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## CHILDREN'S RIGHTS IN NORTH AFRICA: AN ASSESSMENT OF THE STATUS OF CHILDREN'S RIGHTS THROUGH STATE PARTY REPORTS BY ALGERIA, EGYPT AND MOROCCO

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### 1 Introduction

This report discusses the utility and relevance of children's rights reporting in three countries of North Africa (Algeria, Egypt and Morocco) and is part of a larger piece of work on the same subject that spans countries across the African continent. The goal of the project is to empirically test the effectiveness of the United Nations (hereinafter UN) and African Union (hereinafter AU) child rights reporting mechanisms about promoting and protecting the rights of children in African countries.

### 2 Human rights overview

This section provides a brief overview of the very different contexts within the North African region: Algeria, Egypt and Morocco. An overview of their political and legal contexts is useful, as it is within these frameworks that children's rights should be protected by policy, legislation and practice. Section 2 addresses procedural issues regarding the preparation and publication of states reports, including data collection, participation of key stakeholders such as civil society, government and children, and public dissemination of the report. Section 3 focuses on the substance of the reports themselves, and it describes some of the key issues arising in the series of state party reports submitted to treaty bodies, as well as in the Concluding Observations of these treaty bodies. Looking at gaps in child rights protection in policy and practice, and legislative change, it draws attention to areas where change has been observed, as well as to areas where gaps in rights protections persist.

#### 2.1 Algeria

In the years and months before Algeria submitted its first report to the UN Children's Committee, Algeria endured a civil conflict beginning in 1992 which claimed the lives of over 150 000 people, and in which severe human rights violations were perpetrated resulting in devastating trauma for many children.<sup>1</sup> In 1994-1995, amidst the civil conflict, the

<sup>1</sup> For more background information, see One World 'Algeria guide' (March 2008)

pursuit of economic reforms through the implementation of structural adjustment programmes led to intense social and economic challenges.<sup>2</sup> Compounding these challenges, cultural and religious practices, and the application of Sharia law, some of which were reflected in domestic law, including the Family Code of 1984, adversely affected women and children and constituted a threat to the realisation of the rights of the child as guaranteed under the CRC.

For example, in addition to suffering societal persecutions if married to non-Muslims, women were discriminated against in matters of inheritance and succession and could not work in professions such as teaching and fortune telling, which were traditionally deemed to be exclusively the domain of men.<sup>3</sup> If married to a foreigner, women lost their national citizenship.<sup>4</sup> Perpetration of gender based violence, kidnapping, and obligatory wearing of veils or hijabs were documented.<sup>5</sup> These discriminatory laws manifested themselves in different ways with regard to their impact on children. For example, some commentators argued that because of the divorce stipulations under the Family Code, divorced women often found themselves homeless and living on the streets with their children, which in turn has negative implications for their education and welfare. Furthermore, permission of a father was required for registration within the education system and approval of child participation in school in line with articles 52, 62, 65 of the Family Code.<sup>6</sup> The Family Code 1984, and the Constitution 1976 (amended 1996), Law 72-03 of 1972 dealing with the protection of childhood and adolescence as well as Penal Code 2004 were understood as allowing for 'light violence'.<sup>7</sup>

cited in Y Abdul-Hamid 'Child rights situation analysis for Middle East and North Africa Region' (2008) 13. I am grateful to Prof Jegede Ademola Oluborode, country researcher for Algeria; Ms Daphine Agaba, country researcher for Egypt and Prof Mwiza Jo Nkhata, country researcher for Morocco for conducting the research that made this chapter possible.

- 2 For example, to stimulate private sector growth, state enterprises were closed, leading to lay-offs of workers. See E Ruppert 'The Algerian retrenchment system: A financial and economic evaluation' (1999) 13 *The World Bank Economic Review* 155.
- 3 K Bennoune 'SOS Algeria: Women's rights under siege' in M Helle-Lucas & H Kapoor (eds) *Women living under Muslim laws* (1997) 29-50.
- 4 ZS Salhi 'Algerian women, citizenship, and the "Family Code"' (2003) 11 *Gender and Development* 27 at 30.
- 5 K Bennoune 'Dossier 18: SOS Algeria – Women's human rights under siege' in *Dossier articles: North Africa Algeria fundamentalisms* (October 1997) <http://www.wluml.org/node/295> (accessed 8 February 2016).
- 6 Salhi (n 4) 30.
- 7 Global Initiative to End All Corporal Punishment of Children 'Algeria – Country report' <http://www.endcorporalpunishment.org/pages/pdfs/states-reports/Algeria.pdf> (accessed 8 February 2016).

Algeria signed the CRC in 1990 and ratified the treaty in 1993. Algeria ratified the Optional Protocols in 2009 (OP on the Involvement of Children in Armed Conflict) and in 2006 (OP on the Sale of Children, Child Prostitution and Child Pornography). Algeria entered interpretative declarations on articles 13, 14, 16 and 17 of the CRC, advising that article 14 (concerning freedom of religious and belief) shall be interpreted in compliance with article 2 of its Constitution which affirms that Islam is the state religion and Law 84-11 of 9 June 1984, which requires that a child's education is to take place in accordance with the religion of his/her father.<sup>8</sup>

It also advises that articles 13, 16 and 17 (concerning freedom of expression, privacy and access to information) shall take account of the Penal Code's stipulations on public order, public decency and the Law 90-07 of 3 April 1990 dealing with the incitement of minors to immorality and debauchery. In particular, the provisions are understood in the context of article 26 of the Penal Code which forbids publications and illustrations against 'Islamic morality, national values or human rights or [advocating] racism, fanaticism and treason'. Algeria has submitted reports under the CRC to the UN Children's Committee in 1996, 2005 and 2011. It has not submitted reports under the two Optional Protocols. Algeria signed the African Children's Charter in 1990 and ratified it in 2003. It submitted its initial report to the African Children's Committee in 2015.

## **2.2 Egypt**

Following decades of authoritarian rule, Egypt continues to recover from the political, social and economic effects of the 2011 Arab Spring revolutions which led to the ousting of two Presidents between 2011 and 2014 (Hosni Mubarak, who ruled from 1981 to 2011 and Mohammed Morsi, who ruled from 2012 to 2013).<sup>9</sup> During the revolution, the parliament was dissolved by the Supreme Council of Armed Forces; parliamentary elections are expected to take place in late 2015. In May 2014, presidential elections led to the election of Abdel Fatah El-Sisi. Following Mubarak's resignation in 2011, the Egyptian Constitutional Review Committee was appointed to amend the Constitution and a new Constitution was approved in 2012.

8 United Nations Treaty Collection 'Algeria' [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&lang=en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en#EndDec) (accessed 8 February 2016).

9 MANARA Network for Child's Rights 'Country Profile of Egypt: A review of the implementation of the UN Convention on the Rights of the Child' (16 August 2011) <https://resourcecentre.savethechildren.net/node/6422/pdf/6422.pdf> (accessed 8 February 2016).

Egypt signed and ratified the CRC in 1990, without reservations. Egypt ratified the Optional Protocols in 2007 (OP on the Involvement of Children in Armed Conflict) and in 2002 (OP on the Sale of Children, Child Prostitution and Child Pornography). Egypt has submitted reports under the CRC to the UN Children's Committee in 1992, 1999 and 2010, and under the Optional Protocols in 2010. Some of the main issues that were addressed by Egypt in the initial report included a brief description of Egypt's executive, legislative and judicial composition, its demographics and the main provisions of the Constitution.<sup>10</sup>

Egypt signed the African Children's Charter in 1999 and ratified it in 2001 with reservations with respect to articles 24, 30(a)(e), 44 and 45(1). Egypt submitted a report to the African Children's Committee in 2005. Shortly before ratifying the CRC in 1988, Egypt had put in place a body known as the National Council of Childhood and Motherhood (Children's Council) which was charged with monitoring and ensuring that programmes and policies pertaining to children were effectively implemented.<sup>11</sup> Egypt was thus commended by the UN Children's Committee. Despite the ratification of such frameworks,<sup>12</sup> several bottlenecks that hinder children's effective enjoyment of their rights abate, such as inadequate resource allocations to child protection and lack of specialised services to adequately address child protection.<sup>13</sup>

### 2.3 Morocco

Morocco has adopted six constitutions since it gained independence in 1956. These constitutions were promulgated in 1962, 1970, 1972, 1992, 1996 and 2011. The Constitution of 2011, the current Constitution, defines the Moroccan regime as a democratic and constitutional monarchy, with separation of the executive, legislative and judicial branches. The Constitution also guarantees independence of the judicial authority and provides for the linguistic pluralism and the plural identity of Moroccan

10 Consideration of reports submitted by state parties under article 44 of the Convention: Initial Reports of state parties due in 1992: Egypt, UN Committee on the Rights of the Child (23 October 1992) UN Doc CRC/C/3/Add.6 19 (1992) paras 1-39.

11 The Children's Council was formed by presidential decree number 54 in 1988 and amended by presidential decree number 273 in 1989. The National Council for Childhood and Motherhood [http://www.nccm-egypt.org/e3/index\\_eng.html](http://www.nccm-egypt.org/e3/index_eng.html) (accessed 8 February 2016).

12 Egypt also ratified the International Labour Organisation Convention 182 (1999) concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labour in 2002 and the Convention on the Rights of Persons with Disabilities in 2008.

13 UNICEF 'Egypt: Child protection' <http://www.unicef.org/egypt/protection.html> (accessed 3 March 2017).

people. Importantly, the 2011 Constitution safeguards the foundations, principles and guarantees of constitutional protection of human rights by reaffirming that the Kingdom of Morocco is committed to human rights as universally recognised considering their indivisibility and universality. The Constitution also states that it is committed to prohibiting and combating all forms of discrimination on grounds of sex, colour or creed, culture or social or regional affiliation, language or disability or any personal status whatsoever. The Constitution establishes the primacy of international conventions ratified by Morocco over national legislation, and the need to harmonise domestic legislation with the requirements of ratification.<sup>14</sup>

The Constitution of Morocco recognises the family as the fundamental unit of society and guarantees its protection and establishes the Consultative Council of the Family and Childhood. A Constitutional provision is made for the state to promote youths in economic, social, cultural and political life and the Constitution articulates a duty on the state to protect vulnerable groups in society including children.

Notwithstanding these normative provisions, there is evidence that many practices hamper the full realisation of children's rights. An example includes child labour, which is prohibited under Moroccan Law.<sup>15</sup> The Moroccan Family Code (*Mudawana*, 2004) and the 2011 Constitution prohibit the use of minor domestic workers.<sup>16</sup> The Labour Code of 2004 establishes the minimum age for employment as 15 and prohibits night work for children under the age of age 15 years. However, the Labour Code exempts certain types of agricultural work from this prohibition, potentially exposing children involved in this exempted agricultural work to hazardous labour. Since children between 16 and 17 years of age are not prohibited from agricultural night work, they may also potentially be exposed to hazardous labour practices.<sup>17</sup>

There is evidence that girls as young as six or seven years old, from rural communities, are recruited to work as child maids (*petites bonnes*) in cities, and often experience conditions of forced labour, ranging from non-

14 2011 Constitution of Morocco (Draft, translated by Jefri J Ruchti); see <http://www.constitutionnet.org/v1/item/morocco-draft-text-constitution-adopted-referendum-1-july-2011m> (accessed 23 March 2016) arts 1, 19 & Preamble.

15 Art 467 of the Moroccan Penal Code.

16 Human Rights Watch 'Lonely servitude: Child domestic labour in Morocco' (2012) <https://www.hrw.org/report/2012/11/15/lonely-servitude/child-domestic-labor-morocco> (accessed 23 March 2016).

17 Government of Morocco *Le Nouveau Code de Travail* 65-99 (enacted 2004) <http://www.maroc.ma/NR/rdonlyres/9A951844-BCA6-4468-9EFD-7460E229E00F/0/codedetravail.pdf> (accessed 23 March 2016).

payment of wages to physical or sexual abuse. Boys also experience forced labour as they are recruited as apprentices in the artisan and construction industries and in mechanic shops.<sup>18</sup> Another notable harmful practice hindering the full realisation of the rights of children is the practice of early marriage. The reformed Family Code (*Mudawana*, 2004) raised the minimum age of marriage for women from 15 to 18; however, there are reports that as recently as 2007 judges were authorising marriages involving girls under 18.<sup>19</sup>

Morocco signed the CRC in 1990 and ratified the treaty in 1993. Morocco signed both Optional Protocols in 2000 and ratified them in 2002 (OP on the Involvement of Children in Armed Conflict) and 2001 (OP on the Sale of Children, Child Prostitution and Child Pornography). Morocco lodged an interpretative declaration to article 14 of the CRC, regarding freedom of religion and belief, noting that Islam, as the state religion, guarantees freedom of worship for all, and that parents are responsible for the religious guidance of their children.<sup>20</sup> Morocco has submitted reports under the CRC to the UN Children's Committee in 1995, 2003 and 2013, and under the Optional Protocols in 2005 and 2012. Morocco has not signed the African Children's Charter.

### 3 Status of reporting

#### 3.1 Adherence to deadlines

In all three case study countries, failure to adhere to reporting deadlines was observed in some or all of cases or reporting to treaty bodies, although this is not unusual in the international treaty reporting context.

18 US Department of State 'Trafficking in persons report 2011' (June 2011) <http://www.state.gov/g/tip/rls/tiprpt/2011/164232.htm> (accessed 23 March 2016).

19 Concluding Observations: Morocco, Committee on the Elimination of All Forms of Discrimination against Women (1 February 2008) UN Doc CEDAW/C/MAR/CO/4 (2008).

20 The full interpretive declaration is in the following terms: 'The Government of the Kingdom of Morocco interprets the provisions of article 14, paragraph 1 of the Convention on the Rights of the Child in the light of the Constitution of 7 October 1996 and the other relevant provisions of its domestic law, as follows: Article 6 of the Constitution, which provides that Islam, the State religion, shall guarantee freedom of worship for all; Article 54, paragraph 6, of Act 70-03 (the Family Code), which stipulates that parents owe their children the right to religious guidance and education based on good conduct. By this declaration, the Kingdom of Morocco reaffirms its attachment to universally recognized human rights and its commitment to the purposes of the aforementioned Convention. See UN Treaty Series 'Convention on the Rights of the Child' [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&lang=en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en#EndDec) (accessed 23 March 2016).

### **3.1.1 Algeria**

Algeria has submitted three reports to the UN Children's Committee<sup>21</sup> and one report under the Optional Protocol on the Involvement of Children in Armed Conflict.<sup>22</sup> The submitted reports do not effectively capture the situation of children in the country and are compromised with regard to data collection, inadequate involvement of NGOs and other sectors of the civil society, and inadequate formulation and implementation of protective measures which have been consistently emphasised all through the reporting cycles (as discussed below).

### **3.1.2 Egypt**

Egypt submitted its initial report to the UN Children's Committee in 1992. The submission of its report was timely as it was submitted within the required two-year period. Its second periodic report was submitted in 1998, one year late. Egypt submitted a combined third and fourth report in 2008.<sup>23</sup> Egypt has also reported under the Optional Protocols.<sup>24</sup>

### **3.1.3 Morocco**

Like Egypt, Morocco has demonstrated varying adherence to the deadlines. In total, Morocco has submitted five reports to the UN

21 The first report under the CRC, which was due on 15 May 1995, was filed on 16 November 1995. The second report was filed on 16 December 2003, three years after 15 May 2000, its due date. Algeria was permitted to merge the submission of its third and fourth reports (consolidated report) and these were submitted in 2010, having been due for submission in 2009. See Consideration of reports submitted by states parties under article 44 of the Convention: Initial reports of states parties due in 1995. Addendum: Algeria, UN Committee on the Rights of the Child (13 February 1996) UN Doc CRC/C/28/Add.4 (1996) (Initial report); Consideration of reports submitted by states parties under article 44 of the Convention: Second periodic reports of states parties due in 2000: Algeria, UN Committee on the Rights of the Child (3 March 2005) UN Doc CRC/C/93/Add.7 (2005) (Second periodic report); Concluding Observations: Algeria, UN Committee on the Rights of the Child (12 October 2005) UN Doc CRC/C/15/Add.269 (2005).

22 These reports were due for submission on 27 January 2009 (Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography) and 9 June 2011 (Optional Protocol on the Involvement of Children in Armed Conflict).

23 Egypt's third report was due in 2002.

24 In 2010, Egypt submitted its initial report on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, which was due in 2004. On the same date, it submitted its initial report on the Optional Protocol on the Involvement of Children in Armed Conflict, which had been due in 2009. On 15 July 2011, the UN Children's Committee issued its Concluding Observations to Egypt's third and fourth periodic reports and it also issued recommendations on the two initial reports on the Optional Protocols to the CRC that had been forwarded to it.

Children's Committee.<sup>25</sup> The reason for the late submission of later reports was attributed by the state party to slow preparation of sectoral reports by the relevant government sectors. It is also posited by the Moroccan government that the delays by the relevant sectors in submitting their sectoral reports, as contribution to the national report, was one of the reasons why the government established the Inter-Ministerial Unit on Human Rights in 2011 to coordinate the compilation of the state reports.<sup>26</sup>

## 3.2 Preparation of reports

### 3.2.1 Algeria

Weaknesses regarding quality of data, or data collection procedures were observed in the survey of state reports. For example, in the case of Algeria, the survey found that qualitative and quantitative tools such as interviews and surveys to elicit information, particularly from the children, are not used. In addition, there is lack of a national, comprehensive and centralised data collection system covering all areas of the CRC. In its Concluding Observations to the initial report, the UN Children's Committee notes that adequate measures have not been taken to ensure the collection of disaggregated quantitative and qualitative data on areas covered by the CRC.<sup>27</sup> The potential effects on the reporting process have been the subject of concern in all the reporting cycles of Algeria to the UN Children's Committee.

The African Children's Committee echoes similar sentiments:

[T]he Committee recommends the State Party to strengthen it and press for a comprehensive data collection and keeping system to better reflect the

- 25 The initial report was due for submission in 1995 and was submitted that year. Likewise, the second report was due and submitted in 2000. The third and fourth reports were due in 2009, but were only submitted in 2012 as a combined report. See UN Office of the High Commissioner for Human Rights 'Ratification, reporting & documentation for Morocco' [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Countries.aspx](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx) (accessed 1 April 2016). In addition to the three reports under the CRC, Morocco has submitted one report under each of the Optional Protocols to the CRC.
- 26 UN International Human Rights Instruments 'International Human Rights Instruments: Common core document forming part of the reports of states parties: Morocco' (6 August 2012) HRI/CORE/MAR/2012 [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=HRI%2FCORE%2FMAR%2F2012&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=HRI%2FCORE%2FMAR%2F2012&Lang=en) (accessed 1 April 2016).
- 27 Consideration of reports submitted by states parties under article 44 of the Convention: Initial reports of states parties due in 1995. Addendum: Algeria, UN Committee on the Rights of the Child (16 November 1995) UN Doc CRC/C/28/Add.4 (1995) para 15.

situation of children on the ground and to make an informed decision in law making and policy designing.<sup>28</sup>

In the first reporting cycle, the UN Children's Committee recommended that inclusive processes be adopted in Algeria, with specific emphasis on vulnerable children and children in difficult circumstances to assess progress achieved in the realisation of rights and to help define policies to be adopted to better implement the provisions of the CRC.<sup>29</sup> In its Concluding Observations on the second report, the UN Children's Committee expresses the regret regarding the lack of data on children living in extreme poverty, children separated from their parents, child victims of sexual exploitation, children in the juvenile justice system and *Amazigh* children. It similarly notes the lack of statistical data on child trafficking, and the need for improved data collection on indicators under the CRC.<sup>30</sup> In its Concluding Observations to the consolidated report, the UN Children's Committee observes a lack of progress on the part of the state to establish a national, comprehensive and centralised data collection system covering all areas of the CRC. This is particularly true of data relating to geographic location, socio-economic status and groups of vulnerable children as well as data on violence, abuse and exploitation.<sup>31</sup>

In the list of issues compiled by the UN Children's Committee for the consolidated report, it called upon the state to update information relating to policies, legislation and ratification of human rights instruments to provide disaggregated statistics on budgets for 2008, 2009 and 2010 and reported cases of child victims of abuse, sexual and economic exploitation, trafficking, social rehabilitation and reintegration services, legal proceedings against perpetrators of offences, number of rehabilitation programmes and children deprived of liberty.<sup>32</sup>

28 See Concluding Observations and Recommendations by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) on the People's Democratic Republic of Algeria report on the status of implementation of the African Charter on the Rights and Welfare of the Child para 10 [https://acerwc.africa/wp-content/uploads/2018/14/Concluding\\_Observations\\_Algeria](https://acerwc.africa/wp-content/uploads/2018/14/Concluding_Observations_Algeria) (accessed 10 April 2016).

29 Initial reports of states parties due in 1995. Addendum: Algeria (n 27) para 32.

30 Second periodic reports of states parties due in 2000: Algeria (n 21) paras 20, 21 & 78.

31 Concluding Observations: Algeria, UN Committee on the Rights of the Child (18 July 2012) UN Doc CRC/C/DZA/CO/3-4 (2012) para 21.

32 List of issues concerning additional and updated information related to the consideration of the combined third and fourth periodic reports of Algeria, UN Committee on the Rights of the Child (10 November 2011) UN Doc CRC/C/DZA/3-4 (2011) paras 1- 4.

The issue of inadequate data as raised on several occasions during the reporting cycles offers the basis to conclude that the UN Children's Committee has never been satisfied with the information provided in the Algeria report. An inadequate data means that the Committee is deprived of sufficient information for an informed assessment and outcome which can positively impact on the rights of children at the national level. It also suggests that policy makers in Algeria rely on insufficient national data in the formulation of policies to address the problems of children.

### 3.2.2 *Egypt*

In the case of Egypt, while presentation of data did improve between the first and second reports (whereby the state used the initial report as a data benchmark), these statistics were not disaggregated by geography and gender. Egypt's combined third and fourth periodic report was markedly improved compared to the previous reports. Throughout the report, direct reference was made to the previous recommendations of the UN Children's Committee and some of the changes undertaken to improve the children's situation were directly obtained from the Concluding Recommendations. This was unlike the previous report that had made scant reference to the previous recommendations. The report was also self-critical as Egypt attempted to give a balanced view of the children's situation in Egypt as well as the challenges hindering the full realisation of children's rights.

Egypt established the Egypt National Child Rights Observatory (ENCRO) within the Children's Council in 2009. This was in response to the Committee's advice to the state to improve on its data collection by ensuring that it is disaggregated, systematically collected and regularly updated so that it could be used to assess progress and design policies towards the implementation of the CRC. The ENCRO aims at conducting scientific research to inform policy formulation for children.<sup>33</sup>

### 3.2.3 *Morocco*

Data collection has also been a subject of concern to the UN Children's Committee with respect to Morocco. In its first Concluding Observation, the UN Children's Committee observed:

Insufficient attention has been paid to the collection of systematic and comprehensive data and the identification of appropriate indicators and

33 Child Rights International Network 'Egypt National Child Rights Observatory' <https://www.crin.org/en/library/organisations/egypt-national-child-rights-observatory> (accessed 10 April 2016).

monitoring mechanisms in all areas covered by the Convention. Disaggregated data and appropriate indicators seem to be lacking to assess the situation of children.<sup>34</sup>

In 2003, Morocco made a marginal improvement in its data collection. The UN Children's Committee

welcome[d] the statistical data provided by the State party annexed to its report ... the Committee remain[ed] concerned at the absence of a nationwide mechanism to collect and analyse data on the areas covered by the Convention.

In 2014, the UN Children's Committee reminded the state party to 'take all necessary measures to address those recommendations ... related to data collection ...' From the above brief overview, the three countries under consideration continue to have varying degrees of challenges with data collection. The availability and quality of data lays at the core of the reporting exercise. Incomplete or inaccurate data leads to an incomplete or inaccurate assessment of progress and challenges as well as policy recommendations. To minimise this limitation, the UN Children's Committee has relayed on other complementary sources of information to aid in its assessment.

### **3.3 Participation of civil society in preparation of state reports and civil society space**

The researchers observed notable differences in the participation and diversity of stakeholders involved in the preparation of state reports over time and place, although the body of stakeholders did appear to be widening over time.

#### **3.3.1 Algeria**

In Algeria, only ministerial departments participated in the process of compiling the initial report, signifying that the report is solely government-based, or at best inter-ministerial.<sup>35</sup> The key ministries involved were the Ministry for National Solidarity and the Family, the National Committee for the Protection and Promotion of the Family and other ministerial departments, such as those which dealt with health, education, labour, social welfare, vocational training, youth and sports, justice and local

34 Concluding Observations of the Committee on the Rights of the Child: Morocco, UN Committee on the Rights of the Child (30 October 1996) UN Doc CRC/C/15/Add.60 (1996) para 9.

35 Initial reports of states parties due in 1995. Addendum: Algeria (n 27) para 4.

communities.<sup>36</sup> Contrary to the requirement for popular participation in the reporting process by the General guidelines regarding the form and content of initial reports to be submitted by states parties under article 44, paragraph 1(a) of the CRC,<sup>37</sup> there was no record of the involvement of National Human Right Institutions, Non-Governmental Organisations (NGOs), academic institutions and the media in the initial report. A lack of popular participation by the stakeholders was also evident in the subsequent reports.

There was some improvement, however, in later reports. A shadow report was submitted in 2005 by the *Les Droits de L'enfant en Algerie*.<sup>38</sup> Complementary reports were also submitted by both international and local civil society, namely, the Child Helpline International (CHI), Global Initiative to End All Corporal Punishment of Children, International Disability Alliance (IDA), and the Algerian Network for the Defence of Children. The NGO submissions have the potential to present alternative views to the UN Children's Committee. For instance, the *Les Droits de L'enfant en Algerie* indicated that while much has been mentioned by the state about the creation of national committees and councils for the protection of the child, none of the proposed committees has been established.<sup>39</sup>

Commenting on the consolidated report, the CHI called upon the government agencies to cooperate with it to remedy child rights violations.<sup>40</sup> Corporal punishment, reported by the Global Initiative to End All Corporal Punishment of Children, is lawful in the home for the child rearing process and in alternative care settings.<sup>41</sup> Issues raised by the IDA, include failure by government to deinstitutionalise and reintegrate children with disabilities into community settings, introduce inclusive

36 Summary record of the 387th meeting: Algeria, UN Committee on the Rights of the Child, 15th session (29 May 1997) UN Doc CRC/C/SR.387 (1997).

37 Guidelines regarding the form and content of initial reports to be submitted by states parties under art 44, para 1(a) of the Convention, adopted by the Committee at its 22nd meeting (first session) on 15 October 1991, para 3 [https://1168.fedimbo.belgium.be/sites/1168.fedimbo.belgium.be/files/algemene\\_richtlijnen\\_initieel\\_IVRKrapport\\_EN.pdf](https://1168.fedimbo.belgium.be/sites/1168.fedimbo.belgium.be/files/algemene_richtlijnen_initieel_IVRKrapport_EN.pdf) (accessed 10 April 2016).

38 *Les Droits de l'Enfant en Algérie Alternative Report*, pre-40th Session of the UN Committee on the Rights of the Child, 8 June 2005, Geneva.

39 *Les Droits de l'Enfant en Algérie Alternative Report* (n 38) 6.

40 Child Helpline International 'What we do' <http://www.childhelplineinternational.org/what-we-do/> (accessed 13 October 2014).

41 UN Office of the High Commissioner for Human Rights 'Briefing from Global Initiative to End all Corporal Punishment of Children' (2008) <http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/globalall.pdf> (accessed 13 Oct 2014).

education, sanction school authorities which refuse children with disabilities access to education, lack of access to complaint mechanism and ratification of the Optional Protocol to the CRPD.<sup>42</sup> The Algerian Network for the Defence of Children identifies physical punishment, sexual abuse and exploitation, drug addiction, and drop out of schools as the main issues. It then calls for efforts by the government to address the challenges.<sup>43</sup> These contributions are important because reports by the state had been silent on these issues.

Despite the above, the participation of NGOs in the reporting exercise has limited demonstrable impact for many reasons. First, reports filed by the above organisations generally indicate a scanty reference to sources of data for the content of report. Only the complementary report of the Algerian Network for the Defence of Children reflected the reliance on a study it conducted and interaction with child victims of violence.<sup>44</sup> Second, because the UN Children's Committee does not refer to any shadow report, the conclusion cannot be clearly made that shadow reports greatly inform the concluding remarks of the UN Children's Committee. Only the possibility of an indirect link is visible considering that the issues raised in the reports by the civil society are reflected in the UN Children's Committee in its questions and recommendations on the reports of the state review of the state's report.<sup>45</sup>

That civil society is insufficiently included in the preparation process of state reports is further evidenced by calls by civil society organisations for their inclusion as a source of information for policy and legislation on children's issues, in the shadow report provided at the consolidated third and fourth reporting cycle.<sup>46</sup> Exclusion of civil society from the process has been criticised for undermining the exercise of generating

42 International Disability Alliance (IDA) 'Suggestions for disability-relevant questions to be included in the list of issues for Pre-Sessional Working Group CRC 60th Session' (1 September 2011) (IDA Report) <https://archive.crin.org/en/library/un-regional-documentation/suggestions-disability-relevant-questions-be-included-list-issu-33.html> (accessed 10 Oct 2014).

43 Child Helpline International (n 40) 5-6.

44 The Algerian Network for the Defence of Children (NADA Network) 'The Algerian alternative report on children's rights submitted for the review of the 3rd and 4th periodic report of Algeria' (Algerian Network Alternative Report) [http://www.crin.org/docs/Algeria\\_NN\\_CRC%20Report%20EN.pdf](http://www.crin.org/docs/Algeria_NN_CRC%20Report%20EN.pdf) (accessed 8 October 2014) 17-21.

45 As above.

46 Child Helpline International and NADA 'Session 59 - Algeria recommendations to the UN Committee on the Rights of the Child' (September 2011) [http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/DZA/INT\\_CRC\\_NGO\\_DZA\\_60\\_8628\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/DZA/INT_CRC_NGO_DZA_60_8628_E.pdf) (accessed 14 Oct 2014).

'popular participation' in the process.<sup>47</sup> The UN Children's Committee has persistently emphasised the need for the Algerian State to consider NGOs as relevant partners in the implementation of the CRC so as to ensure the protection of rights of the children.

In the Concluding Observations made on the initial report, the UN Children's Committee enjoins the state to strengthen coordination between the various government bodies involved in children's rights, at both national and local levels, and NGOs working in the field of human and children's rights.<sup>48</sup> Similarly, the need for greater involvement of NGOs and other sectors of the civil society was articulated in the Concluding Observations of the Committee to the second report. The UN Children's Committee expresses the regret that despite their relevance, the government is yet to engage NGOs and other sectors of the civil society in a systematic manner for the implementation of the CRC. It then draws the attention of government to the need for cooperation of government with the civil society, particularly in the implementation of the CRC.<sup>49</sup>

Suggesting that effective participation of NGOs is not yet the practice, the UN Children's Committee recommends that the state should collaborate with Algerian child rights associations<sup>50</sup> and calls for the participation of children. In its Concluding Observations to the consolidated report, the UN Children's Committee expresses concern that the inadequate participation of NGOs can be traced to threat of intimidation, harassment and arrests by the state of practitioners including those monitoring the situation of child rights as well as journalists. Hence, the UN Children's Committee calls for the review of Law 12-06 of 12 January 2012 on associations. In its view, the law undermines the role of NGOs in the promotion and protection of the rights of the child.<sup>51</sup>

In its first Concluding Observation, the African Children's Committee reiterated similar concerns with respect to lack of CSOs participation in

47 General guidelines regarding the form and content of initial reports to be submitted by states parties under article 44, paragraph 1(a) of the Convention on the Rights of the Child adopted by the Committee at its 22nd meeting (first session), UN Committee on the Rights of the Child (15 October 1991) UN Doc CRC/C/5 (1991) para 3; 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 adopted by the Committee at its 55th session, UN Committee on the Rights of the Child (23 November 2010) UN Doc CRC/C/58/Rev.2 (2010) para 3.

48 Initial reports of states parties due in 1995: Addendum: Algeria (n 27) para 30.

49 Second periodic reports of states parties due in 2000: Algeria (n 21) paras 22 & 23.

50 As above.

51 Concluding Observations: Algeria (n 31) paras 27 & 74.

the preparation of the state party report as well as the inability to submit alternative reports. The African Children's Committee

urges the State Party to create conducive environment to CSOs and to collaborate with CSOs in the implementation of the African Children's Charter. In addition, the State Party is encouraged to involve CSOs in preparation of the subsequent reports and in implementation of these recommendations.<sup>52</sup>

### **3.3.2 Egypt**

As in the Algerian case, the initial report submitted by Egypt was not complemented or critiqued by any shadow report as no shadow report was submitted. A shadow report was submitted during Egypt's second reporting cycle by the NGO Coalition on the Rights of the Child. In response to a query raised during the initial reporting cycle, in the second periodic report, the state dedicated a section to the NGOs showing how it works with civil society organisations. The report suggested that there had been engagement between the children's council and organisations working with children, aimed at improving children's livelihoods.<sup>53</sup> However, organisations maintained that the state of emergency which has been in place from 1981 to 2013 has greatly inhibited the establishment and operationalisation of civil society organisations. In addition to that, bureaucratic measures were put in place restricting access to local and foreign grants.<sup>54</sup> The 2002 NGO Law, which exempted civil society organisations from contract registration and established a separate taxation system for them, was considered as further increasing the control of civil society by the state.<sup>55</sup>

In response to concerns raised by civil society organisations, the UN Children's Committee recommended that a systematic approach should be undertaken to ensure effective involvement of civil society at all stages of implementation of the CRC and amend any form of legislation that limited NGO operations.<sup>56</sup> However, to effectively involve NGOs, they require adequate capacity and sometimes external support. Despite these

52 See Concluding Observations and Recommendations by the African Committee of Experts on the Rights and Welfare of the Child (n 28).

53 Consideration of reports submitted by states parties under article 44 of the Convention: Periodic reports of state parties due in 1997: Egypt, UN Committee on the Rights of the Child (18 September 1998) UN Doc CRC /C/65/Add.9 (1998) paras 25 & 26.

54 MANARA (n 9) 26.

55 Y Abdul-Hamid 'Child rights situation in Middle East and North Africa' Save the Children, Sweden (August 2011) <https://resourcecentre.savethechildren.net/library/child-rights-situation-analysis-middle-east-and-north-africa> (accessed 17 Oct 2014) 99.

56 Periodic reports of state parties due in 1997: Egypt (n 53) paras 13 & 14.

recommendations, the relationship between the Egyptian Government and NGOs has reportedly worsened rather than improved, especially during and after the 2011 revolution.<sup>57</sup> The NGO law has several restrictive provisions including: empowering the government to disband groups and deny licenses to new groups that they deem a national threat; allowing government to deny NGOs requests to associate with international organisations; and, providing authorities with powers to inspect the premises of those involved in NGO work and giving government authority to shut down NGO premises, freeze their assets, confiscate their property and block funding if (in the opinion of authorities) they are deemed to be violating any law.<sup>58</sup>

These restrictions came in the wake of an increasing crack down, including raids, on NGOs, and in particular on those perceived to have ties with the Muslim brotherhood. The director of the Middle East and North Africa Unit of the International NGO Human Rights Watch has cautioned that the law is not aimed at regulating the work of NGOs, but at further narrowing their space and depriving them of their autonomy.<sup>59</sup> Since its enactment in 2002, several NGOs have called for it to be removed, with little or no effect. The proponents of the law maintain that NGOs in Egypt were elite-centred and thus not in position to reach the marginalised sections of the population, and that they are not equipped to support empowerment and mobilisation of the masses to effect change.<sup>60</sup> The government also maintained that the law was aimed at preventing unregistered NGOs from conducting activities.<sup>61</sup>

In response to the UN Children's Committee's recommendation to form an independent human rights institution, the government established the National Council of Human Rights (NCHR), although some human rights organisations viewed the formation of the human rights institution merely as a government attempt to co-opt them or limit their operation in

57 Al Jazeera 'Egypt NGOs "robbed of independence"' *Al Jazeera* 22 September 2014 <http://www.aljazeera.com/news/middleeast/2014/09/egypt-ngo-law-crackdown-2014913121624569527.html> (accessed 17 Oct 2014).

58 Law 84 of 2002 on Non-Governmental Organisations <http://www.bu.edu/bucflp/files/2012/01/Law-on-Nongovernmental-Organizations-Law-No.-84-of-2002.pdf> (accessed 17 February 2014).

59 *Al Jazeera* (n 57).

60 O Kubbara 'NGOs lose ground in Sisi's Egypt' *Open Democracy: free thinking of the world* 21 October 2014 <https://www.opendemocracy.net/arab-awakening/ola-kubbara/ngos-lose-ground-in-sisi%27s-egypt> (accessed 17 November 2015).

61 F Aboulmaga 'Why Egypt moved against unregistered NGOs' *The Washington Post* 9 March 2012 [http://www.washingtonpost.com/opinions/why-egypt-moved-against-unregistered-ngos/2012/03/05/gIQAEHrflR\\_story.html](http://www.washingtonpost.com/opinions/why-egypt-moved-against-unregistered-ngos/2012/03/05/gIQAEHrflR_story.html) (accessed 17 February 2015).

the name of exercising an oversight role on their activities. According to the state, the National Council for Childhood and Motherhood (Children's Council) has been the leading organisation in the popularisation as well as the implementation of the CRC,<sup>62</sup> using printed material such as newspapers, magazines and using council publications to publish general topics of the CRC. The Council also highlighted that it had used audio-visual material such as radio features within family, household and childhood programmes, and panel discussions/talks on the CRC, news items and school debates.<sup>63</sup>

### **3.3.3 Morocco**

In Morocco, many stakeholders participated in the preparation of the most recent report. The process involved consultation with such stakeholders as ministerial departments, national institutions and NGOs working in the field of the children's rights. Final consultation meetings were held with 23 ministerial departments on 13 October 2011, 13 NGOs on 24 October 2011 and eight national institutions on 26 October 2011.<sup>64</sup> The stated objective of these final meetings was consolidation and approval of the draft report. Evidence suggests that there was a clear effort to make the process of compiling the report consultative. NGOs working with children's interests were consulted, although not necessarily with the inclusion of children's own voices. In fact, the Moroccan government did not include children on the list of stakeholders to be consulted when drafting future reports.<sup>65</sup> Notwithstanding this, consultations were inter-ministerial as well as multi-sectoral perhaps with a bias towards intra-governmental consultations.

In contrast to the Egyptian case, Moroccan civil society has grown with the country's liberalisation and democratisation, giving rise to a vibrant civil society.<sup>66</sup> These associations are largely structured around

62 Abdul-Hamid (n 55) 36-38.

63 Initial reports of state parties due in 1992: Egypt (n 10) para 92.

64 See Consideration of the reports submitted by states parties under article 44 of the Convention: Third and fourth periodic reports of states parties due in 2009: Morocco, UN Committee on the Rights of the Child (30 May 2012) UN Doc CRC/C/MAR/3-4 (2012).

65 Common core document forming part of the reports of States parties: Morocco, UN International Human Rights Treaty Instruments (16 August 2012) UN Doc HRI/CORE/MAR/2012 (2012). Para 53 only refers to consultations with parliament, government departments, national institutions and non-governmental organisations.

66 See MANARA Network for Child's Rights 'Country profile of Algeria: A review of the implementation of the UN Convention on the Rights of the Child' (August 2011) <http://www.ibcr.org/editor/assets/Morocco%20Country%20Profile.pdf> (accessed 17 February 2015).

objectives primarily linked to the environment of their neighbourhood communities and collective action.

There is evidence that the government sometimes partners with NGOs to address issues pertaining to children's rights. For example, the Moroccan League for the Protection of Children cares for abandoned children in eight of its care facilities in cooperation with the Ministry for Solidarity, Women, the Family and Social Development, the Ministry of Justice and Freedoms and the Ministry of Health. The Ministry of Justice and Freedoms partners with civil society associations to assess how the Family code is being implemented. The government also allocates seats on government bodies and international bodies to NGOs.<sup>67</sup> It is not surprising then that many civil society organisations (hereinafter CSO) prepared and submitted complementary reports.<sup>68</sup> The process of compiling the complementary reports was reportedly participatory.<sup>69</sup> There are indications that the CSOs consulted children in the preparation of their reports, but beyond that the involvement of children does not seem to be very clear. The process was supported by UNICEF, which encouraged NGOs to participate in the pre-session report. UNICEF built on the coalitions created in the field of protection to collect stories of interest and evidence to be shared with the Committee.<sup>70</sup> These consultations that took place helped to widen NGO participation in the development of the pre-session report.

Even though the reporting exercise should provide a moment for national retrospection and therefore involve all sectors of society, the review of the three countries suggests that while Morocco is making visible

67 As above.

68 No single organisation took the lead in preparing the complementary reports, but rather multiple groups were involved at different times. One major CSO leading a coalition of other CSOs was The Advocates for Human Rights, a non-governmental organisation in special consultative status with ECOSOC. This NGO worked with an organisation named Mobilising for Rights Associates (MRA) in collaboration with an alliance of several Moroccan NGOs. See The Advocates for Human Rights 'Morocco's compliance with the Convention on the Rights of the Child: Suggested list of issues relating to sexual abuse of minors and article 475 of the Moroccan Penal Code' (2014) [http://www.theadvocatesforhumanrights.org/uploads/morocco\\_rights\\_of\\_the\\_child\\_article\\_475\\_december\\_2013.pdf](http://www.theadvocatesforhumanrights.org/uploads/morocco_rights_of_the_child_article_475_december_2013.pdf) (accessed 17 February 2015). Other participating organisations included: Association Amal pour la Femme et le Développement (El Hajeb), Association el Amane pour le Développement de la Femme (Marrakech), Association Tawaza pour le Plaidoyer de la Femme (Martil), Association Tafoukt Souss pour le Développement de la Femme (Agadir) and Association des Jeunes Avocats (Khemisset).

69 As above.

70 UNICEF 'Annual Report: Morocco' (2013) [http://www.unicef.org/about/annual\\_report/files/Morocco\\_COAR\\_2013.pdf](http://www.unicef.org/about/annual_report/files/Morocco_COAR_2013.pdf). (accessed 10 April 2015).

progress towards meaningful participation in the reporting exercise, Egypt and Algeria are still lagging behind.

### **3.4 Participation of children in preparation of state reports**

All children, without exception have a right to be heard and taken seriously. The reporting process provides an opportunity for children to participate and be heard and taken seriously. As a result, the UN Children's Committee has encouraged: 'States parties have an obligation to ensure that children are encouraged and enabled to participate in the preparation of the state reports to the Committee.'<sup>71</sup> The records of the three countries reviewed provide a mixed picture.

#### **3.4.1 Algeria**

In Algeria, there is no evidence that boys and girls (including disabled children) were consulted in the process of report preparation. Regarding disabled children in particular, a serious concern was raised by interest groups that they lack the opportunity to express their viewpoint,<sup>72</sup> contrary to the UN Children's Committee's recommendation that children themselves participate in developing and implementing a comprehensive framework to address the root cause of human rights concerns.<sup>73</sup>

#### **3.4.2 Egypt**

In Egypt, despite the existence of legislation aimed at giving children a voice,<sup>74</sup> they are still largely considered as recipients of benefits rather than rights holders.<sup>75</sup> During the initial reporting cycle, the UN Children's Committee emphasised that even though Egypt maintained that it took into consideration the best interest principle by the fact of its speedy ratification of the CRC and its establishment of the council, it had to embrace the philosophy of prioritising children in all its legislation, policies and programmes. Egypt was also encouraged to uphold the positive practices that it was already undertaking towards the implementation of

71 See Committee on the Rights of the Child 'Working methods for the participation of children in the reporting process of the Committee on the Rights of the Child' (2014).

72 IDA Report (n 42); See also IDA 'Recommendations for Concluding Observations 60th session from 29 May-15 June 2012 <http://www.internationaldisabilityalliance.org/en/60th-session-may-june-2012> (accessed 10 April 2015) 6.

73 Second periodic reports of states parties due in 2000: Algeria (n 21) para 77.

74 For example, The Child Act 12/1996 amended by Law 126 of 2008 and the ratification of the CRC & the African Children's Charter.

75 MANARA (n 9) 17.

the provisions of the CRC, for instance it was commended on the fact that the National Council was already undertaking several studies or research on children in difficult circumstances such as physical abuse, sexual abuse and exploitation.<sup>76</sup> The UN Children's Committee also commended the order issued by the Supreme Constitutional Court prohibiting the passing of any bill without giving due attention to the provisions in the CRC as a far reaching and important step towards the implementation and domestication of the CRC.<sup>77</sup>

The UN Children's Committee has called for incorporation of the best interest principle in all the governments' children's strategies. Subsequently, the Children's Code (1996) incorporated a provision on the 'best interest principle' which stated 'all decisions and procedures relating to children, by whoever initiated and enforced, must give priority to the protection of the child and to the child's best interests'.<sup>78</sup> The Children's Act provided for the right of the child to obtain information that enables him or her to formulate views and express them and to be heard on all matters affecting children including legal proceedings.<sup>79</sup>

One of the vital steps to ensuring that the best interests of the child are put into consideration is by ensuring comprehensive children's participation in all the issues that affect them. To this end, the state emphasised that a series of initiatives had been developed to ensure children's participation which included child and adolescent forums: 'A step for our future' – a youth initiative aimed at among others helping adolescents make their own decisions and to express their challenges in this transitional period of their lives; and the 'child emergency line' where children would report any of the challenges they were experiencing in their communities and another television programme was being produced presented by children on children's rights. The Children's Council also maintained that children were more involved in all the programmes as their views and contributions were taken into consideration right from the planning to the implementation phase.<sup>80</sup>

76 Summary Record of the 66th Meeting, Committee on the Rights of the Child (25 January 1993) UN Doc CRC/C/SR.66 (1993) paras 8, 17 & 22.

77 Initial reports of states parties due in 1992: Egypt (n 10) para 90; Committee on the Rights of the Child Summary Record of the 66th Meeting (n 76) para 29.

78 Law 12 of 1996 promulgating the child law amended by Law 126 of 2008, art 3 [http://www.africanchildforum.org/clar/Legislation%20Per%20Country/Egypt/egypt\\_children\\_2008\\_en.pdf](http://www.africanchildforum.org/clar/Legislation%20Per%20Country/Egypt/egypt_children_2008_en.pdf) (accessed 11 April 2015)

79 As above.

80 Periodic reports of states parties due in 1997: Egypt (n 53) paras 104 -110.

Notably, research conducted by other stakeholder's highlights that consideration of the views of the child is still largely hampered by traditional society perceptions about children in the judicial system, education institutions and the family places. Parents, guardians, police officers and several other stakeholders that deal with the children do not always prioritise consultation with children regarding decisions that affect them. This is worsened in the case of the girl child whereby the persistent and restrictive gender norms marginalise girls who freely express their opinion. The culture of silence among girls also perpetuates violence which they often accept as a normal part of life resulting in its persistence into their adulthood.<sup>81</sup>

Except for a small number of activities, the state failed to demonstrate that any comprehensive strategy had been put in place to ensure that children actively participated in issues that affected them and their views were put into consideration. The state has cited the 'Children's Parliament' television broadcasts, which, it claims, enabled children to express their views on a variety of topics.<sup>82</sup> However, the 'Children's Parliament' programme was heavily criticised by the NGO Coalition report which stated that the texts were written for the children and are thus not their own opinions and views. In response, the UN Children's Committee asked the state to ensure participation of children in all matters affecting them at school, in the family, the courts and the administrative bodies.<sup>83</sup>

### **3.4.3 Morocco**

Morocco has asserted that the state party has put in place many measures to ensure that the views of the child are respected.<sup>84</sup> Such measures include the right of children to express their views under the criminal system, to give consent and to file legal documents, and, upon attainment of required age, to express their views in issues of guardianship and adoption and creation of a network in schools to enhance participation in the children's parliament. It is also indicated in the report that there are measures to advance this right in the family, in school and in the courts.<sup>85</sup>

81 Abdul-Hamid (n 55) 32-33.

82 Periodic reports of states parties due in 1997: Egypt (n 53) paras 56-58.

83 NGO Coalition on the Rights of the Child 'NGOs report on the rights of the child: Alternative report' (2001) 10.

84 See Consideration of the reports submitted by states parties under article 44 of the Convention: Third and fourth periodic reports of states parties due in 2009: Morocco, UN Committee on the Rights of the Child (30 May 2012) UN Doc CRC/C/MAR/3-4 (2012).

85 Third and fourth periodic reports of states parties due in 2009: Morocco (n 84) paras 75 & 83.

However, even though the UN Children's Committee welcomed the idea of the children's parliament and a model city council as platforms for child participation, the UN Children's Committee in 2003

remains concerned that respect for the views of the child remains limited owing to traditional societal attitudes towards children on the part of schools, courts, administrative bodies and, especially, the family.<sup>86</sup>

And in 2014, the UN Children's Committee was still:

concerned that the eligibility criteria in the Children's Parliament do not make the Parliament representative of all children ... regrets that insufficient efforts ... to establish child municipal councils ... concerned that limited sustainable actions have been undertaken to change societal attitudes within the family, schools and the community at large that impede children from expressing themselves.<sup>87</sup>

There is a correlation between the level of CSOs participation and the attitude of governments towards child participation in the reporting process. While there are some improvements in the attitude towards child participation in Morocco and Egypt, Algeria still has a long way to go. These improvements, however, are mainly in the setting up of structures rather than substantive and meaningful enablement of children through providing rights and opportunities to participate and have their views taken into consideration. Even the improvement in terms of structures are significantly undermined by cultural and traditional attitudes towards children.

### **3.5 Public access to the report; visibility and accountability structures**

Inadequate accountability structures that publicise the report findings and provide avenues for redress were observed, although channels of information have been developed in Morocco.

86 Concluding Observations: Morocco, UN Committee on the Rights of the Child (10 July 2003) UN Doc CRC/C/15/Add.211 (2003) para 30.

87 Concluding Observations on the combined third and fourth periodic reports of Morocco, UN Committee on the Rights of the Child (14 October 2014) UN Doc CRC/C/MAR/CO/3-4 (2014) para 28.

### **3.5.1 Algeria**

In Algeria, the literature survey conducted for this report did not suggest that copies of draft reports were made available and accessible to citizens. Equally, data is not available to show whether reports were accessible in the official languages of Algeria or minority languages. The UN Children's Committee has decried the lack of commitment by the state to make reports available, particularly to the members of the Cabinet of Ministers, the National People's Assembly, the Council of the Nation (the Parliament), the provincial (*wilaya*) and municipal (*baladia*) levels of administration, the public at large, civil society organisations, media, youth groups, professional groups and children, in order to generate debate and awareness of the CRC.<sup>88</sup> The reluctance to make reports available in the official language and the languages of the minorities suggests that reports are not aimed at children, the primary stakeholders who are the subjects of rights under the CRC.

### **3.5.2 Egypt**

In Egypt, the NGO coalition has criticised the failure of government to widely disseminate the reports, noting that comprehensive discussions were not held amongst different stakeholders aimed at devising strategies for the implementation of the recommendations. They added that the work of popularising the CRC is often done by NGOs independent of government support and yet these NGO are very limited in terms of scope and finances. As a result, awareness on the CRC is restricted to law and police colleges as children, teachers, government officials and youth are often not exposed to such teachings.<sup>89</sup>

The UN Children's Committee expressed concern regarding the low level of awareness in the public on the previous Concluding Observations and noted that the measures taken to popularise the CRC were not coordinated and systematic. The UN Children's Committee advised that the state undertake systemic and sustained training programmes on the CRC and other related documents to all groups working with children including legislators, judicial bodies, policy makers, educational institutions, detention centres, social workers and health personnel.<sup>90</sup>

88 Second periodic reports of states parties due in 2000: Algeria (n 21) paras 86 & 87; Concluding Observations: Algeria (n 31) paras 87 & 88.

89 NGO Coalition on the Rights of the Child (n 83) 8-9.

90 Concluding Observations of the Committee on the Rights of the Child: Egypt, UN Committee on the Rights of the Child (26 January 2001) UN Doc CRC/C/15/Add.145 (2001) paras 19-21.

### 3.5.3 *Morocco*

In Morocco, the CRC features in the teaching materials distributed to schools. The state party distributed 2 500 copies of the CRC in French and Arabic in schools and during child rights events in 2007. After that, copies of the CRC have also been distributed to all relevant officers who deal with children and this is in addition to distributing posters, leaflets, and radio and television spots. Professionals working with children such as teachers and judges have also been accorded special training in the rights of the child. Further to that, the state party has disseminated information about the CRC and its contents through posters, booklets, leaflets, illustrated documents and teaching guides. Radio and television broadcasts on child labour and violence towards children are also made thereby enhancing wider understanding of the contents of the CRC. Notably there are three events that raise awareness of children's rights: the annual National Children's Day, sessions of the children's Parliament, and the National Congress on the Rights of the Child provide opportune avenues to publicise the CRC and its contents.<sup>91</sup>

The Concluding Observations of the second periodic report were translated into Arabic by Espace Associatif, a network of NGOs, and widely distributed.<sup>92</sup> This is a civil society effort and there does not seem to be a similar effort by the government. The government, it seems, did not deliberately take efforts to make the national report widely available to the populace.

## 3.6 **Linkages between reporting mechanisms**

The reporting process is an exercise in national conversation on the subject matter of a treaty. As a conversation, the exercise should be cumulative, building on previous conversations. While the treaty bodies have strengthened their capacities to insist on interlinkages and follow up between reports, the state parties still struggle with this issue.

### 3.6.1 *Algeria*

In the case of Algeria, it seems to have made significant progress between the first and second reporting cycle in addressing some of the recommendations of the UN Children's Committee. In 2005, during the second cycle of reporting the UN Children's Committee observed 'with satisfaction that several of its concerns expressed and recommendations

91 Third and fourth periodic reports of states parties due in 2009 (n 84) paras 53 & 56.

92 Third and fourth periodic reports of states parties due in 2009: Morocco (n 84) para 57.

(CRC/C/15/Add.76) made upon the consideration of the State party's initial report (CRC/C/28/Add.4) have been addressed through legislative measures and policies'. However, in the 2012, the note of the UN Children's Committee changed slightly noting that: 'The Committee, while welcoming the State party's efforts to implement the Concluding Observations on its previous reports (CRC/C/15/Add.269), notes with regret that some of the recommendations contained therein have not been fully addressed'.

### **3.6.2 Egypt**

Egypt ratified the African Children's Charter on 9 May 2001, its initial report was due on 9 May 2003,<sup>93</sup> however, it was submitted on 19 April 2005.<sup>94</sup> The issues discussed in the report were similar to those that Egypt had discussed in its second periodic report submitted to the African Children's Committee in 1998. These included non-discrimination, best interests of the child, education, legislation combating harmful traditional practices, the situation of children with disabilities, the law of the child 12 of 1996.

However, even though this report was written in 2005 after two reports had already been submitted to the UN Children's Committee, it still focused on laying out the legal framework pertaining to children and did very little to critically analyse how these laws had been implemented. The report also did not show progress over the years in the various sectors such as education and statistics of children with disabilities. No specific mention was made of the prior reporting process to the UN Children's Committee. If reference had been made to the various state party reports to the UN Children's Committee and the concluding recommendations, the African Children's Committee might have built on the advances made in the promotion and protection of children's rights as opposed to raising the same issues that had already been raised by the UN Children's Committee in the previous reports. Thus, Egypt merely acknowledged that it had ratified the CRC and the Optional Protocols.<sup>95</sup>

When the African Children's Committee considered the state report, it presented very brief recommendations. In fact, the recommendations were

93 African Committee of Experts on the Rights and Welfare of the Child 'State reporting calendar' <http://www.acerwc.org/member-states/state-reporting-calendar/> (accessed 13 April 2015).

94 African Committee of Experts on the Rights and Welfare of the Child 'Egypt's preliminary report' (19 April 2005) [http://www.africanchildforum.org/clr/pdf/egypt-initial-acerwc-sr\\_en.pdf](http://www.africanchildforum.org/clr/pdf/egypt-initial-acerwc-sr_en.pdf) (accessed 13 April 2015).

95 Egypt's preliminary report (n 94) 17.

so brief that it may be difficult for the African Children's Committee to use them as a benchmark to measure progress in the next reporting period. For instance, regarding corporal punishments, the African Children's Committee merely stated that the state should take the necessary measures to curb the practice, the challenge with such a recommendation is that any measure taken by the state may be sufficient as it does not encourage the state to do the maximum. Another general recommendation requested the state to adopt legislative measures to curb child labour.<sup>96</sup>

However, at the time of writing the recommendations, many forms of legislation, aimed at curbing child labour, were already in place, including the ILO Convention concerning the immediate Action for the Elimination of the Worst forms of Child Labour, which had been ratified by Egypt in 6 May 2002, the Labour Code 12 of 2003, which dedicated a full chapter to regulating child labour, and the amended 2008 Children's Act also contained a section on child labour. Thus, the enactment of legislation might have been less critical than operationalising legislative provisions. Crucially, there are no effective coordinated enforcement and implementation mechanisms especially in the rural areas where children below 15 years are involved in intense labour in agricultural, mining and even at their homes, yet there are no inspection and follow-up mechanisms to investigate such violations.<sup>97</sup>

Another recommendation was that the capacity of the National Council of Child Development should be strengthened, without providing details of why this would be useful and which aspects required strengthening.<sup>98</sup> Thus the phrasing of recommendations by the African Children's Committee in such a vague manner defeats the purpose of the reporting process which is to give comprehensive, coordinated and clear guidance to states on specific areas where they are not performing well and how these areas can be improved upon. It is also aimed at acknowledging progress where it has been made and to encourage the state to keep up with the methods and strategies that are working.

On the other hand, the UN Children's Committee has deliberately insisted on follow up of its previous Concluding Observations. For instance, in 2001 the UN Children's Committee noted: 'The Committee

96 Concluding Recommendations by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) on the Arab Republic of Egypt: Report on the status of implementation of the African Charter on the Rights and Welfare of the Child (2008) <http://www.org/wp-content/uploads/2011/05/English-Recommendations-Egypt.pdf> (accessed 13 April 2015) paras 10 & 15.

97 Periodic reports of states parties due in 1997: Egypt (n 53) paras 339-342.

98 African Committee of Experts on the Rights and Welfare of the Child (n 96) para 4.

is concerned that many of the concerns and recommendations (CRC/C/15/Add.5) it made upon consideration of the State party's initial report (CRC/C/3/Add.6) have been insufficiently addressed'. The UN Children's Committee notes that many of the same concerns and recommendations are made in the present document. And in 2011, the UN Children's Committee observed:

The Committee notes as positive the efforts by the State party to implement the Committee's Concluding Observations on the State party's previous report (CRC/C/15/Add.145, 2001) which have yielded positive results. However, it regrets that many of its concerns and recommendations have been insufficiently or only partly addressed.<sup>99</sup>

### **3.6.3 Morocco**

A similar pattern is observed with respect to Morocco. There are mixed records of implementing Concluding Observations. For instance, in 2003, the UN Children's Committee considered its recommendations 'have been insufficiently addressed' and in 2014, the UN Children's Committee encouraged the state to 'address those recommendations that have not been implemented or not sufficiently implemented'.

Overall, state parties reviewed here have mixed records of ensuring linkages between reports of the committees. The states seem have better records in linking up or implementing recommendations related to structures, laws and institutions as compared to those related to substantive implementation of the treaty provisions on the ground to better improve the lives of children.

## **4 Impact of the reporting process**

Drawing lines of causation between the reporting exercise and progress on the realisation of rights of children under the CRC requires caution. Progress made in the realisation of rights in between reporting cycles might be due to other causes unrelated to the process, and failure to make progress cannot be linked to the reporting process itself.

In the case of Algeria for example, since the submission of its initial report in 1995, there have been changes in the legislation environment for the protection of children in Algeria, though not comprehensive. The fact

99 See Committee on the Rights of the Child Consideration of reports submitted by States parties under article 44 of the Convention Concluding Observations of the Committee on the Rights of the Child: Egypt UN Doc CRC/C/15/Add.145 (21 February 2001).

that such changes respond to issues raised in the reporting cycles might be linked to external factors, and this is a topic requiring detailed study. In any case, significant gaps remain, as described below, suggesting that the reporting mechanism is not making major inroads in promoting and protecting child rights. Nevertheless, a description of the key legislative and policy issues arising throughout the reporting cycles is a useful starting point for interrogating the impact of reporting over time. Further empirical and investigative study is recommended to establish causal relationships however.

## 4.1 Legal, policy & resource gaps

### 4.1.1 Algeria

Contrary to articles 4, 42 and 44(6) of the CRC, which commit state parties to undertake all appropriate legislative, administrative, and other measures to realise the protection of the rights of the child, the implementation of protective measures in Algeria is weak. This inadequacy is evident in the comments of the UN Children's Committee throughout the reporting cycles. For instance, while considering the consolidated reports, the UN Children's Committee insisted on the need for the state to implement measures which seek to address discriminatory religious and cultural practices and other disparities that are often tolerated under the domestic laws or lack of implementation of existing provisions of relevant laws in Algeria.<sup>100</sup> It notes that despite the call for its establishment, the state is yet to put in place a high-level mechanism for coordinating the application of the CRC as well as the implementation of the activities and results of the National Plan of Action for Children (2008–2015).<sup>101</sup>

In Algeria, the UN Children's Committee has consistently condemned discrimination faced by children with disabilities, children living in poverty, children born out of wedlock, working children, children in conflict with the law, street children, children living in rural areas and Western Saharan refugee children.<sup>102</sup> In addition, it comments that limited measures have been taken by the state to change societal attitudes and stereotyping of gender roles against girls and women, a situation which contradicts article

100 List of issues concerning additional and updated information related to the consideration of the combined third and fourth periodic reports of Algeria, UN Committee on the Rights of the Child (10 November 2011) UN Doc CRC/C/DZA/Q/3-4 (2011) para 1; see also, Concluding Observations: Algeria (n 31) paras 9 & 10.

101 Concluding Observations: Algeria (n 31) paras 2-4.

102 Concluding Observations: Algeria (n 31) paras 26 & 27; see, also, List of issues concerning additional and updated information related to the consideration of the combined third and fourth periodic reports of Algeria (n 100) para 29.

24(3) of the UN Children's Committee requiring states parties to take 'all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children'.

Further confirming improper implementation of measures, the UN Children's Committee observes that parental responsibilities are still not assigned equally, the marriage of Muslim women to non-Muslims is still unrecognised, and custody is only granted to women of male children only until age ten and of female children until they reach marriage age. In the Concluding Observations to the second report, it also expresses concern about the practice whereby a mother of a child cannot exercise full legal power over the child and children born out of wedlock.<sup>103</sup>

Notable disparities in respect of which the UN Children's Committee has highlighted the necessity for measures are discernible from the Concluding Observations to the second report. These disparities include the fact that the rule for minimum age of 16 years for employment does not apply to children working in the informal sector (for example, agriculture and domestic service)<sup>104</sup> and only a minority of children participate in pre-primary education, particularly in rural areas.<sup>105</sup> Measures including an inclusive educational policy are unavailable, according to the Concluding Observations of the UN Children's Committee to address social stigma, fears and misconceptions in relation to children with disabilities. Other measures which the state needs to put in place include effective transportation system for pupils with disabilities, accessibility of school buildings. The UN Children's Committee observes the persistence in the use of corporal punishment in the home and society including penal institutions,<sup>106</sup> as a form of discipline,<sup>107</sup> reflecting a lack of implementing measures to prohibit corporal punishment and that legal proceedings are systematically initiated against those responsible of mistreating children.<sup>108</sup>

103 List of issues concerning additional and updated information related to the consideration of the combined third and fourth periodic reports of Algeria (n 100) paras 30, 43, 44 & 48.

104 Concluding Observations: Algeria (n 31) para 74.

105 Concluding Observations: Algeria (n 31) para 63.

106 List of issues concerning additional and updated information related to the consideration of the combined third and fourth periodic reports of Algeria (n 100) paras 43 & 55.

107 Second periodic reports of states parties due in 2000: Algeria (n 21) para 41.

108 List of issues concerning additional and updated information related to the consideration of the combined third and fourth periodic reports of Algeria (n 21) para 44.

Not much has been achieved in relation to addressing sexual exploitation and abuse against children, including religious schools, due to a weak enforcement of existing legislation. Child victims of sexual exploitation and abuse are ostracised and stigmatised while law enforcement officials often fail to take accusations seriously and to investigate and prosecute the cases. It is, therefore, not surprising that the UN Children's Committee urges the state to revise its laws, redefine rape, develop adequate systems of investigation, prosecute and sanction all perpetrators, engage female teachers who can serve as role model for girls, increase awareness, clear reporting systems for cases of violence in schools, and operate programmes and policies for the prevention, recovery and reintegration of child victims.<sup>109</sup>

Evidence of improper use of available policies includes weak enforcement of Algeria's Act 09-01 of 25 February 2009, which criminalises trafficking in persons and increases penalties for offenders who traffic children. There is lack of investigation or prosecution for trafficking offences and the possibility that child victims of trafficking may be jailed for unlawful acts committed because of them being trafficked. There is insufficient availability of government-operated shelters for victims of trafficking, while non-state actors are prohibited from providing such shelter and there is a lack of assistance for the physical, psychological recovery, social reintegration and legal alternative to deportation for children victims.<sup>110</sup>

The UN Children's Committee notes a lack of budgetary allocation and weak technical capacity of the steering committee in charge of monitoring the implementation of the National Plan of Action for Children (2008-2015).<sup>111</sup> Budgetary allocations to the health sector remain greatly insufficient, while maternal, neonatal and under-five mortality rates remain at very high, and there is the challenge with availability of medicines, conditions of work of healthcare. Along similar lines, adolescent health, sexual and reproductive health services for adolescents are scarce and that sexual and reproductive health education remains underdeveloped. Attention to adolescent health is weak as there is limited

109 List of issues concerning additional and updated information related to the consideration of the combined third and fourth periodic reports of Algeria (n 21) para 75.

110 List of issues concerning additional and updated information related to the consideration of the combined third and fourth periodic reports of Algeria (n 21) para 77.

111 The Plan of Action aims at promoting better quality of life and education, strengthening the protection of children in Algeria against ill-treatment, exploitation and violence. See Concluding Observations: Algeria (n 31) para 5.

access by teenagers to reproductive health education and services at schools.<sup>112</sup> Moreover, the absence of an independent and child-sensitive monitoring structure to receive and address individual complaints of alleged violations of the rights of the child has been noted by the UN Children's Committee. Other challenges include a low level of awareness among children, parents and other professionals working with and for children, lack of information about the informal forms of alternative care for children without parental care, and the difficulty in implementing judicial decisions regarding custody and visitation rights for Algerian children with one parent living outside Algeria. There is the lack of specialised juvenile judges and systematic training of professionals, and limited capacity and poor condition of the detention facilities for juveniles in contact with the law.<sup>113</sup>

Significant disparities continue in the quality and level of access to social services, with rural regions and city suburbs being in the most disadvantaged situation. Social programmes hardly reach the poorest children and there is a high level of women's and youth unemployment. No sufficient effort is taken to provide assistance and housing to repudiated, divorced and single mothers living on the streets with their children.<sup>114</sup> According to the UN Children's Committee, initiatives undertaken to disseminate and raise awareness about the CRC as required under article 42 of the CRC, including among parents, caregivers, teachers, youth workers and children have remained limited. In particular, there has been weak implementation of the National Communication Plan for the Promotion of Child Rights (2009-2011) developed by the Delegate Ministry in charge of Family and the Status of Women.<sup>115</sup>

112 List of issues concerning additional and updated information related to the consideration of the combined third and fourth periodic reports of Algeria (n 21) paras 15, 57-59.

113 Second periodic reports of states parties due in 2000: Algeria (n 21) paras 16, 24, 45, 48, 80.

114 List of issues concerning additional and updated information related to the consideration of the combined third and fourth periodic reports of Algeria (n 21) paras 61 & 73.

115 List of issues concerning additional and updated information related to the consideration of the combined third and fourth periodic reports of Algeria (n 21) para 2; T Kehir 'The Status of children and their protection in Algerian Law' (1998) 5 *Yearbook of Islamic and Middle Eastern Law Online* 162 at 162-170.

### 4.1.2 Egypt

One area where gaps persist is in the area of juvenile justice in Egypt. At the time of writing the initial report, the Juveniles Act of 1974 was the official law regulating the treatment of children in conflict with the law. According to the Act, juveniles were separated into two groups according to age; those below the age of 15, though a minimum age was not set, and those between 15 years and 18 years. Those under the age of 15 would either be reprimanded, delivered into the care of a guardian, enrolled for vocational training, or placed in a social care institution or a specialised hospital. Those aged between 15 and 18 would be given lighter sentences compared to adults such as a prison term of not less than ten years for offences punishable by death, or a term of not less than six months of detention for offences punishable by a term of imprisonment.<sup>116</sup> However, the UN Children's Committee emphasised that children should not be kept away from their communities for a very long period of time, but a plan for their re-integration into their families as well as their communities should be devised, otherwise these centres would turn into a substitution for the prison.<sup>117</sup>

The UN Children's Committee also stated that it was not clear at what age a person was considered to have full criminal responsibility. It was specifically worried about the issue of imprisonment of children (below 18 years) which was contrary to articles 1 (age of majority) and 40 of the CRC, which discourage judicial proceedings and institutional placements for children. The Egyptian delegation conceded that the initial report did not effectively convey the actual situation regarding deprivation of liberty as no penalty could be imposed on a person under 18 years. Instead there were measures in place aimed at protecting a minor who had committed an offence by removing him/her from the circumstance which had led him to commit the offence.<sup>118</sup> Therefore, in the Concluding Observations, Egypt was asked to amend the Juveniles Act to bring it in conformity with the CRC as well as other international guidelines relating to children in conflict with the law.<sup>119</sup>

116 Initial reports of States parties due in 1992: Egypt (n 10) paras 43 & 44.

117 Committee on the Rights of the Child Summary Record of the 66th Meeting (n 76) para 48.

118 Committee on the Rights of the Child Summary Record of the 66th Meeting (n 76) paras 22, 25 & 48.

119 Concluding Observations: Egypt, UN Committee on the Rights of the Child (18 February 1993) UN Doc CRC/C/15/Add.5 (1993) paras 8 & 14.

The age of criminal responsibility has been an issue since the initial reporting process. In the second periodic report, Egypt emphasised that the Children's Code that was adopted in 1996 elaborated on the issue of children in conflict with the law. However, the provisions relating to the ages applying to children in conflict with the law did not change markedly as the two distinctions were still incorporated in the code; between those children in the age bracket of seven to 15 and those between 15 and 18 years. The minimum age of criminal responsibility was set at seven and the code set out that children between 15 and 18 who committed grave offences attracting the death penalty were imprisoned for a certain prescribed period, but were not put together with adults in detention.<sup>120</sup> Despite the fact that the children's code proposed lighter sentences for these children, children below 18 years being imprisoned does not conform to the CRC. The UN Children's Committee also noted in its Concluding Observations to the periodic report that the age of criminal responsibility, which was set at seven years, was extremely low and thus the state should consider raising it.<sup>121</sup> The CRC requested Egypt to bring its laws in conformity with the CRC by ensuring that children below 18 years were not imprisoned but rather that efforts were taken to ensure that these children were rehabilitated and re-integrated back into their communities.

However, human rights organisations maintain that Egypt's juvenile justice system continues to grossly violate children's rights and this seems to have worsened right before during and after the Egyptian revolution. In 2012, Human Rights Watch reported that over 300 children were detained and arrested during protests in Cairo. These children were then sent to adult prisons despite legislation in place emphasising that juveniles should be detained separately from adults.<sup>122</sup> Further, that the Egypt military court had tried 43 children without any form of access to lawyers and families right up to the time of sentencing.<sup>123</sup> Some of the children were detained without trial for up to a year and while in prison they faced all forms of physical, emotional and psychological abuse. This involved beating them using rifles and batons, and using electricity to shock them.

120 Consideration of reports submitted by states parties under article 44 of the Convention: Periodic reports of states parties due in 1997. Addendum: Egypt, UN Committee on the Rights of the Child (18 September 1998) UN Doc CRC/C/65/Add 9 (1998) para 191.

121 Concluding Observations: Egypt (n 90) paras 23 & 24.

122 Human Rights Watch 'A year of abuse against detained children' (12 November 2012) <http://www.hrw.org/news/2012/11/19/egypt-year-abuses-against-detained-children> (accessed 16 April 2015).

123 Human Rights Watch 'Children on trial: Stop sending juveniles before military courts' (27 March 2012) <http://www.hrw.org/news/2012/03/27/egypt-children-trial> (accessed 20 September 2017).

Many children were reportedly tried by military courts and sentenced to maximum security prison with adults.<sup>124</sup> This is the case even though in 1996, Egypt promulgated the Children's law which was later amended in 2008. Article 112 of the amended law states that:

Children may not be detained, placed in custody or imprisoned with adults in the same place. Any public official who detains, places in custody or imprisons a child with one or more adults in one place should be sentenced to a minimum of three months in jail and a fine of no less than 1000 Egyptian pounds (166 US dollars).

#### **4.1.3. Morocco**

##### ***General principles***

The UN Children's Committee has expressed concern about *de jure* and *de facto* discrimination against girls and children born out of wedlock, persistent disparities between different regions and between rural and urban areas, and discrimination of children with disabilities and called upon the state party to expediently amend the law and repeal provisions in the Family Code that are discriminatory towards girls and children born out of wedlock in addition to prioritising the most marginalised children under the Integrated Policy on Children. The UN Children's Committee has also recommended that there is need to incorporate the principle to have the best interests of the child given primacy in legislation concerning children and that there is need to decentralise the Children's Parliament and review the eligibility criteria for participation in the same so that a broader cross section of children can participate effectively.<sup>125</sup>

The UN Children's Committee urged the state party to put in place measures to implement law reforms and eliminate any discriminatory policies that hinder unmarried mothers from transmitting their name to their children except with the consent of the father. The UN Children's Committee also highlighted the plight of migrant women especially their difficulty to pay the medical fees to obtain an 'avis de naissance' as an area requiring the state party's attention. Furthermore, the UN Children's Committee urged the state party to allow women and children to establish paternity based on DNA testing since currently the legislation does not provide for this.<sup>126</sup>

124 As above.

125 Third and fourth periodic reports of states parties due in 2009: Morocco (n 84) paras 24-28.

126 Third and fourth periodic reports of states parties due in 2009: Morocco (n 84)

Despite noting positive strides made by the 2004 Family Code, the UN Children's Committee urged the state party to repeal all provisions that discriminate against women and girls and to eliminate any form of discrimination against children born of marriages between a Muslim woman and a non-Muslim man. The UN Children's Committee was further concerned about the consequences of the criminalisation of sexual relations outside of marriages and the social rejection and stigmatisation of single mothers in the state party – one third of them being adolescents – and at the serious consequences of this on their children. As such, the UN Children's Committee called for a repeal of article 490 of the Criminal Code; support for unmarried mothers so that they take care of their children; and the development and implementation of a policy to protect the rights of pregnant adolescent mothers by eliminating stigma attached to out of wedlock pregnancy. The UN Children's Committee also called for the adoption of measures to effectively implement the law on adoption and for the need, when granting the *Kafalah*, to evaluate the psychological conditions of the applicants besides prioritising extended family.<sup>127</sup>

On children with disabilities, the UN Children's Committee recommended that the state party adopts a human rights approach other than the current medical model of disability which only seeks the integration of children with disabilities to the extent permissible by their capacities. The UN Children's Committee further urged the state party to develop policies and programmes for greater and equal access to health services; to adopt policies aimed at making children aware of condom use in HIV/AIDS prevention; curb drug addiction; and decriminalise abortion. On the standards of living, the UN Children's Committee recommended the state party to come up with measures to eradicate economic disparities between rural and urban regions and that it should assess social protection programmes so that even children in vulnerable and disadvantaged situations should have access to the same.<sup>128</sup>

The UN Children's Committee recommended that the state party speed up a framework to respect the rights of non-accompanied migrant children and asylum-seekers in accordance with international law. The UN Children's Committee further urged the state party to take strong measures to remove girl domestic workers from abusive labour conditions and reintroduce them into the educational and vocational training system;

paras 30-33.

127 Third and fourth periodic reports of states parties due in 2009: Morocco (n 84) paras 44-50.

128 Third and fourth periodic reports of states parties due in 2009: Morocco (n 84) paras 51-59.

ensure the enforcement of laws that prohibit the employment of children under 15 years and hazardous forms of child labour under 18 years; step up labour inspection by among other things allowing inspectors to go into private homes; consider ratifying ILO Convention 189 of 2011 on Decent Work for Domestic Workers; and seek technical support from the International Programme on the Elimination of Child Labour of the International Labour Office. The UN Children's Committee also recommended that a cross-sectorial coordination and multidisciplinary interventions involving many actors at different levels to ensure that children in street situations are provided with adequate necessities and vocational and life-skills training. The UN Children's Committee also urged the state party to adopt anti-trafficking legislation to fully address child trafficking. On the sale of children, child prostitution and child pornography, the state party was called upon to provide detailed information in the next periodic report.<sup>129</sup>

## 4.2 Legislative changes

### 4.2.1 Algeria

Since Algeria's initial engagement with the UN Children's Committee, there have been limited legislative changes which support child rights protection. For instances, during the second periodic report, the UN Children's Committee recommended that the state ratify the Optional Protocols to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, and on the Involvement of Children in Armed Conflict.<sup>130</sup> These two optional protocols were subsequently ratified, as reported in the third and fourth report. In the same period, Algeria ratified ILO Convention 182, concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2000 and the African Charter on the Rights and Welfare of the Child, adopted at Addis Ababa in 2003.

The Family Code of 1984 which operated for the most part before Algeria commenced its reporting process in 1995 has changed in many respects. Although there is no direct evidence linking this development with the reporting cycles, and concerns remain about the code, evidence of changes is found in relation, for instance, to the provision dealing with best interests of the child which was included in the Family Code in 2005. The amendment also ensures the removal of the formal reference to women

129 Third and fourth periodic reports of states parties due in 2009: Morocco (n 84) paras 62-71.

130 Second periodic reports of States parties due in 2000: Algeria (n 21) para 85.

as inferior in the earlier version of the Family Code of 1984. New legal provisions govern adoption to enable children under the *Kafala* system to acquire the family name of their legal guardian. Other legislative reforms include the Nationality Code in 2005, which enables birth registration to become universal,<sup>131</sup> an improvement upon the provision of the Family Code of 1984 that forbids such possibility.<sup>132</sup> Similarly, because of the new Education Act 08-04 of 23 January 2008, corporal punishment, psychological ill-treatment and all forms of bullying in schools have been legally prohibited. The act stipulates that education is legally compulsory for all girls and boys between the age of six and 16 years, an approach which was non-existent before 1995. In relation to sale, trafficking and abduction of children, a new law, Act 09-01 of 25 February 2009 has been passed which criminalises trafficking in persons and increases penalties for offenders who traffic children.<sup>133</sup> These legislative changes, however, have had little practical implications for the protection of children.

The African Children's Committee equally outlines as progress of implementation of the treaty, the following: adopting various international and regional human rights instruments, including the African Children's Charter; harmonising the definition of the child in its national laws in line with article 2 of the African Children's Charter; and adopting a National Action Plan for Children.

#### **4.2.2 Egypt**

In Egypt, there was little evidence of legislative reform following the interactions with the UN Children's Committee. Even where the government had been advised to improve on some of its legal provisions, they were not revised or improved at all as they still appeared as they had in the initial report.<sup>134</sup> This observation was also made by the committee which in reviewing Egypt's second report noted that, apart from the fact that the report was very legalistic, it had not effectively addressed the progress made by the state in addressing the issues raised by the UN Children's Committee in its Concluding Observations.<sup>135</sup> Thus, despite the fact that the UN Children's Committee gave some new recommendations

131 Concluding Observations: Algeria (n 31) paras 31, 37, 48 & 52.

132 *Portant Code de la Famille*, mardi 12 juin 1984, Loi No 84-11, *Journal Officiel De La République Algérienne* (Family Code), art 31.

133 Concluding Observations: Algeria (n 31) paras 43 & 77.

134 This observation was also mentioned by one of the UN Children's Committee members during the Summary Record of the 680th meeting. Committee on the Rights of the Child Summary Record of the 66th Meeting (n 76) para 12.

135 Concluding Observations: Egypt (n 90) para 2.

in its 2001 Concluding Observations, it returned to the issues that it had highlighted in its Concluding Observations to Egypt's initial report.

In the previous Concluding Observations, Egypt had been urged by the UN Children's Committee to withdraw reservations to articles 20 and 21 of the CRC as they were deemed unnecessary. The UN Children's Committee had pointed out that article 20(3) of the CRC expressly recognised *Kafalah* of the Islamic law as a form of alternative care while article 21 referred to states that 'recognize and permit' the system of adoption which did not apply to Egypt since it did not recognise the system of adoption.<sup>136</sup> As a result, Egypt withdrew its reservations to the articles by Presidential Decree 145 of 2003 due to, among others, a campaign by the Children's Council calling for a withdrawal of the reservations.<sup>137</sup> Furthermore, in January 2015, Egypt made amendments to the child law aimed at lowering the age when children can be raised by foster parents from two years to three months. This created an avenue for non-institutional support to orphans and other children almost from birth.<sup>138</sup>

Some successes were documented. For instance, the UN Children's Committee asked Egypt to put an end to all forms of discrimination including based on sex, such as disparities in the minimum age for marriage for males (18) and females (16) in accordance with the 1923 law on Marriage, which it did in 2008.<sup>139</sup> In 2015, Egypt withdrew its reservations to the article of the African Charter on the Rights and the Welfare of the child which puts the minimum legal age of marriage at 18. Thus, it aligned its international obligations to its domestic law. By withdrawing this reservation, Egypt is recognising the adverse economic and social consequences of child marriages. To that end, the government has blocked registration of marriages under that age. However, the government has an uphill task of putting a complete end to child marriages especially in rural areas where parents often consent to unregistered marriage contracts until the child turns 18. A study in 2010 by the social solidarity ministry and UNICEF found that despite the amendment of the age of marriage in 2008, 11 per cent of the marriages conducted in 2010 involved girls less than 18 years.<sup>140</sup>

136 Concluding Observations: Egypt (n 90) para 9.

137 Periodic reports of states parties due in 1997: Egypt (n 57) para 14.

138 Human Rights Watch 'Small forward steps on child rights' <http://www.hrw.org/news/2015/03/04/egypt-small-forward-steps-child-rights> (accessed 14 April 2015).

139 Concluding Observations of the Committee on the Rights of the Child: Egypt (n 90) paras 25 & 26.

140 *Human Rights Watch* (n 138).

### **4.2.3 Morocco**

The report displays evidence that Morocco endeavoured to harmonise domestic legislation and practice in line with the principles of the CRC during the period between 2003 and 2011. Several legal texts promoting the rights of the child and guided by the principle of the best interests of the child, were adopted and enacted. The main developments in this regard are the enactment of the Family Code (the *Mudawana*) in 2004, the adoption in 2003 of the new rules on child labour, the enactment of the Code of Criminal Procedure, the revision and enactment of the Criminal Code, the Nationality Code, the Act on the care of abandoned children, the Act on civil status, the Act on the opening and administration of social welfare institutions and the Act on the entry and residence of foreign nationals in Morocco and illegal emigration and immigration.<sup>141</sup> It remains to be seen, with the passage of time, the practical effect of these laws.

Morocco has made significant strides in relation to remedies available should one suffer violations of rights guaranteed by the CRC. Recourse to legal action is available to the victims of violations of rights.<sup>142</sup> There have been significant developments in terms of the existing avenues available such as the creation of the office of Ombudsman and of the National Human Rights Council (CNDH). These offices may now take up violations of human rights on their own initiative, a development that increases access to remedies in cases of violations of rights of individuals including children.

The Supreme Commission for Neglected Children and Supervised Education, and the Permanent Council for Neglected Children and Supervised Education, both created in 1959, have been phased out. They were replaced by the Advisory Council on Human Rights (ACHR), a national institution working in the field of protection and promotion of human rights. The ACHR was created by His Majesty King Hassan II on 20 April 1990 in accordance with the provisions of Dahir 1-90-12. It is mandated to propose and promote issues related to human rights in the country and can prosecute perpetrators suspected of violating human rights or children's rights. Following an assessment in 2004 of the standing

141 Consideration of the reports submitted by states parties under article 44 of the Convention: Third and fourth periodic reports of states parties due in 2009: Morocco, UN Committee on the Rights of the Child (May 2012) UN Doc CRC/C/MAR/3-430 (2012) paras 10-30.

142 See Consideration of the reports submitted by states parties under article 44 of the Convention. Second periodic reports of states parties due in 2000: Morocco, UN Committee on the Rights of the Child (13 October 2000) UN Doc CRC/C/93/Add.3 (2000) para 46.

arrangements in Morocco for monitoring the implementation of the CRC, the National Human Rights Council (CNDH) was formed. It has the primary role of promoting, protecting and defending human rights and freedoms.<sup>143</sup> It remains to be seen what steps the government will take to improve the national framework for the protection of children's rights.

The UN Children's Committee welcomed legislative measures that had been adopted between the second and consolidated third and fourth reports. Key among these legislative milestones were the revision of article 6 of the Nationality Code (Act 62-06 of 23 March of 2007) which allows children to obtain their mother's nationality; Act 14-05 on the opening and administration of social welfare institutions of 2006; the reform of the Family Code, published in the Official Gazette 5184 on 5 February 2004; and the reform of the Penal Code and the Code of Criminal Procedure which reinforces the protection of children in conflict with the law.<sup>144</sup> The UN Children's Committee further noted with appreciation the fact that the state party had ratified a number of treaties during the period between the reports.<sup>145</sup>

There are also a number of institutional and policy measures which the UN Children's Committee welcomed including the Governmental Plan for Gender Equality 2012-2016 '*Ikram*'; the 2009-2012 Education Emergency Programme (EEP); the National Action Plan for Children (2006-2015); and the National Human Development Initiative launched in 2005 and its specific component on the protection and promotion of children's rights.<sup>146</sup> These legislative interventions point to a willingness on the part of the state party to effect the necessary changes to improve the rights of children in Morocco.

143 Third and fourth periodic reports of States parties due in 2009: Morocco (n 141) para 38.

144 Third and fourth periodic reports of States parties due in 2009: Morocco (n 141) para 4.

145 The treaties referred to here are: The Convention on the Rights of Persons with Disabilities and its Optional Protocol, in April 2009; The International Convention for the Protection of all Persons from Enforced Disappearance, in May 2013; The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crimes, in April 2011; The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), in 2013; The Council of Europe Convention on the Exercise of Children's Rights, in 2013; and The Council of Europe Convention on Contact Concerning Children, in 2013.

146 Third and fourth periodic reports of States parties due in 2009: Morocco (n 141) para 6.

However, despite reforms undertaken during the reporting period such as the adoption of the new Constitution in 2011, the UN Children's Committee recommended that the state party should continue and strengthen its efforts to bring all its legislation, especially its Family Code, in conformity with the CRC and to promptly repeal all provisions that discriminate against girls and women and negatively impact on all children, such as those related to inheritance and polygamy. The Committee called upon the state party to make sure that the Integrated Policy on Children encompasses child protection and covers all areas under the CRC and all children with special attention to those in the most vulnerable and disadvantaged situations and that there should be appropriate strategies and resources for its implementation. Furthermore, the state party was called upon to effectively and efficiently coordinate the implementation of all provisions of the CRC both among ministries and among national, regional and local authorities with sufficient resources allocated.<sup>147</sup>

### **4.3 Progress in protecting children's rights in practice**

#### **4.3.1 Algeria**

In relation to the general principles under the CRC, namely, non-discrimination, best interests of the child, right to life survival and development and respects for the views of child, new provisions have emerged which *if* effectively implemented can impact positively on the protection of children in Algeria, but this is not yet the case. For example, while the National Code allows women to legally transfer their nationality to their children born to a foreign father, many challenges remain.<sup>148</sup> The procedures associated with the process, including the requirement for the consent of a family judge before such transfer can be affected, are cumbersome. Discrimination against children born outside of marriage continues. The National Code makes registration universal, but these children are not allowed to take their mother's family name. Suffering a similar fate, Berber families do not enjoy the right to register their children with an Amazigh surname.<sup>149</sup> Although the principle of best interests of the child is entrenched in the Family Code, it is not applied in all

147 Third and fourth periodic reports of States parties due in 2009: Morocco (n 141) paras 10-15.

148 Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, on her mission to Algeria, UN GA (1-10 November 2010) UN Doc A/HRC/17/26/Add.3 (2010) paras 12-26.

149 Humanium Together for Children's Rights 'Children of Algeria: Realising children's rights in Algeria' (2011) <http://www.humanium.org/en/algeria/> (accessed 15 April 2015); Concluding Observations: Algeria: 60th session, UN Committee on the Rights of the Child (29 May-15 June 2012) UN Doc CRC/C/DZA/CO/3-4 (2012) para 39.

administrative and judicial proceedings, policies and programmes relating to children.<sup>150</sup>

There are provisions in the Family Code on child custody, inheritance, divorce, polygamy and repudiation which threaten the protection of children in practice.<sup>151</sup> While the UN Children's Committee has acknowledged that efforts are being made by the state through ad-hoc initiatives on youth participation to develop respect for the views of the child and a help line has been developed for children,<sup>152</sup> much remains of concern. The right to express their view cannot be exercised without the authorisation of their parents or guardians, and mechanisms for children to participate and express views in matters affecting them are unavailable.<sup>153</sup>

Under the law, the children in the *Kafala* system can acquire the family name of their legal guardian,<sup>154</sup> but the human rights situation of the children remains worrying. The children in the *Kafala* are not registered on the family record books. The death of the legal guardian (Kafil) means that the child placed in the *Kafala* (the Makfoul) becomes a part of the heritage of the deceased.<sup>155</sup>

The Education Act 08–04 of 23 January 2008 has outlawed corporal punishment, psychological ill-treatment and all forms of bullying in schools,<sup>156</sup> but the practice continues in schools, at home, alternative care settings and it is used as a disciplinary measure in penal institutions.<sup>157</sup>

150 European Neighbourhood and Partnership Instrument 'Algeria: Strategy Paper 2007-2013 and National Indicative Programme 2007-2010' 7 [http://eeas.europa.eu/enp/pdf/pdf/country/enpi\\_csp\\_nip\\_algeria\\_en.pdf](http://eeas.europa.eu/enp/pdf/pdf/country/enpi_csp_nip_algeria_en.pdf) (accessed 15 April 2015).

151 Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, on her mission to Algeria (n 148) paras 12-26.

152 Child Helpline International and the Committee on the Rights of the Child 'Reviewing 10 years of CRC recommendations on the right to be heard: Session review – 35th session to 65th session (2004-2014)' 30 <https://www.childhelplineinternational.org/wp-content/uploads/2017/05/CHI-and-CRC-English.pdf> (accessed 16 April 2015).

153 UN Office of the High Commissioner for Human Rights 'Human Rights Council discusses right of the child to access to justice' (13 March 2014) <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14367&LangID=E> (accessed 16 April 2015).

154 UM Assim & J Sloth-Nelsen 'Islamic kafalah as an alternative care option for children deprived of a family environment' (2014) 2 *African Human Rights Law Journal* 322.

155 United Kingdom Border Agency 'Algeria: Country of Origin Information (COI) Report' (17 January 2013) 146 [https://www.ecoi.net/en/file/local/1257523/1226\\_1359360623\\_report-17jan13.pdf](https://www.ecoi.net/en/file/local/1257523/1226_1359360623_report-17jan13.pdf) (accessed 16 April 2015).

156 Concluding Observations: Algeria (n 21) para 43.

157 'More moms than dads in Algeria use corporal punishment' Pangea Today 19 May 2015 <http://www.pangeatoday.com/more-moms-than-dads-in-algeria-use-corporal->

Children fall victims to domestic violence, a phenomenon which is widely accepted in Algeria.<sup>158</sup> The government does not take leadership in providing medical, legal and physiological services to women and children who are victims of domestic violence. Grounds such as 'honour' and 'provocation' are used to attenuate sentences of perpetrators of domestic violence.<sup>159</sup> The challenges that children in Algeria continue to face in relation to birth registration, nationality, corporal punishment, abuse and neglect are incompatible with their civil rights and freedoms guaranteed under articles 7, 8, 13-17 and 39(a) of the CRC.

The implementation of the group of rights focusing on basic health and welfare of the children, particularly regarding standard of living, has been boosted through efforts of the state to eradicate poverty by increasing social investment and social transfer programmes.<sup>160</sup> The UN Children's Committee acknowledges as positive the significant increase in the primary education enrolment rate and the enactment of the Education Act (2008) which provides, inter alia, that education is compulsory for all girls and boys between the age of six and 16 years, an approach which was non-existent before 1995. It considers as progressive schemes such as early childhood programmes, a strategy launched in 2009 to eradicate illiteracy by 2015 and the significant progress made to realise girls' right to education.<sup>161</sup> However, evidence exists that much needs to be done in practice concerning the cluster of rights. For instance, the allocation of resources to health and health services are insufficient and there is unequal distribution of health facilities and medical practitioners.<sup>162</sup>

New measures have been taken to address the issues of economic exploitation including child labour, sale, trafficking and abduction of children and administration of juvenile justice. As the UN Children's Committee notes, these include the awareness-raising days on the harm

punishment (accessed 16 April 2015); Global Initiative to End All Corporal Punishment of Children 'Ending corporal punishment of children: Africa' E-Newsletter Issue 15 (May 2014) <http://www.endcorporalpunishment.org/pages/pdfs/newsletters/Africa%20Newsletter%2015%20EN.pdf> (accessed 16 April 2015).

158 Humanium (n 149).

159 United States Department of State 'Country Report on Human Rights Practices 2013: Algeria' (27 February 2014) [http://www.ecoi.net/local\\_link/270643/402075\\_de.html](http://www.ecoi.net/local_link/270643/402075_de.html) (accessed 16 April 2015).

160 Concluding Observations: Algeria (n 21) para 61.

161 UNICEF 'Annual Report 2013: Algeria' (2013) [http://www.unicef.org/about/annualreport/files/Algeria\\_COAR\\_2013.pdf](http://www.unicef.org/about/annualreport/files/Algeria_COAR_2013.pdf) (accessed 17 April 2015).

162 L Lamri et al 'Diabetes in Algeria and challenges for health policy: A literature review of prevalence, cost, management and outcomes of diabetes and its complications' (2014) 10 *Globalization and Health* 11.

caused by child labour, which involved 300 000 children in educational and vocational training establishments in 2006. Additionally, a helpline for children is managed by a network of civil society organisations to serve as a complaint mechanism for children whose rights are being threatened. The initiative was non-existent before engagement with reporting cycles. Efforts have also been made by the state to improve its juvenile justice system, in particular the training organised for juvenile judges on the right of the child.<sup>163</sup>

Children of migrants continue to lack access to basic rights.<sup>164</sup> Recruitment of children into military and para-military services continues.<sup>165</sup> Government has not adopted a minimum age of 18 years for hazardous work,<sup>166</sup> child labour continues in the agriculture sector, while children still serve as vendors on the streets and work as domestic servants.<sup>167</sup> Perpetrators of sexual violence can escape legal punishment by marrying their victims. Child victims of sexual exploitation are generally stigmatised and unprotected by government.<sup>168</sup> There is no legal assistance and alternatives provided by the state for relocating child victims of trafficking. Indeed, they can be jailed for acts committed while being trafficked.<sup>169</sup> The juvenile justice by the state is punitive.<sup>170</sup>

These examples suggest that the legislative reforms outlined above (and which were possibly a partial result of the reporting influence) were not sufficient in preventing violations of children's rights, or in creating a protective environment for children's rights. This suggests that the participation of Algeria in the reporting process has not made significant

163 Concluding Observations: Algeria (n 21) paras 71, 79 & 81.

164 Office of the High Commissioner for Human Rights (n 153); See, also, Concluding Observations: Algeria (n 21) para 67.

165 UNICEF 'Children in armed conflicts: Algeria' [http://www.ccwa.org/wp-content/uploads/2014/03/UNICEF\\_Topic-B.docx](http://www.ccwa.org/wp-content/uploads/2014/03/UNICEF_Topic-B.docx). (accessed 10 September 2017).

166 United States Department of Labour 'Algeria: 2013 Findings on the Worst Form of Child Labour' (2013) <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/algeria.pdf> (accessed 17 April 2015).

167 Humanium (n 149).

168 Amnesty International 'Get away with rape? No more. Sign this petition' (2014) <http://www.amnestyusa.org/emails/W1408EAWMN1.html> (accessed 17 April 2015).

169 United States Department of State '2014 Trafficking in Persons Report: Algeria' (20 June 2014) <http://www.refworld.org/docid/53aaba3222.html> (accessed 17 April 2015).

170 Child Rights International Network (CRIN) 'Access to justice for children: Algeria' (2014) [https://archive.crin.org/sites/default/files/algeria\\_access\\_to\\_justice.pdf](https://archive.crin.org/sites/default/files/algeria_access_to_justice.pdf) (accessed 17 April 2015); Concluding Observations: Algeria (n 21) para 81.

impact on the protection of children in practice, although the gradual pace of change should also be acknowledged.

#### **4.3.2 Egypt**

In its Concluding Observations during the second reporting cycle, the UN Children's Committee continued to decry the persistence of the practice of female genital mutilation despite the 1996 decision prohibiting it as well as the 1997 ministerial decree banning it. The Committee also expressed its concern over the persistence of incidences of children's maltreatment both at school and at home. The committee recommended that legislative measures should be undertaken to eradicate all forms of physical, sexual and mental violence including corporal punishment at school, at home and in care institutions.<sup>171</sup>

The UN Children's Committee had noted recent trends regarding child rights, reading the fate of children who had been injured during the violent clashes during the revolution, the number of children who were detained by the military authorities, their age and sex and what plans the state had to address the situation.<sup>172</sup> While improvements over time have been documented, a lot still needs to be done to improve the status of the children of Egypt. Three pertinent examples are child labour, non-discrimination and protection of people with disabilities where violations persist despite legislative reform.

The state was also informed that the age set out in the state report of 12 for employment in the 1992 initial report<sup>173</sup> was too low and that the huge numbers of children that entered the labour force between the age of six and 14 was very worrying.<sup>174</sup> The state committed to raising the age for employment to 15, but conceded that this would be difficult to enforce because many children below that age were already working especially in the rural areas. The state, however, gave assurance that it intended to ratify the ILO Conventions on Child Labour and once that was done it would bring its laws in conformity with the Convention.<sup>175</sup> Therefore, the state

171 Concluding Observations of the Committee on the Rights of the Child: Egypt (n 90) paras 37-38 & 45-46.

172 Fifty-Seventh Session: Summary Record of the 162nd Meeting: Consideration of reports of States parties – Egypt, UN Committee on the Rights of the Child (16 November 2011) UN Doc CRC/C/SR.1622 (2011) para 25.

173 Initial reports of states parties due in 1992: Egypt (n 10) para 98.

174 Initial reports of states parties due in 1992: Egypt (n 10) paras 308-309; Summary Record of the 68th Meeting: Egypt, UN Committee on the Rights of the Child (20 December 1993) UN Doc CRC/C/SR.68 (1993) para 36.

175 Summary Record of the 68th Meeting: Egypt (n 174) paras 37 & 38.

adopted the Children's Code which included provisions raising the age of employment from 12 to 14 and stipulating that the minimum age for membership to a worker's trade union is 15 years.<sup>176</sup>

Conversely, reports on ground show that by 2007 children between the ages of six and 11 comprised 25 per cent of working children in Egypt, with boys being more likely to be involved in child labour. Though studies on the exact percentage of working children differ, statistics generally range from three to 15 per cent.<sup>177</sup> In 2010, a national survey was undertaken on child labour which revealed that about 1.6 million children between the ages of 15-17 years are involved in child labour which does not include household chores as this would have driven the numbers up.<sup>178</sup> Every sector in Egypt is permeated by working children, though the most pervasive forms include; agricultural, industrial, domestic and street labour.<sup>179</sup> These children often come from large low income families and thus their wages contribute a quarter of the household income. The most common job for child labourers was identified in the agricultural sector where they are specifically charged with the removal of worms that often destroy cotton harvests.<sup>180</sup> Children work for 11 hours getting only one hour of rest during the 40-degree summer vacation mostly without being offered any water breaks. This leaves them dehydrated, severely exhausted and malnourished. It also has negative implication for their education prospects.<sup>181</sup>

In 2014, the government adopted the 2014 Constitution establishing a new minimum wage of work which is harmonised with the compulsory education age as well as the age for the prohibition of commercial sexual exploitation set at 18. However, enforcement and implementation of this provision, awaits the passage of new or amended legislation, yet currently the existing laws on child labour remain in effect.<sup>182</sup> Child labour is

176 Periodic reports of states parties due in 1997: Egypt (n 57) para 48.

177 M Mattar 'Child labour in Egypt: Scope and appropriate legal responses' A Forum for Human Rights and Democracy in Iran (2007) <http://www.gozaar.org/english/library-en/democracy-classics-en/Child-Labor-in-Egypt.html> (accessed 18 April 2015).

178 UNICEF 'Egypt programme profile: Child protection' <http://www.unicef.org/egypt/protection.html> (accessed 18 April 2015).

179 Mattar (n 177).

180 Human Rights Watch 'Underage and unprotected: Child labour in Egypt's cotton fields' (January 2001) [hrw.org/reports/2001/egypt/Egypt01.PDF](http://hrw.org/reports/2001/egypt/Egypt01.PDF) (accessed 18 April 2015).

181 UNICEF (n 178).

182 United States Department of Labour '2013 findings on the worst forms of child labour: Moderate advancement' <http://www.dol.gov/ilab/reports/child-labor/egypt.html> (accessed 18 April 2015).

also closely related to child trafficking and though there are no reliable statistics showing the exact number of trafficked children, the National Centre for Social and Criminology research shows that a considerable number of children are trafficked every year. This is so despite the passage of the law combating human trafficking in 2010. In 2011, for instance, the main types of trafficking involved slavery or forced labour, trafficking for purposes of sexual exploitation or the removal of organs as well as short lived marriages.<sup>183</sup>

The state in its 2008 report to the UN Children's Committee noted that the amendments made in the amended Children's Act 126 of 2008 emphasised the right of the child to non-discrimination, in response to earlier observations of the UN Children's Committee. It committed to raising the age of marriage of girls from 16 to 18 just like the boys,<sup>184</sup> guaranteeing the right of a child with a known-mother born outside marriage to be registered at birth and to have a birth certificate and discouraged against any other form of discrimination against children born out of wedlock.<sup>185</sup> In implementing the Concluding Observations, Egypt removed discriminatory legislation that denied children born to an Egyptian mother the right to a nationality except in cases where the father had no nationality. The legislation (Act 154 of 2004) that replaced the discriminatory one (Act 26 of 1975) emphasised equality between Egyptian men and women in passing the nationality to their children.

Egypt was also asked to address harmful cultural and social practices such as female genital mutilation that were still persistent in the rural areas and that fostered gender and other forms of discrimination. Thus, in responding to the committee's recommendation on eliminating female genital mutilation, a national programme was initiated in 2003. The programme dealt with the inclusion in the new children's act, the punishment for those found engaging in FGM, development of grassroots experiences to confront the practice by challenging perceptions surrounding it, encouraging communities to use the help lines to report on intended circumcisions and also seeking advice and discouraging doctors from performing the circumcisions.<sup>186</sup>

183 UNICEF (n 178).

184 Law 12 of 1996 promulgating the Child Law amended by Law 126 of 2008 art 3 (Egypt) [http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Egypt/egypt\\_children\\_2008\\_en.pdf](http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Egypt/egypt_children_2008_en.pdf) (accessed 18 April 2015).

185 Periodic reports of states parties due in 1997: Egypt (n 57) paras 111-114.

186 Periodic reports of states parties due in 1997: Egypt (n 57) para 151.

However, despite the putting in place of legislation aimed at combating discrimination such as the 2008 amended child law, the law criminalising FGM, incidences that affect marginalised children such as the girl child, poor children and children living in the rural areas are still very rampant. The 2008 Egypt Demographic and Health Survey revealed that 74 per cent of girls aged between 15-17 years underwent FGM and not a single perpetrator had been sentenced. Furthermore, children living in impoverished and rural communities face a higher risk of violence as research conducted by UNICEF in 2013 shows a high level of acceptance of violence as a disciplinary method with at least 80 per cent of the children between 13-17 reporting recent exposure to at least one form of violence.<sup>187</sup>

The issue of children with disabilities has been a recurring one right from the initial report (1992). The government has been urged throughout the reports to ensure that children with disabilities access education and to try as much as possible to integrate them in school with other students as opposed to putting them in specialised institutions. However, the 1998 report showed quite the opposite, as it highlighted that there had been an increase in the numbers of 'special' classes of handicapped pupils and classes according to their disability over the five-year period. The disability list was also not conclusive as it only included the visually impaired, the hard of hearing and the mentally deficient. It would also have been expected that in the five-year reporting period, Egypt would have taken a comprehensive study aimed at establishing the number, sex, region and percentage of children with disabilities in the country and these statistics would have been included in the report. However, the 1998 second periodic report only showed the increase in number of children with disabilities attending the 'special' schools set out above.<sup>188</sup>

Nonetheless, the government took steps to remedy the situation of children with disabilities by adopting an amendment to the revised Children's Act of 2008 to address the UN Children's Committee's concern dealing with the separation of children with disabilities from other children. The state, however, admitted that the issue of 'disability is still misunderstood amongst some stake holders and thus contradictory terms are often used to refer to the different forms of disability. In addition, that data on children with disabilities is still limited and not properly disaggregated to allow for efficient and easy use'.<sup>189</sup> This sentiment is reflected by organisations working on disability issues. By 2011, it was

187 UNICEF (n 178).

188 Periodic reports of states parties due in 1997: Egypt (n 57) para 154.

189 Periodic reports of states parties due in 1997: Egypt (n 57) para 181.

estimated that there were between one and 25 million disabled children in Egypt. Because of advocacy work by various organisations working on disability issues as well as the extension of service delivery specifically to children with disabilities, the perceptions of people about children with disabilities is slowly changing. However, incidences of discrimination are still rampant especially those which affect girls with disabilities who are subjected to more harassment and maltreatment compared to the boys either at home or at school. Because of the exclusion and the stigma, the girls end up staying at home and bearing the overall burden of household chores.<sup>190</sup>

#### **4.3.3 Morocco**

Child protection units and units responsible for child victims of violence in all of the Moroccan courts have been developed while NGOs also play a major role in securing access to remedies through counselling and guidance centres for children whose rights have been violated.<sup>191</sup> However, in terms of quality, the state party concedes that progress still has to be achieved in relation to compliance with international rules and standards, particularly as regards accessibility, protection, security and confidentiality. This concession is substantiated by other commentaries about rights of children in Morocco.<sup>192</sup>

Morocco has established the Ministry for Solidarity, Women, the Family and Social Development whose duty, among others, is to devise child protection strategies and to coordinate the various activities with partners concerned in addition to the special Ministerial Commission on Children. A further institution entrusted with the monitoring and implementation of the CRC is The National Observatory on the Rights of the Child (ONDE). This institution aims at coming up with sustainable protection of children in all areas of life through its main institution, the National Congress on the Rights of the Child, a forum for those engaged in children's issues.<sup>193</sup>

The Ministry of Social Development, Family and Solidarity has introduced several new programmes since its inception, including the

190 MANARA (n 9) 35.

191 Third and fourth periodic reports of states parties due in 2009: Morocco (n 141) para 36.

192 Human Rights Watch 'Lonely servitude: Child domestic labour in Morocco' (2012) <http://www.hrw.org/node/111176/section/2> (accessed 19 April 2015).

193 Third and fourth periodic reports of states parties due in 2009: Morocco (n 141) paras 39-41.

*Indimaj* project (integration) that rehabilitates children living and working in the streets, and *Inqad* (to rescue), which fights the domestic labour of young girls. New institutions for vulnerable Moroccans and those living on the streets have emerged, including ‘SAMU Social’ in Casablanca for homeless people and adults in difficult circumstances and Unités de Protection de l’Enfance (Child Welfare Units or UPEs) in Casablanca, Marrakesh and Agadir specifically for children living in the streets. Since the last state report, Morocco has also established counselling and vocational guidance centres through the Department of Health and a toll-free hotline for children has been set up by the National Observatory for Child Rights.<sup>194</sup> The following paragraphs highlight some of the general principles relevant to the CRC that were addressed by Morocco in its report.

Reforms have aided in prioritising the best interest of the child. Further to that, specific facilities for children have been provided within Moroccan courts to give effect to the principle of the best interests of the child and the social security system was reformed with improvements to benefit children.<sup>195</sup> For example, reforms to the Family Code, the Code of Criminal Procedure and the act of *Kafala* have made it possible to better incorporate the best interests of the child principle in the Moroccan justice system.

The UN Children’s Committee notes that Morocco has legislation which upholds the right of the child to a name<sup>196</sup> and that it is a statutory requirement for parents to register births in Morocco.<sup>197</sup> However, the report concedes that the civil status of more than a million Moroccans has yet to be registered including members of households with no marriage certificates, persons who have exceeded the time limits for registering and children abandoned after birth. The Moroccan Nationality Code has also been amended to allow a Moroccan woman married to a foreigner the right to transmit her nationality to her children in accordance with article 7 of the CRC.<sup>198</sup>

194 MANARA Network for Child’s Rights ‘Country profile of Morocco: A review of the implementation of the UN Convention on the Rights of the Child’ (August 2011) <http://www.ibcr.org/editor/assets/Morocco%20Country%20Profile.pdf> (accessed 19 April 2015).

195 Third and fourth periodic reports of states parties due in 2009: Morocco (n 141) paras 65 & 66.

196 Art 20 of Act 37-99 on civil status published in the Official Gazette of 7 November 2002.

197 See art 468 of Criminal Code; Third and fourth periodic reports of states parties due in 2009: Morocco (n 141) paras 84-87.

198 Third and fourth periodic reports of states parties due in 2009: Morocco (n 141)

The state party claims that it is undertaking several measures to protect children from abuse, especially by members of the police and other officers working with children. These measures include criminalising torture and including a stiffer penalty for the offence.<sup>199</sup> The report also indicates that personnel in several departments working with children are trained on the rights of children. As conceded in the report, however, there are some facilities within the country that still need to be improved to meet the standards for dealing with minors.<sup>200</sup>

While noting as positive the increase in the education and health budget allocations, the UN Children's Committee recommended that the state party should utilise a child rights' approach in the elaboration of the state budget by implementing a tracking system for the allocation and the use of resources for children. According to the UN Children's Committee, this could be done by conducting impact assessments on how investments in any sector may serve the best interests of the child and that the state should take immediate measures to combat corruption and strengthen institutional capacities to effectively detect, investigate and prosecute corruption. The UN Children's Committee also bemoaned the undue delay in granting full autonomy the National Human Rights Council which would help to enhance its child friendly nature. The UN Children's Committee further urged the state party to foster its cooperation with civil society organisations and that they should benefit from public funds.<sup>201</sup>

## **5 Looking to the future: Child rights reporting and accountability**

The two Committees act – in theory – as accountability mechanisms prompting the state officials to improve on the overall welfare of the children. This is due to the awareness that they will be required to periodically report on the status of children rights within the country. Secondly, over time the quality of reporting by the state party especially to the UN Children's Committee, but also to the African Children's Committee has improved as they have become more self-critical as well as results based. This has enabled the governments to identify strategies that are working and those that are not, thus becoming more effective in

paras 88-90; See also Act 62-06.

199 Third and fourth periodic reports of states parties due in 2009: Morocco (n 141) paras 91-96.

200 Third and fourth periodic reports of states parties due in 2009: Morocco (n 141) para 94.

201 Third and fourth periodic reports of states parties due in 2009: Morocco (n 141) paras 15, 16 & 18-21.

depicting the accurate reality of children on the ground. On the other hand, the Concluding Observations of the UN Children's Committee have also improved over time as they have moved from being brief and general to more elaborate and specific. Also, in areas where the state has not brought out some issues, they have been brought up by the Committee in the list of issues, presentation of summary records as well as in the alternative reports.

However, this report emphasises that despite the improvements, in some instances the implementation of the laws, policies and programmes is very removed from law and policy formulation. Furthermore, that despite the domestication of the CRC through various legislative instruments, many practices that violate children's rights are still persistent. In the case of Egypt, the instability that occurred because of the Egyptian revolution overturned some of the milestones that had been overcome by the Egyptian government.

The state parties should continue to draw upon the concluding recommendations to improve child rights policies. The data collection methods should be further improved so that they are more coordinated, are conducted on a nationwide basis, apply to all sectors and take into consideration issues of sex, religion, nationality, status and region of origin. Civil society organisations should be encouraged to submit alternative reports to the UN Children's Committee so that their information can be compared to the government position to give a balanced picture of the children's situation. Significant support might be required to strengthen civil society in this regard, given the restrictive environment in which they work. The state parties should also move away from emphasising the enactment and amendment of legislation to putting in place comprehensive and sustained actions to improve the children's rights situation. Finally, the two Committees should encourage cross-referencing with each other to pick best practices from each of the reporting mechanisms.

Regarding the African Union, enacting legislation is vital, but it is just the first step in the realisation of a safe environment for children as a state has to show the tangible actions and continuous progress made towards the achievement of a certain issue. On the other hand, the African Children's Committee should ensure that its recommendations are as specific as possible, for instance, short and long term quantitative and qualitative indicators may be included in the recommendations so that in the next reporting process the Committee is able to measure the milestones moved towards the realisation of a certain goal. For instance, it might be difficult for a state to ensure education for all its children within a five-year period, but at least if indicators are spelt out it would be easy to

ascertain whether or not a state is making substantial progress towards the achievement of certain goals.

Drawing lines of causation between the reporting exercise and progress on the realisation of rights of children under the CRC requires caution. Progress made in the realisation of rights in between reporting cycles might be due to other causes unrelated to the process, and failure to make progress cannot be linked to the reporting process itself. Nevertheless, a description of the key legislative and policy issues arising throughout the reporting cycles is a useful starting point for interrogating the impact of reporting over time. Further empirical and investigative study is recommended to establish causal relationships, however. As a next step, a more detailed study would be required to establish the correlation between the Concluding Observations and the progress that has been made.