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## THE EFFECTS OF REPORTING ON THE REALISATION OF CHILDREN'S RIGHTS IN CENTRAL AFRICA (CHAD, CONGO AND THE DRC)

*UM Assim\**

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### 1 Introduction

State reporting is an integral part of the obligations to respect, protect, promote and fulfil children's rights as set out in global and African human rights instruments, that is, the United Nations Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (African Children's Charter). States parties to these instruments are under an obligation to report on the measures they have taken towards realising the rights contained in them. This entails reporting on progress made and challenges encountered while trying to realise children's rights to the United Nations Committee on the Rights of the Child (UN Children's Committee) and the African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee), respectively.

The reporting procedure is generally a process of mutual exchange between a state and a treaty body based on cooperation and collaboration in good faith. It is a framework for 'constructive dialogue' between the parties enabling the treaty body to monitor implementation while discussing with states and providing some guidance on means of addressing difficulties encountered in the implementation process. In terms of article 44 of the CRC, state parties are required to submit an initial report within two years of ratification of the CRC and thereafter submit periodic reports every five years. Similarly, article 43 of the African Children's Charter requires states parties to submit their initial report within two years of ratification and thereafter every three years.<sup>1</sup>

This report attempts to consolidate or synthesise the effects of reporting on the realisation of children's rights in Africa, with a focus on three countries of the Central African sub-region: the Republic of Chad (Chad), the Democratic Republic of Congo (DRC) and the Republic of the Congo (Congo).<sup>2</sup> These three state parties have submitted at least two reports to

1 The African Children's Committee submitted an amendment to art 43(1)(b) extending the reporting cycle from every three years to every five years.

2 The Central African sub-region comprises of nine countries: Angola, Cameroon, Central African Republic, Chad, the Republic of the Congo, the Democratic Republic

the UN Children's Committee but have submitted no report to the African Children's Committee.<sup>3</sup> This is so even though Chad ratified the African Children's Charter in 2000 while Congo ratified it in 2006. The DRC is, however, yet to ratify the African Children's Charter even though it signed up to it in 2010. This report will therefore discuss the effects of reporting in these three countries against the background of their reporting to the UN Children's Committee while making references to their reporting before other treaty bodies as it pertains to children. Following this introduction, brief country profiles focusing on the situation of children will be presented followed by a discussion on the status of children's rights and state reporting. Thereafter, four areas of the reporting process in each country will be presented: an assessment of the level of participation and consultation involved in the preparation of reports; the form and substance of the reports; complementary reporting by non-governmental organisations (NGOs) and civil society organisations (CSOs) generally; and the Concluding Observations issued as well as progress made between reporting cycles.

of the Congo, Equatorial Guinea, Gabon, and Sao Tome and Principe. The largest and most populated countries in the region include the DRC, Chad and Angola, while the least-populous is Sao Tome and Principe. Altogether, the region is populated by over 120 million people, with DRC accounting for more than half of that figure with over 71 million people. See Maps of World 'Central Africa Region Map' <http://www.mapsofworld.com/africa/regions/central-africa-map.html> (accessed 23 August 2017).

- 3 A few developments emerged, subsequent to the submission of this chapter. The initial State Party Report of the Republic of Congo was submitted in 2014, and considered in November 2015 by the ACERWC. The report was presented by the Minister of Social Affairs, Humanitarian Actions and Solidarity. The ACERWC's Concluding Observations on the report are currently not available on the website, however, the Minister tendered the apologies of the government of the Republic of Congo for the delay in submission of the initial report. See [https://www.acerwc.africa/wp-content/uploads/2018/07/26th\\_ACERWC-\\_Ordinary\\_Session\\_Report\\_English\\_Final.pdf](https://www.acerwc.africa/wp-content/uploads/2018/07/26th_ACERWC-_Ordinary_Session_Report_English_Final.pdf). The initial State Party Report for the Republic of Chad was presented in May 2017 by a government delegation led by the General Director of Human Rights at the Ministry of Justice and Human Rights of Chad, and Concluding Observations were issued by the ACERWC in July 2017. See <https://acerwc.africa/wp-content/uploads/2018/14/Concluding%20Observations%20Chad%20Fr.pdf>. The situation with the DRC remains the same.

## 2 Human rights overview

A common denominator of Chad, Congo and the DRC is a background of armed conflict over several decades.

### 2.1 Chad

Since its independence from France in 1960, Chad has witnessed three decades of civil war besides invasions and spill overs from conflicts in neighbouring countries such as Libya, Sudan and the Central Africa Republic. Congo experienced civil war between 1993 and 1999 while armed conflicts remain on-going in parts of the DRC. This has resulted in these countries producing significant numbers of child soldiers, refugees and internally displaced persons, among other casualties. Other common human rights challenges affecting children in these countries include high levels of poverty and violence against children. All these factors and more make the situation of children in the region quite unstable.

Chad has a Human Development Index of 0.396.<sup>4</sup> Out of a population of 14.5 million, Chad has a total children population of 7 million.<sup>5</sup> The country has an infant mortality ratio of 175 per 1 000 live births and the maternal mortality rate is one of the highest in the world at 1 200 per 100 000 live births.<sup>6</sup> The ACPF Child Wellbeing Index lists Chad among the least child friendly countries.<sup>7</sup> Chad is an arid landlocked country, bordered to the North by Libya, to the West by Niger, to the South West by Nigeria and Cameroon, to the South by the Central African Republic and to the East by Sudan.<sup>8</sup> The capital of Chad is N'Djamena. Chad is a low-income country and conflicts in neighbouring countries like Sudan, the Central African Republic and the Northern part of Nigeria have aggravated the influx of refugees.<sup>9</sup> This has put additional pressure on the limited resources of the country.

4 UNDP 'Human development reports' <http://hdr.undp.org/en/countries/profiles/TCD> (accessed 5 March 2015).

5 UNICEF 'Country Profiles: Chad' [https://data.unicef.org/wpcontent/uploads/country\\_profiles/Chad/SDG%20Country%20Profiles/country\\_profile\\_tcd.pdf](https://data.unicef.org/wpcontent/uploads/country_profiles/Chad/SDG%20Country%20Profiles/country_profile_tcd.pdf) (accessed 27 August 2017).

6 UNICEF 'Chad: About UNICEF' [https://www.unicef.org/chad/overview\\_7120.html](https://www.unicef.org/chad/overview_7120.html) (accessed 27 August 2017).

7 The African Child Information Hub [http://www.africanchildinfo.net/index.php?option=com\\_k2&view=item&id=6740:new-report-ranks-africa%E2%80%99s-most-and-least-child-friendly-countries&Itemid=67&lang=fr&limitstart=18](http://www.africanchildinfo.net/index.php?option=com_k2&view=item&id=6740:new-report-ranks-africa%E2%80%99s-most-and-least-child-friendly-countries&Itemid=67&lang=fr&limitstart=18). (accessed 27 August 2017).

8 J Maher (ed) *Europa World Year Book Vol 1* (2004) 1061.

9 United Nations High Commissioner for Refugees '2014 country operations profile –

Incessant violations of children's rights are common in Chad despite the ratification of international human rights instruments for their protection.<sup>10</sup> Gender inequity is a huge challenge and girls are particularly discriminated against especially in accessing education. The education of the girl-child is not considered a priority as marriage is her ultimate goal.<sup>11</sup> Despite the adoption of a law to curb the practice of female genital mutilation (FGM),<sup>12</sup> FGM remains a major concern as it is still carried out on a considerable number of women and girls in Chad; and in one of its most severe forms (infibulation).<sup>13</sup>

In many prisons in Chad, children and adults are still detained in the same facilities under poor conditions. Other serious issues which affect the rights of children in Chad include trafficking of children, sexual violence, child labour, exploitation and domestic abuse of children.<sup>14</sup> There are also reported cases of commercial sexual exploitation, kidnapping, trafficking, early marriage and modern forms of slavery in the case of child cattle-herders and domestic workers.<sup>15</sup> The Human Rights Committee (UNHRC) noted that in Chad, kidnappings could easily be disguised as adoptions and street children were especially likely to be victims of such acts.<sup>16</sup> In addition, poverty is rife in Chad and there is a very low standard of living. Women and children have a low socio-economic status despite the guarantee by the state to protect children in cases where parents cannot care for their children.<sup>17</sup>

Chad' <http://www.unhcr.org/pages/49e45c226.html> (accessed 27 August 2017).

- 10 Child's Rights International Network (CRIN) 'Chad: Persistent violations of children's rights' <https://www.crin.org/en/library/publications/chad-persistent-violations-child-rens-rights#F> (accessed 27 August 2017).
- 11 UNICEF 'Chad: UNICEF in Chad' [https://www.unicef.org/infobycountry/chad\\_81925.html](https://www.unicef.org/infobycountry/chad_81925.html) (accessed 27 August 2017).
- 12 Chad Act 06/PR/2002 of 15 April 2002 on the promotion of reproductive health <http://www.hsph.harvard.edu/population/fgm/chad.reprohealth.02.doc> (accessed 27 August 2017).
- 13 Concluding Observations on the second periodic report of Chad, Human Rights Committee (15 April 2014) UN Doc CCPR/C/TCD/CO/2 (2014) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/429/65/PDF/G1442965.pdf?OpenElement> (accessed 27 August 2017).
- 14 UNICEF 'Progress for children; A report card on child protection' (2009) [https://www.unicef.org/publications/index\\_50921.html](https://www.unicef.org/publications/index_50921.html) 6-21 (accessed 27 August 2017).
- 15 In Chad, children engage in the worst forms of child labour. They work mostly as cattle herders and engage in dangerous activities in agriculture. See United States Embassy *N'djamena report* (2013) cited in US Department of Labour 'Chad: 2012 Findings on the worst forms of child labour' [http://www.dol.gov/ilab/reports/child-labor/chad.htm#\\_ENREF\\_3](http://www.dol.gov/ilab/reports/child-labor/chad.htm#_ENREF_3) (accessed 21 August 2017).
- 16 Human Rights Committee (n 13).
- 17 IMF 'IMF Country Report 15/125: Poverty reduction strategy paper – Joint staff

There is a high rate of school dropout and high levels of illiteracy due in part to the effects of armed conflicts. Chad has a very high number of displaced children who are not enrolled in primary school, who have no access to medical and health services, including routine immunisation and follow up on their condition of malnutrition.<sup>18</sup> The country is still recovering from the impact of child recruitment during armed conflicts in Chad, where children as young as ten are recruited into armed groups as porters and messengers, and some between 13 and 17 are recruited and used in combat roles.<sup>19</sup> Other human rights abuses against children in Chad include numerous cases of the use of corporal punishment<sup>20</sup> as well as early marriage cases, with 68 per cent of female children getting married before the age of 18 years despite efforts by the government to stop the practice.<sup>21</sup>

## 2.2 Congo

Congo is an oil-rich country with a population of 4.448 million.<sup>22</sup> It obtained independence from France on 15 August 1960.<sup>23</sup> Following its independence, the country's experiences with political crisis have spurred human rights concerns significantly with respect to the rights of women and children. Along with countries such as Burundi, Angola and DRC, the use of child soldiers in Congo by government and militia groups have allegedly been pronounced.<sup>24</sup> Between 1993 and 1999, when the country experienced civil war, about 5 000 children were conscripted as child

advisory note on the 2013 monitoring report of the national development plan 2013-15' (May 2015) <https://www.imf.org/external/pubs/ft/scr/2015/cr15125.pdf> (accessed 27 August 2017).

- 18 UNICEF 'Humanitarian Action for Children 2020: Home – Chad' <https://www.unicef.org/appeals/chad.html> (accessed 27 August 2017).
- 19 Amnesty International 'Chad must end the recruitment and use of children in armed conflict' (2011) <http://www.amnesty.org/en/news-and-updates/report/chad-must-end-recruitment-and-use-children-armed-conflict-2011-02-09> (accessed 27 August 2017).
- 20 Global Initiative to End All Corporal Punishment of Children 'Corporal punishment of children in Chad' (2017) <http://www.endcorporalpunishment.org/progress/country-reports/chad.html> (accessed 27 August 2017).
- 21 International Centre for Research on Women (ICRW) 'Child marriage facts and figures' <http://www.icrw.org/child-marriage-facts-and-figures> (accessed 27 August 2017). See also Girls not brides 'Chad' <https://www.girlsnotbrides.org/child-marriage/chad/> (accessed 27 August 2017).
- 22 World Bank 'Congo, Rep' <http://data.worldbank.org/country/congo-republic> (accessed 27 August 2017).
- 23 JF Clark & S Decalo *Historical dictionary of Republic of the Congo* (2012) 8.
- 24 SN Achilihu *Do African children have rights? A comparative and legal analysis of the United Nations CRC on the Rights of the Child* (2010) 213-214.

soldiers.<sup>25</sup> Conflict-induced displacements also resulted from the armed conflicts.

The situation of children in the country is a mixed basket case. For example, according to UNICEF, under-five mortality dropped from 68 deaths per 1 000 live births in 2012 to 52 deaths per 1 000 live births in 2015, representing a reduction of 24 per cent. Basic education indicators also improved, with gender parity in both primary and secondary education at the national level.<sup>26</sup>

However, according to UNICEF, the number of poor children increased between 2008 and 2015. This is even though the country made significant economic growth during that period. In addition, UNICEF reports that the percentage of children affected by multi-dimensional poverty increased from 54 per cent to 61 per cent. There is great disparity between the conditions of children in rural and urban areas; for instance, 84 per cent of the population of children in urban areas has access to drinking water, compared to only 27 per cent in rural areas.<sup>27</sup> Despite the ratification of the major international instruments on children's rights, the child protection system in the Republic of Congo and the other countries is extremely weak.

Extreme poverty also prevents children from enjoying their rights and further exacerbates the vulnerability of certain groups of children including street children. Some children are sent by their parents and other adults to the streets to obtain an income through begging; they are called 'enfant ration'. Many children are without family support and survive by engaging in odd jobs while others are hooked on drugs. Girls who live on the streets often seek protection from some adults or other street children who abuse them sexually, and some police officers are also complicit in the act. Many other children are forced to work for the benefit of adults. Children are recruited in mines mainly for their cheap labour and docility;

25 Economic Policy Research Institute 'Country profile: Republic of the Congo (Brazzaville)' 1 <http://epri.org.za/wp-content/uploads/2011/03/38-RepublicOfTheCongo.pdf> (accessed 27 August 2017).

26 As above.

27 As above.

they perform tasks such as screening, handling, bagging, and transporting heavy bags of valuable products from the mines.<sup>28</sup>

### 2.3 DRC

The DRC is a vast country with immense natural resources that have been at the root of both external and internal violent interventions at the centre of what many international observers have qualified as 'Africa's world war'.<sup>29</sup> The violent conflicts have opened doors to many human rights violations. The eastern part of the DRC is the worst region for women and children in terms of safety and security as they suffer the most grievous consequences of continuing hostilities. Consequently, the region has been qualified as 'the rape capital of the world'.<sup>30</sup>

DRC has a population of 78.74 million, of which 46 per cent are children under the age of 15 years.<sup>31</sup> Further, it has an infant mortality rate of 109 deaths per 1 000 live births. Maternal mortality has increased to 846 deaths per 100 000 live births (compared to 549 deaths per 100 000 live births in the 2007); 35 per cent of all female deaths in the DRC were attributed to maternal causes (up from 19 per cent in the year 2007).<sup>32</sup> DRC has a Human Development Indicator of 0.345 and ranked on the ACPF Child Friendliness Index as one of the 'Least Child-Friendly' countries under investing in children.<sup>33</sup>

Like in other war affected countries in the region, children are recruited by both sides of the conflict and used as combatants, porters, cooks, guides,

28 United States Department of State. Bureau of Democracy, Human Rights and Labour. Country Reports on Human Rights Practices for 2015. Chad 2015 Human Rights Report <https://2009-2017.state.gov/documents/organization/252877.pdf> (accessed 27 August 2017).

29 BBC 'Democratic Republic of Congo: Profile' <http://www.bbc.com/news/world-africa-13283212> (accessed 27 August 2017).

30 International Coalition for the Responsibility to Protect 'Crisis in the Democratic Republic of Congo' <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-drc> (accessed 27 August 2017).

31 Demographic Dividend 'Democratic Republic of the Congo' [http://www.demographicdividend.org/country\\_highlights/democratic-republic-of-the-congo/](http://www.demographicdividend.org/country_highlights/democratic-republic-of-the-congo/) (accessed 27 August 2017).

32 The DHS Program 'Congo Democratic Republic DHS, 2013-14 – Final Report (French)' <https://dhsprogram.com/publications/publication-FR300-DHS-Final-Reports.cfm> (accessed 27 August 2017).

33 T Nikyèma 'A third of African countries have discriminatory minimum age for marriage or allow child marriage – ACPF' *Girls not Brides* 6 December 2013 <https://www.girlsnotbrides.org/a-third-of-african-countries-have-discriminatory-minimum-age-for-marriage-or-allow-child-marriage/> (accessed 27 August 2017).



spies and messengers. Many of the children are also victims of sexual violence, as well as other cruel and inhuman treatment. The government soldiers and rebel groups are involved in mass rape committed against the civilian population. Victims were indecently assaulted with bayonets and guns.<sup>34</sup> The war in DRC resulted in the creation of 450 000 refugees in neighbouring countries and 2.6 million internally displaced people.<sup>35</sup>

### **3 Status of reporting**

As is the case with most countries of Francophone Africa, Chad, Congo and the DRC are monist in nature although this has not necessarily translated into a greater reliance on international law by the domestic courts of these countries. On the contrary, the courts tend to 'oppose the direct applicability of international law and make little use of international law in interpreting constitutional provisions'.<sup>36</sup> All three states are party to several international instruments including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the African Charter on Human and Peoples' Rights (ACHPR). Chad ratified the CRC in 1990 and the optional protocols to the CRC on the Involvement of Children in Armed Conflict (OPAC) and on the Sale of Children, Child Prostitution and Child Pornography (OPSC) in 2002. Congo ratified the CRC in 1993, the first Optional Protocol on the Sale of Children in 2009 and the Optional Protocol on the Involvement of Children in Armed Conflict in 2010 after which a child protection law was passed. The DRC ratified the CRC in 1990 and the first two optional protocols to the CRC in 2001.<sup>37</sup> Generally, all three countries have lagged and continue to lag in the timely submission of reports to the relevant treaty bodies. While there is a general

34 Thomson Reuters Foundation News 'Congo (DR) conflict' <http://www.trust.org/spotlight/Congo-DR-conflict/?tab=background> (accessed 27 August 2017). See also Human Rights Watch 'Democratic Republic of Congo: Events of 2016' <https://www.hrw.org/world-report/2017/country-chapters/democratic-republic-congo> (accessed 27 August 2017).

35 United Nations High Commissioner for Refugees 'Country operations profile – Democratic Republic of the Congo' 2014 <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e45c366&submit=GO> (accessed 27 August 2017). See also C Gaffey 'Refugees in Africa: The Congo crisis neglected by the world' *Newsweek* 20 June 2017 <http://www.newsweek.com/refugees-africa-congo-war-joseph-kabila-627538> (accessed 27 August 2017).

36 M Killander & H Adjolohoun 'International law and domestic human rights litigation in Africa: An introduction' in M Killander (ed) *International law and domestic human rights litigation in Africa* (2010) 4.

37 There are three optional protocols to the CRC: The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OP-SC) (2000-2002); the Optional Protocol on the Involvement of Children in Armed Conflict (OP-AC) (2000-2002); and the Optional Protocol on a Communications Procedure (2011).



trend of compliance with the reporting obligations, significant delays are recorded with reference/regard to the timeframe established for the submission of the reports.

### **3.1 Chad**

With reference/regard to the CRC, Chad's initial report was due in 1992 but was only submitted in 1997. Its second report, which was due in 1997 was only submitted ten years later, in 2007. Chad is in arrears of the submission of its third report to the UN Children's Committee, while its initial report to the African Children's Committee was submitted in 2015.

### **3.2 Congo**

Congo's initial report to the UN Children's Committee, which was due in 1995, was only submitted in 2005 as a combination of its initial and first periodic report. However, Congo's second periodic report was submitted on time in November 2010 and was presented as a combination of its second to fourth periodic reports. Congo's next report to the UN Children's Committee is therefore due in November 2019.

### **3.3 DRC**

DRC's initial report, which was due in 1992, was only submitted in 1998.<sup>38</sup> The second periodic report, which was due in 1997, was submitted ten years later, in 2007. It was presented as a combination of its second to fourth periodic reports and covered the period 2001-2007, considering the Concluding Observations issued by the UN Children's Committee to its initial report, in 2001.<sup>39</sup> DRC has also submitted its initial report to the UN Children's Committee on the Optional Protocol on the Involvement of Children in Armed Conflict on 21 January 2009 although it was due for submission in 2004.

## **4 Preparation of reports**

The preparation of a state party report is expected to be carried out via a participatory and consultative process with relevant stakeholders within a state. These include the relevant government departments or ministries,

38 At the request of the UN Children's Committee, a revised version of the report was submitted in 2000 and incorporated into the 1998 draft.

39 Consideration of reports submitted by states parties under article 44 of the Convention: Second periodic reports of states parties due in 1997: Democratic Republic of the Congo, UN Committee on the Rights of the Child (24 July 2008) UN Doc CRC/C/COD/2 (2008) at 3.

parastatals, CSOs and children themselves. The aim is to ensure that the report is as comprehensive as possible while considering the views and experiences of those working directly with and for children. The participation of children in the process is particularly important as children are the actual beneficiaries of the provisions of the CRC. In addition, the right of all children to be heard and to have their views duly considered constitutes one of the fundamental principles of children's rights.<sup>40</sup> Thus, states are encouraged to consult with children and ensure that they are encouraged and enabled to participate in the preparation and presentation of reports to the UN Children's Committee.<sup>41</sup> To this end, many states include children as official members of the delegation to present state party reports to the UN Children's Committee.

In terms of article 45 of the CRC, 'effective implementation' of the CRC requires good working relations between the UN Children's Committee and specialised agencies (such as UNICEF), other UN organs 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'.<sup>42</sup> These organs or agencies usually participate in the reporting process by submitting 'reports on the implementation of the Convention in areas falling within the scope of their activities'.<sup>43</sup> 'Other competent bodies' usually refer to relevant CSOs, usually with observer status before the UN Children's Committee, that often prepares complementary reports to states parties' reports submitted to the UN Children's Committee. However, it is expected that CSOs and other stakeholders are involved in the preparation of state reports and not just be restricted to the preparation of complementary reports. For Chad, Congo and the DRC, the level of consultation and participation in the preparation of the state reports has been varied.

#### **4.1 Chad**

In Chad, a national consultative process was adopted in the preparation of the two reports submitted to the UN Children's Committee as of

40 Art 12 of the Convention of the Rights of the Child; art 7 of the African Charter on the Rights and Welfare of the Child.

41 It should be noted that the procedures for involving children in this and any other endeavour should be accountable, voluntary, sensitive, respectful, and generally child-friendly. For more details, see Child Rights International Network 'CRC: Guidelines for child participation in CRC reporting' (24 May 2012) <https://archive.crin.org/en/library/publications/crc-guidelines-child-participation-crc-reporting.html> (accessed 06 June 2016).

42 Art 45(a) of the Convention on the Rights of the Child.

43 As above.

November 2017. Under the supervision of the Ministry of Justice with support from the Chadian office of UNICEF, the method employed for the preparation of the first report was both inter-ministerial and inter-sectorial. All offices dealing with children, representatives of CSOs, NGOs and religious organisations were involved in the process. The views of stakeholders were reflected in the report as collected during many seminars and workshops leading up to the preparation of the reports.<sup>44</sup> However, although youth associations and other groups working directly with children were consulted, children were not directly involved in the preparation process. The same process was employed in the preparation of the second report except for the fact that the process for the second report was led by an international consultant.<sup>45</sup>

## 4.2 Congo

For Congo, the preparation of its second report employed a more broad-based level of participation in comparison with the preparation of the first report. The drafting of the first report relied mainly on the skills of independent consultants with the involvement of international organisations such as UNICEF and other relevant national institutions to a limited extent.<sup>46</sup> In the preparation of the 2010 report, however, government ministries, members of the academia, UNICEF and relevant NGOs were engaged in the process.<sup>47</sup> The drafting process began in December 2009 and was finalised in September 2010 under the joint coordination and funding of the Ministry of Social Affairs and UNICEF.<sup>48</sup> As in Chad, the process was both inter-ministerial and multi-

44 Consideration of reports submitted by states parties under article 44 of the Convention: Initial reports of states parties due in 1992, UN Committee on the Rights of the Child (24 July 1997) UN Doc CRC/C/3/Add.50 (1997) [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=En&CountryID=34](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=En&CountryID=34) (accessed 27 August 2017).

45 Consideration of reports submitted by states parties under article 44 of the Convention: Second periodic reports of states parties due in 1997, UN Committee on the Rights of the Child (14 December 2007) – UN Doc CRC/C/TCD/2 (2007) para 29 <http://www.refworld.org/publisher,CRC,STATEPARTIESREP,TCD,47a0a5222,0.html> (accessed 27 August 2017).

46 Consideration of reports submitted by states parties under article 44 of the Convention: Initial reports of state parties due in 1999: Congo, UN Committee on the Rights of the Child (20 February 2006) UN Doc CRC/C/COG/1 (2006).

47 Consideration of reports submitted by states parties under article 44 of the Convention: Combined second, third and fourth periodic reports of state parties due in 2010: Congo, UN Committee on the Rights of the Child (18 September 2012) UN Doc CRC/C/COG/2-4 (2012), paras 24-26.

48 Combined second, third and fourth periodic reports of state parties due in 2010: Congo (n 47) para 24.

sectorial involving various government ministries, CSOs, and significantly, the Children's Parliament.<sup>49</sup> Collectively, all the stakeholders decided on the methodology to be adopted as well as the data collection and documentation processes, while leaving the actual task of implementing the methodology and the preparation of a draft report to the expertise of consultants and members of the academia.

Within the ten-month period dedicated to the preparation of the report, many vital steps were undertaken towards the finalisation of the report. First, a seminar/workshop was organised for all stakeholders to set out the methodology. Secondly, a period of documentary research was scheduled to gather relevant data/documents followed by additional surveys to collect more information through broad-based consultations. Next, a ten-day retreat was organised for all consultants involved in the process and national replies to the concerns of the UN Children's Committee were discussed and drafted. A four-day seminar attended by relevant stakeholders was thereafter conducted to approve the first draft of the report. Subsequently, another retreat of about two weeks between July and August 2010 was held by consultants to finalise the report which was eventually submitted to the government and subsequently the UN Children's Committee in September 2010.

### **4.3 DRC**

In DRC CSOs were involved in the reporting process in either of two ways: transmitting reports to the National Council for Children and the Ministry of Human Rights or by giving views during the preparation of reports by the government.<sup>50</sup> However, in its engagement with the UN Children's Committee, questions have been raised about the involvement (or lack thereof) of CSOs in the preparation of reports as this has not come out strongly enough. Indeed, only a few NGOs, mostly based in Kinshasa (the State capital), participated in the reporting process. Access to the finalised reports also posed quite a challenge thereby limiting the level of feedback received from various stakeholders including the media. Although there is a Children's Parliament (Parliament d'enfant), child representatives are not involved in the process. The second periodic report submitted by the DRC to the UN Children's Committee indicates that it was prepared by an inter-ministerial committee under the coordination

49 The Congolese Children's Parliament was established in September 2003 and comprises of 36 children (boys and girls) who are democratically elected by their peers. The Children's Parliament serves as a forum for children to express their views and engage in governmental decisions affecting them.

50 Art 45 de la Loi No 004/2001 du 20 Juillet 2001 portant dispositions générales applicables aux associations sans but lucratif et aux établissements d'utilité publique.

of the Ministry of Human Rights but does not indicate the inclusion of stakeholders' views.<sup>51</sup>

While states parties generally comply with the requirement of preparing and submitting reports to treaty bodies, it is done with varying degrees of delays and inconsistencies. However, the level of participation, while leaving room for improvement, is quite commendable considering the context of armed conflict and other challenges in the countries concerned. It is particularly encouraging to observe the participation of children even in the smallest ways.

## **5 Issues covered by the reports**

The exercise of state reporting is aimed at reporting on progress made while highlighting existing challenges in the realisation of children's rights. Consequently, the reports may not always present a full picture of the actual situation on the ground for children and this is what makes the engagement between the UN Children's Committee and reporting states very important. With the additional information obtained by the UN Children's Committee from several other sources about children in particular states, the UN Children's Committee can make more informed assessments of the general situation of children by 'measuring' the kind and level of progress made against what can be achieved or what more needs to be done in terms of the state's capacities and resources. Both parties can thus engage in more robust engagements aimed at jointly arriving at workable solutions or viable ways forward in the interests of the state's children.

In terms of the UN Children's Committee's guidelines<sup>52</sup> for state reporting, state reports should contain substantive information on the implementation of the various rights guaranteed by the CRC, organised within clearly defined clusters. There are nine major clusters

51 Three NGOs: Coalition des ONG's de Droits de l'Enfant (CODE); Coalition to Stop the use of Child Soldiers; and Swiss Association against Impunity (TRIAL) have organised themselves to ensure that their voice is heard through the shadow reports submitted to the UN Committee on the Rights of the Child in May 2011 in respect to OPAC.

52 UN Committee on the Rights of the Child 'Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by states parties under article 44, paragraph 1(b) of the Convention on the Rights of the Child' <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx> (accessed 6 June 2017). It should be noted that the UN Children's Committee regularly revises or reviews this document, which influences the form and structure of reports. In some cases, for example, the rights provided for in the 'violence against children' cluster are sometimes reported under the 'special measures of protection' cluster.

of rights established in the following categories: general measures of implementation (covering articles 4, 42 and 44(6) of the CRC); definition of the child (covering article 1 of the CRC); general principles of the CRC (covering articles 2, 3, 6 and 12 of the CRC); civil rights and freedoms (covering articles 7, 8, 13-17 and 37(a) of the CRC); violence against children (covering articles 19, 24(3), 28(2), 34, 37(a) and 39 of the CRC); family environment and alternative care (covering articles 5, 18(1) and (2), 9-11, 19-21, 25, 27(4) and 39 of the CRC); disability, basic health and welfare (covering articles 6, 18(3), 23, 24, 26 and 27(1)(3) of the CRC); education, leisure and cultural activities (covering articles 28, 29 and 31 of the CRC); and special protection measures (covering articles 22, 30, 32, 33, 35-37(b)-(d) and 38-40 of the CRC).

In addition to the above, states parties to the first two optional protocols to the CRC, as is the case with Chad, Congo and DRC, are expected to provide follow-up information on the implementation of the two protocols. Structurally, the reports are generally divided into two parts, the first part providing a general overview of the country, including information on, among others, the land, people and geography; political, judicial and administrative structures; and the economic situation of the country. The second part focuses mainly on the implementation of the various rights guaranteed by CRC within the established clusters followed by information on OPAC and OPAS where relevant. However, state parties' reports have not always strictly followed the established guidelines.<sup>53</sup>

## **5.1 Chad**

The initial report presented to the UN Children's Committee by Chad gave a rather scanty account of the situation of children. While the report documented the legislation, policies and activities which the government had undertaken in respect of children, it did not give an actual picture of the situation of children and did not give detailed statistics regarding

53 See, for example, the Comment of the UN Children's Committee in relation to Chad reports: Concluding Observations on the initial report of Chad, UN Committee on the Rights of the Child (24 August 1999) UN Doc CRC/C/15/Add.107(1999) para 2 <http://www.un.org/documents/ga/docs/55/a5541.pdf> (accessed 15 August 2017). See, also, Consideration of reports submitted by states parties under article 44 of the Convention: Initial reports of states parties due in 1992: Chad, UN Committee on the Rights of the Child (24 July 1997) UN Doc CRC/C/3/Add.50 (1997) (accessed 27 August 2017); Consideration of reports submitted by states parties under article 44 of the Convention: Second periodic reports of states parties due in 1997: Chad, UN Committee on the Rights of the Child (14 December 2007) UN Doc CRC/C/TCD/2 (2007) <http://www.refworld.org/publisher,CRC,STATEPARTIESREP,TCD,47a0a5222,0.html> (accessed 27 August 2017).

children in all the cases. The focus of the report was more on the activities of the government in relation to the protection of children rather than on the actual situation of children at the time of the compilation of the report.

In response to this, the UN Children's Committee prepared a list of issues requiring clarification and further information from the Government of Chad on several aspects of the report.<sup>54</sup> For instance, on the general principles of children's rights, the treaty body requested information on specific measures taken and/or envisaged to ensure that the principles of non-discrimination (article 2), the best interests of the child (article 3), and respect for the views of the child are reflected in legislation and actions taken by social welfare institutions, courts of law and administrative authorities.<sup>55</sup>

As an improvement on the first report, Chad's second report to the UN Children's Committee presented a clearer picture of the situation of children in Chad. The report provided more detailed information and statistics in numbers and percentages of children under each of the clusters addressed in the report. However, many issues were raised by the UN Children's Committee as requiring further clarification and additional information.<sup>56</sup> The list includes questions on the following:

- The situation of girls; registration of births; adoption; health of adolescents; juvenile justice; and child labour.
- Allocation of resources, that derived from the sale of oil, to children through social services, education services, healthcare and social security.
- Current state of legislation which protects children (draft Code of Protection of the Child, draft Code of Persons and the Family, Criminal Code, ratification of the 1993 Hague Convention on Protection of

54 List of Issues to be taken up in connection with the consideration of the initial report of Chad, UN Committee on the Rights of the Child (October 1998) UN Doc CRC/C/Q/CHA/1 (1998) [http://www.bayefsky.com//issues/chad\\_crc\\_c\\_q\\_cha\\_1\\_1998.pdf](http://www.bayefsky.com//issues/chad_crc_c_q_cha_1_1998.pdf) (accessed 19 August 2017).

55 List of Issues to be taken up in connection with the consideration of the initial report of Chad (n 54) para 8.

56 List of issues to be taken up in connection with the consideration of the second periodic report of CHAD, UN Committee on the Rights of the Child (22 October 2008) UN Doc CRC/C/TCD/Q/2 (2008) [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fTCD%2fQ%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fTCD%2fQ%2f2&Lang=en) (accessed 16 August 2017).



Children and Cooperation in respect of Inter-Country Adoption, and ratification of the Palermo Protocol).

- Proposal for the establishment of a committee to supervise implementation of the CRC.
- Reforms undertaken or envisaged in the civil registration system and to ensure the systematic registration of births throughout the country.
- Description of the cooperation between Chad and civil society in the area of the rights of the child.
- Information on the initiatives undertaken, including new legislation, to combat harmful practices, such as children being accused of witchcraft, early or enforced marriages and *mouhadjirin* children, which violate children's rights.
- Information relating to certain children considered as having priority and urgently requiring attention with a view to the implementation of the CRC.

To address the list of issues in the first and second reports, the Government of Chad submitted written replies to the list of issues raised by the UN Children's Committee.<sup>57</sup> The government's responses to the list of issues raised in the second report covered issues including the allocation of resources and the situation of girls. The government also stated that they had support from developing partners such as the European Union (EU) and the United Nations Development Programme (UNDP) to improve the civil registration system.<sup>58</sup>

On the allocation of resources, Chad indicated that in 2008, a revenue of 17 455 570 639 CFA francs (including those from the sale of oil) was earmarked for providing social and educational services, healthcare and social security for children. The breakdown of the allocated revenue includes 6 875 306 957 CFA francs for educational services; 9 680 263 682 CFA francs for healthcare; and 900 000 000 CFA francs for social security.<sup>59</sup>

57 Written replies by the Government of Chad concerning the list of issues received by the Committee on the Rights of the Child relating to the consideration of the 2nd periodic report of Chad (CRC/C/TCD/2), UN Committee on the Rights of the Child (8 January 2009) UN Doc CRC/C/TCD/Q/2/Add.1 (2009) <http://www.refworld.org/docid/49c0f8efd.html> (accessed 16 August 2017).

58 As above. The EU and UNDP funded a project to improve the civil registration system in Chad and this made it possible to assemble into a single volume all the various pieces of legislation currently regulating civil registration in Chad. It also made it possible to prepare the national strategy on civil registration. The aim of the project was to safeguard and secure the certificates and information held in the civil registry, and to produce a draft bill on civil registration arrangements, which was approved in December 2003.

59 Written replies by the Government of Chad concerning the list of issues received by

On the current state of legislation which protects children, Chad indicated that there have been moves towards the protection of the child by the adoption of a draft Code on the Person and the Family.<sup>60</sup> The government indicated that it began the process of ratifying the Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime.<sup>61</sup> In 2007, the process for the amendment of the Criminal Code also started with the employment of an international consultant to bring the Criminal Code in line with international standards such as the CRC.<sup>62</sup>

On the request to give details on the current state of legislation which protects children, Chad indicated that there was a draft decree which the Prime Minister suggested in 2003 with a view to establishing a committee to supervise the implementation of the CRC and the report of the process had been submitted to the Prime Minister for review.<sup>63</sup> Also, on the civil registration system, the government noted that a number of projects to modernise the system and to promote civil registration in Chad were implemented between 2004-2007 with the assistance of UNDP and the European Union.<sup>64</sup> On the request to describe the cooperation between Chad and CSOs in relation to children's rights, Chad indicated that the democratisation process brought positive changes to the relationship between the Government and civil society.<sup>65</sup>

For combating harmful practices, the government indicated that laws were being made to protect children from early/forced marriages by increasing the age of marriage to 17 years for girls and 18 years for boys.<sup>66</sup> In the case of the *mouhadjirin* children, the government indicated

the Committee on the Rights of the Child relating to the consideration of the 2nd periodic report of Chad (n 57) Question 2.

60 Written replies by the Government of Chad concerning the list of issues received by the Committee on the Rights of the Child relating to the consideration of the 2nd periodic report of Chad (n 57) Question 3.

61 As above.

62 As above.

63 Written replies by the Government of Chad concerning the list of issues received by the Committee on the Rights of the Child relating to the consideration of the 2nd periodic report of Chad (n 57) Question 4.

64 Written replies by the Government of Chad concerning the list of issues received by the Committee on the Rights of the Child relating to the consideration of the 2nd periodic report of Chad (n 57) Question 5.

65 As above.

66 Written replies by the Government of Chad concerning the list of issues received by

that a programme and a plan of action to reform Koranic schools was being established and that the programme and the plan of action was to be implemented on an experimental basis as from 2009.<sup>67</sup> Finally, the following were indicated as children requiring urgent attention and therefore prioritised: children not attending school, with disabling illnesses, involved in the armed forces or armed groups, orphans in general and AIDS orphans and vulnerable children in particular, working children and abandoned children.<sup>68</sup>

The UN Children's Committee commended the Government of Chad on the submission of the second report and on the self-critical nature of the dialogue held with the state delegation which allowed a better understanding of the situation of children in Chad. In addition, in contrast to the first report, the Committee did not make any remark on the format of the report.<sup>69</sup>

## **5.2 Congo**

Like Chad, Congo's first report to the UN Children's Committee lacked sufficient details and covered four areas of children's rights generally, namely: public freedoms and civil rights of the child; health, social protection and well-being of the child; education, culture, arts, sports and leisure; and special protection measures for the child. Unlike the first report, the second report is more detailed covering all clusters contained in the UN Children's Committee's guidelines.

The UN Children's Committee's list of issues<sup>70</sup> requested Congo to provide disaggregated data on, among other areas, children belonging to specific groups such as asylum-seekers, minorities, refugees; children with disabilities; children infected by HIV; child mortality; number of

the Committee on the Rights of the Child relating to the consideration of the 2nd periodic report of Chad (n 57) Question 7. The reason for the difference in the age of marriage for boys and girls was not given, but it appears that the reason is to ensure that the boys are more mature than the girls so that they can take up the responsibility which they are required to in marriage.

67 As above.

68 Written replies by the Government of Chad concerning the list of issues received by the Committee on the Rights of the Child relating to the consideration of the 2nd periodic report of Chad (n 57) Question 8.

69 Concluding Observations on the second report of Chad, UN Committee on the Rights of the Child (12 February 2009) UN Doc CRC/C/TCD/CO/2 (2009) <http://www1.umn.edu/humanrts/crc/chad2009.pdf> (accessed 27 August 2017) para 3.

70 List of issues to be taken up in connection with the consideration of the initial report of the Republic of Congo, UN Committee on the Rights of the Child (14 June 2006) UN Doc CRC/C/COG/Q/1 (2006).

reported cases of child abuse; literacy rate of children below the age of 18; persons below the age of 18 that have committed crimes; children deprived of family environment; and children demobilised from armed groups. Further requests required information on the general measures for implementation of the CRC including providing information on cases in which the CRC has been invoked in national courts; on the mandate of the National Human Rights Commission; on the activities of the Congolese Child Rights Centre; on the Children's Parliament; on the powers of the Ombudsman in relation to complaints; on strategies aimed at improving the situation of children; on efforts to sensitise relevant stakeholders on the CRC and on human rights generally; on collaboration between the state and international organisations in the implementation of the CRC; and on priority issues affecting children and requiring urgent attention.

In the second report, the list of issues<sup>71</sup> required Congo to: (a) indicate the state of progress in the implementation of a domestic law on the protection of children; (b) provide measures taken towards developing a national strategy for the protection of children; (c) provide measures taken to create a coordination mechanism; (d) indicate the proportion of national budget geared towards the implementation of children's rights; (e) indicate measures taken to centralise data collection on children at the national level; (f) provide measures taken to eliminate discrimination against specific groups such as indigenous children and children with disabilities; (g) provide details on measures taken for the implementation of the national plan for persons with disabilities; (h) provide information on measures taken to address violence against children; (i) provide information on measures to address harmful practices against children; (j) provide measures recently set up for regulating adoption; (k) provide information on measures taken for the implementation of specific national strategies; and (l) provide information on the progress towards adopting a bill on the modernisation of the justice system.

In its written response to the first report's list of issues,<sup>72</sup> Congo provided disaggregated data and elaborated on the functions of its institutions such as the National Human Rights Institution and the Ombudsman and their

71 List of issues to be taken up in connection with the consideration of the combined second, third and fourth periodic reports of the Republic of the Congo, UN Committee on the Rights of the Child (4 July 2013) UN Doc CRC/C/COG/Q/2-4 (2013).

72 Written replies by the government of the Republic of the Congo concerning the list of issues relating to the consideration of the initial report of the Republic of the Congo (CRC/C/COG/1), UN Committee on the Rights of the Child (14 August 2006) UN Doc CRC/C/COG/Q/1/Add.1 (2006); Liste de points concernant les deuxième à quatrième rapports périodiques de la République du Congo présentés en un seul document, CRC/C/COG/Q/2-4/Add.1 (2 December 2013).

competences with regards to complaints. Further, Congo gave information on national strategies aimed at improving the situation of children such as the Framework for Operations 2004-2008 established with the support of UNICEF.

In the second report, Congo gave information on the national strategies developed for ensuring children's protection. With regards to the coordination mechanism, Congo admitted that although the national committee on the rights of the child was not functioning, government would revive the mechanism and the government ministry in charge of vulnerable children would work with UNICEF to launch advocacy. Congo further provided a list of its legislation geared towards combating discrimination against specific groups such as children with disabilities and indigenous children. These include Law 009/92 of 22 April 1992 on the status, protection and promotion of the disabled person and Law 05-2011 of 25 February 2011 on the promotion and protection of indigenous peoples. Further, measures adopted in addressing violence against children such as training of parliamentarians, adoption of gender policy and popularisation of the UN Convention on the Elimination of All Forms of Discrimination against Women were highlighted. In relation to progress on the bill on modernisation of the justice system, Congo emphasised that although the bill had not been adopted, the spirit and the strategic point are already found in its National Development Programme.<sup>73</sup>

Further, child rights indicators were developed in monitoring progress on some child rights. For instance, in the first report, Congo noted that while an extensive study on child labour has not been carried out in Congo, there are day-to-day indicators suggesting that the problem persists.<sup>74</sup> However, with regards to sexual exploitation of children, Congo stated that indicators have not been put in place for monitoring national progress in addressing the problem.<sup>75</sup> Although Congo did not exactly follow the

73 Written replies by the government of the Republic of the Congo concerning the list of issues relating to the consideration of the initial report of the Republic of the Congo (n 72) para 16.1.

74 Consideration of reports submitted by states parties under article 44 of the Convention: Initial reports of state parties due in 1999: Congo (n 46) para 45.1.

75 Consideration of reports submitted by states parties under art 44 of the Convention: Combined second, third and fourth periodic reports of state parties due in 2010: Congo, UN Committee on the Rights of the Child (18 September 2012) UN Doc CRC/C/COG/2-4 (2012) para 13.

reporting guidelines for initial reports, it endeavoured to comply with the reporting guidelines for periodic report as evidenced in its 2010 report.

### 5.3 DRC

Again, DRC's initial report did not effectively cover the overall situation of children in DRC as it did not have sufficient details on a range of issues. The second report showed improvements although there were still some gaps. For instance, the report is silent on issues related to respect for the views of the child, child abuse and neglect, children with disabilities, the issue of access to health, increase of the phenomenon of child soldiers and juvenile justice. Further, the report affirmed the ratification of the African Children's Charter but in reality, the DRC is yet to submit the act of ratification to the African Union (AU) although the instrument has been signed.

In its list of issues, the first issue related to the status of the draft child protection law to which the government responded by indicating the steps taken by the two chambers of parliament, up to that point, in adopting the law. This law was finally promulgated by the President of the Republic on 10 January 2010. The second issue concerned practical information related to the National Council for Children (CNEN) and measures taken to improve its ability to perform its tasks, ensure its coordinating role and support to fulfil its mandate vis-à-vis the provincial councils for children. The DRC responded that CNEN is an inter-ministerial body attached to the Ministry of Gender and Children which derives its financial source from the state budget and the support of international organisations. The body has the mandate to advise the government on the promotion and protection of children's rights. The third request was on any measures taken to harmonise legislation relating to children in conformity to CRC standards. The DRC affirmed the harmonisation of domestic legislation with the CRC based on the following laws:

- Act 023/2002 of 18 November 2002 enacting the Military Judicial Code, which removes all offences committed by children under the age of 18 from the jurisdiction of military courts;
- Act 015/2002 of 16 October 2002 enacting the Labour Code, which inter alia raised the minimum employment age from 14 to 16 years and prohibits the enrolment of children in armed forces or groups;
- Act 04/023 of 12 December 2004 concerning the general organisation of defence and the armed forces, which forbids the enrolment of children under the age of 18 years;
- Acts 06/018 and 06/019 of 20 July 2006 respectively amending and supplementing the Decree-Law of 30 January 1940 enacting the Criminal

Code and the Decree Law of 6 August 1959 enacting the Code of Criminal Procedure.

DRC also affirmed the use of the CRC in domestic courts by referring to the Magistrate's Court of Assosa's decision, which refused to conduct criminal proceedings against a 17 year old child, by invoking articles 2 and 17 of the African Children's Charter for the administration of juvenile justice.<sup>76</sup> The minor in question was then returned to the Prosecutor's Office for referral to the juvenile court which pronounced social welfare assistance instead of serving a prison sentence or paying a fine.

The UN Children's Committee requested the government to clarify the role of the Ministry of Family and its participation in the implementation of the CRC. DRC indicated the following roles:

- Protecting and promoting the status of women, children and the family;
- Cooperating with the ministries of Human Rights, Primary, Secondary and Professional Education, Justice, Health, Social Affairs and Humanitarian Action to improve the status of women and children; and
- Promoting and disseminating all international conventions, laws, studies and research concerning the condition of women and children.

On dissemination and publicity activities relating to the CRC and the UN Children's Committee's Concluding Observations on DRC's initial report; the following methods had been used by DRC:

- The translation of the CRC into the four national languages;
- The distribution of leaflets, posters and cartoon strips on the CRC;
- The integration of the CRC into the school programme;
- The training of public and private actors including (judges, civil servants, police officers, NGOs, children; and
- Radio and television programmes, through the 'Friends of Children' journalists' network.

On direct support, including financial support from the government to CSOs involved in the promotion of children's rights, the state indicated that support to CSOs was through strengthening of technical capacities, including through the training of members and the provision of subsidiary budget for about ten national NGOs. During the 2008 financial year,

76 Child Rights International Network (CRIN) 'Democratic Republic of Congo: Child rights references in the Universal Periodic Review – National report (RP4215/IV du 3 avril 2006)' para 20 <https://www.crin.org/en/library/publications/democratic-republic-congo-child-rights-references-universal-periodic-review#aa> (accessed 15 August 2017).



allocations totalled 98 000 000 Congolese francs, or US\$ 176 576. The government listed over a dozen CSOs that were beneficiaries of state support.<sup>77</sup> In addition to the provision of support, the government indicated that cooperation between both parties is evident in a number of ways including the involvement of civil society in defining general policies and drafting and implementing plans of action. Examples include the participation of the National Coordinating Forum for Health Sector NGOs (CNOS), the Network of Educators of Street Children and Youth (REEJER) and the Action Centre for the Training of Social Educators (CAFES). Other areas of cooperation include the removal of children from armed forces and groups<sup>78</sup> and the legal defence of children who are victims of violence or in conflict with the law.<sup>79</sup> There is also cooperation with regard to the education of the public regarding the CRC. However, according to the alternative report submitted by civil society, the major challenge confronting cooperation between the state and NGOs is the lack of budget allowance for implementing the CRC.<sup>80</sup>

On measures to combat harmful practices such as FGM and forced marriage, the state confirmed the adoption of new legislation such as the Sexual Violence Act which provides one to 12 years' imprisonment and a minimum fine of 100 000 Congolese francs for an individual convicted of forced marriage, two to five years' imprisonment for one convicted of inflicting FGM and ten to twenty years for any individual accused of trafficking and exploitation of children for sexual purposes. The state has also established a committee, attached to the Ministry of Health, to combat FGM. On urgent matters of priority, the government indicated the following: ending the enrolment of children into armed groups, ensuring the basic education of all children, ensuring access to primary healthcare and implementing reforms to the juvenile justice system.

77 It is important to note that all the NGOs listed are active and based in Kinshasa. As such, their services may be of little or no effect to children in other towns and cities, particularly those in rural areas.

78 CSOs are participating exclusively in the supervision and transit management aspects, raising awareness about leaving the armed groups and family as well as socio-professional reintegration. The NGOs involved include the Belgian Red Cross, the International Catholic Child Bureau (ICCB), Caritas, Solidarity Action for Children in Distress (SACD), Health Aid Action for the Most Deprived (AASD) and the Action Group for the Demobilisation and Reintegration of Child Soldiers (GADERES).

79 NGOs involved include the International Catholic Child Bureau (ICCB), the Justice Now Association (AJM), the Congolese Observatory of Human Rights (OCDH), the NGO Coalition for Children's Rights (CODE) and the African Zone League for the Defence of the Rights of Schoolchildren and Students (LIZADEEL).

80 See *Rapport alternatif sur la mise en œuvre de la Convention sur les Droits de l'Enfant en RDC* (2008) 20.

Concerning new bills and legislation, the state party signalled that votes were taken regarding the law on the protection of children in the National Assembly during its regular session of April 2008, and in the Senate during the special session of August 2008. However, since the two chambers adopted it with different phrasing, a joint commission was established to harmonise the text. The law has since been approved and promulgated by the President of the Republic.<sup>81</sup> Regarding new institutions for the protection of human rights, the developments include the creation of the Audio-visual and Communication Council with the role of protecting children against programmes that may corrupt their values, the creation of the National Human Rights Monitoring Centre with the mandate of defending human rights, and the National Committee to Combat the Worst Forms of Child Labour. With respect to policies, programmes, action plans, and projects, the government reported on a number of measures including the formulation of policy papers on child protection, campaigns for mass enrolment of first graders, campaigns for the promotion of the use of insecticides and treated mosquito nets for the reduction of malaria-related mortalities.

For all three countries, the UN Children's Committee considered their initial reports to be quite vague and ambiguous without providing a clear picture of the actual situation of children. Detailed statistics and disaggregated data on the rights contained in each reporting cluster were lacking with more focus placed on accounts of government activities, including legislation and policies, in relation to the protection of children. In varying degrees, efforts were made to improve the second reports which were generally more detailed and factual than the initial reports.

Many issues and persistent challenges have arisen out of the reporting exercise by these countries. These include: the involvement of children in armed conflict and failure to reintegrate former child soldiers; inadequate care arrangements for orphans, refugees and displaced children; low rate of birth registration; poor healthcare (especially in response to HIV and AIDS); trafficking of children; harmful practices such as FGM, child marriage and sexual violence and exploitation; inappropriate use of detention for children due to inadequate juvenile justice systems; high school dropout rates and high levels of illiteracy; poverty; and inadequate education provision and discrimination in access to education, especially for girls and children from indigenous backgrounds.<sup>82</sup>

81 See Loi n° 09/001 du 10 janvier 2009 portant protection de l'enfant.

82 Child Rights International Network 'Chad: Persistent violations of children's rights' <https://www.crin.org/en/library/publications/chad-persistent-violations-childrens-rights> (accessed 29 September 2017); Child Rights International Network 'Congo:

Thus, these issues featured prominently in the list of issues prepared by the UN Children's Committee to which the government of each country was required to provide written responses. A recurring issue was the need for the states parties to, in line with article 4 of the CRC on measures of implementation, provide information on budgetary allocations made for the implementation of the CRC throughout the country in various sectors such as health and education. Government responses to the issue of resource allocation often drew attention to the fact that significant reliance is placed on support from development partners such as the European Union (EU), the United Nations Development Programme (UNDP) and UNICEF, among others, where the implementation of the CRC is concerned.

## **6 Alternative reporting**

As indicated earlier, the UN Children's Committee is assisted in the state reporting process by complementary reports prepared and presented by CSOs ahead of the UN Children's Committee's engagement with states parties when presenting their reports. These complementary reports provide alternative channels for assessing states parties' progress and challenges by providing the UN Children's Committee (and other treaty bodies) with additional information or alternative perspectives on the issues covered in state party reports. In addition, the reports also usually contain facts and figures based on the areas of specialisation of the organisations involved. All these enable the UN Children's Committee to fully monitor the implementation of the CRC and hold states accountable for their obligations in a wide-ranging and holistic manner as the UN Children's Committee is enabled to better assess performance and identify difficulties or problem areas. Complementary reports also add value to the engagement between the UN Children's Committee and reporting states by assisting the UN Children's Committee with issues to be considered in the formulation of the list of issues to be sent to reporting states for further clarification or additional responses. The UN Children's Committee is also able to draw recommendations from those indicated by CSOs for particular states parties.

While the preparation and submission of complementary reports does not preclude CSOs from participating in government processes for the preparation of state reports, local organisations are often not involved

Persistent violations of children's rights' <https://www.crin.org/en/library/publications/congo-persistent-violations-childrens-rights> (accessed 29 September 2017); Child Rights International Network 'DRC: Persistent violations of children's rights' <https://www.crin.org/en/library/countries/congo-democratic-republic> (accessed 29 September 2017).

in the state reporting process. Where CSOs are not able to contribute to the state reporting process, it becomes even more important to prepare complementary reports which bring to the fore key issues that may not have been adequately captured or addressed in state reports.

In preparing complementary reports, the CSOs involved generally follow the structure or format of the state report (in accordance with the UN Children's Committee's guidelines on state reporting) to complement the contents of the state report. It is best practice for a national coalition of organisations to come together for the process. This allows for more effective monitoring and for the acquisition of information from a diverse range of sources based on the specialist knowledge of the individuals and organisations involved.

## **6.1 Chad**

There is no record that CSOs in Chad submitted an alternative report to the CRC. However, CSOs submitted an alternative report to the African Children's Committee. In the alternative report, the CSOs raised many issues with the State Party Report including that the Employment Code sets the minimum age for work at 14. In addition, the CSOs raised concerns with respect to article 273 of the Penal Code of 1967, which, according to the alternative report, punishes rape as sexual assault on children under the age of 13 only. The concerns here were that this provision of the law leaves a vacuum for sexual assault on children between 13 and 18 years.

## **6.2 Congo**

In complementing the report of Congo, CSOs as Global Initiative to End All Corporal Punishment of Children (Global Initiative); International Baby Food Action Network (IBFAN); and Réseau des Intervenants sur le Phénomène des Enfants en Rupture (REIPER)<sup>83</sup> submitted shadow reports.<sup>84</sup> A larger network of CSOs based in Congo was represented

83 REIPER serves as a coalition of 21 civil society organisations, some of which focus on vulnerable groups such as the Centre d'Insertion et de Réinsertion des Enfants Vulnérables, which deals with protecting vulnerable children, and Handicap Afrique, which deals with persons with disabilities.

84 REIPER 'Rapport supplémentaire au rapport national (2000-2010) sur l'application de la Convention relative aux droits de l'enfant en République du Congo' (23 April 2013); Global Initiative to End All Corporal Punishment of Children 'Briefing on Republic of Congo for the Committee on the Rights of the Child: Pre-sessional working group – June 2013' (June 2013) (Global Initiative Report); International Baby Food Action Network (IBFAN) 'Report on the situation of infant and young child feeding in Congo Brazzaville' (December 2013) [https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/COG/INT\\_CRC\\_NGO\\_COG\\_15975\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/COG/INT_CRC_NGO_COG_15975_E.pdf) (accessed 27

under REIPER. IBFAN and Global Initiative are CSOs of an international character. In the complementary report from Global Initiative, the issue of corporal punishment of children in Congo was raised while the report of IBFAN highlighted the situation of infant and young child feeding in Congo. One of the points raised in IBFAN's shadow report was derived from the UN Children's Committee's recommendation to Congo from the review of its first report.<sup>85</sup> The UN Children's Committee recommended that Congo should address the issue of infant and child mortality and take steps to improve nutrition and have a national law on infant feeding. IBFAN's report focussed on the prevailing situation of infant feeding in Congo which was also covered in Congo's state report.<sup>86</sup> REIPER's report was cross-cutting, focusing on issues such as education, health and the protection of specific groups of children such as children with disabilities, street children and children in conflict with the law. The Global Initiative's report shadowed Congo's 2010 report to the UN Children's Committee, which described law reform in 2010 geared towards the prohibition of corporal punishment.<sup>87</sup>

In the reports, clear recommendations were made. REIPER recommended that there should be awareness about domestic and international instruments on child protection and that there should also be free healthcare programmes for vulnerable children. IBFAN recommended, among others, an improvement of mother/caregiver capacity and the adoption of a national policy on infant feeding.

### 6.3 DRC

In the case of DRC, complementary reports are rarely prepared collectively although networks are often established when required by funders such as UNICEF.<sup>88</sup> There is also a practice of engaging consultants for the preparation of complementary reports in DRC due to the lack of qualified human rights experts. It is difficult to establish or measure the level of participation involved in the preparation of the reports particularly

August 2017).

85 IBFAN (n 84) 3.

86 Consideration of reports submitted by states parties under art 44 of the Convention: Combined second to fourth periodic report of the Congo UN Committee on the Rights of the Child (11 November 2010) UN Doc CRC/C/COG/2-4 (2010) paras 522, 529, 533, 534 & 616.

87 Global Initiative Report (n 84).

88 An example is the alternative report drafted by four NGOs: Observatoire Congolais des Droits Humains (OCDH), l'Association Africaine de Défense des Droits de l'Homme (ASADHO), la Voix des Sans Voix pour les droits de l'homme (VSV) and la Coalition des Organisations Non Gouvernementales des Droits de l'Enfant (CODE).

because they are mostly prepared in the capital without the involvement of NGOs operating in other provinces.

There is a considerable gap between the issues raised in the complementary reports drafted by the CSOs and those highlighted by the states parties. Reports presented by states generally tend to be defensive and largely optimistic while NGO reports try to highlight abuses, and the lack of commitment on the part of the state. International NGOs are more actively engaged in preparing and submitting shadow reports to the treaty body than national organisations.

## **7 Concluding Observations**

Technically, the final stage of the state reporting cycle is the preparation of Concluding Observations by the UN Children's Committee in closed session. Concluding Observations collate the UN Children's Committee's general overview and impression of the situation of children's rights in the reporting state party. The UN Children's Committee's findings are based on a combination of the contents of the reports submitted, engagement with states parties' delegations during constructive dialogue, responses to questions posed as well as responses to the list of issues prepared and sent to the state for clarifications and further information. Relevant/additional information from complementary reports and engagement with CSOs also inform the contents of the Concluding Observations. Specifically, Concluding Observations are also expected to highlight major areas of concern and provide recommendations to states parties on measures to improve the overall implementation of the CRC and the actual situation of children on the ground in each state party concerned.

### **7.1 Chad**

The Concluding Observations to Chad's first report were issued in 2000,<sup>89</sup> about two years after the submission of Chad's initial report. Similarly, the Concluding Observations on the second report were issued in 2009,<sup>90</sup> about two years after the submission of the report. On the first report, the UN Children's Committee commended the Government of Chad on the improvements in the human rights situation in the country since the end of the civil war, particularly efforts made in the implementation

89 Concluding Observations on the initial report of Chad, UN Committee on the Rights of the Child (24 August 1999) UN Doc CRC/C/15/Add.107 (1999) <http://www.un.org/documents/ga/docs/55/a5541.pdf> (accessed 27 August 2017).

90 Concluding Observations on the second report of Chad, UN Committee on the Rights of the Child (12 February 2009) UN Doc CRC/C/TCD/CO/2 (2009) <http://www1.umn.edu/humanrts/crc/chad2009.pdf> (accessed 27 August 2017).



of the CRC and the ratification of the African Children's Charter, while requesting the government to go further by enacting domestic legislation to further protect children's rights. Some of the positive developments commended by the UN Children's Committee include the establishment of a children's parliament to address the widespread resistance to the views of children and the preparation of a National Programme for Persons with Disabilities by the Ministry of Social Action and the Family, with the inclusion of a decision to exempt children with disabilities from all educational fees.<sup>91</sup> While noting that the legacy of violence left by decades of civil war in Chad created additional factors and difficulties which impeded the implementation of the CRC,<sup>92</sup> the UN Children's Committee outlined some principal subjects of concern while also making some recommendations (on matters arising from the first report).<sup>93</sup>

On the general measures of implementation, the UN Children's Committee noted that existing domestic legislation did not fully reflect the principles and provisions of the CRC and requested that Chad reinforce its efforts to make the provisions and principles of the CRC widely known and understood by adults and children alike.<sup>94</sup> Among others, the UN Children's Committee also expressed concern about the inadequate attention paid to the promotion of civil rights as provided for in articles 13 to 17 of the CRC and recommended that Chad give prompt consideration to the possibility of ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to review its policies and legislation to provide for full implementation of the provisions of articles 37(a) and 39 of the CRC.<sup>95</sup> The UN Children's Committee further expressed concerns over: the situation of children's education; leisure and cultural activities in Chad; the low enrolment rate and limited access to education, especially in rural areas;<sup>96</sup> and the frequency and level of violence in schools, including bullying among students in the light of articles 3, 19 and 28 of the CRC.<sup>97</sup> The UN Children's Committee also expressed concern over some special protection measures such as the protection of refugee children<sup>98</sup> and the involvement of children in armed conflict.<sup>99</sup> Finally, the UN Children's Committee recommended that the

91 Concluding Observations on the initial report of Chad (n 89) paras 6 & 7.

92 Concluding Observations on the initial report of Chad (n 89) para 10.

93 Concluding Observations on the initial report of Chad (n 89) paras 8-9.

94 Concluding Observations on the initial report of Chad (n 89) paras 11-18.

95 Concluding Observations on the initial report of Chad (n 89) para 21.

96 Concluding Observations on the initial report of Chad (n 89) paras 31 & 32.

97 Concluding Observations on the initial report of Chad (n 89) para 33.

98 Concluding Observations on the initial report of Chad (n 89) para 34.

99 Concluding Observations on the initial report of Chad (n 89) para 35.



initial report and written replies be made widely available to the public, along with the summary records of the relevant meetings and Concluding Observations adopted by the UN Children's Committee.<sup>100</sup>

On the second report, the UN Children's Committee noted the measures taken by Chad for the adoption of legislation on the rights of children,<sup>101</sup> the draft Child Protection Code and the project to harmonise the Penal Code with the CRC.<sup>102</sup> The Committee also welcomed the ratification of all the international instruments ratified by Chad.<sup>103</sup> While the UN Children's Committee commended the efforts by Chad to implement the Concluding Observations on the initial report, it nevertheless noted that many of them had not been significantly addressed and urged Chad to take all necessary measures to address those recommendations from the previous Concluding Observations.<sup>104</sup>

The UN Children's Committee expressed concerns over issues such as the need to ensure the harmonisation of legislation with the CRC<sup>105</sup> and on the coordination of national programmes for children and the need for the creation of an inter-ministerial committee to oversee the implementation of the CRC. The UN Children's Committee noted the absence of a national plan of action on children that addresses fully all of the rights of the child enshrined in the CRC<sup>106</sup> and recommended the adoption of a national plan of action and requested that the state provide a specific budget allocation and adequate follow-up mechanism for the full implementation of the plan.<sup>107</sup> The UN Children's Committee noted that while an independent monitoring commission such as the National Human Rights Commission (NHRC) plays a vital role in defending human rights, there is still a need for an Ombudsman specialised in children's rights.<sup>108</sup>

The UN Children's Committee made further comments on the allocation of resources for the protection of children,<sup>109</sup> collection of

100 Concluding Observations on the initial report of Chad (n 89) para 39.

101 Concluding Observations on the second report of Chad (n 90) para 3.

102 Concluding Observations on the second report of Chad (n 90) para 4.

103 Concluding Observations on the second report of Chad (n 90) paras 5-7.

104 Concluding Observations on the second report of Chad (n 90) paras 9-10.

105 Concluding Observations on the second report of Chad (n 90) para 11.

106 Concluding Observations on the second report of Chad (n 90) para 16.

107 Concluding Observations on the second report of Chad (n 90) para 17.

108 Concluding Observations on the second report of Chad (n 90) paras 18 & 19.

109 Concluding Observations on the second report of Chad (n 90) para 20.

data relating to children,<sup>110</sup> the dissemination of the report to the citizens and training and awareness-raising on the report.<sup>111</sup> The UN Children's Committee thus recommended that Chad should expand its awareness raising campaigns to reach populations outside of urban areas. The UN Children's Committee further urged Chad to strengthen its efforts to make the provisions of the CRC widely known and accepted by adults and children.<sup>112</sup> The UN Children's Committee recommended continued collaboration with civil society and that Chad should publicly support human rights advocacy and create a safe environment for human rights professionals.<sup>113</sup>

Furthermore, the UN Children's Committee recommended a number of legislative and other measures to address the concerns of children in conflict with the law and to ensure that the laws of Chad are in line with articles 37(b), 39 and 40 of the CRC, as well as the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular, the UN Children's Committee recommended that Chad should take into account the Committee's General Comment 10 on the administration of juvenile justice.<sup>114</sup>

In addition, the UN Children's Committee recommended measures to protect witnesses and victims of crimes and to ensure that the state takes all appropriate measures to ensure that the present recommendations are fully implemented.<sup>115</sup> Finally, the UN Children's Committee invited Chad to submit its combined third, fourth and fifth periodic report by 31 October 2012.<sup>116</sup> The report has however not been submitted to date.

## **7.2 Congo**

On 20 October 2006, about a year after the submission of its initial report, the UN Children's Committee published its Concluding Observations on Congo's report. Concluding Observations on the second report submitted in 2010 were issued in February 2014, at least three years after.

110 Concluding Observations on the second report of Chad (n 90) para 22.

111 Concluding Observations on the second report of Chad (n 90) para 24.

112 Concluding Observations on the second report of Chad (n 90) para 25.

113 Concluding Observations on the second report of Chad (n 90) para 27.

114 Concluding Observations on the second report of Chad (n 90) para 86.

115 Concluding Observations on the second report of Chad (n 90) para 90.

116 Concluding Observations on the second report of Chad (n 90) para 91.

On the first report, the UN Children's Committee recommended that Congo should bring its legislation in line with the CRC and adopt a comprehensive legislation on children's rights.<sup>117</sup> The UN Children's Committee further recommended that Congo should establish a permanent children's commission for the realisation of the rights of children contained in the CRC. In addition, it recommended the development of a data collection system and the strengthening of efforts aimed at disseminating information on the CRC. Further, training should be conducted for those involved in activities relating to children; these include teachers, social workers, judicial institutions/officers and law enforcement agencies.

On the General Principles (contained in articles 2, 3, 6 and 12), the UN Children's Committee made several recommendations relating to non-discrimination, best interest of the child and respect for the views of the child. On the point of non-discrimination, the UN Children's Committee recommended that Congo should ensure that the Constitution is amended to reflect the prohibition of discrimination on grounds recognised in the CRC and give information in its subsequent periodic report on measures taken to eliminate discrimination against vulnerable groups of children. Further, Congo should strengthen efforts to make sure that the best interest of the child is understood and integrated in decisions of administrative and judicial bodies. Further, respect for the views of the child should be incorporated and implemented with training programmes developed for parents, professional groups and judges with a view to enhancing the participation of children.

Other recommendations include the need for the state to increase expenditure on education, particularly primary education and strengthen vocational training,<sup>118</sup> to address issues relating to refugee children, child soldiers, substance abuse, economic exploitation, including child labour, sexual exploitation, trafficking, juvenile justice; and children belonging to minority or indigenous groups. The UN Children's Committee further urged Congo to finalise the ratification of the Optional Protocols to the CRC. Congo eventually became party to both Optional Protocols in 2009 and 2010 respectively.

In its second Concluding Observations on the 2010 report, the UN Children's Committee noted that several of its initial concerns had been partly addressed particularly on issues of coordination of the CRC

117 Concluding Observations: The Republic of Congo, UN Committee on the Rights of the Child (20 October 2006) UN Doc CRC/C/COG/CO/1 (2006) para 7.

118 The UN Children's Committee recommended that assistance from UNICEF should be sought on this matter.

implementation; birth registration; torture and other cruel, inhuman or degrading treatment; and prohibition of harmful practices. In reiterating its recommendations, the UN Children's Committee urged Congo to ensure institutional protection for the rights of children, to disseminate information and raise awareness on children's rights and to cooperate with civil society. The UN Children's Committee urged Congo to ensure that children's rights are protected in the business sector and in particular, urged Congo to develop a regulatory standard for businesses to ensure that their activities do not affect the rights of women and children. The UN Children's Committee further reiterated some of its earlier recommendations relating to civil rights and freedoms; family environment and alternative care; basic health and welfare; education; leisure and cultural activities; and special protection measures. The UN Children's Committee further urged Congo to cooperate with regional institutions such as the African Children's Committee in the implementation of the CRC and other relevant human rights treaties.

However, there has been slow coordination of responses to the Concluding Observations at the national level. The Concluding Observations are still not well known in the public sphere<sup>119</sup> and although the coalition of CSOs under REIPER have been involved in creating awareness on children's rights in Congo, the progress at the governmental level is still theoretical and has not been properly coordinated.<sup>120</sup>

### **7.3 DRC**

The UN Children's Committee received with satisfaction DRC's second periodic report on the CRC and its reply to the list of issues. The Concluding Observations were constituted of compliments and recommendations. The UN Children's Committee congratulated the state for its commitment in adopting the Child Protection Law of 2009, the Law on Sexual Violence of 2006, the Constitution of 2006 and the Labour Law of 2002. The UN Children's Committee also recognised the will of DRC to integrate international child protection standards by ratifying the African Children's Charter, the ILO Convention 182 (1999), ILO Convention 138 (1973) and the Rome Statute of the International Criminal Court. However, the UN Children's Committee expressed concerns about the armed conflict and extreme poverty that continue to affect the enjoyment of children's rights in the DRC.

119 Correspondence with Mr Joseph Likibi, Coordinator du Réseau des Intervenants sur le Phénomène des Enfants en Rupture at an interview with the country researcher, June 2016.

120 As above.

The UN Children's Committee observed with regret the non-consideration of the state to numerous highlighted issues regarding the collection of data, the prevalence of torture and degrading treatments, the neglect of children with disabilities and child soldiers, among others. The UN Children's Committee also noted the existence of old laws which affect or contradict the implementation of new laws. Thus, the UN Children's Committee has invited the government to make improvements on all these issues. In addition, the UN Children's Committee recommended a wide dissemination in local languages of the report, government's reply to the list of issues and Concluding Observations through various means to various groups including children, youth associations, CSOs, and the public at large in order to encourage debate and guide the application of the CRC and follow up on the Concluding Observations. The UN Children's Committee concluded by inviting the state party to present its third, fourth and fifth reports collectively on 26 October 2012. This has not been done.

The Concluding Observations further required the state to disseminate the report widely and include children in the implementing process. This has however not been done although CSOs have played various roles in implementing the Concluding Observations, albeit small. CSOs are quite weak and do not take active action in including Concluding Observations into their agenda. The government has largely stayed inactive; the lack of will to translate documents into national languages to allow easy access to and understanding for children and other stakeholders also remains a challenge. The media also do not play their role in disseminating information about the Concluding Observations as they are often unaware of them. Concluding Observations received from other treaties bodies (ICCPR and ICESCR) also express similar concerns with regards to children.

In the Concluding Observations on the combined third to fifth State Report, the UN Children's Committee welcomed the legislative, institutional and policy measures adopted by the state party to implement the CRC such as the Act amending the Family Code of 1987, the framework Law on Education of 11 February 2014, the establishment of the National Commission for Human Rights and the adoption of several strategies.

However, the UN Children's Committee expressed concerns and reminded the state party about its recommendations relating to the right to life, survival and development, birth registration, gender-based and sexual violence against children, harmful practices, education and aims of education, administration of juvenile justice and follow-up on previous

concluding recommendations on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

## **8 Effects of Concluding Observations**

It is difficult to assess the impact of Concluding Observations since some of the observations have different normative, institutional, structural, organisational and operational dimensions that may not be easy to measure in a work of this nature. What is possible though is to outline some of the effects of the observations of the treaty bodies within the domestic jurisdiction.

### **8.1 Chad**

The implementation of the Concluding Observations is achievable as the recommendations generally suggested some straightforward legislative and policy reforms. The recommendations do not require enormous resources and they are easily achievable with dedication and political will on the part of the government. An example is the recommendation for more collaboration and cooperation with civil society and support for human rights advocacy through the creation of a safe environment for those involved.

The Government of Chad has indeed made some effort by putting plans in place to implement the recommendations of the UN Children's Committee through the establishment of governmental structures and cooperation with international NGOs and UN organisations such as UNICEF, UNDP and UNHCR for technical support. There are specific plans to monitor the implementation of the Concluding Observations through the implementation of various legislation, national programmes and projects.<sup>121</sup> Various governmental departments play crucial roles in the implementation process and the Government of Chad cooperates with UN agencies such as Chad-UNICEF, UNDP and national NGOs such Women's Associations Liaison Unit (CELIAF), Centre for Development

121 Such as the Declaration of Population Policy, Policy Declaration on the Integration of Women in Development, Convention on the Elimination of All Forms of Discrimination against Women, Campaign to End Fistula, Food and Nutrition Programme, Poverty Reduction and Action for Women Project (REPAFEM), Family Life Education Project and the Girls' School Attendance Project.

Studies and Training (CEFOD) and a host of others to implement the programmes and projects.

## **8.2 Congo**

Although the state has made some remarkable progress in reducing mortality rates, in increasing the rate of primary school enrolment, in the inclusion of indigenous issues and birth registration,<sup>122</sup> there are still issues of violence against children, particularly the girl child and lack of accessibility to education for children with disabilities that need to be addressed. While some resources are required towards realising some of the recommendations, such as building institutional capacities and putting mechanisms in place for providing basic health services, the implementation of the Concluding Observations largely requires political will. In garnering this 'will' and prompting the state to act, it is important that CSOs engage in vigorous advocacy in conjunction with the media in ensuring that the Concluding Observations of the UN Children's Committee are given visibility within the state.

## **8.3 DRC**

Generally, the slow pace of implementation of new laws and the Concluding Observations is attributed to government failure to establish the rule of law and to maintain peace and security, as well as the existence of fragile institutions and the proliferation of corruption in the system. Some rights such as considering the views of the child, fighting torture and degrading treatment, and abrogation of child unfriendly laws, among others, do not require extraordinary financial means for the DRC but just political commitment. The delegation of the DRC to the UN Children's Committee had recognised that the improvement of the situation of the child is a prerequisite to the country's development, notwithstanding the current difficult situation. Indeed, some recommendations made were already reflected in the child protection law and the delegation had expressed its commitments towards complying with its obligations under the CRC.

While the DRC has made progress related to its return to the international reporting spot and the adoption of a legislative arsenal for child protection, the situation of children in the country remains critical. This is due principally to the inadequacy of the government in providing an adequate response to the situation of children. Despite different legislative reforms and international reports denouncing children's

122 As above.



rights abuses in DRC, the country continues to register serious children's rights violations such as child recruitment in armed groups, torture and degrading treatment, trafficking and exploitation of children, rape, child marriage, and illegal detention, among others.<sup>123</sup>

## 9 Conclusion

The first set of Concluding Observations issued to the three countries commended the fact that since ratifying the CRC in the 1990s and having experienced years of armed conflict during and beyond that period, some improvements in their human rights situation could be noted. Particularly, efforts to implement the CRC and the ratification of the African Children's Charter were commended while recommendations for legislation harmonising child protection laws were made. In terms of factors or difficulties impeding the full and proper implementation of the CRC, the Concluding Observations highlighted the legacy of violence caused by the many years of armed conflict within the countries. It is to the credit of these countries that the first two optional protocols to the CRC (OPAC and OPAS) were subsequently ratified in response to recommendations made by the UN Children's Committee. Chad ratified both protocols in 2002; the DRC ratified them in 2001 while Congo ratified them much later in 2009 and 2010 respectively.

It is quite apparent that some progress has been made between the submission of the initial reports and the submission of second (combined) reports. The reason for this appears to stem from the changes in regime and the relative stability, particularly in Chad which has enjoyed some stability since 2000. While the initial reports showed that little attention was paid to the rights of children (reflected in the lack of statistics, sufficient depth and general attention to details) and little progress had been made, some progress became evident in the second reports. Since the issuing of Concluding Observations to each state's initial report and the subsequent efforts to implement them, it is evident that the protection of children's rights is now on the agenda of the governments within the region. Although none of the countries have been consistent in meeting their obligation regarding the timely submission of reports, the contents of their second report show a lot of improvement in the situation of children from what was initially reported.

A particular recommendation of the UN Children's Committee common to all three states was the need for the states to harmonise

123 See the DRC country report prepared for this continental study 20 (on file with the author).

the varied and scattered legislation on matters concerning children in line with the standards contained in the CRC, particularly through the adoption of a comprehensive legislation on children's rights. The effects of this recommendation continue to be seen all across the continent as many states, including Chad, Congo and the DRC have indeed gone ahead to review and in some cases, overhaul previous laws on matters concerning children. Today, these states generally have a single comprehensive law on children's rights and welfare issues, and other legislation has been amended to align with the provisions of the CRC. Examples include laws governing juvenile justice (such as increased minimum age of criminal responsibility) and minimum age of employment, among others. Several plans, policies and programmes have also been put in place to ensure that the rights of children are protected in recent years. In some cases, there have also been increases in resource mobilisation and allocation for children programmes.<sup>124</sup>

In Chad, for example, the resources allocated to education increased from 70.5 billion CFA francs in 2006 to 125.3 billion CFA francs (35.95 per cent) for primary education, to 88.2 billion CFA francs in 2008 (7.5 per cent of the state budget). A lot of improvements were also made in the areas of refugee children, child labour and juvenile justice. Specifically, the Government of Chad made a lot of progress in the improvement of the situation of girls, with the implementation of several plans and programmes to protect the girl child. In the area of civil registration, Chad partnered with UNDP and a lot of progress was made in this regard as Chad currently has an 80 per cent birth registration rate, 50 per cent death registration rate and 50 per cent marriage registration rate.<sup>125</sup>

However, the contents of the Concluding Observations generally and the little or inadequate measures taken to fully address them since their release, reveal that the situation of children in these countries still remains generally dire. Strong political commitment and will as well as putting in place proper institutional protection through building and developing institutional capacities and mechanisms are important measures that need to be taken throughout the region. More cooperation is required between governments and CSOs involved in the protection of children's rights. It should be noted that in the case of Chad, CSOs are also better involved in the protection of children's rights.

124 Written replies by the Government of Chad concerning the list of issues received by the Committee on the Rights of the Child relating to the consideration of the 2nd periodic report of Chad (n 58) Question 5.

125 As above.

Although there is still a long way to go, it is quite clear that much of the improvements that have been made so far on children's rights in the region are creditable to the engagement between states and the UN Children's Committee through the state reporting process and the implementation of the recommendations made thereafter. Greater compliance with reporting requirements and timelines as well as timeous adherence to the recommendations made therefore have the potential to produce more positive results for children. The state reporting process is accordingly an appropriate monitoring and evaluation mechanism for ensuring the realisation of children's rights by states parties.