

CRC/C/15/Add.209 4 July 2003

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-third session

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

Concluding observations: Libyan Arab Jamahiriya

1. At its 875th and 876th meetings (CRC/C/SR.875 and 876), held on 27 June 2003, the Committee on the Rights of the Child considered the second report of the Libyan Arab Jamahiriya (CRC/C/93/Add.1), which was received on 8 August 2000, and adopted, at the 889th meeting (CRC/C/SR.889) held on 6 June 2003, the following concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the second report, in accordance with the guidelines for reporting, as well as the information provided by a well-informed delegation familiar with a broad range of child rights issues. The Committee regrets, however, that a lack of complete data on demographic and budgetary matters, suitably disaggregated by Convention criteria, coupled with scarce information on practical implementation of the Convention hindered a full assessment of the State party's implementation of the Convention.

B. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes the establishment of the Higher Committee for Children (1997) and the State party's achievements in the areas of education, particularly in raising enrolment and literacy rates, and health, including the coverage of its immunization programmes and access to basic services. It also welcomes the State party's generous assistance in humanitarian matters, including in collaboration with United Nations agencies.

C. Factors and difficulties impeding the implementation of the Convention

4. The Committee recognizes that restrictions on the State party's external trade during some of the reporting period limited the resources available for the full implementation of its obligations under the Convention.

D. Principal subjects of concern and recommendations

1. General measures of implementation

Previous concluding observations

5. The Committee regrets that many of the concerns expressed and recommendations (see CRC/C/15/Add.84) made following consideration of the State party's initial report (CRC/C/28/Add.6) have been insufficiently addressed, and notes that many of the same concerns and recommendations appear in the present document.
6. The Committee urges the State party to make every effort to address those recommendations contained in the concluding observations on the initial report that have not yet been implemented

and to address the list of concerns contained in the present concluding observations on the second periodic report.

Legislation

7. The Committee notes the adoption of the Child Protection Act No. 5 of 1997, in addition to the numerous other laws and decisions that have been adopted with a view to improving the welfare of children. It is concerned, however, that many measures reflect a predominantly welfare- rather than rights-based approach. The Committee reiterates its concern that several rights contained in the Convention (e.g. non-discrimination, the best interests of the child, rights concerning juvenile justice) are not adequately reflected in the laws, including personal status laws.

8. The Committee encourages the State party:

- (a) To ensure that its laws, administrative regulations and legal procedure rules conform to the provisions and principles of the Convention and to other international human right standards; in this respect, it encourages the State party to take the necessary steps to adopt a single “integrated” law on children’s rights in order to provide a comprehensive legal foundation at the domestic level for implementation of Convention rights;
- (b) To take all possible measures to reconcile the interpretation of religious laws with fundamental human rights; and
- (c) To ensure that laws are based on a child-rights approach, are sufficiently clear and precise, are published, and are accessible to the public.

Coordination

9. The Committee notes that the Higher Committee for Children (and its regional branches) is responsible for elaborating child welfare plans and programmes and coordinating their implementation through 26 categories of public authority (e.g. day nurseries, schools, health centres, social welfare homes, the Environmental Protection Agency). However, it also notes that services provided for children are decentralized through 26 *sha’biyya* (local authorities) throughout the State party “without the need for reference to a central institution”. Committee reiterates the concern expressed in its previous concluding observations that this system lacks necessary and effective coordination. Given that the Higher Committee is composed of volunteers and officials seconded from government ministries, there may be some doubt as to whether its structures are sufficiently robust to perform its functions. The Committee also notes that the various programmes and welfare plans do not constitute a much-needed comprehensive national plan of action for the implementation of the Convention.

10. The Committee recommends that the State party:

- (a) Strengthen intersectoral coordination and cooperation at and between national and local levels of government, for example by providing the Higher Committee with the necessary powers and resources;
- (b) Prepare and implement a comprehensive and rights-based national plan of action for the implementation of the Convention, taking into account the outcomes of the General Assembly special session on children and paying special attention to children belonging to the most vulnerable groups (e.g. poor and rural households), through an open, consultative and participatory process; and
- (c) Seek technical assistance from, among others, UNICEF.

Data

11. The Committee notes progress in the collection of data on children by the National Organization for Information and Documentation and the sectoral information and documentation centres.
12. **The Committee recommends that the State party:**
 - (a) Continue and strengthen its efforts to establish a system such that disaggregated data are collected on all persons under 18 years of age for all areas covered by the Convention (e.g. victims of abuse, children living in remote areas, children with disabilities, children of poor households, adolescent health), and use these data to assess progress and design policies and programmes to implement the Convention; and
 - (b) Seek technical assistance from, among others, UNICEF.

Monitoring structures

13. The Committee welcomes the regular evaluations of the progress achieved in implementing the Convention. The Committee notes that both the Higher Committee for Children and the Secretariat for Legal Affairs and Human Rights (established in March 2002) are charged with monitoring and investigating violations of children's rights and ensuring respect for human rights in public and private life. The Committee is concerned that the existence of two entities with the same functions may result in overlap and problems of coordination which may have a negative impact on the effectiveness of these governmental (self-) monitoring bodies. The Committee is furthermore concerned at the absence of a fully independent mechanism with a mandate regularly to monitor and evaluate progress in the implementation of the Convention, and which is mandated to receive and address complaints by children of violations of their rights.
14. **The Committee recommends that the State party:**
 - (a) Clearly define the respective roles of the two governmental bodies regarding the self-monitoring of the human rights of children in order to avoid overlap and promote effective coordination;
 - (b) Consider establishing an independent national human rights institution, in accordance with the Paris Principles (General Assembly resolution 48/134, annex) and taking into account the Committee's general comment No. 2, to monitor and evaluate progress in the implementation of the Convention at the national and local levels. This institution should be adequately resourced, accessible to children and empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner and to address them effectively; and
 - (c) Seek technical assistance from, among others, UNICEF and OHCHR.

Resource allocation

15. The Committee welcomes information on progress achieved in addressing economic disparities between regions, but is concerned at the lack of specific information in terms of the percentage of the national budget allocated for expenditures in the various areas covered by the Convention, and that insufficient attention has been given to the allocation of resources for programmes and policies to promote the civil and political rights of children.
16. **The Committee recommends that the State party:**

- (a) Develop a budgeting system that would allow expenses for children's issues as a percentage of the national budget to be clearly identified, in order to have a clearer picture of the actual allocation of resources and a systematic assessment of the impact of those allocations on the implementation of children's rights; and
- (b) Strengthen its efforts to allocate resources for programmes and policies to promote the civil and political rights of children.

Cooperation with civil society

17. The Committee notes information on cooperation with national associations in the development and welfare sectors, but is concerned that little effort has been made to involve civil society in the implementation of the Convention, particularly in the area of civil rights and freedoms. The Committee notes that the delegation was unable to provide complete information on the limitations imposed by law on, in particular, the registration and funding of organs of civil society.

18. The Committee recommends that the State party:

- (a) Systematically involve civil society, especially children's associations, throughout all stages of the implementation of the Convention, especially with respect to civil rights and freedoms; and
- (b) Ensure that legislation regulating NGOs (including article 206 of the Penal Code) conforms to article 15 of the Convention and other international standards on freedom of association, as a step in facilitating and strengthening their participation.

Training/dissemination of the Convention

19. The Committee is concerned at the low level of awareness of the Convention amongst professionals working with and for children and the general public, including children themselves. In particular, judges, magistrates and legal practitioners are not, in the Committee's view, provided with sufficiently developed professional training in the area of human rights, including Convention rights. The Committee is concerned that the State party is not undertaking sufficient measures to disseminate and raise awareness of international human rights standards, including the Convention, in a systematic and targeted manner.

20. The Committee recommends that the State party:

- (a) Develop a programme for the dissemination of information regarding the implementation of the Convention among children and parents (include initiatives to reach those groups who are illiterate or without formal education), civil society and all sectors and levels of government, including the *sha'biyya*;
- (b) Develop systematic human rights training programmes, including on the provisions of the Convention, for all professional groups working with children (e.g. the Basic and General People's Congresses, judges, magistrates, lawyers, law enforcement officials, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers); and

21. The Committee is concerned that:

- (a) Even though the age of criminal responsibility is formally said to be 14 years, in practice a measure of criminal responsibility is also imputable to children aged 7 to 14 years and is

punishable by, inter alia, custodial sentences; in the Committee's view, this is incompatible with the Convention;

- (b) Although the age of compulsory recruitment into the armed forces is 18 years, article 1 of Mobilization Act No. 21 of 1991 allows for persons of 17 years to, among other things, engage in combat.

22. The Committee recommends that the State party:

- (a) Enact legislation ensuring that the minimum age of criminal responsibility, in law and practice, is consonant with international standards; and**
- (b) Amend article 1 of Mobilization Act No. 21 of 1991 such that persons under 18 mobilized in the context of a general mobilization can serve the war effort without being deployed as active combatants.**

3. General principles

The right to non-discrimination

23. The Committee is concerned that, contrary to article 2 of the Convention, discrimination, both direct and indirect, against certain children, their parents or legal guardians, persists in the State party, particularly with respect to birth out of wedlock.

24. The Committee recommends that the State party:

- (a) Take effective measures, including enacting or rescinding legislation where necessary, to ensure that all children enjoy all the rights set out in the Convention without discrimination, in accordance with article 2;**
- (b) Carry out comprehensive public education campaigns to prevent and combat negative societal attitudes towards birth outside marriage and to include religious leaders in these such efforts.**

25. The Committee is concerned that xenophobia, particularly towards migrant workers, persists in the State party and that it is harmful to the child's developing respect for human rights, including the right to non-discrimination.

26. The Committee recommends that the State party:

- (a) Take all appropriate measures, including comprehensive public education campaigns, to prevent and combat negative societal attitudes towards migrant workers;**
- (b) Take due regard of the Human Rights Committee's general comment No. 23 on the rights of minorities, and include specific information in this regard in the next periodic report;**
- (c) Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and**
- (d) Include specific information in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29 (1) of the Convention (aims of education).**

Best interests of the child

27. The Committee is concerned that the general principle of the best interests of the child contained in article 3 of the Convention is not explicitly incorporated in all legislation concerning children and is not always considered in practice. In particular, the Committee is not persuaded that a rigid custodial line of mother, maternal grandmother and father and the exclusion from custodial arrangements of foreign parents outside the State party necessarily give effect to this principle.
28. **The Committee recommends that the State party refer to, and fully incorporate in legislation and practice, article 3 of the Convention, including in the area of custody of children.**

Respect for the views of the child

29. The Committee welcomes efforts by the State party to promote respect for the views of children, such as in school congresses, courts, and institutions. Nevertheless, it is concerned that traditional attitudes towards children in society may limit the respect for their views, especially within the family.
30. **The Committee recommends that the State party:**
- (a) **Continue to promote and facilitate within the family, the school, institutions, the courts, administrative bodies and the Basic People's Congresses respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention;**
 - (b) **Develop programmes in community settings to train parents, teachers, social workers and local officials to support children in expressing their informed views and opinions, to take those views into consideration.**

4. Civil rights and freedoms

Nationality

31. With reference to the recommendations contained in its previous concluding observations on this matter, the Committee welcomes the information that the Higher Committee is considering the possibility of adopting a rule that would permit a Libyan mother to transfer her nationality to her children, irrespective of her husband's nationality.
32. **The Committee recommends that the State party support the Higher Committee in this regard with a view to guaranteeing that children of Libyan mothers have the same right to Libyan nationality as children of Libyan fathers.**

5. Family environment and alternative care

Violence/abuse/neglect/maltreatment

33. The Committee welcomes the prohibition of corporal punishment in schools and takes note of the information that measures have been adopted to report and investigate maltreatment of children. Nevertheless, it is concerned at the lack of information on the actual situation in the State party with respect to ill-treatment of children within the family. Further, it regrets the lack of information on prevention and awareness-raising activities.
34. **The Committee recommends that the State party:**

- (a) Conduct a comprehensive study to assess the nature and extent of ill-treatment and abuse of children, as well as other domestic violence, and use the results to design policies and programmes to address this issue;
- (b) Carry out preventive public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment;
- (c) Take the necessary measures to prevent violence against, and abuse of, children;
- (d) Establish effective child-sensitive procedures and preventive mechanisms to receive, monitor and investigate complaints, including through the intervention of social and judicial authorities where necessary, to find appropriate solutions, paying due regard to the best interests of the child;
- (e) Give attention to addressing and overcoming sociocultural barriers that inhibit victims from seeking assistance;
- (f) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of ill-treatment cases; and
- (g) Seek assistance from, among others, UNICEF and WHO.

6. Basic health and welfare

Children with disabilities

35. The Committee, while welcoming the efforts taken by the State party to guarantee rights to children with disabilities, remains concerned that the rights of children with disabilities have yet to be fully implemented, notably with respect to non-discrimination and to inclusion in regular education.
36. The Committee recommends that the State party:
- (a) Review existing policies and practice in relation to children with disabilities, taking due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted at its day of general discussion on children with disabilities (see CRC/C/69);
 - (b) Undertake greater efforts to make available the necessary professional and financial resources;
 - (c) Undertake greater efforts to promote and expand community-based rehabilitation programmes, including parent support groups;
 - (d) Undertake greater efforts for inclusive education of children with all forms of disability;
 - (e) Seek assistance from, among others, UNICEF and WHO.

Adolescent health and HIV/AIDS

37. The Committee notes the establishment of the National Committee for AIDS Prevention in 1987 and other measures to address the problem of HIV/AIDS, but is concerned at the relatively high number of children afflicted by HIV/AIDS in Benghazi. The Committee is also concerned at insufficient information available in relation to adolescent health, particularly in relation to mental health issues.
38. The Committee recommends that the State party:

- (a) Continue and strengthen its activities to prevent HIV/AIDS;
- (b) Provide the special AIDS clinic in the children's hospital with all the necessary human and financial resources to treat the child victims of HIV/AIDS in the best possible way, avoiding any form of discrimination;
- (c) Ensure that adolescents have access to and are provided with education on adolescent health issues, in particular regarding mental health, in a sensitive manner;
- (d) Take appropriate measures to reduce substance dependency amongst young people;
- (e) Strengthen efforts in the area of adolescent health education within the school system;
- (f) Seek assistance from, among others, UNICEF and WHO.

7. Education

Education

39. The Committee notes the efforts of the State party to include some principles and provisions of the Convention in the school curricula, but is concerned that the aims of education outlined in article 29 of the Convention, including the development of and respect for human rights, tolerance, and equality of the sexes and religious and ethnic minorities, are not explicitly part of the curricula. The Committee also regrets the lack of emphasis on early childhood development, shown notably in the very low numbers of children for whom pre-school care is provided.
40. The Committee recommends that the State party:
- (a) Taking into account the Committee's general comment No. 1 on the aims of education, include human rights education, including children's rights, in the curricula of all primary and secondary schools, particularly with respect to the development of and respect for human rights, tolerance, and equality of the sexes and religious and ethnic minorities; religious leaders should be mobilized in this regard;
 - (b) Act to increase the resources devoted to early childhood development.

8. Special measures of protection

Refugees

41. While appreciating the aid provided to refugees and displaced persons in a number of conflict-ridden countries such as Sierra Leone, the Sudan and Afghanistan, the Committee is concerned that there is no legislation to specifically guarantee the protection and rights of refugees or asylum-seeking children in the State party.
42. The Committee recommends that the State party ensure an effective legal framework for the protection of the rights of refugee and asylum-seeking children, in accordance with articles 2 and 22 of the Convention. In the light of the State party's accession to the regional instrument on refugees, the State party is encouraged to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and continue and expand its cooperation with UNHCR.

Trafficking

43. The Committee is concerned about reports of trafficking of children to the State party for the purposes of prostitution and slavery. The Committee is concerned that there is a lack of information and awareness of the trafficking and prostitution of children.
44. **The Committee recommends that the State party:**
- (a) **Undertake a national study on the nature and extent of these phenomena;**
 - (b) **Take legislative and other measures to combat these practices;**
 - (c) **Carry out awareness-raising campaigns to sensitize and mobilize the general public on the child's right to respect for his/her physical and mental integrity.**

Administration of juvenile justice

45. In addition to the de facto age of criminal responsibility of 7 years, which is much too low, the Committee is concerned that:
- (c) Conditions in detention, including pre-trial detention, are poor;
 - (d) Status offences are criminalized (i.e. vagrant and street children may be placed in juvenile homes or other institutions);
 - (e) That the Collective Punishment Law, which may affect children, violates fundamental human rights principles;
 - (f) The holistic approach to addressing the problem of juvenile crime (e.g. addressing underlying social factors) advocated in the Convention, including prevention, special procedures, and diversion, has not been sufficiently taken into consideration by the State party.
46. **The Committee recommends that the State party:**
- (a) **Ensure that its system of juvenile justice fully includes in its legislation and practice the provisions of the Convention, in particular articles 37, 39 and 40, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Guidelines for Action on Children in the Criminal Justice System;**
 - (b) **End the criminalization of status offences;**
 - (c) **Take legislative measures formally to abolish flogging as a punishment;**
 - (d) **Ensure that the deprivation of liberty is used only as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults;**
 - (e) **Ensure that persons under 18 are not tried as adults;**
 - (f) **Ensure that children have access to legal aid and independent and effective complaints mechanisms;**
 - (g) **Repeal the Collective Punishment Law;**
 - (h) **Train professionals in the area of social rehabilitation of children.**

9. Optional protocols

47. The Committee welcomes the delegation's assurance that the State party intends, in the imminent future, to ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict, and encourages the State party to take the necessary measures of implementation as soon as possible.

10. Dissemination of reports

48. In light of article 44, paragraph 6, of the Convention, the Committee recommends that the report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within all levels of administration of the State party and the general public, including concerned NGOs.
49. In light of the recommendation on reporting periodicity adopted by the Committee (see CRC/C/114 and CRC/C/124), and noting that the State party's third periodic report is due within two years of the consideration of its second report, the Committee invites the State party to submit a consolidated third and fourth periodic report on 14 November 2008, i.e. 18 months before the due date for the fourth periodic report. Such a report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.