



## Convention on the Rights of the Child

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### 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: Eritrea

1. The Committee considered the initial report of Eritrea (CRC/C/41/Add.12) at its 865th and 866th meetings (CRC/C/SR.865 and 856), held on 20 May 2003 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 submission of the State party's comprehensive and well-written initial report, as well as the detailed written replies to its list of issues (CRC/C/Q/ERI/1), which gave a clearer understanding of the situation of children in the State party. It further notes with appreciation the high-level delegation sent by the State party and welcomes the frank dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

#### B. Positive aspects

3. The Committee notes with appreciation the State party's successful efforts, following its independence in 1993:

(a) To reduce child mortality by over 50 per cent and increase immunization coverage from 10 to 60 per cent;

(b) To increase enrolment and literacy rates, and the introduction of the mother tongue as a language of instruction in primary schools;

(c) To develop programmes to improve girls' access to education, including through participation in the African Girls Education Initiative;

(d) To develop a strategy and programmes to combat female genital mutilation;

(e) To provide alternative care, while avoiding institutionalization, of children that have been orphaned due to past armed conflicts.

4. The Committee welcomes the State party's accession in 2001 to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction of 2001 and its ratification of ILO Convention, 1973 (No. 138) in 2000.

### **C. Factors and difficulties impeding the implementation of the Convention**

5. The Committee recognizes that the continuing effects of past armed conflicts as well as the current drought, poverty and structural adjustment programmes present difficulties with respect to the full implementation of the Convention in the State party.

### **D. Principle areas of concern and recommendations**

#### **1. General measures of implementation**

##### **Legislation**

6. The Committee welcomes the creation of the Child Law Committee to examine the compatibility of domestic legislation with the Convention and also notes that the new Constitution generally conforms to the principles and provisions of the Convention. However, the Committee remains concerned that to a large extent customary laws and traditions, and in some cases newly enacted legislation and transitional codes still in force do not fully reflect the principles and provisions of the Convention.

**7. The Committee recommends that the State party review transitional legislation, customary and local laws and adopt all necessary measures to ensure their compatibility with the principles and provisions of the Convention. The Committee also recommends that the State party ensure that legislation is effectively implemented.**

##### **Coordination and national plans of action**

8. The Committee welcomes the adoption of the National Programme of Action on Children for the periods 1996-2000 and 2002-2006 and the establishment of the National Committee on the Rights of the Child to coordinate activities for the implementation of the Convention. However, the Committee is concerned that this mechanism does not have sufficient resources to carry out its mandate.

9. **The Committee recommends that the State party strengthen the National Committee on the Rights of the Child, in particular its capacity to coordinate activities at both the national and local level. Sufficient financial and human resources should be allocated to the coordination mechanism and to the National Programme of Action on Children and, if necessary, the State party should seek international assistance in this regard.**

#### **Independent monitoring**

10. The Committee is concerned at the absence of an independent mechanism with a mandate regularly to monitor and evaluate progress in the implementation of the Convention and which is empowered to receive and address individual complaints.

11. Taking into account its general comment No. 2 on national human rights institutions, the Committee encourages the State party to pursue efforts to establish an independent and effective mechanism in accordance with the Paris Principles and that is provided with adequate human and financial resources and easily accessible to children, to monitor the implementation of the Convention, deal with complaints from children in a child-sensitive and expeditious manner and provide remedies for violations of their rights under the Convention.

#### **Resources for children**

12. While noting the increased investment in social services infrastructure following the peace agreement, the Committee is concerned that budgetary allocations and international development assistance are insufficient to respond to national and local priorities for the promotion and protection of children's rights.

13. **The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to the implementation of the economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups, "to the maximum extent of ... available resources and, where needed, within the framework of international cooperation". Furthermore, the Committee calls on both the State party and international donors to reopen their dialogue, in particular with regard to programmes for the implementation of children's rights.**

#### **Data collection**

14. The Committee regrets the lack of comprehensive and up-to-date statistical data in the State party's report.

15. **The Committee recommends that the State party develop a system of data collection that covers all areas of the Convention and 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. The State party should consider seeking technical assistance from UNICEF, among others.**

### **Cooperation with civil society**

16. The Committee notes with appreciation the national commitment to children's rights and the cooperation existing between the Government and national civil society organizations in this regard. At the same time, it notes with concern that the State party has strictly limited its cooperation with international civil society since 1997.

**17. The Committee emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention, and recommends that the State party promote closer cooperation with NGOs and consider involving more systematically international NGOs, especially rights-based ones, and other sectors of civil society working with and for children throughout all stages of the implementation of the Convention.**

### **2. Definition of the child**

18. The Committee notes with appreciation that both the Transitional Civil Code of Eritrea and the draft Civil Code define children as all persons under the age of 18, and that the Constitution states that men and women of full legal age shall have the right, upon their consent, to marry and found a family freely. Nevertheless, the Committee is concerned that customary law does not have the same minimum age of marriage, and in practice many children are married between the ages of 13 and 15.

**19. The Committee recommends that the State party develop sensitization programmes involving community, traditional and religious leaders as well as society at large, including children themselves, to enforce legislation and curb the practice of early marriage.**

### **3. General principles**

#### **Discrimination**

20. The Committee is concerned that, as noted by the State party, societal discrimination persists against vulnerable groups of children, including girls, children with disabilities, AIDS orphans and children born out of wedlock.

**21. The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.**

**22. The Committee requests that specific information be included 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 interest of the child**

23. The Committee is concerned that in all actions concerning children, the general principle of the best interests of the child contained in article 3 of the Convention is not always a primary consideration, in particular in customary law.

24. **The Committee recommends that the State party review its legislation and administrative measures to ensure that article 3 of the Convention is duly reflected therein and that this principle is taken into account when administrative, policy, judicial or other decisions are made. It further recommends that the State party collaborate with local authorities, NGOs and community leaders to develop awareness-raising campaigns regarding the general principle of acting in the best interest of the child.**

**Respect for the views of the child**

25. The Committee notes with concern that the Transitional Civil Code guarantees the right to be heard only to children who have attained the age of 15 and that traditional practices and attitudes still limit the full implementation of article 12 of the Convention, in particular for girls.

26. **The Committee recommends that the State party amend its legislation to fully reflect article 12 of the Convention so that any child “who is capable of forming his or her own views” can express those views freely, including in all administrative and judicial proceedings affecting them. It also recommends that the State party develop a nationwide campaign to increase public awareness of the participatory rights of children, particularly at the local levels and in traditional communities, and encourage respect for the views of the child in families, schools, and the care, administrative and judicial systems.**

**4. Civil rights and freedoms****Birth registration**

27. The Committee is concerned that although parents are required by law to register the birth of their children, a significant number of children are not registered at birth.

28. **In the light of article 7 of the Convention, the Committee urges the State party to increase its efforts to ensure that all children are registered at birth inter alia by eliminating administrative costs for parents, conducting awareness-raising campaigns and establishing mobile registration units in rural areas. The Committee also recommends that the State party undertake similar measures to register all children who were not registered at birth. In this regard, the State party should consider seeking technical assistance from UNICEF, the United Nations Population Fund (UNFPA) and other potential donors.**

**Freedom of expression and religion**

29. The Committee, noting that the State party's Constitution guarantees the right to freedom of expression and religion, is concerned at reports that measures affecting children and young people were taken against students and religious groups, indicating that these rights were not fully upheld.

30. **The Committee recommends that the State party take all necessary measures to ensure that these rights are fully respected for all children, as stipulated in the Convention, and that violations of the freedoms of expression and religion are prevented.**

**Violence, including ill-treatment**

31. The Committee is concerned at the lack of data on ill-treatment of children, including child abuse and corporal punishment. It also notes with concern that corporal punishment is not expressly prohibited by law and is widely practised in the home and in institutions.

32. **The Committee recommends that the State party:**

(a) **Establish a mechanism to collect data on the victims and perpetrators of abuse, disaggregated by gender and age, in order to assess properly the extent of the problem and to design policies and programmes to address it;**

(b) **Carry out public education campaigns about the negative consequences of ill-treatment of children and, in collaboration with community leaders and others, promote positive, non-violent forms of discipline as an alternative to corporal punishment;**

(c) **Expressly prohibit by law corporal punishment in the home, schools and other institutions;**

(d) **Establish effective procedures and mechanisms to receive, monitor and investigate complaints of abuse, including intervening where necessary, and ensure that victims have access to assistance for their recovery.**

(e) **Seek technical assistance from, among others, UNICEF in this regard.**

**5. Family environment and alternative care**

**Parental responsibilities**

33. The Committee notes with appreciation that the Constitution accords both parents equal rights and duties within the family, yet it is concerned that the Transitional Civil Code and customary laws do not generally recognize the principle enshrined in article 18 of the Convention “that both parents have common responsibilities for the upbringing and development of the child”, particularly with regard to the custody of children in divorce.

34. **The Committee recommends that the State party ensure that when judicial proceedings or family councils decide to grant one parent custody of the child, the decision is taken on the basis of the best interest and with the participation of the child. The State party should also ensure that both parents are adequately informed of their rights and responsibilities, particularly in the case of divorce.**

### **Alternative care and adoption**

35. The Committee welcomes the State party's efforts to place orphans with their extended families while providing these families in particular female-headed households, with financial assistance. The Committee also welcomes the information provided during the dialogue that the criteria for potential adoptive families are not as narrow as presented in the State party report (para. 169). The Committee welcomes the State party's efforts to phase out large-scale orphanages and other institutions and to place children in group homes only as a last resort, but remains concerned that existing services are insufficient to provide for the large number of orphans, including AIDS orphans, and unaccompanied refugee or displaced children.

36. **The Committee recommends that the State party continue to strengthen and expand its efforts to place children in need of alternative care with their extended families and to promote adoption of these children when appropriate. The Committee also recommends that the State party continue and expand as necessary its programme for the establishment of children's group homes, and seek international assistance in this regard.**

### **Child abuse**

37. The Committee notes with concern that there is no information available on the various forms of child abuse in the family and that legislation does not provide for effective protection of children from sexual and physical abuse.

38. **The Committee recommends that the State party:**

(a) **Reform its legislation on abuse in the family to expressly prohibit sexual and physical abuse;**

(b) **Undertake studies on domestic violence, ill-treatment and abuse (including sexual abuse within the family) in order to adopt effective policies and programmes to combat all forms of abuse;**

(c) **Develop an effective 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;**

(d) **Set up a comprehensive nationwide response system to provide, as appropriate, support and assistance to both victims and perpetrators of family violence, rather than only intervention or punishment, and which ensures that all victims of violence have access to counselling and assistance for their recovery and reintegration, while preventing stigmatization of victims of abuse;**

(e) **Seek technical assistance from, among others, UNICEF and the United Nations Development Programme (UNDP), in this regard.**

## **6. Basic health and welfare**

39. The Committee notes with appreciation the State party's programme to extend health services which has increased access from 10 to 70 per cent of the population since independence in 1991, as well as its programme of cooperation with UNICEF in the area of health and health services. However, the Committee is concerned at the high rate of child and infant mortality due to acute respiratory infections, diarrhoeal diseases, malaria and malnutrition. It is further concerned that a considerable number of families lack access to safe drinking water and sanitation facilities, which contributes to the spread of communicable diseases.

40. **The Committee recommends that the State party:**

(a) **Continue to expand access to health services, in particular in rural areas, and increase the skills of health personnel with a view to reducing infant mortality rates;**

(b) **Continue to strengthen the implementation of existing health policies and programmes, in particular the National Policy on Breastfeeding and Weaning Practices (1995) and the Eritrean Rural Water Supply and Environmental Sanitation Programme;**

(c) **Expedite the adoption of the draft Marketing of Infant and Young Child Foods Act.**

### **Adolescent health**

41. The Committee is concerned at the lack of available data regarding the prevalence of substance abuse, tobacco use and suicide. It is also concerned about the growing problem of sexually transmitted infections (STIs) among adolescents.

42. **The Committee recommends that the State party take all necessary measures to assess the prevalence of substance abuse, tobacco use and suicide and take effective measures to prevent and treat health problems affecting adolescents, including the spread of STIs, through, inter alia, sex education, counselling and availability of condoms.**

### **HIV/AIDS**

43. The Committee is concerned about the rapid spread of HIV/AIDS within the State party.

44. **The Committee recommends that the State party actively pursue its ongoing activities in collaboration with UNICEF to counter HIV/AIDS and integrate respect for the rights of the child into the development and implementation of its HIV/AIDS policies and strategies on behalf of children infected with and affected by HIV/AIDS, as well as their families, including by making use of the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex) and the Committee's general comment No. 3 on HIV/AIDS and the rights of the child.**



### **Harmful traditional practices**

45. While the Committee notes with appreciation the adoption of a strategy to eliminate female genital mutilation, it is very concerned at the widespread practice of FGM, which affects almost 90 per cent of girls in the State party. It is also concerned about other harmful traditional practices, including early marriage, which contributes to the high rate of maternal mortality.

46. **The Committee recommends that the State party continue to strengthen the implementation of its Strategy to Eliminate Female Genital Mutilation (1999) and undertake legislative reform to expressly prohibit the practice. It also recommends that the State party undertake similar educational and awareness programmes, in cooperation with NGOs and community leaders, with regard to other harmful traditional practices such as early marriage.**

### **Children with disabilities**

47. The Committee welcomes the information provided by the State party during the dialogue that it has drafted a National Child and Family Welfare Policy, which includes measures to integrate children with disabilities into the education system. Yet, it remains concerned that children with disabilities often suffer from societal discrimination and that a significant proportion do not attend school or participate in social and cultural life.

48. **The Committee recommends that the State party:**

(a) **Adopt and implement the draft National Policy on Persons with Disability, which should include measures to educate the public about ways to prevent disability, and ensure that children's rights are adequately integrated into the policy;**

(b) **Adopt and implement the draft National Child and Family Welfare Policy;**

(c) **Continue to strengthen efforts to combat discriminatory attitudes towards children with disabilities, particularly amongst children and parents, and promote their participation in all aspects of social and cultural life;**

(d) **Formulate a programme that includes appropriate teacher training in order to ensure that all children with disabilities have access to education, including vocational training, and that wherever possible they are integrated into the mainstream education system.**

### **Standard of living**

49. The Committee is concerned at the inadequate standard of living which hampers the respect for and fulfilment of the rights of children and the ability of their families to provide them with adequate protection.

50. **The Committee recommends that the State party formulate a national strategy to combat poverty, with due emphasis on monitoring the impact on the rights of children, and that it allocate sufficient human and financial resources, including through international assistance, to ensure the implementation of its strategy.**

## **7. Education, leisure and cultural activities**

51. The Committee is encouraged by the State party's efforts to increase enrolment rates in basic education, reduce illiteracy, promote cultural and recreational activities and provide education in the native language of all nine ethnic groups. However, it is concerned that enrolment and literacy levels are still low, particularly in secondary and pre-primary education, and that there is a significant disparity between the number of boys and girls in school. It also notes with concern that there are few trained teachers and limited opportunities for teachers to upgrade their skills.

52. **The Committee recommends that the State party:**

(a) **Continue to strengthen measures aimed at increasing enrolment rates in primary and basic education, in particular for girls;**

(b) **Undertake additional efforts to increase the budget for education;**

(c) **Continue its activities in the area of cultural and recreational activities;**

(d) **Expand public provision of early childhood education, in particular in rural areas, and increase the number of trained pre-school teachers, and raise awareness amongst parents about the value of early childhood education;**

(e) **Prioritize and continue to strengthen and expand efforts at teacher training and expand recruitment of qualified teachers, in particular women and persons from all ethnic groups for education in mother-tongue programmes;**

(f) **Include human rights education as part of the curriculum.**

## **8. Special protection measures**

### **Children affected by armed conflict, including refugee and displaced children**

53. While noting with appreciation the State party's extensive experience in providing care and protection to vulnerable children separated from their families through national and field-level structures, as well as the Eritrean Refugees and Relief Commission, the Committee is concerned that there are still a significant number of children suffering from the effects of armed conflict, in particular returnees, internally displaced children, landmine victims and children who were separated from their parents following expulsions of Eritreans from Ethiopia during the border war (1998-2001).

54. **The Committee recommends that the State party continue to strengthen programmes to provide assistance and support to children affected by armed conflict,**

**including returnee and displaced children and landmine victims, while paying particular attention to female-headed households. In particular, the Committee recommends that the State party:**

- (a) Ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and enact refugee legislation that adheres to international standards, in particular in the area of rights and obligations of asylum-seekers;**
- (b) Strengthen efforts to trace and reunite family members of refugee and displaced children, including those expelled from Ethiopia during the border war;**
- (c) Develop administrative structures and procedures for processing asylum-seekers, including children;**
- (d) Seek international support and technical assistance, where possible, from United Nations agencies, in particular UNHCR, and NGOs to expedite the process of demining and the social reintegration and, when necessary, rehabilitation of all victims of recent armed conflicts.**

#### **Economic exploitation**

55. The Committee welcomes the State party's ratification of ILO Convention No. 138 in 2000. Nevertheless, it remains concerned at the significant number of children working on the street, in the agricultural sector and as domestic servants.

56. **The Committee recommends that the State party:**

- (a) Undertake a survey of the number of children working as domestic servants and in the agricultural sector in order to design and implement policies to prevent and combat economic exploitation of children in these sectors;**
- (b) Continue to strengthen the implementation of the Street Children Rehabilitation Programme;**
- (c) Ratify the ILO Worst Forms of Child Labour Convention, 1999 (No. 182).**

#### **Sexual exploitation**

57. Although the State party recognizes that prostitution, including child prostitution, is not a serious problem, the Committee notes with concern the lack of specific data on the commercial sexual exploitation of children.

58. **The Committee recommends that the State party:**

- (a) Expedite the adoption and implementation of the Eritrean Child Law and the National Plan of Action to Rehabilitate Commercial Sex Workers;**

**(b) Undertake a study of children involved in the commercial sex industry and use the data to design policies and programmes to prevent commercial sexual exploitation of children, including through the development of a National Plan of Action on Commercial Sexual Exploitation of Children as agreed at the first and second World Congresses against Commercial Sexual Exploitation of Children held in 1996 and 2001;**

**(c) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner that respects the privacy of the victim;**

**(d) Prioritize recovery assistance and ensure that education and training as well as psychosocial assistance and counselling are provided to victims;**

**(e) Cooperate with countries in the region to combat commercial sexual exploitation and trafficking of children.**

### **Juvenile justice**

59. The Committee is concerned that the minimum age of criminal responsibility of 9 years is too low; children between the ages of 15 and 18 in conflict with the law are tried as adults; juvenile offenders who have been deprived of their liberty are not separated from adults and there are no programmes for their rehabilitation and integration.

60. **The Committee recommends that the State party:**

**(a) Ensure that juvenile justice standards are fully adhered to, in particular articles 37, 39 and 40 of the Convention, 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 Committee's 1995 day of general discussion on the administration of juvenile justice (CRC/C/46, chap. III, sect. C);**

**(b) Ensure, as a matter of urgency, that juveniles in detention are kept separately from adults;**

**(c) Set a clear minimum age of criminal responsibility which is at an internationally acceptable level;**

**(d) Ensure that all children from that minimum age till the age of 18 are accorded the special protection guaranteed under the Convention;**

**(e) Establish juvenile courts;**

**(f) Seek technical assistance from, among others, UNICEF and OHCHR in reforming the juvenile justice system, in particular with regard to juvenile detention and rehabilitation services.**

## **9. Optional Protocols**

61. The Committee notes that the State party has not 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.

62. **The Committee recommends that the State party ratify the Optional Protocol 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**

63. **Finally, 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, along 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 NGOs.**

## **11. Next report**

64. **In light of the recommendation on reporting periodicity adopted by the Committee at its twenty-ninth session (see CRC/C/114), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by States parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its second and third reports in one consolidated report by 1 September 2006, the due date for the submission of the third report. This consolidated 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.**

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