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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-sixth session

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

Concluding observations: Sao Tome and Principe

1. The Committee considered the initial report of Sao Tome and Principe (CRC/C/8/Add.49) at its 955th and 956th meetings (see CRC/C/SR.955 and 956), held on 24 May 2004, and adopted at the 971st meeting (CRC/C/SR.971), held on 4 June 2004, the following concluding observations:

A. Introduction

2. The Committee welcomes the submission of the State party's initial report, although submitted late, as well as the written replies. It further notes with appreciation the high-level delegation sent by the State party, and welcomes the frank dialogue which allowed for a better understanding of the rights of the child in the State party.

B. Positive aspects

3. The Committee welcomes the adoption of laws and the establishment of various mechanisms aimed at protecting and promoting the rights of children, such as:
 - (a) Act No. 2/77 of 28 December 1997 on the family;
 - (b) Act No. 6/92 of 11 June 1992 on working conditions;
 - (c) The criminal and civil codes, in particular articles 125 and 488 of the Civil Code on criminal liability;
 - (d) The revision, in 2003, of Decree No. 417/71 of 29 September 1971 on legal assistance to minors;
 - (e) Act. No. 2/2003 on the basis of the education system;
 - (f) The launching of the Programme for Single Mothers as Heads of Households.

C. Factors and difficulties impeding the implementation of the Convention

4. The Committee acknowledges the challenges faced by the State party, such as the particular nature of its geographical configuration comprised of islands, its geographic isolation and numerous droughts.

D. Main areas of concern and recommendations

1. General measures of implementation

Legislation

5. The Committee welcomes the inclusion of provisions inspired by the Convention in the Constitution and in a number of laws relating to child rights, but remains concerned about the lack of compatibility between some domestic laws and the provisions and principles of the Convention,

and about the lack of implementation of appropriate domestic laws. The Committee is further concerned that very few international and regional instruments protecting human rights, including children rights, have been ratified by the State party.

6. **The Committee encourages further law reform, the full implementation of existing laws, and consideration of ratification of other human rights instruments, such as the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights. It further recommends that the State party consider ratifying, as a matter, of priority the African Charter on the Rights and Welfare of the Child of 1990.**

National plan of action

7. The Committee is concerned at the lack of a comprehensive national strategy or plan of action for the implementation of the Convention.
8. **The Committee encourages the State party to develop a comprehensive national plan of action for the implementation of the Convention, incorporating the objectives and goals of the outcome document entitled "A world fit for children" adopted by the General Assembly in its resolution S-27/2. In this regard, the State party should seek technical assistance from the United Nations Children's Fund (UNICEF) and involve civil society in the preparation and implementation of such a national plan of action.**

Coordination

9. The Committee notes that under the guidance of the Ministry of Justice, a multisectoral National Child Rights Committee has been established in April 2003 to coordinate initiatives to implement the Convention.
10. **The Committee recommends that the National Child Rights Committee be allocated sufficient financial and human resources to be able to effectively and efficiently coordinate initiatives to implement the Convention.**

Independent monitoring

11. The Committee notes that the new National Child Rights Committee mentioned above is also entrusted with the monitoring of the implementation of the Convention. However, the Committee is concerned that the National Child Rights Committee may lack the independence necessary to perform this task and that its mandate in this regard is not in accordance with the Committee's General Comment No. 2 (2002) on the role of national human rights institutions and the Paris Principles (see General Assembly resolution 48/134, annex).
12. **The Committee recommends that the State party, in accordance with the Committee's General Comment No. 2 (2002):**
 - (a) **Either strengthen the existing National Child Rights Committee implementation and monitoring, or establish a national human rights institution according to the Paris Principles;**
 - (b) **Ensure that the National Child Rights Committee or the new national institution be accessible to children, in particular by giving it power to conduct investigations and to receive and address complaints by children;**
 - (c) **Ensure that the National Child Rights Committee or the new national institution is provided with sufficient human and financial resources;**

- (d) **Seek assistance in this regard from, inter alia, the Office of the United Nations High Commissioner for Human Rights and UNICEF.**

Data collection

13. The Committee is concerned at the lack of an adequate data collection mechanism within the State party to permit the systematic and comprehensive collection of disaggregated quantitative and qualitative data for all areas covered by the Convention.
14. **The Committee recommends that the State party:**
 - (a) **Upgrade its system of data collection to cover all areas of the Convention;**
 - (b) **Ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention;**
 - (c) **Widely circulate these statistics and information;**
 - (d) **Continue its collaboration with, among others, UNICEF in this respect.**

Allocation of resources

15. The Committee welcomes the information about debt relief obtained through the Heavily Indebted Poor Countries (HIPC) Initiative and about the expected revenues from oil exploitation. However, the Committee is concerned by the worsening of the economic situation and by reports of allegations of poor management, including corruption, which have a negative impact on the level of resources available for the implementation of the Convention.
16. **In light of articles 2, 3, and 6 of the Convention, the Committee encourages the State party to pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, to the maximum extent of available resources and, where needed, within the framework of international cooperation. In particular, the Committee recommends that the State party undertake all appropriate measures to improve transparency and the quality of management. Finally, the Committee urges the State party to do everything possible to use the income generated by the relief of external debt and by oil exploitation to increase the resources allocated for the full implementation of the Convention, in particular for the improvement of health-care services, and the education and protection of vulnerable groups of children.**

Dissemination of the Convention

17. The Committee notes with appreciation the efforts undertaken by the State party to publicize widely the principles and provisions of the Convention and to disseminate the State party report. The Committee is however concerned by the lack of coordination and systematization of the various initiatives.
18. **The Committee recommends that the State party:**
 - (a) **Strengthen its measures regarding the dissemination of and the training on the Convention for all relevant professionals, and implement them in an ongoing and systematic manner;**
 - (b) **Take specific measures to make the Convention available to and known by all, children and parents, including in a child-friendly version.**

2. Definition of the child

19. The Committee notes with concern that the minimum age for minors under 18 years to enter into marriage under exceptional circumstances is discriminatory between boys and girls.
20. **The Committee recommends that the State party review the rules regarding the possibility of concluding a marriage below the general minimum age of 18 years, with a view to increasing the minimum age for this exception and set them at the same level for boys and girls. This should be accompanied by awareness-raising campaigns and other measures to prevent early marriages.**

3. General principles

Non-discrimination

21. The Committee is concerned that discrimination against disabled children and children living in poverty persists de facto.
22. **The Committee recommends that the State party conduct an in-depth revision of all legislations in order to fully guarantee the application of the principle of non-discrimination in domestic laws and compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups, in particular poor and disabled children.**
23. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Durban Declaration and Programme of Action adopted by the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of General Comment No. 1 (2001) on the aims of education.**

Best interests of the child

24. The Committee is concerned that although many laws provide for the principle of the best interests of the child to be taken into consideration, these laws are often not applied.
25. **The Committee recommends that the State party ensure the implementation of all relevant laws guaranteeing that the best interests of the child be a primary consideration in all actions concerning children.**

Respect for the views of the child

26. While appreciating that some measures have been taken to give children's views more weight in schools, communities, and in decision-making procedures, the Committee is concerned that it is still generally difficult for children to be heard in the State party, and that their right to be heard in proceedings affecting them may be limited.
27. **In the light of article 12 of the Convention, the Committee recommends that the State party:**
 - (a) **Strengthen its efforts to promote, within the family, schools and other institutions, respect for the views of children, especially girls, and facilitate their participation in all matters affecting them;**
 - (b) **Undertake national awareness-raising campaigns to change traditional authoritarian attitudes;**

- (c) Continue to strengthen children's participation in councils, forums, children's parliaments and the like;
- (d) Regularly review the extent to which children's views are taken into consideration, including their impact on relevant policies and programmes.

4. Civil rights and freedoms

Freedom of thought, conscience and religion

28. The Committee regrets the lack of information on the implementation of the rights enshrined in articles 13 to 17 of the Convention and invites the State party to provide specific information in its next report on how these rights are implemented and used by children.

Birth registration and right to nationality

29. The Committee welcomes the provisions contained in the Constitution and in Act No. 2/77 recognizing the right of the child to be recognized immediately after birth, the right to a name and to a nationality from birth, and the right to know and be cared for by his or her parents. It also commends the State party for the high scores attained in birth registration following the national campaign for birth registration.
30. **The Committee recommends that the State party continue implementing its comprehensive strategy in order to achieve a 100 per cent rate of birth registration as soon as possible, including by cooperating with UNICEF and other international agencies. The Committee further recommends that the strategy be adapted so as to establish public service mechanisms that will ensure birth registration in the future.**

Access to information

31. The Committee is concerned that children have easy access to pornographic DVDs sold locally.
32. **In the light of article 17 (e) of the Convention, the Committee recommends that the State party take all necessary measures to protect children from exposure to harmful information, including pornography. The Committee further recommends that the State party take into consideration the Committee's recommendations emanating from its day of general discussion on the child and the media during its thirteenth session (CRC/C/57).**

Corporal punishment

33. The Committee is deeply concerned that corporal punishment in the family, in schools and other institutions occurs and is still lawful in certain circumstances. The Committee is further concerned that domestic legislation contains no definition of ill-treatment.
34. **The Committee recommends that the State party:**
- (a) **Amend the current legislation to prohibit corporal punishment in all places, including in the family, in schools and other childcare settings;**
 - (b) **Amend the current legislation so as to provide a definition of what constitutes ill-treatment and to prohibit such practices in all settings;**

- (c) Carry out 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, in light of article 28 (2) of the Convention.

5. Family environment and alternative care

Parental responsibilities

- 35. The Committee is concerned that due to the fact that family ties are unstable and conjugal relations loose, many children live with single mothers or in an unstable family environment.
- 36. The Committee is further concerned by the lack of parental responsibilities, reflected in the high number of children abandoned by one or both parents, who depart for neighbouring countries.
- 37. **The Committee recommends that the State party take all necessary measures:**
 - (a) To support abandoned children socially and financially;
 - (b) To ensure that children born out of wedlock are registered and enjoy the same protection and services as children born in wedlock;
 - (c) To ensure that fathers, as well as mothers, meet their parental responsibilities, if necessary by acceding to or concluding international agreements securing the recovery of maintenance for the child when the parent is abroad, in line with article 27, paragraph 4, of the Convention.
- 38. The Committee also recommends that the State party pay particular attention to enhancing the role of the family in the promotion of children's rights, including by developing family counselling services in both urban and rural areas.

Abuse and neglect

- 39. The Committee is concerned that no mechanism exists to protect children against all forms of violence, including physical, mental and sexual abuse and neglect.
- 40. **The Committee recommends that the State party:**
 - (a) Take measures to address the problem of violence against children and ensure that there is a national system for receiving, monitoring, and investigating complaints, and when necessary, prosecuting cases in a manner which is child-sensitive and ensures the victim's privacy;
 - (b) Take measures to ensure that children victims of violence, including physical, mental and sexual abuse and neglect, have access to child counselling services;
 - (c) Conduct a broad awareness-raising campaign addressing violence against children in all spheres of society, in particular targeting professionals working with children;
 - (d) Ensure that perpetrators of violence against children are duly prosecuted and have access to counselling services.

6. Basic health and welfare

Children with disabilities

- 41. The Committee is deeply concerned about the lack of measures taken for children with disabilities and about the little knowledge the State party has of the issue.

42. The Committee recommends that the State party:

- (a) Conduct a comprehensive study on the magnitude of the problem in the State party, including by ensuring the collection and the use of adequately disaggregated and comprehensive data;
- (b) Develop inclusive policies and programmes for children with disabilities enabling them to actively participate in the life of the family and society;
- (c) Review the situation of these children in terms of their access to suitable health care, education services and employment opportunities and allocate adequate resources to develop services for children with disabilities, support their families and train professionals in the field;
- (d) Take note of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities adopted by the General Assembly in resolution 48/96, and of the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339); and
- (e) Seek assistance from, among others, UNICEF and WHO.

Health and welfare

43. The Committee welcomes the fact that the right to health care is enshrined in the Constitution. The Committee also welcomes the positive result of the expanded programme of immunization. The Committee takes note of the new strategy to combat malaria.

44. However, the Committee is concerned at the lack of access to safe drinking water and sanitation, which is the main cause of the prevalence of diarrhoeal diseases and worms, the high incidence of respiratory diseases and malaria, the high levels of maternal and child mortality, child malnutrition and the high number of children born with low birth weight.

45. The Committee recommends that the State party:

- (a) Keep implementing measures to guarantee universal access to primary health care, especially maternal and child health-care services and facilities, including in rural areas;
- (b) Take the necessary measures to build the capacity of health personnel;
- (c) Prioritize the provision of drinking water and sanitation services;
- (d) Strengthen existing efforts to immunize as many children and mothers as possible;
- (e) Strengthen existing efforts to combat malaria, respiratory diseases and diarrhoeal infections, and to take all necessary measures to lower mortality rates;
- (f) Increase the proportion of resources allocated to the health sector, so as to fully implement the Convention, in particular article 4;
- (g) Take measures to improve the nutritional status of children through education and promotion of healthy feeding practices, including breastfeeding;
- (h) Continue to cooperate in this matter with, inter alia, WHO and UNICEF.

46. The Committee notes with interest the Reproductive Health Programme. However, the Committee is concerned that:

- (a) Only adolescents over 16 years are able, in practice, to seek medical counselling without parental consent;

- (b) Alcohol, tobacco and drug abuse is affecting an increasing number of young people and that the existing legislation does not provide effective protection for children;
- (c) The rate of teenage pregnancies is high;
- (d) Mental health services are lacking.

47. The Committee recommends that the State party:

- (a) Develop comprehensive policies and plans on adolescent health, taking into account General Comment No. 4 (2003) on adolescent health and development;
- (b) Promote collaboration between State agencies and NGOs in order to establish a system of formal and informal education on HIV/AIDS and STIs, on sex education and on family planning;
- (c) Take into account General Comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37), in order to promote and protect the rights of children infected with and affected by HIV/AIDS;
- (d) Ensure access to reproductive health counselling and information and services for all adolescents;
- (e) Provide adolescents with accurate and objective information on the harmful consequences of alcohol, drug and tobacco use, and develop and implement a legislation adequately protecting them from harmful misinformation, including through comprehensive restrictions on alcohol and tobacco advertising;
- (f) Establish adequate mental health services. Harmful traditional practices

48. The Committee is concerned at the practice of early marriages.

49. The Committee recommends that the State party take all necessary measures to prevent and reduce all forms of early marriages, including by undertaking awareness-raising campaigns concerning the various kinds of damage and negative consequences resulting from early marriages.

7. Education, leisure and cultural activities

50. The Committee welcomes the successive reforms in the education system undertaken since 1991, but remains concerned that several values and rights recognized in article 29 of the Convention on the aims of education are not included in the school curricula and that the reforms undertaken lack an overall vision.

51. Further, the Committee is very concerned that:

- (a) Primary education is not free;
- (b) The illiteracy, drop-out and repeaters rates, particularly of girls, are high;
- (c) The quality of education is low;
- (d) Children in remote areas do not have access to schools;
- (e) Due to the system of shifts, the time spent in school per day by children is not long enough.

52. In the light of articles 28 and 29 of the Convention, the Committee recommends that the State party:

- (a) Undertake further consolidated reforms of the school curricula in order to ensure that they are in conformity with the aims set out in article 29 of the Convention and take into account General Comment No. 1 (2001) on the aims of education;
- (b) Urgently take all necessary measures to achieve universal and free primary education;
- (c) Progressively ensure that girls and boys, from urban, rural and least developed areas have equal access to educational opportunities, without any financial obstacles;
- (d) Implement additional measures to provide access to early childhood education for every child;
- (e) Adopt effective measures to urgently decrease the drop-out rate and to reduce repeaters and illiteracy rates;
- (f) Build urgently new schools and classrooms so as to ensure the availability of sufficient schools and classrooms to make the system of shifts unnecessary and to allow children to spend sufficient time in school daily;
- (g) Take appropriate measures to introduce human rights, including children's rights, into the school curricula;
- (h) Ensure access to leisure facilities and recreational activities;
- (i) Cooperate with, inter alia, UNESCO, UNICEF and the civil society to improve the education sector.

8. Special protection measures

Sexual exploitation

53. The Committee shares the concern of the State party about the gradual increase of cases of prostitution and other forms of sexual abuse which involve children. It is also deeply concerned that child prostitutes are considered by the law as criminals rather than as victims.
54. **The Committee recommends that the State party:**
- (a) Conduct a comprehensive study to assess the scope and nature of sexual exploitation of children;
 - (b) Take all necessary measures to effectively protect all children from sexual exploitation;
 - (c) Develop adequate systems of investigation of cases of sexual exploitation and of recovery for the victims;
 - (d) Undertake awareness-raising campaigns, particularly for children, parents and other caregivers.

Economic exploitation

55. The Committee notes that, despite the ratification by the Parliament of ILO Convention No. 138 concerning the Minimum Age for Admission to Employment, the State party has not transmitted to and registered with ILO its instrument of ratification. It also takes note of the attribution of grants to poor children encouraging them to attend school regularly.
56. However, the Committee is concerned that despite a general prohibition of work for children under 14 years, Act No. 6/92 allows a minor to conclude a work contract and to receive remuneration for work. The Committee is further concerned at the high number of children who are working.
57. **The Committee recommends that the State party:**

- (a) Ratify ILO Convention No. 182 of 1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;
- (b) Communicate for registration to the Director-General of the International Labour Office its formal ratification of ILO Convention No. 138 of 1973 concerning the Minimum Age for Admission to Employment, in accordance with article 11 of the said Convention;
- (c) Take all necessary measures to enforce the law prohibiting children from work before the age of 14 years, including by developing programmes to encourage children to go to school or to have access to informal education;
- (d) Seek assistance in this respect from, among others, ILO/IPEC and UNICEF.

Juvenile justice

58. The Committee notes with appreciation that the minimum age of criminal responsibility is set at 16 years. The Committee welcomes the modification, in 2003, of Decree 417 providing for the establishment of a juvenile court, the plan to establish a rehabilitation centre for juveniles, as well as the efforts made to provide information, raise awareness and train judges and other persons working with children about how to deal with juvenile delinquents. However, the Committee is concerned that Decree 417, as modified in 2003, has not yet been implemented and that no juvenile court exists in Sao Tome and Principe.

59. The Committee recommends that the State party:

- (a) Implement adequate legislation on criminal or other procedures to deal with persons under the age of 18 in conflict with the law;
- (b) Establish juvenile courts endowed with appropriately trained personnel, including judges;
- (c) Ensure that detained persons under the age of 18, including in pre-trial detention, are always separated from adults, and that deprivation of liberty is used only as a last resort, for the shortest appropriate time period and in appropriate conditions;
- (d) Ensure the full implementation of juvenile justice standards and, in particular, articles 37 and 40 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), and in the light of the general discussion on the administration of juvenile justice held during the tenth session of the Committee (CRC/C/46);
- (e) Seek assistance from, inter alia, OHCHR, the United Nations Office on Drugs and Crime, and UNICEF.

9. Optional Protocols to the Convention on the Rights of the Child

60. The Committee notes that the State party has neither signed nor ratified 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.
61. The Committee recommends that the State party ratify as soon as possible both 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.

10. Dissemination of documents

62. In light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial 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, together with the relevant summary records and 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 the Government, the Parliament and the general public, including concerned non-governmental organizations.

11. Next report

63. The Committee, aware of the delay in the State party's reporting, wants to underline the importance of a reporting practice which is in full compliance with the rules set out in article 44 of the Convention. Children have the right that the Committee in charge of regularly examining the progress made in the implementation of their rights does have the opportunity to do so. In this regard, regular and timely reporting by State parties is crucial. In order to help the State party get back onto the right reporting track in full compliance with its obligation under the Convention, the Committee invites the State party, by way of exception, to submit its next report before the due date established under the Convention for the fourth periodic reports, which is 12 June 2008. This report would combine the second, third and fourth periodic reports. The consolidated report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.