision of health services for disabled children. The Government was also recommended to adopt and implement legislative and administrative measures to ensure that children with disabilities have access to public buildings, such as hospitals and schools.

#### **4.4.3 Children Born out of Wedlock**

According to the second CRC report, the Child Welfare Act of 1971 guarantees children born out of wedlock a decent life without discrimination.<sup>132</sup> This legislation also regulates adoption and foster placement, as well as establishment of homes, which provide these

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<sup>130</sup> Written Replies to List of Issues, 2002, p. 6.

<sup>131</sup> SPLM Alternative Report, 2000, p. 23.

<sup>132</sup> Second Periodic Report, 2001, para. 60.

children with shelter. However, the CRC reports do not provide any further information on what kind of rights these children are entitled to under the Act or how they are implemented. The fact that sexual relations outside marriage is an absolute crime in the Sudan<sup>133</sup> indicates that children born out of wedlock might face both legal and cultural discrimination.

The UN Committee was concerned that children born out of wedlock are discriminated against in the Sudan. It recommended the Government to end all discrimination against children, with particular attention to discrimination based on religious beliefs.

#### 4.4.4 Refugee Children

According to the UN Committee, the enjoyment of rights stipulated in the CRC are not limited to children who are citizens of a State Party, but must – if not explicitly stated otherwise in the CRC – also be available to all children within the State’s territory, including asylum-seeking, refugee and migrant children.<sup>134</sup> Sudanese law apply to refugees in the same way as to Sudanese children, according to the second CRC report, which, however, also states that citizenship is the basis of public rights and duties.<sup>135</sup> In relation to the last mentioned statement, the alternative report prepared by AMAL poses the question what rights are reserved for foreign and refugee children if citizenship is the basis of rights. The NGO alternative report points out that many refugee children do not receive education, and that few resources are available to provide education in their mother tongue.<sup>136</sup> Furthermore, when the UN Committee took the first CRC report into consideration, it discussed the fact that refugee children must submit a birth certificate in order to enrol in a school. Since some of these children do not have such a document they are hindered to attend school, which contributes to the low enrolment of refugee children in primary schools.<sup>137</sup> Also in its Concluding Observations on the second CRC report, the Committee expressed its concern that refugee children from neighbouring countries do not enjoy all the rights they are entitled to.

#### 4.4.5 Children in Poor States

The Sudan has a federal system, which divides the country into 26 states<sup>138</sup>, each with its own executive and legislative authority. The 26 states are in its turn subdivided into 137 localities.<sup>139</sup> Each state has a government, presided over by the governor, a council of ministers and an elected legislative council. The local government is bestowed with considerable powers, including the responsibility of providing social welfare, health services and education up to secondary school level.<sup>140</sup> According to the Fourteenth Constitutional Decree of 1997 the State must ensure development at the state level and eliminate the disparities in basic services among the different states by drawing up a

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<sup>133</sup> Initial Country Report, 1992, para. 33.

<sup>134</sup> Committee on the Rights of the Child, 2005, para. 12.

<sup>135</sup> Second Periodic Report, 2001, paras. 62, 6.

<sup>136</sup> AMAL Alternative Report, 2002, p. 6, 10.

<sup>137</sup> According to the UN Committee, only 20 per cent of the refugee boys and 10 per cent of the refugee girls were enrolled in primary schools. Committee on the Rights of the Child, 31 August 1993, para. 30.

<sup>138</sup> 16 states in northern Sudan and 10 states in southern Sudan.

<sup>139</sup> The Comprehensive Peace Agreement, signed in January 2005, introduced a fourth tier in the federal system with the creation of a Southern Sudan Government level; the other three tiers being the Federal government, 26 State Governments and 137 localities. “Federalism in the Sudan”, speech delivered by First Vice President of the Republic of the Sudan, H.E. Ali Osman Mohamed Taha, to the International Conference on Federalism, Brussels, Belgium, 5 March 2005.

<sup>140</sup> The state governments’ jurisdictions and powers also include state legislation; state security; state and local development in coordination with federal planning; state tax, border trade within the provisions of the law, provided that customs thereon shall be paid to the state; agriculture and forestry, other than national farms; animal wealth; wildlife and tourism; development of water resources and pasture; establishment of organs of local government and control of their functioning; roads and telecommunications within the state; newspapers and local broadcasting stations; development of local cultures; and protection of the environment. [http://www.aboutsudan.com/democracy/sudan\\_political\\_system.htm](http://www.aboutsudan.com/democracy/sudan_political_system.htm)

comprehensive social and economic plan. This legislation also stipulates that priority should be given to the least developed states.<sup>141</sup>

However, as pointed out by the Sudanese Government in its Written Replies to the UN Committee's List of Issues, the division of the country into different states has brought with it disparities in the states' share of human and financial resources, which has adversely affected the ability of local governments to perform and deliver services as required.<sup>142</sup> In order to address this problem, the Government decided to hold a conference in 2002 to take stock of the federal experience, including financial resources, services and human resource. According to the Sudanese Government: "The conference produced many solutions and recommendations which would, *if implemented*, reduce the disparities between States."<sup>143</sup>

According to the alternative report of AMAL, there are clear inequalities in the distribution of social services in the Sudan, which has made the children of the poor states underprivileged. Similarly, the UN Committee was concerned at the significant inequalities regarding access to basic health and education services between children living in different parts of the country, in particular between southern Sudan and the rest of the country. The Committee therefore recommended the Sudan to ensure that all children, regardless of which region of the country they live in, enjoy equal respect for their rights, including access to basic services.

## 4.5 Programme Area Five: Children's Right to Health and Good Physical Environment (CRC Articles 7, 16, 24, 27)

Following a conference on health in 1978 (the Alma Ata Conference), the Government of Sudan made an undertaking to achieve health for all. Assistance received from UN agencies was of great importance to the implementation of primary health care programmes, which achieved good results until 1990, when international support for these programmes began to diminish; a factor which since then has continued to have major negative implications on the provision of health care in the country, according to the second CRC report. Hence, the objectives of the primary health care programmes, designed to reduce morbidity and mortality are still far from attainment. Spread of epidemics and water-borne diseases such as malaria and diarrhoea affect many inhabitants and kill enormous numbers of children. Even though the mortality rates among infants and children under-five have decreased during the last decades, they are still among the highest in the world.<sup>144</sup> In addition, the civil war has had disastrous effects on the health of children. The physical features of the Sudan, frequently hit by drought and desertification or torrential floods, its extensive surface area and communication difficulties, are other major constraints highlighted by the second CRC report, which draws the conclusion that Sudanese children are deprived of their basic right to health, survival and development.

However, the Sudanese Government has taken measures to address these challenges, among others by decentralising and transferring the authority for health planning to the local governments. Furthermore, the Ministry of Health has adopted a project to integrate treatment of the five main child-killer diseases: malaria, diarrhoea, acute respiratory disease, malnutrition and measles. In order to improve the delivery of health care services throughout the country, the State has embarked on the construction of interstate roads. Radio and television broadcasting has been strengthened to improve the access to

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<sup>141</sup> Second Periodic Report, 2001, para. 58.

<sup>142</sup> Written Replies to List of Issues, 2002, p. 23

<sup>143</sup> Written Replies to List of Issues, 2002, p. 23. Italics added by the author.

<sup>144</sup> The infant mortality rate per thousand was 170 in 1960, 125 in 1980, 108 in 1990 and 70 in 1995. The mortality rate per thousand among children under five was 210 in 1980, 181 in 1990 and 113 in 1995. Initial Country Report, 1992, para. 16; Second Periodic Report, 2001, para. 182.

information on maternal and child health in particular. Among the greatest achievements reached is the considerable improvement in immunisation coverage. In 1985, a field survey revealed that only 3 per cent of all children were vaccinated.<sup>145</sup> This led to the formulation of the National Vaccination Plan with the target of immunising 80 per cent of children under the age of one within five years; a target which was successfully reached in 1990. In the northern states, 62 per cent of all children were immunised; a rate which, however, fell to 51 per cent between 1991 and 1993 due to declining foreign support.<sup>146</sup> The number of permanent immunisation centres in southern Sudan increased from three in 1993 to 35 in 1996.<sup>147</sup>

As a result of the absence of any comprehensive health care programme in southern Sudan, there are no reliable data available on infant mortality, child illness, malnutrition etc., for the region, according to the SPLM alternative report. It is, however, clear that diseases like malaria, diarrhoea, measles and polio threaten the survival of children in southern Sudan. The SPLM report specifically highlights the serious problem of malnutrition. In 1998, UNICEF conducted a survey of more than 4000 children in twelve regions in southern Sudan, which found out that an average of 51 per cent of the children were malnourished. Hence, there is an urgent need to improve child nutrition.<sup>148</sup> Furthermore, there are considerable differences in access to child health services among the different regions within southern Sudan. The civil war and natural disasters like drought have affected regions differently, and poor transportation as well as lack of expertise and resources severely inhibit the provision of health care. Traditional beliefs and taboos that surround many of the perceptions on health issues also pose a threat to child survival and health. The participation of local health communities have proven critical in overcoming many of these traditional beliefs, for example the taboo forbidding women to eat certain nutritional foods, which has a negative effect on the health of new-born babies.

The UN Committee noted the progress regarding child immunisation programmes, but remained deeply concerned at the very poor availability, accessibility and quality of basic health care services in the Sudan. It was especially concerned at the high rates of infant, child and maternal mortality, as well as the considerable inequalities in the provision of health services between the north and the south of the country. The Committee recommended the Sudan to take immediate action to reduce infant, child and maternal mortality rates; to strengthen the provision of health care services, giving particular attention to the decentralisation of responsibility for services to local authorities; as well as to reduce inequalities in the levels of children's health in the country, through, inter alia, improved availability of health services in the rural areas.

#### **4.5.1 Birth Registration**

The registration of births is still one of the Sudan's major stumbling blocks, according to the second CRC report. The Registration of Births and Deaths Act of 1992 stipulates that all births throughout the country must be registered. Nevertheless, at the time of the submission of the second report, the registration rate was only 40 per cent, but targeted to reach 100 per cent in 2000.<sup>149</sup> The registration rate was particularly low in the rural areas, even though village midwives are required to submit monthly reports on births to the medical doctor of the nearest rural hospital. Furthermore, a birth certificate is a requirement for school admission; a regulation which apparently has not spurred parents to register their new born babies. The fact that only 20 per cent of the Sudanese women

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<sup>145</sup> Initial Country Report, 1992, para. 91.

<sup>146</sup> Second Periodic Report, 2001, para. 204.

<sup>147</sup> Second Periodic Report, 2001, para. 207.

<sup>148</sup> SPLM Alternative Report, 2000, p. 22.

<sup>149</sup> Second Periodic Report, 2001, para. 224.

deliver in a health facility, and, hence, 80 per cent of the births take place at home, does, however, provide some explanation to the low coverage of registration.<sup>150</sup>

According to the SPLM report, provisions for birth registration are not established in southern Sudan, due to the inadequate state of bureaucratic and institutional development and the difficulty of communication and transportation. However, the SPLM acknowledges the importance of these structures in order to better manage and administer the provision of services such as education, health and social services.<sup>151</sup>

The UN Committee noted the efforts made by the Sudanese Government to increase the birth registration rate, but was nevertheless extremely concerned that large numbers of children, as high as 70 per cent in some part of the country, were not registered.<sup>152</sup> It therefore recommended that ongoing efforts to improve birth registration throughout the country should continue and be strengthened, in order to ensure that all children are registered at birth or as soon as possible afterwards.

#### **4.5.2 Reproductive Health and HIV/AIDS**

According to the second CRC report, the average percentage of contraceptive use among women was 10 per cent between 1960 and 1997. In 1996, 18 per cent of the married women were using contraceptive pills, whereas 93 per cent had knowledge of family planning methods. 54 per cent of the pregnant women were receiving antenatal care and mothers aged 15-49 years had an average of five children; 64 per cent wishing to have more children.<sup>153</sup> In cooperation with WHO and UNICEF, the Sudanese Government provided training for health personnel in maternal and child health, as well as sexual transmitted diseases and their treatment, in the early 1990s. Programmes to expand the maternal and child services countrywide and provide information on family planning were also developed. The implementation of these programmes was, however, severely hampered by the lack of materials, instruments and equipment.

In 1988, a National Committee was formed to combat HIV/AIDS, under the patronage of the President. In its plans and strategies the Committee has concentrated on four areas: raising health awareness based on guidance from the teachings of religion; conducting regular surveys to determine the number of people living with HIV/AIDS; requiring all health establishment to test blood from donors before it is used; and adopting arrangements for the treatment of AIDS patients. In 2000, 652 AIDS cases were reported in the Sudan, which meant that the total number of cases since 1986 amounted to 4 241.<sup>154</sup> However, the second CRC report presents a forecast on the potential increase in the number of HIV positive people, which anticipates a substantial increase in AIDS cases, including children and youth, in the future. The forecast predicts that in the most affected age group, 20-49 years, 200 000 people will be HIV positive in 1998.<sup>155</sup> In 1992, an estimated average of 14 800 children had lost one or both parents due to AIDS.<sup>156</sup> However, this number was believed to increase substantially, considering the predicted increase of AIDS cases.

The SPLM alternative report pays comparably little attention to the issues of reproductive health and HIV/AIDS, but highlights that the traditional beliefs and taboos surrounding health issues (see above) are especially problematic in the field of sexually transmitted diseases, including HIV/AIDS.

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<sup>150</sup> Second Periodic Report, 2001, para. 233, table on p. 101.

<sup>151</sup> SPLM Alternative Report, 2000, p. 18.

<sup>152</sup> Committee on the Rights of the Child, 2002, para. 33.

<sup>153</sup> Second Periodic Report, 2001, para. 182 and 233, table on p. 101.

<sup>154</sup> Written Replies to List of Issues, 2002, p. 13.

<sup>155</sup> According to the most recent figures from UNAIDS, there are 380 000 adults (15-49 years) living with HIV in the Sudan; the HIV prevalence rate being 2.3% (range: 0.7%-7.2%). [http://www.unaids.org/en/Regions\\_Countries/Countries/sudan.asp](http://www.unaids.org/en/Regions_Countries/Countries/sudan.asp)

<sup>156</sup> Second Periodic Report, 2001, para. 215.

The UN Committee was seriously concerned at reports, including the second CRC report, which predict that the HIV/AIDS infection rates will rise in the Sudan. It also expressed its concerns at the lack of adequate measures in prevention, care and treatment. The Committee recommended the Government to integrate the International Guidelines on HIV/AIDS and Human Rights into its policies and practices, and emphasised the importance of consultation with and participation of religious leaders.

#### 4.5.3 Female Genital Mutilation

The harmful cultural practice of female genital mutilation is common in the Sudan, above all in the rural areas, where the weight of tradition and social pressure is very heavy. According to an in-depth survey, which focused on the situation of girls between 18 and 21 years in the regions of Khartoum and the Blue Nile from 1996 to 2000 and involved a random sample of 1360 individuals<sup>157</sup>, 88 per cent of the girls in the urban areas and 91 per cent of the girls in the rural areas were circumcised.<sup>158</sup> Girls in the rural areas are often circumcised when they are between four and six years old, whereas girls in the urban areas are between six and twelve years old, according to the Government's Replies to the List of Issues. Noteworthy, the proportion of girls circumcised was 91 per cent among illiterates against 50 per cent among girls with higher education.<sup>159</sup> In addition, a clear change in the methods used has been observed, where the practice of infibulation has decreased and been replaced by other less harmful methods. The proportion of girls who are not circumcised has increased slightly and reached 10 per cent in 2001.<sup>160</sup> A countrywide survey conducted in 1992 does, however, illustrate the strong and deeply rooted support for the practice of female genital mutilation in the communities, not least among women. According to the survey, 80 per cent of the women were in favour of female circumcision whereas 20 per cent were against. Of those in favour, 72 per cent referred to customs as the main reason for their opinion, whereas 16 per cent believed circumcision to be in the girl's interest and 12 per cent cited religious grounds as the basis of their view.<sup>161</sup>

According to the second CRC report, there is, since long, a general consensus among clerics, community leaders, lawyers and doctors on the harmful effects of female genital mutilation and the lack of connection between this practice and religion. In 1980, a government committee was established to target female circumcision as a harmful practice to be uprooted from society. Five years later, the Sudanese Society for the Elimination of Harmful Traditional Practices was founded. Measures taken to raise public awareness on the issue include radio and television programmes, as well as film and theatre, but also training of people with an influential position and direct link with the public, such as clerics and midwives. Furthermore, at a congress of state governors in 1995, each *wali* made a commitment to open an office to combat harmful cultural practices in his state. The Sudan also celebrates a national day to combat harmful traditional practices.<sup>162</sup>

While noting the efforts to combat female genital mutilation, the UN Committee remained deeply concerned that it continues to be practiced widely in the Sudan. The Committee recommended the Government to continue and strengthen its efforts to end the practice of FGM and to seek cooperation with other countries in the region, which have a positive experience in combating the practice. Furthermore, the Committee stressed the importance of mobilising religious and community leaders in this regard.

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<sup>157</sup> These included students, fathers, mothers, decision-makers and health workers.

<sup>158</sup> Written Replies to List of Issues, 2002, p. 14.

<sup>159</sup> Written Replies to List of Issues, 2002, p. 15.

<sup>160</sup> *Ibid.*

<sup>161</sup> Second Periodic Report, 2001, para. 222.

<sup>162</sup> There is, however, currently no national legislation that criminalises all forms of female genital mutilation in the Sudan. <http://www.amnesty.org/ailib/intcam/femgen/fgm9.htm>

At the same time, the Draft Children's Bill of Southern Sudan, 2005, article 20, states that "every girl-child has a right to be protected from circumcision."

#### 4.5.4 Physical Environment

The two CRC reports and the alternative reports give the issue of children's right to a good physical environment relatively little attention. However, some aspects of the issue are addressed.

The second CRC report highlights the problem of *land mines* and unexploded projectiles, which are particularly dangerous to children, who are curious and explorative and often pick up unfamiliar items. In addition, girls and boys may not recognise written warning signs if they are unable to read. In many Sudanese communities children take care of livestock in areas planted with mines; a work environment, which poses great danger to the child. The land mines also affect the safe return of families to their homes and inhibit the construction of roads and movement of goods and services. A mine clearance programme, which provides training in mine removal and awareness raising of mine hazards is in place, according to the second report.

The alternative report by AMAL describes the environmental situation for *school* going children as hazardous to both health and safety. Seating facilities are inadequate and below standard; children drink from a common, mostly uncovered, water pot, using one cup, which creates risk for outbreaks of infectious diseases in schools; and the standard of other amenities are low, especially sanitary facilities.

Even though the Sudan has an abundance of water resources, only 35 per cent of the population has access to clean drinking *water*.<sup>163</sup> This is a serious threat to children's health, not least when considering the fact that 90 per cent of diseases are water born, including malaria and Guinea-worm disease<sup>164</sup> and that 40 per cent of deaths among children under the age of five are caused by diarrhoea, as a result of lack of access to water or the contamination of drinking water. The second CRC report points out that young girls are responsible for fetching water. Often they have to walk long distances and still do not manage to get more than one-third of the amount of water needed.

According to the first CRC report, children's right to *privacy* is protected by the Criminal Law Act of 1991, which prohibits violation of anyone's privacy by illegally watching his domicile, monitoring his acts and movement, interfering with his correspondence or meddling in his private affairs. However, this regulation does not particularly mention the rights of children.

The SPLM report points out that traditionally children in southern Sudan enjoy only that level of privacy, which the elders may deem suitable to allow them and there are no provisions in the SPLM laws that protect the privacy of either adults or children.<sup>165</sup>

## 4.6 Programme Area Six: Children's Right to Adequate and Relevant Education (CRC Articles 28, 29, 31)

The Public Education Act stipulates that education is a right entitled to every Sudanese citizen.<sup>166</sup> In accordance with this, the Sudanese Government, in 1989, promised to ensure universal access to education by the year 2000. However, the two CRC reports, as well as the two alternative reports clearly indicate that the Sudan is far from attaining the goal of universal education by ensuring its citizens this fundamental right.

In 2000, the enrolment rate of boys and girls in *primary* school was 54 per cent, whereas the enrolment rate of boys and girls in *secondary* schools amounted to 17 per cent,

<sup>163</sup> Second Periodic Report, 2001, para. 212.

<sup>164</sup> In 1997, the Sudan had 114 772 cases of Guinea-worm disease, which amounted to 78 per cent of all cases worldwide. Second Periodic Report, 2001, para. 212.

<sup>165</sup> However, according to the Draft Children's Bill for Southern Sudan, 2005, section 16, "no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor attacks on his or her honour or reputation."

<sup>166</sup> This right is also stipulated in the Draft Interim National Constitution of the Sudan, 2005, article 44: "Education is a right for every citizen. (...) The State shall provide free primary education".

indicating a very low transition rate.<sup>167</sup> Moreover, the drop-out rate from primary education was 37 per cent.<sup>168</sup> The illiteracy rate among children under the age of 12 amounted to 47 per cent for boys and 58 per cent for girls in 2000/2001.<sup>169</sup> Besides the problems of low school intake and retention, the education system of the Sudan is hampered by lack of educated teachers, school premises and equipment, as well as considerable gender and regional disparities in enrolment.

The alternative report prepared by AMAL, is, to a large extent, focused on the issue of education and pinpoints several serious problems and shortcomings, which hinder children's right to education in the Sudan. In 1996, the school to pupil ratio was one school for every 512 children in the age group 6-13 years. However, there was a clear regional disparity in the country. Whereas the average school to pupil ratio in the north was 1:431, the corresponding ratio in the south was 1:3 417.<sup>170</sup> Discrepancies were also obvious within states and provinces. Actual expenditure on education in the Sudan, representing only 1.2 per cent of GNP (1.9 per cent of GDP) and 15 per cent of the total public expenditure, is one of the lowest in Africa, according to AMAL.<sup>171</sup> One of the most negative effects of liberalisation and structural adjustment programmes and the following low budgetary allocation to the public sector in the Sudan was that education became unaffordable to many families and poorer states. As a result, school equipment and teaching aids are in acute shortage in primary schools and completely lacking in some rural schools. According to a study conducted by UNESCO in 1998, the estimated deficit of textbooks amounted to 52 per cent at all levels of education.<sup>172</sup>

According to the SPLM report, only an estimated 16-18 per cent of the children in southern Sudan have access to primary education. Out of these pupils, fewer than 20 per cent are girls.<sup>173</sup> In 1998, almost 900 schools were operating throughout southern Sudan, supported by their communities and NGOs, but only three secondary schools. Access to education varies substantially between different regions. In many areas the war and drought caused massive disruption to the nascent efforts to provide primary education and hundreds of schools had to close. Still, even in the midst of the most severe famine and disruption, schools remained open and full of children whenever possible.

Traditionally, education has been held in high regard in most cultures of southern Sudan, which see it as a key to survival and success of the family and clan. The notion of formal education is, however, new compared to the long and strong traditions of a son or daughter learning the skills of hard work with his or her parent in the cattle camp, field or household. The slow introduction of formal education, in combination with the lack of physical structures, education materials, comprehensive curriculum and, most important, lack of adequately trained teachers, create enormous challenges to the implementation of children's right to education in southern Sudan. Substantial numbers of trained teachers have left their positions for employment in other sectors.<sup>174</sup> Teachers have also been recruited for military service.

Given that a second generation of school age children is now growing up without access to education in southern Sudan, the current policy of SPLM is focusing on the level of education rather than the age of the child, in order to guarantee those who have missed out of school this basic right as adolescents or even adults. The goal of SPLM is to make

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<sup>167</sup> Written Replies to List of Issues, 2002, p. 8.

<sup>168</sup> Children who were admitted to the first grade in 1994 but did not enroll in the eight grade in 2001. *Ibid.*

<sup>169</sup> *Ibid.*

<sup>170</sup> AMAL Alternative Report, 2002, p. 8.

<sup>171</sup> *Ibid.*

<sup>172</sup> AMAL Alternative Report, 2002, p. 9.

<sup>173</sup> SPLM Alternative Report, 2000, p. 24.

<sup>174</sup> The teacher position is voluntary, with food and housing supplied by the community. This means that in times of shortage the teachers' own as well as their families' basic needs cannot be met. SPLM Alternative Report, 2000, p. 24-25.

primary education compulsory in southern Sudan<sup>175</sup>, and to eradicate illiteracy within fifteen years after the end of the war.<sup>176</sup> To achieve these objects, the assistance from international NGOs is crucial. With the cooperation of Save the Children Sweden, Save the Children UK and UNICEF, programmes of school construction, teacher training and provision of material have been developed. NGOs have also embarked on a project to distribute school materials and equipment, clothes and food, to encourage increased school enrolment, in particular among girls.

Regarding children's right to leisure, recreation and cultural activities, the first CRC report provides a detailed description of several cultural institutions and centres, established to strengthen children's cultural identity and enrich children with religious values. The report does, however, not discuss the availability of these centres or to what extent children, in a war torn country like the Sudan, are provided time and space for recreation. According to the NGO alternative report, extra curricula activities are missing in Sudanese schools, despite their importance to the physical and mental development of children. The SPLM report highlights that in the agrarian and pastoral life of southern Sudan, time for leisure is competing with the daily duties of sustaining the livelihood. Girls have even more limited playtime than boys, since they assume responsibility for domestic chores at an earlier age. However, special events, celebrations and natural occurrences provide opportunities for leisure and recreation for both children and adults, according to the SPLM report.

The UN Committee expressed its concern at the exceptionally low level of public spending on education, as well as the very low level of enrolment in school, due to the fact that education is not compulsory and that a birth certificate is required for enrolment. The Committee was also concerned that the drop-out rate is very high. The Committee recommended the Sudanese Government to increase public spending on education significantly; to ensure that primary education is free and compulsory for all children; and to continue the efforts to raise school enrolment, through increased number of schools, classrooms and teachers and flexible forms of school registration, which leaves out the requirement of birth certificate. The Committee also encouraged the Sudan to reduce the drop-out rate by enforcing compulsory education requirements and raising awareness on the value of education.

Moreover, the UN Committee was deeply concerned that the availability, accessibility and quality of education in southern Sudan was much worse than in the rest of the country. These concerns led the Committee to provide recommendations particularly for southern Sudan, among others to raise the enrolment rates, with particular attention to girls, and support children so that they can enrol at the correct age; significantly strengthen teacher training; and improve children's access to schools through, inter alia, provision of transport or establishment of additional schools closer to children.

## 4.7 Programme Area Seven: Children's Right to Participation (CRC Articles 12, 13, 14, 15)

According to the second CRC report, Sudanese girls and boys are given a range of opportunities to freely express their views and develop their abilities and talents within the framework of school activities, which should include production of newspapers, school broadcasts and drama activities. Furthermore, in 1998, a project to establish Children's Parliaments was initiated. Groups of children were selected from nine schools in the states of Khartoum and Gezira, to form the core of a Children's Parliament. Between 1998 and

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<sup>175</sup> This goal is stipulated in the Interim Constitution of Southern Sudan, 2005, article 33 (2): "All levels of government in Southern Sudan shall promote education at all levels and shall ensure free and compulsory education at the primary level (...)"

<sup>176</sup> SPLM Alternative Report, 2000, p.15, 26.

2002 similar parliaments were formed in a number of states.<sup>177</sup> The project is to be extended countrywide, in order to ensure children's right to participation and freedom of opinion, as well as preparing them for democratic and political activities, including the respect for other people's views, according to the Government's Written Replies to the UN Committee's List of Issues.

According to the alternative report of SPLM, the freedoms of expression, belief, conscience and association are guaranteed in the SPLM Constitution. Traditionally these freedoms have, however, not been extended to children. As indicated in section 3 above, in a traditionally hierarchical society, children's participation is a new and unfamiliar concept. Nevertheless, measures to amplify the voice of children in southern Sudan have been taken. In accordance with SPLM's Constitution, representatives of youth organisations are allocated positions on decision-making bodies, at all levels from the National Congress to the local Payam Councils, even though individual members are required to be eighteen years and above. Youth groups have played an active role in asserting the opinions, ideas and perspectives of children into the policymaking and programme development of SPLM. Furthermore, the southern Sudan curriculum utilises a child centred approach that emphasises the value of the child's input and ideas. Introducing and implementing children's participation will, however, require changes, in terms of transforming deeply rooted traditional attitudes and practices; and take time, effort and persistence, especially in the case of the girl child, according to the SPLM report.

To involve children in the process of preparing and drafting the reports on the implementation of the CRC, by letting them participate, express their views and be listened to is of great importance and a prerequisite for producing an accurate and honest CRC report.<sup>178</sup> However, neither the two CRC reports nor the alternative reports provide any information on children participating in the preparations of the reports.

While welcoming the efforts to establish children's parliaments, the UN Committee remained concerned that the views of children, in particular girls, are often not respected and may be seen as conflicting with traditional concepts of the role of the family, clan and tribe. The Committee recommended the Sudanese Government to ensure full respect for the views of the child and consider ways of ensuring that a child's views are given consideration in accordance with his or her age and maturity, within the family, clan and tribe. Moreover, the Government was recommended to pay particular attention to ensuring respect for the views of girls.

## 4.8 Programme Area Eight: The CRC and Children's Human Rights (CRC articles 42, 44)

### 4.8.1 *The Reporting Process*

Article 44 of the CRC regulates the reporting process, according to which the State Parties regularly shall submit reports on the measures they have adopted to implement the Convention. In its guidelines, the UN Committee emphasises that the reporting process should "encourage and facilitate popular participation and public scrutiny of government policies"<sup>179</sup> This means that civil society organisations also have an important role in the reporting process.

According to AMAL, the draft of the second CRC report, which was prepared in 1997, was not available to NGOs or other parties concerned. Not even the handouts, which were distributed to the participants of the workshops that took place in the preparations of the

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<sup>177</sup> Kassala, White Nile, Nile, Blue Nile, North Kordafan and Red Sea. Written Replies to List of Issues, 2002, p. 32.

<sup>178</sup> See for example Committee on the Rights of the Child, 2003, para. 12.

<sup>179</sup> Committee on the Rights of the Child, 1996, para. 20.

report (see section 2) were made available, but were collected after the session and not allowed outside the conference room. Moreover, no “independent” NGO was allowed to participate in more than one of the subcommittees of the workshops. Several NGOs, including AMAL, complained that the draft report did not reflect the information and recommendations discussed at the committee level. There was also lack of information to the professional groups and the general public on the reporting process.<sup>180</sup>

The final version of the Sudan’s second CRC report was released in October 1999, but only 300 copies were made available. In addition, the distribution of these copies was very limited, and no “independent” NGO working with children received a copy, according to AMAL. In order to prepare the NGO alternative report, a copy of the state report was made available by Save the Children Sweden’s office in Khartoum, who, in its turn, had acquired it from the UN Committee in Geneva. Moreover, those copies of the CRC report that were distributed were printed in Arabic only, which prevented a number of interested foreign organisations and official bodies in southern Sudan from presenting supplementary comments. The limited distribution of the Sudan’s CRC report contradicts article 44 of the Convention, according to which:

*States Parties shall make their report widely available to the public in their own countries.*<sup>181</sup>

In its alternative report, AMAL therefore recommended the Government to ensure the production of a comprehensive publication, which includes the second CRC report, as well as the outcome of the workshops that were held in the preparation process.

In accordance with AMAL, the UN Committee expressed its concern that the Sudan’s second periodic report did not fully reflect the views and recommendations expressed by NGOs, and that the report had not been made widely available. In light of article 44 of the CRC, the Committee therefore recommended the Sudan to distribute the state report to the public at large, together with the relevant summary records and concluding observations adopted by the Committee, in order to generate debate and awareness of the Convention and its implementation within all levels of society, including NGOs.

#### **4.8.2 Making the CRC Widely Known**

According to Article 42 of the CRC, State Parties are requested to make the principles and provisions of the Convention widely known to both children and adults. The Sudan’s second CRC report presents a list of seminars and workshops, which took place between 1993 and 1998 and provided teachers, voluntary organisations, members of the National Assembly, judges and lawyers, midwives and students et al. with training on the Convention.

The SPLM report states that the poor infrastructure, communication and high level of illiteracy in southern Sudan have created significant obstacles to publish, distribute and create awareness on the CRC. With the assistance of UNICEF and Save the Children Sweden a set of brochures, which summarise the some of the main articles of the CRC have been produced in Dinka, Nuer and English and thousands of these brochures have been distributed. Furthermore, teachers, local women’s groups, churches and other groups who deal directly with children have been trained on the CRC. However, little progress has been made when it comes to increasing the awareness of the CRC among members of the judiciary and the traditional authorities in southern Sudan. Most of them have never seen the document and are not familiar with its provisions.<sup>182</sup>

According to the AMAL alternative report, many children as well as adults who work with children are not aware or familiar with the CRC and how it is related to the Sudanese conditions. Apart from the initiative of AMAL to make posters and organise workshops,

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<sup>180</sup> AMAL Alternative Report, 2002, p. 7-8.

<sup>181</sup> Convention on the Rights of the Child, para. 44 (6).

<sup>182</sup> SPLM Alternative Report, 2000, p. 12.

and efforts of the British Council in Khartoum, no serious attempts to disseminate the ideas of the CRC had been made in the country.<sup>183</sup>

The UN Committee noted with concern that awareness of the CRC amongst professionals working with and for children, as well as within the general public, including children themselves, remains low in the Sudan. Hence, the Committee was concerned that the Sudanese Government did not undertake adequate dissemination, awareness-raising and training activities in a systematic and targeted way. The Government was recommended to strengthen, expand and continue its programme for information on the CRC among children and parents, civil society and all sectors of the Government, and to include vulnerable groups that are illiterate or without formal education. Furthermore, the Committee recommended the Sudan to develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working with children (judges, lawyers, civil servants, teachers, health personnel and religious leaders etc.)

## 4.9 Programme Area Nine: Good Governance in the Best Interests of the Child (CRC Articles 4, 26, 37, 40)

### 4.9.1 Implementing Child Rights

According to the CRC, the State has the ultimate responsibility to implement children's rights and is obliged to take action and make sure that these rights are respected and realised in practice. Article 4 of the Convention requires the State Parties to:

*undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, State Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.*

When reporting about the measures of implementation and structures of monitoring, the second CRC report highlights the establishment of a number of institutions. In 1993, the National Council for Child Welfare (NCCW) was established as an independent body under the auspices of the President with the purpose to monitor the implementation of the CRC, including raising awareness of children's issues; establish education centres; coordinate the efforts of government bodies, voluntary societies and grass-roots associations involved with children; and establish a statistical data base on the situation of children. The membership of the Council consists of state governors and federal ministers concerned with children's affairs.<sup>184</sup>

The Advisory Council for Human Rights was established in 1994. It is presided over by the Minister of Justice and is composed of government bodies and voluntary organisations working in the field of human rights. The role of the Council is to ensure and safeguard respect for human rights and oversee the enforcement of policies and projects aiming to protect these rights. It also provides official bodies with advisory opinions on human rights issues.

Furthermore, in its Written Replies to the UN Committee's List of Issues, the Sudanese Government reported that a committee of experts had prepared a Draft Children's Code, which was subject to discussions, involving various public institutions as well as representatives of civil society.<sup>185</sup>

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<sup>183</sup> AMAL Alternative Report, 2002, p. 7.

<sup>184</sup> Second Periodic Report, 2001, para. 21.

<sup>185</sup> The Children's Code was approved in 2004 and implementation is on its way. However, it now needs to be revised in accordance with the Comprehensive Peace Agreement. Minutes from meeting on Sudan, Save the Children Sweden, Nairobi, 22 February 2006.

In southern Sudan, Child Rights Officers constitute the primary mechanism for monitoring, information dissemination and programme development to further the compliance with the CRC. Since their establishment in 1997, the Child Rights Officers have embarked on an extensive programme, which involves data gathering, public and community leader discussions, training, capacity building and evaluation related to the CRC. Local children's rights committees have also been formed to address issues of primary education, public awareness, psycho-social services and demobilisation of child soldiers. Moreover, the Children's Bill for Southern Sudan<sup>186</sup> (which is still a draft) will, when enacted, provide children in southern Sudan with thorough and comprehensive legal protection, including an independent Children's Commission.<sup>187</sup>

While noting the advisory role of the National Council for Child Welfare, the UN Committee was concerned at the lack of administrative coordination and cooperation, which hinders a comprehensive child-rights policy in the Sudan. The Committee recommended the Sudan to ensure that a central and permanent mechanism coordinates the implementation of the CRC, intersectorally as well as between national and local levels of government and civil society. The Sudanese Government was also recommended to prepare and implement a Plan of Action for children, undertaken through an open, consultative and participatory process.

Furthermore, even though the UN Committee noted the work of the Government's Advisory Council for Human Rights, it was nevertheless concerned at the absence of an independent mechanism with the mandate to regularly monitor and evaluate the progress of implementing the CRC. The Committee therefore recommended the Government to establish an independent national human rights institution, accessible to children and empowered to receive and investigate complaints of violations of child rights.<sup>188</sup> Regarding the legislative measures of implementation, the UN Committee noted the consideration of a Draft Children's Code, but expressed its concern that domestic legislation throughout the country, including southern Sudan, was not in full conformity with the Convention.

In light of article 4 of the CRC (see above) the UN Committee, in its List of Issues, asked the Sudanese Government to provide information on the amount of money allocated for the welfare of children in the federal and state budgets. However, in its replies, the Government stated that the financial allocations are not broken down according to different sections of the populations, such as children and women.<sup>189</sup> Hence, it is not possible to identify what proportion of the state budget is reserved specifically for children. This makes it difficult for the Government to demonstrate whether it has actually allocated its maximum available resources to children's rights, and hence, fulfilled article 4 of the CRC, or not.<sup>190</sup>

The UN Committee was concerned that the Sudanese Government has paid insufficient attention to article 4 of the CRC, and recommended it to provide resources to the economic, social and cultural rights of children to the maximum extent. Moreover, the Government was advised to identify the amount and proportion of the national and local

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<sup>186</sup> The purpose of the Children's Bill is, among others, to consolidate and reform the existing laws relating to the protection and welfare of children and to give effect to the principles of the CRC. The Bill incorporates many of the different articles of the Convention, including the best interest of the child, non-discrimination and right to health and education, as well as legal protection for children with disabilities and children in armed conflict. Draft Children's Bill for Southern Sudan, 2005.

<sup>187</sup> The functions of the Children's Commission shall include: investigate violations of any rights of a child; visit reformatories and places of detention with a view to assessing and inspecting conditions of children and make recommendations to the relevant authority; create and sustain within society awareness of the Children's Bill; monitor compliance of all levels of government in Southern Sudan with the CRC etc. Draft Children's Bill for Southern Sudan, 2005, article 173.

<sup>188</sup> The Draft Interim National Constitution of the Sudan, 2005 stipulates, however, the establishment of a Human Rights Commission from fifteen independent, competent, non-partisan impartial and representative members.

<sup>189</sup> Written Replies to List of Issues, 2002, p. 4.

<sup>190</sup> The importance of making children visible in the budgets was highlighted by the UN Committee in 2003: "No State can tell whether it is fulfilling children's economic, social and cultural rights 'to the maximum extent of... available resources' (...) unless it can identify the proportion of national and other budgets allocated to (...) children, both directly and indirectly". Committee on the Rights of the Child, 2003, para. 51.

budgets spent on children, through public and private services, NGOs and international development aid.

#### 4.9.2 Juvenile Justice

The administration of juvenile justice in the Sudan is regulated under the Criminal Code of 1991, the Criminal Procedures Act of 1991 and the Juvenile Welfare Act of 1983. According to the second CRC report, the penal philosophy in the country is to reform and educate the juvenile, correct his or her conduct and shield him or her from the administration of criminal justice applied to adults.<sup>191</sup> The Criminal Code stipulates that a minor below legal age, which is 18 years, shall not be deemed to have perpetrated an offence. At the same time, however, the welfare and reform measures contained in the Code apply to any person over 7 years of age. Hence, in practice, the minimum age of criminal responsibility in the Sudan is 7 years. According to the Criminal Code, children between 7 and 18 years may be committed to *reprimand* during the hearing and in the presence of guardian; *surrender* to parent or trustworthy person; *flogging* with not more than 20 lashes if the child has reached the age of 10; and placement in a correctional *institution* for the purpose of reform and education for a period of not less than two and not more than five years.

The treatment of children sentenced to placement in correctional institutions is guided by the principles of correction and reform as well as segregation from other adult prisoners. Furthermore, the employment of juveniles in physically demanding work is prohibited. The child offenders are permitted to have one visit every week and are allowed to visit their families once every three months. At the time of the submission of the second CRC report, the Reformatory Department were taking steps to improve the psychological recovery and social integration of children in conflict with the law, by letting over 40 juveniles move around freely both inside and outside the institutions. The Reformatory Department provides after-care for children in conflict with the law by engaging voluntary bodies to provide assistance to these children after their release. It also aims to establish bonds between the children and their families during the time of deprived liberty.<sup>192</sup>

The Juvenile Welfare Act provides for a special juvenile police force and stipulates that every police station must have a section competent to perform the duties specified in the Act. In addition, children in conflict with the law must be tried by a competent juvenile court. According to the Government's Written Replies to the List of Issues, juvenile courts have been established in the State of Khartoum and the head of the judiciary has decided to continue this process in the rest of the country. In places where there are still no juvenile courts, proceedings are held in criminal courts in accordance with the Juvenile Welfare Act. According to the Sudanese Government, cases concerning juveniles are processed quickly, and the judges ensure that sentences do not harm the juvenile physically or psychologically and that detention is a last resort.<sup>193</sup> Flogging, which is one possible sentence for children in conflict with the law (see above), is consequently, not considered to be physically harmful:

*As for flogging, it is a light punishment which is carried out within reasonable boundaries so that parents can teach their child a lesson and never reaches the point of causing harm.*<sup>194</sup>

The Juvenile Welfare Act also contains provisions and measures for vagrant children (i.e. children who are homeless, sleep on the street, engage in begging, are without a family etc, see section 4.1.2.2). This means that children living on the street are treated as children in

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<sup>191</sup> Second Periodic Report, 2001, para. 346.

<sup>192</sup> Second Periodic Report, 2001, para. 370.

<sup>193</sup> Written Replies to List of Issues, 2002, p. 21.

<sup>194</sup> Second Periodic Report, 2001, para. 376.

conflict with the law and may be sentenced to placement in care institutions or put on probation.<sup>195</sup>

The second CRC report points out that despite the authorities' clearly expressed will, the number of structures specialising in juvenile protection in the Sudan remains inadequate, due to the lack of material resources. At the same time, the Attorney General has established a committee to review all child-related laws in order to harmonize them with provisions of the CRC.<sup>196</sup>

According to the SPLM report, the SPLM legal code is not fully consistent with the CRC. Hence, efforts have been taken to bring customary and tradition law in southern Sudan into agreement with the provisions of the Convention. The SPLM Penal Code defines a juvenile offender as above the age of 10 and below 16, who can be sentenced to reform measure of not less than two but not more than five years. The Code also stipulates that no person under the age of 16 shall be sentenced to imprisonment.<sup>197</sup> The implementation of the legal system within southern Sudan is, however, at a very early stage. There are few courts and few trained professionals available to utilise them. Instead, traditional authorities and tribal chiefs remain the primary agents to resolve conflicts and address offenses. Hence, local custom and tradition rather than written law defines the rights entitled to children.<sup>198</sup>

In its Concluding Observations on the Sudan's second CRC report, the UN Committee expressed its concern at the lack of a holistic approach to juvenile justice, where problems of juvenile crime are addressed in accordance with the Convention and integrates measures of prevention, procedures and sanctions. Moreover, the Committee was concerned that the age of criminal responsibility is too low, considering that a children as young as 7 years old may be punishable by detention in a reformatory. As a result, the Committee recommended the Sudanese Government to raise the minimum age of criminal responsibility; and to establish a system of juvenile justice, which fully integrates the provisions of the Convention (in particular articles 37, 39 and 40) as well as other international standards (including the Beijing Rules and the Riyadh guidelines). It also recommended the Government to ensure that all children under the age of 18 years benefit from the protection of juvenile justice standards. Furthermore, the Committee urged the Government to guarantee that sentences of capital punishment are not imposed for acts committed when the perpetrator was under 18 years old and that sentences of life imprisonment without possibility of release are likewise not enforced. The UN Committee recommended the Sudan to ensure that children who are homeless, unaccompanied, begging and in other similar situations are not criminalised; and to end the use of corporal punishment, including flogging and amputation, on persons who may have committed crimes while below the age of 18.

### 4.9.3 Social Security

The Health Insurance Act, which was enacted in 1994, provides for a system of compulsory insurance in the Sudan, where the amount of contribution paid by each individual is determined on the basis of monthly income. According to the second CRC report, the initial contribution to the health services is set at 10 per cent, of which the employee pays 4 per cent and the employer pays the remaining 6 per cent. Workers pay 25 per cent of the cost of medicines. All family members continue to enjoy the health

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<sup>195</sup> According to the Juvenile Welfare Act the vagrant child can also be handed over to one or both parents or the legal guardian, or entrusted to a charitable society. Second Periodic Report, 2001, para. 156.

<sup>196</sup> Second Periodic Report, 2001, para. 377.

<sup>197</sup> According to the Draft Children's Bill for Southern Sudan, 2005, which is aimed at giving effect to the principles of the CRC, no child shall be sentenced to capital punishment or life imprisonment (The Bill defines a child as a human being under the age of 18 years). Similarly, the Interim Constitution of Southern Sudan, 2005, stipulates that no death penalty shall be imposed on a person under the age of eighteen.

<sup>198</sup> SPLM Alternative Report, 2000, p. 10.

insurance until marriage in the case of girls and until 18 years of age in the case of boys (or 24 years if they are still at university). The compulsory nature of the health insurance ensures that all groups in society, including children, have a right to access to medical services, according to the second CRC report.<sup>199</sup> By September 1997, the health insurance system had been introduced in 14 states.<sup>200</sup>

The SPLM report does not include any references to social security in southern Sudan. Considering the lack of resources within health care, education and other crucial sections of the society, due to the prolonged war, drought etc., clearly it is still a long way to go before children's rights to social security, as stipulated in article 26 of the CRC, is realised in southern Sudan.<sup>201</sup>

While noting the positive progress made by the Sudanese Government to establish a social security network in 14 States, the UN Committee was convinced that the social security coverage needs to be extended further and strengthened. Hence, the Committee recommended the Government to continue and strengthen its efforts to provide social security protection to Sudanese children and their families.

#### 4.10 Programme Area Ten: A Civil Society for the Rights of the Child (CRC Article 45)

Article 45 of the CRC recognises the importance of civil society involvement in the implementation and follow up of the Convention, and invites "competent bodies" to take part in this process by providing their expertise. The UN Committee emphasises that even though the state is ultimately accountable for complying with the CRC (see programme area 9), all members of society are responsible for implementing the rights of the child. The governments therefore need to work closely with NGOs, including human rights organisations, youth groups, academic institutions and faith groups, when promoting and realising child rights.<sup>202</sup>

In the Sudan, the relation between the Government and civil society has at times been tensed.<sup>203</sup> At the same time, the two CRC reports clearly indicate that the Sudanese Government, to a very great extent, is dependent on the services of the civil society in order to implement the rights of boys and girls in the country. For example, when reporting on the establishment of a child information centre, the second CRC report states: "The Sudan is highly dependent on external financial, material and technical assistance for the centre"<sup>204</sup> Similar statements are recurring throughout the reports, highlighting the important functions and roles of civil society organisations in the Sudan, but also the more problematic aspects of the relation between the government and civil society and the distribution of responsibilities.

In its Concluding Observation on the second CRC report, the UN Committee emphasised the important role of civil society, as well as international organisations, in the implementation of children's rights in the Sudan. The Committee was, however, concerned that insufficient measures were taken by the Sudanese Government in order to fully cooperate with international and non-governmental organisations and facilitate their efforts; and recommended the Government to strengthen its cooperation with NGOs and international organisations.<sup>205</sup>

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<sup>199</sup> Second Periodic Report, 2001, paras. 228-229.

<sup>200</sup> Among these States were Khartoum, Blue Nile, River Nile, North Darfur, West Darfur, North Kordofan, West Kordofan and Kassala. Second Periodic Report, 2001, para. 229.

<sup>201</sup> However, the Ministry of Health in southern Sudan is now discussing with UNICEF on what kind of social welfare system to introduce. Minutes from Workshop on HIV/AIDS, Nairobi, March 2006, Save the Children Sweden.

<sup>202</sup> Committee on the Rights of the Child, 2003, para. 56, 58.

<sup>203</sup> Committee on the Rights of the Child, 30 August 1993, paras. 25, 17.

<sup>204</sup> Second Periodic Report, 2001, para.123

<sup>205</sup> Committee on the Rights of the Child, 9 October 2002, para. 20.

## 5. Conclusions

Having taken a closer look at the Sudan's two CRC reports, as well as the alternative reports and the observations of the UN Committee, it is obvious that there is still a long way to go before children's rights are fully implemented in the Sudan. Scarce economic, material and human resources due to years of civil war, drought and famine seriously limit the authorities' capacity to ensure the rights of Sudanese boys and girls. However, the signing of the Comprehensive Peace Agreement in January 2005 brought promising possibilities and prospects to the war torn country, as well as enormous challenges and expectations. In this new era of peace building and reconciliation, resettling and reconstruction, the forthcoming CRC report, due in September 2007, will be prepared. In order to facilitate these preparations, this study has provided a background and platform for the upcoming reporting process. Learning from the previous reports and the recommendations of the UN Committee, there are four key issues that appear as crucial to consider when preparing the next CRC report.

The first issue relates to the previous problems of inclusive *participation* in the reporting process. According to the UN Committee, popular participation and public scrutiny of government policies should be encouraged and facilitated in the preparations of the CRC reports.<sup>206</sup> Hence, civil society organisations have an important role in the reporting process. However, according to the alternative report by AMAL, NGOs had not been able to receive information on and had found it difficult to participate in the preparations of the second CRC report. Furthermore, neither the two CRC reports nor the alternative reports provide any information on *children's participation* in the preparations of the reports. However, to involve children in the reporting process, by letting them participate, express their views and be listened to is a vital prerequisite for producing an accurate and honest CRC report.<sup>207</sup> Accordingly, it is of great importance to ensure and facilitate civil society participation as well as children's direct participation in the reporting process.

Secondly, the lack of accurate and current *data* needs to be addressed. Having read the previous CRC reports and the alternative reports it is obvious that finding up to date information and statistics will be a huge challenge in the preparations of the forthcoming report. In its Concluding Observations on the second CRC report, the UN Committee noted the very serious lack of data in the Sudan and recommended the Government to establish an effective mechanism for the systematic collection of disaggregated quantitative and qualitative data.<sup>208</sup> Civil society organisations appear as important contributors to this process, since they could provide valuable technical assistance.

The third and maybe the most important point relates to the issue of an *inclusive* CRC report, which incorporates all aspects and all regions of the Sudan. The first and second CRC report are mainly focused on the northern part of the Sudan, with very limited information on southern Sudan, whereas the SPLM alternative report is focused on the situation of children in southern Sudan. When the second CRC report was discussed in Geneva, the UN Committee highlighted the lack of information on children in southern Sudan, and the Sudanese delegation promised that this issue would be addressed in the next CRC report.<sup>209</sup> The signing of the Comprehensive Peace Agreement provides promising opportunities and prerequisites for the compilation of an inclusive and honest CRC report that addresses all aspects of Sudanese children's situation as well as all regions of the country.

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<sup>206</sup> Committee on the Rights of the Child, 1996, para. 20.

<sup>207</sup> See for example Committee on the Rights of the Child, 2003, para. 12.

<sup>208</sup> Committee on the Rights of the Child, 9 October 2002, paras. 18-19.

<sup>209</sup> Committee on the Rights of the Child, 27 September 2002, para. 34.

Finally, it is important to consider the issue of *distribution*. According to article 44 of the CRC, State Parties shall make their report widely available to the public in their own country. However, according to AMAL, only 300 copies of the second CRC report were made available in the Sudan. Furthermore, these copies were printed in Arabic only. Hence, developing a mechanism and structure to ensure the distribution and availability of the CRC report once it is finalised will be of great importance.

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United Nations Population Division: <http://lcweb2.loc.gov/frd/cs/profiles/Sudan.pdf>

# Appendix I: The Convention on the Rights of the Child (CRC)

The Convention on the Rights of the Child (CRC) was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. It entered into force 2 September 1990, in accordance with article 49.

## Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person and have determined to promote social progress and better standards of life in larger freedom,

Recognising that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognising that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognised in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialised agencies and international organisations concerned with the welfare of children, '

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognising that, in all countries in the world, there are children living in exceptionally difficult conditions and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognising the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

### ***Part I.***

#### **Article 1**

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

#### **Article 2**

1. 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, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. 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.

#### **Article 3**

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

#### **Article 4**

States Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

#### **Article 5**

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognised in the present Convention.

#### **Article 6**

1. States Parties recognise that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

#### **Article 7**

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

#### **Article 8**

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

#### **Article 9**

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests. 4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

#### **Article 10**

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own and to enter their own country. The

right to leave any country shall be subject only to such restrictions As are prescribed by law and which are necessary to protect the national security, public order (order public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognised in the present Convention.

#### **Article 11**

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

#### **Article 12**

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

#### **Article 13**

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such As are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others; or
  - (b) For the protection of national security or of public order (order public), or of public health or morals.

#### **Article 14**

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations As are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

#### **Article 15**

1. States Parties recognise the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (order public), the protection of public health or morals or the protection of the rights and freedoms of others.

#### **Article 16**

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy,

family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

#### **Article 17**

States Parties recognise the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

#### **Article 18**

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, As the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from childcare services and facilities for which they are eligible.

#### **Article 19**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, As appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, As well As for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, As appropriate, for judicial involvement.

#### **Article 20**

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

#### **Article 21**

States Parties that recognise and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorised only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling As may be necessary;
- (b) Recognise that inter-country adoption may be considered As an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

#### **Article 22**

1. 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, whether unaccompanied or accompanied by his or her parents or by any other person, 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 to which the said States are Parties.
2. For this purpose, States Parties shall provide, As they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organisations or non-governmental organisations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection As any other child permanently or temporarily deprived of his or her family environment for any reason, As set forth in the present Convention.

#### **Article 23**

1. States Parties recognise that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognise the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is

appropriate to the child's condition and to the circumstances of the parents or others caring for the child. 3. Recognising the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international co-operation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

#### **Article 24**

1. States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realisation of the right recognised in the present article. In this regard, particular account shall be taken of the needs of developing countries.

#### **Article 25**

States Parties recognise the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

#### **Article 26**

1. States Parties shall recognise for every child the right to benefit from social security, including social insurance and shall take the necessary measures to achieve the full realisation of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, As well As any other consideration relevant to an application for benefits made by or on behalf of the child.

#### **Article 27**

1. States Parties recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, As well As the making of other appropriate arrangements.

#### **Article 28**

1. States Parties recognise the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
  - (a) Make primary education compulsory and available free to all;
  - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child and take appropriate measures such As the introduction of free education and offering financial assistance in case of need;
  - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
  - (d) Make educational and vocational information and guidance available and accessible to all children;
  - (e) Take measures to encourage regular attendance at schools and the reduction of dropout rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

#### **Article 29**

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

### **Article 30**

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

### **Article 31**

1. States Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

### **Article 32**

1. States Parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
  - (a) Provide for a minimum age or minimum ages for admission to employment;
  - (b) Provide for appropriate regulation of the hours and conditions of employment;
  - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

### **Article 33**

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties and to prevent the use of children in the illicit production and trafficking of such substances.

#### **Article 34**

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

#### **Article 35**

States Parties shall 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.

#### **Article 36**

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

#### **Article 37**

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, 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;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority and to a prompt decision on any such action.

#### **Article 38**

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. 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.

#### **Article 39**

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment;

or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

#### **Article 40**

1. States Parties recognise the right of every child alleged As, accused of, or recognised As having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged As, be accused of, or recognised As having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged As or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings. 3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged As, accused of, or recognised 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.

4. A variety of dispositions, such As care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

#### **Article 41**

Nothing in the present Convention shall affect any provisions which are more conducive to the realisation of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

## *Part II.*

### **Article 42**

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

### **Article 43**

1. For the purpose of examining the progress made by States Parties in achieving the realisation of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of ten experts of high moral standing and recognised competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, As well As to the principal legal systems.
3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-general of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-general shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-general at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if denominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.
7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.
8. The Committee shall establish its own rules of procedure.
9. The Committee shall elect its officers for a period of two years.
10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place As determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.
11. The Secretary-general of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions As the Assembly may decide.

#### **Article 44**

1. States Parties undertake to submit to the Committee, through the Secretary-general of the United Nations, reports on the measures they have adopted which give effect to the rights recognised herein and on the progress made on the enjoyment of those rights:
  - (a) Within two years of the entry into force of the Convention for the State Party concerned;
  - (b) Thereafter every five years.
2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.
3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.
5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
6. States Parties shall make their reports widely available to the public in their own countries.

#### **Article 45**

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

- (a) The specialised agencies, the United Nations Children's Fund and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention As fall within the scope of their mandate. The Committee may invite the specialised agencies, the United Nations Children's Fund and other competent bodies As it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialised agencies, the United Nations Children's Fund and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;
- (b) The Committee shall transmit, As it may consider appropriate, to the specialised agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;
- (c) The Committee may recommend to the General Assembly to request the Secretary-general to undertake on its behalf studies on specific issues relating to the rights of the child;
- (d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

### *Part III .*

#### **Article 46**

The present Convention shall be open for signature by all States.

#### **Article 47**

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-general of the United Nations.

#### **Article 48**

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-general of the United Nations.

#### **Article 49**

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-general of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

#### **Article 50**

1. Any State Party may propose an amendment and file it with the Secretary-general of the United Nations. The Secretary-general shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-general shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

#### **Article 51**

1. The Secretary-general of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-general of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-general

#### **Article 52**

A State Party may denounce the present Convention by written notification to the Secretary-general of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-general

**Article 53**

The Secretary-general of the United Nations is designated As the depository of the present Convention.

**Article 54**

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-general of the United Nations.

In witness thereof the undersigned plenipotentiaries, being duly authorised thereto by their respective governments, have signed the present Convention.

## Appendix 2: Save the Children Sweden Programme Areas

Save the Children Sweden is a membership organisation built on democratic principles. Our organisation is independent in relation to the state and government institutions economically as well as politically. Our work is based on the UN Convention on the Rights of the Child and the Universal Declaration on Human Rights, which implies respect for the dignity and equal worth of each person as an individual and as a member of society. Save the Children Sweden and its partner organisations do not replace the function of the state in the implementation of the Convention on the Rights of the Child.

### **A child rights approach**

All work of Save the Children is done through a child rights based approach. This means that boys and girls participate as rights holders, claiming their own rights, and as actors in their own development. A rights based approach considers the broader context and addresses root causes. It takes a holistic approach to children and their situation. All actions are based on an analysis of the socio-cultural context and how stakeholders and duty-bearers perceive the rights of the child and childhoods. This approach emphasizes the indivisibility and interdependence of rights and is based on the four general principles of the Convention on the Rights of the Child:

- Non-discrimination
- Best interests of the child
- Right to survival and development
- The right of the child to express his/her views

The individual needs and circumstances of a child should be considered in all actions and decisions regarding that child in order to ensure that the best interests of the child is given primary consideration. Children should be involved in decisions that affect their lives. The right to information, to expression of thoughts and ideas and the right to influence are fundamental for children's possibilities to claim their rights. Save the Children Sweden recognizes children as advocates of change and resilience. We believe that it is important to nurture the energy and creativity of children and young people so that they can actively take part in shaping their environment, their societies and the world they will inherit.

The values of the Convention on the Rights of the Child relate to qualities of life to which everyone is entitled, regardless of age, gender, race, religion, nationality, or any other factors. Disadvantaged and marginalized children, including adolescents in particular, need special attention and support to access basic services, build self-esteem and to prepare them to take responsibility for their own lives. Save the Children Sweden works against exclusion, marginalisation, stigmatisation and oppression, and for inclusion, respect and integration,

### **Duty-bearers accountable**

The responsibility for ensuring that rights are respected, protected and fulfilled lies ultimately with national governments and they are to be held accountable for maintaining and implementing human rights. This responsibility also concerns all other parts of society from the level of international institutions, through nation state and community, to individuals in the family. Parents and adults close to children have special responsibilities and play a key role with regard to their protection.

## What Save the Children Sweden wants to do

Save the Children Sweden tries to influence decision makers and authorities to take into account the rights of the child in planning, policy making, allocation of resources, and practical actions media to monitor and promote the rights of the child civil society, including children's and youth's own organizations; to act as a watch-dog monitoring and promoting the rights of the child families as well as individual children and adults in local communities to respect, protect, and reinforce the rights of the child.

Our main implementing strategies are

- research and analysis
- knowledge dissemination and capacity building
- direct support
- advocacy and awareness raising

The Save the Children Programme Area Strategies are based on the vision, values and guidelines of the Compass - Framework and Direction for Save the Children Sweden.

### 1. Exploitation and abuse of children <sup>210</sup>

Children need special protection because they are children and as such dependent, formative and potentially vulnerable. This is particularly true for children at risk of various forms of violence, exploitation and neglect and in need of additional support to enjoy their equal rights. Save the Children Sweden takes a holistic approach to children and their situation focusing on the complex pattern of immediate and underlying factors that may put children at risk of abuse and exploitation. Parents and adults close to children have special responsibilities, and play a key role with regard to their protection. When measures are taken to protect children from harm, their right to development is of major concern.

### 2. Children without sufficient family support<sup>211</sup>

Both parents have a responsibility for the upbringing and development of the child. This responsibility may be shared with others such as members of the wider family. The State has an obligation to support and ease the burden of the family when it assumes its responsibility to protect and guide the child. If the child is deprived of his or her family environment, the State shall provide special protection and assistance. A child who is placed by the competent authorities for care, protection or treatment has a right to periodic review of the treatment. This also applies to girls and boys who are outside their country of origin and separated from parents or their previous legal/customary primary care giver. For children without family support, Save the Children Sweden advocates family-like alternatives to institutional care and believes in community-based solutions. Alternatives should therefore be found in the immediate neighbourhood and only in exceptional cases or as a last resort should children be placed in institutions.

### 3. Children in armed conflict and disaster

To develop preventive measures and to protect children in armed conflict and disaster, Save the Children Sweden believes that it is important to strengthen the community and to build constituencies of support and commitment. In war and emergencies it is important to apply a long-term development perspective also when short-term actions are carried out. The general policy of Save the Children to use a holistic perspective when analysing

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<sup>210</sup> *Definitions:* Child Abuse refers to certain direct, detrimental contact as well as non-contact acts towards a child. Child Exploitation refers to the systematic use of children's work in harmful conditions. Exploitation often includes acts of abuse but is a wider concept since it also involves parties other than those who are directly performing the abusive acts towards the child.

<sup>211</sup> *Definition:* Children without sufficient family support are children under 18 years who do not count with parents' or other legal/customary primary caregivers' efforts to protect against violations of his or her rights.

violations of children's rights is paramount in the planning of responses to children in conflict and emergencies. Save the Children believes that interventions to re-establish a normal everyday life - including education, health services and a safe environment - are essential to fulfil the right to development for these girls and boys. All interventions need to be based on the involvement of the children, and their views and suggestions have to be taken into account.

#### **4. The child's right to non-discrimination<sup>212</sup>**

The principle of the equal worth of all human beings is part of the fundamental values of Save the Children Sweden. Discrimination manifests itself in various forms. It can be direct or indirect, conveyed via words or deed and occur at all levels of society, including the family. Children may be subjected to several forms of discrimination simultaneously. To address inequality and to promote equity, affirmative action or positive discrimination may be required. Save the Children Sweden finds it essential to listen to children to get their views and experiences of any discriminatory decision or treatment. It is important to recognize children's capacity as advocates for change and resilience.

#### **5 A. The right to a good physical environment<sup>213</sup>**

The survival and development of girls and boys depend to a great extent on the physical environment where children's spend their daily lives. Save the Children Sweden believes that children, from the beginning of life, are active participants in their own development. We believe that girls and boys shape their world, at the same time as they are being shaped by it. The quality of the environment affects children's physical health, learning, and capacity, as well as their emotional and social growth. As there are always threats to children's optimal development and their right to protection from abuse, it is important to identify the protective factors in the physical environment. These positive factors may act as a buffer against the threats and contribute to building up resilience and capacity to cope with the difficulties. For example, possibilities to recreation and play offer opportunities for children to interact with their environment in a developmentally constructive way. To ensure a good, safe and healthy environment, children need to know their rights. They also need basic health education, knowledge of how to prevent accidents, and possibilities to develop respect for the natural environment.

#### **5 B. Young people's right to sexual health<sup>214</sup>**

The right to sexual and reproductive health means that every individual is free to choose his or her partner, the mode of sexual relationship, and if they want to have children. Sexual rights are about respect for each person's physical and mental integrity, about each individual's right to say Yes or No to sex and the right to be protected against sexual abuse and discrimination. Save the Children Sweden acknowledges that young people are sexually active and we consider important to provide young people with the information needed to understand how their body functions, and to know what it implies to respect one's partner. They also need to know how best to protect themselves from HIV/AIDS and other sexually transmitted diseases as well as from sexual abuse and exploitation.

Save the Children Sweden acknowledges that parents and the family have the primary guiding role. The right of children and young people to exercise influence over their own lives means that adults have to allow them space and take their views seriously. Since issues

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<sup>212</sup> *Definition:* Save the Children Sweden defines discrimination as a negative differentiation in treatment of an individual or a group, based on certain grounds such as sex, origin, or opinion, which has the purpose or effect of impairing someone to enjoy her or his rights.

<sup>213</sup> *Definition:* In this context, physical environment means the direct surrounding of the child, the immediate environment in children's homes, schools and workplaces, as well as the environment in the neighbourhood and in the city. Issues to take into consideration are: Housing; water and sanitation; environmental hazards; environmental stress.

<sup>214</sup> Work area within the programme area of A good physical environment and the best possible health

regarding sexual and reproductive health usually are sensitive and often taboo, attitudes and opinions of adults are crucial to ensure young people the support required. In relation to abortion, Save the Children Sweden wants to contribute to permissive legislation globally, as well as care and treatment, in the best interests of the child. The right to non-discrimination means that all young people have an equal right to sexual health, including girls, young people from ethnic minorities, young people with disabilities, with “different” sexual preferences or those suffering from HIV/AIDS.

## **6. The right to education**

All children have the right to basic education that is free of charge. They also have rights in education, as education should aim at developing the child’s personality, talents and mental and physical abilities to prepare them for a responsible life in a free society. To be in the best interest of the child, the content of learning has to be relevant and adjusted to each child’s individual capabilities. Teaching styles and attitudes have to be child-friendly in a learning-friendly environment, respecting the integrity and individual needs of the child. To achieve this, physical and mental punishment, bullying and other forms of degrading treatment have to be eliminated. This would also contribute to keeping children in school. In addition, the basic values of the CRC have to be known and adopted by adults responsible for the upbringing and education of children. It is important to use education to practice participation, and prepare the child for an active, responsible life in society. Participatory and cooperative learning strategies are essential to develop critical thinking, conscious decision-making and peaceful conflict resolution. Children also have rights through education as all children are entitled to know their rights. Teachers are key agents to transmit this knowledge to their students.

## **7. Children’s right to be heard and to participate**

Children have the right to express their views freely and to be heard and taken seriously when they do so. The views of the child should be taken into account and given consideration in accordance with his or her age and maturity. In addition, the child has a right to search and receive information in order to be able to form its opinions. Children’s participation is a process that should be understood and implemented within the local social and cultural context. The forms of participation may vary, from close dialogue between a child and a parent to children taking part in decision-making processes at various levels. The right to information, to expression of thoughts and ideas and to influence is fundamental for children’s possibilities to claim their rights. This is valid for all children including the marginalized child. Save the Children Sweden believes that children’s participation enhances self-respect and respect for others. This respect will, in turn, enhance awareness of and sensitivity to democratic values and human rights. In addition, the quality of decisions concerning children will improve when children are listened to and their opinions are taken into consideration.

## **8. The human rights of the child and child rights programming**

Human rights as enshrined in international human rights conventions, in particular the UN Convention on the Rights of the Child, are based on respect for the dignity and value of each person as an individual and also as a member of society. Everyone is entitled to these rights, regardless of age, gender, race, religion, nationality, or any other factors. States have a primary obligation to ensure that these rights are respected, protected and fulfilled. This duty also concerns all other elements of society from the level of international agencies to individuals in the family. All work of Save the Children Sweden is done through a child rights based approach and all programmes are developed following the characteristics of child rights programming. A rights based approach considers the broader context of society at large and addresses root causes. It empowers children as holders of

human rights to claim those rights in partnership with adults. This approach considers governments as key duty-bearers and hold them accountable. It seeks inclusive gender sensitive solutions. It requires a holistic perspective and a multi-sector programming approach. All actions are based on an analysis of the socio-cultural context.

## **9. Good governance in the best interest of the child**

Save the Children Sweden applies a rights-based approach to its programme work. A key feature of this approach is the notion of individual citizens, including children, as rights holders and states as primary duty bearers. When a state ratifies the Convention on the Rights of the Child, it becomes accountable to all children in that country. The country also becomes accountable to the international community. It is their responsibility to ensure that rights are respected, protected, promoted and implemented. The notions of accountability and duty bearers are closely linked to the concept of good governance. A commonly accepted definition of governance is: The way the state exercises its political, economic and administrative power. Key attributes of good governance are that institutions and processes build on the rule of law, are accountable, open, effective and responsive and give space for equal and meaningful participation. Consequently, a rights-based approach implies assessing strengths and weaknesses of governments with regard to the implementation of the CRC, cooperating with them and advocating for change when needed. Good governance for children is integral to all aspects of the programme work of Save the Children Sweden.

## **10. A civil society for the rights of the child**

Save the Children Sweden in its capacity as a Swedish non-governmental organisation is part of the civil society in Sweden<sup>215</sup>. It is also part of the global civil society, primarily as a member of the International Save the Children Alliance. Save the Children Sweden is built on democratic principles, and it shall reflect democratic values and contribute to a democratic culture. We are independent in relation to the state and government institutions. All programme work is guided by the norms and principles of the UN Convention on the Rights of the Child. Save the Children Sweden stresses the importance of international monitoring and we believe that an active civil society built on democratic principles is fundamental to promote, monitor and uphold respect for human rights and human dignity, including the rights of the child. We strive for fair NGO representation in international and other fora and we encourage those civil society representatives who are closest to the children concerned to speak out.

## **11. Knowledge management, capacity building and rights-based programme planning**

The main characteristics of the programme are:

- The programme work reflects a holistic view of children. All parts interact to reinforce the totality of the programme.
- Save the Children Sweden builds its programme work on knowledge and commitment and on learning from experiences.
- The programme has clear messages for change and is result oriented.
- In its programme work Save the Children Sweden keeps a critical and open dialogue with colleagues, members and partners.
- Save the Children Sweden extensively shares information and knowledge.

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<sup>215</sup> *Definition:* Save the Children Sweden defines civil society as Citizens who act collectively and voluntarily in an organised way in order to express or promote a common interest or opinion. Thus the civil society is the organized sphere in the public space between the individuals and their private households and the state along with its various institutions.

- The programme contributes to the development of capacity, commitment and responsibility internally and externally.
- Advocacy is built on knowledge and aims at long-term and sustainable effects
- All staff members contribute to a well-functioning administration

## Save the Children Sweden in Eastern and Central Africa

Save the Children Sweden started working in Eastern and Central Africa in 1965. Today, the organisation has offices in Addis Ababa, Ethiopia; Nairobi, Kenya; and Khartoum, Sudan. Save the Children Sweden has long-term child-rights based development programmes in Ethiopia and Sudan, and it supports local partners in Kenya, Eritrea, Somaliland and Uganda.

The organisation focuses on building the capacity of local people, community-based structures and organisations. In Eastern and Central Africa, it works with more than forty different non-governmental organisations and government bodies. In addition, it has adopted a direct implementation approach in southern Sudan and in the refugee camps of western Ethiopia and North Darfur.

All of the work in the region focuses on children's rights, and tackles issues that affect marginalised children. The core of the work focuses on children affected by conflict, discrimination, abuse, exploitation, and HIV/AIDS. Save the Children Sweden's focus also includes education, child participation and good governance in the best interest of the child.

The major task facing child rights advocates today is making the UN Convention on the Rights of the Child a reality for all children. The exchange of experience and know-how are proactive ways to work towards this goal, which is why Save the Children Sweden makes its books and reports available for the world. Welcome to visit our child rights bookshop on the internet, [www.rb.se/bookshop](http://www.rb.se/bookshop)

Save the Children Sweden is a non-governmental organisation. It is an active member of the International Save the Children Alliance – a global movement for children's rights.

Through 18 offices around the world, the organisation contributes ideas, experience and funds to 500 projects in more than 60 countries. Welcome to visit the Save the Children website, [www.savethechildren.net](http://www.savethechildren.net)

Save the Children Sweden fights for children's rights. We deliver immediate and lasting improvements to children's lives worldwide.

Save the Children Sweden works for a world:

- which respects and values each child
- which listens to children and learns
- where all children have hope and opportunity

More information about Save the Children Sweden and our projects worldwide can be obtained from our head office.

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