

REVIEW
of official opponent, Doctor of law,
Professor, Head of the Department of
Constitutional and International Law,
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on the thesis of Carlos Jorge Quete
"The International Legal Framework for the Protection of Children's
Rights in Africa"
presented for PhD degree

The Dissertation of Carlos Jorge Quete devoted to the complex analysis of the international legal perspective on the protection of human rights in Africa, is undoubtedly of immense interest. The problem of the protection of children's rights has been and remains relevant for consideration by the international community.

Effective enforcement of children's rights is a pressing problem in recent years. Despite the fact that human rights up till the middle of the 20th century were exclusively domestic issues of States, international law has acquired a huge role in their regulation in recent times. For the African continent the child's rights protection issue is particularly very important since in recent years violations of the rights of this category of people have become very common.

The scientific novelty of the research of Carlos Jorge Quete is beyond doubt. It does not only analyze the legal framework for the protection of children's rights in Africa, including international legal instruments of universal, inter-regional, regional and sub-regional character, but also studies the various international legal mechanisms for the protection of children's rights in African countries, taking into account the specific peculiarities of the continent.

This research comprises a detailed and comprehensive international legal analysis of the contemporary African regional human rights system, which significantly influences the legislation, and practice of African States in the field of protection of children's rights.

The thesis shows the key role played by innovation, the United Nation's (UN) Committee on the Rights of the Child and the harmonization of common approaches on the conceptual aspects of the protection of the rights of the child, taking into consideration the performance of universal, inter-regional, regional and sub-regional human rights mechanisms for the protection of children's rights.

The findings to be defended are of sufficient scientific novelty and reflect the independent contribution of the candidate to legal science. The author demonstrated the ability to correlate sources, to compare them and make reasoned conclusions, applying to the object of their research the tried and tested methods of scientific cognition. The sources of material for the research and the chosen methodology for formulating conclusions exclude doubts about the reliability of the results obtained.

The apparent advantage of the thesis of Carlos Jorge Quete is its scientific foundations. The work is written with a broad range of sources. The work studies

the experience of the UN Committee on the Rights of the Child (primarily periodic reports submitted by African States Parties, concluding observations addressed to African States on the basis of studied reports and general comments), inter-regional organizations (OIC and the Arab League), regional organizations (African Union) and sub-regional intergovernmental organizations (South African development Community (SADC), West African Economic and Monetary Union (UEMOA), the Economic Community of West African States (ECOWAS)). At the same time, attention was paid to binding international instruments and other non-binding instruments which, nonetheless, have the value of soft law on the protection of children's rights. National legislation and human rights strategy of African States were also investigated.

The structure of the thesis is based on its aims and objectives set before the beginning of the study. It thesis consists of an introduction, four chapters, a conclusion and list of sources used.

The introduction the outlines the relevance of the topic of research, describes the degree of scientific elaboration, as determined by the purpose, tasks, object and subject of the thesis, reveals the methodological, theoretical and source basis of the research, substantiates the scientific novelty, characterizes the theoretical and practical significance of the research, provides information on testing the results.

The first chapter – "Universal standards for the protection of children's rights": the general characteristic of the formation and development of the international protection of children's rights, as well as existing instruments on the protection of children's rights and universal children's rights protection mechanisms.

This chapter notes that the recognition of the inalienable rights of the child regardless of his/her minority and efficiency, is a new phenomenon and it is associated with the child's growing autonomy.

The thesis points out that the protection of children's rights and legitimate interests, as well as the mechanism of this protection is a separate legal category and is considered one of the main problems in jurisprudence. Thus, the main priority task of the state is the effective regulation of the legal status of children through the implementation of existing legal acts. The child cannot defend their rights and interests by virtue of their psycho-physical features hence needs this protection from both the government and civil society.

The second chapter of – "Features of the international legal protection of children's rights in Africa": deals with the development of children's rights protection system in Africa in a globalizing world.

The thesis reveals human rights violations are often one of the causes and one of the main consequences of conflicts, unrest, displacement and humanitarian crises. It is noted that in Africa the year 2015 was marked by a blatant disregard for human rights, gross violence, displacement of populations, causing millions of innocent people left in an uncertain situation for a long time. It is hard not to regret missed opportunities to prevent such widespread human suffering.

In its resolution 2225 (2015), the Security Council expressed deep concern over the abduction of children in situations of armed conflict and requested to

include in this report information on those parties to armed conflict that are engaged in child abduction. Kidnappings continue to occur on a large scale, usually perpetuated by members of "Al-Shabaab", "Boko Haram", "Islamic State of Iraq and the Levant" (LIH) and the "Lord's Resistance Army" (LRA).

Such actions are not subject to forgiveness. However, the United Nations believes it is necessary to gain a deeper understanding of the root causes of ruthless extremism. Alienation can be caused by years of corruption, repression, discrimination, deprivation and neglect of basic human rights. It is necessary to pay more attention to long-term efforts and to take action based on the rule of law, the establishment of inclusive governance and the establishment of public trust. Throughout the reporting period, the United Nations drew attention to the need for a comprehensive solution to the problem of creating such conditions (including by combating hate speech, encourage dialogue, protect human rights and social cohesion) as the most effective means of countering the spread of extremism. Member States have also confirmed the important commitments and principles relating to their collective responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, the effects of which affect hundreds of thousands of many innocent children. Such obligations cause a feeling of approval, but we are far from their full implementation in practice.

Having considered the situation of a number of African countries now we believe that states are obliged to provide adequate protection to displaced children and do not exacerbate their vulnerability, including through ensuring equal access to health care, quality education, and psychosocial support. If you do not give priority to the rights and needs of children affected by armed conflict, to restore society after peace is established, it will have an even greater price.

We believe that Member States should consider, if necessary, the possibility of changes in policies, procedures and military law for the protection of schools and hospitals.

It is also spelled out in detail the position and functions of the African Charter on the Rights and Welfare of the Child, as well as its control mechanism - the African Committee of Experts on the Rights and Welfare of the child.

This chapter also reviews the implementation process of international law in the field of protection of children's rights in African states. It is noted that this process is a great achievement given that African governments have seriously begun to include children's rights in the African legal system. Undoubtedly, this path is uneven, and the problem on legislation and implementation of laws on children rights remain a huge concern today. For example, parliaments have taken conservative positions in relation to harmful practices that violate the rights of children in a number of African countries (one such example is the introduction in Southern Africa a legal provision punishing the potentially harmful cultural practice of virginity testing). The lack of budgetary resources is often due to the fact that the progressive reforms is implemented only in major cities. However, it should be noted that legal reform is a key tool for policy planning, which can set a plurality of motion related development processes in the interests of children. And examples of

joint efforts of governments and civil society partners are a reflection of democratization account of the rights of the child, which serve as the basis for legislative reform, which will take place much more effectively over time. At least, the development of children's rights in the modern era is the focus of public opinion about the role of children in African societies, the provision for all children the greatest degree of protection of their rights.

The third chapter – "The specifics of the legal protection of certain categories of children in Africa ": studies neonatal problems in Africa, the protection of children from all forms of violence; raises the problem of child soldiers in Africa and trafficking of children; The problems of the worst forms of child labor and early marriage in the African continent.

The thesis reveals that more than 1 million African children die within the first 4 weeks after birth. But most of them die at home, thereby missing out in the official statistics and remaining invisible to policy and national and regional programs. To reduce the number of these deaths, we need information. In this regard, the following questions were raised:

1. What do we do to accomplish the Millennium Development Goals, the Millennium Development Goals with respect to child survival?
2. Where, when and why do these deaths occur to newborns?
3. How can we connect the health of mothers and newborns, and the health of older children?

Each year in Africa about 500 000 women die due to causes related to pregnancy (out of whom at least 300,000 women die during childbirth), and about 1 million children die after birth. More than 1.16 million babies die in the first month of life - half of them on the first day, and more than 3.3 million children die before reaching their fifth birthday. Four million babies with low birth weight and other complications of newborns survive, but will not be able to fulfill their potential in life and about the same number of African women experience complications with fatal outcomes due to pregnancy. In Africa, for many generations, these situations are constantly repeated. Many of these deaths, especially immediately after childbirth and early neonatal deaths occur at home and are not counted in the official statistics.

Considering the situation in Africa, it is observed that like children in the rest of the world, many children in Africa are abused in the various above-mentioned parameters. Messages from the African Child Policy Forum, prepared for the Second International Policy Conference on the African Child: Violence against girls in Africa, held in May 2006 (Addis Ababa, Ethiopia), reflect that in the African context, it is primarily girls who are victims of violence. This does not testify that boys are not exposed to violence at home, school or workplace, but rather underscores the fact that girls are often more vulnerable to violence as a result of cultural and structural factors. Thus, in addressing the problem of violence against girls, the necessary measures and programs aimed at addressing the underlying factors of gender should be implemented, in order to reverse this situation.

In the fourth chapter – "Comparative analysis of the provisions of the normative acts on the protection of children's rights in different countries": monitoring of international legal instruments on child rights.

The thesis explains that each system has its own characteristics as dictated by the specifics of the region. The Inter-American Commission can be said to have been successful in executing its responsibilities despite the fact that it has weak resources having dealt with about sixty country reports, carried out ninety-two on-site visits and held hearings on more than twelve thousand individual complaints since its inception. In addition, the Inter-American Commission received the official status when it became a permanent organ of the OAS, without losing the discretionary powers that it received thanks to a dynamic and bold practice in the early years of its existence. The Commission's role in the slow process of democratization in the Western Hemisphere has been invaluable thanks to the constant monitoring and promotion of human rights.

The African Commission on its part was established to protect and promote human rights in Africa. Despite the availability of its unique features and procedures, such as thematic, administrative resolutions and those of individual countries, it is impossible to say that the activities of the African Commission are more efficient and basic than that of the Inter-American Commission. However, the positive trend in the activities of the African Commission must be duly noted. It reviewed more than 300 individual complaints of violations of rights guaranteed under the African Charter, and, accordingly, has changed the approach to adjudication of such cases. The African Commission also make concluding observations on the basis of reports received concerning the human rights situation in States. It may send a special mission to a State for the promotion of human rights. Through its activities, the commission encourages states to ratify more human rights documents and to fulfill the obligations they have undertaken under such treaties.

The American system of human rights and freedoms, with respect to the quantity of human rights treaties and their implementation mechanisms, is not inferior to the European system. The Organization of American States adopted and implemented (possibly with varying degrees of success) special Inter-American Conventions on the Rights of Women and Children: the convention "On Granting Women Civil and Political Rights" (Bogota, Colombia, 1948), the convention "On the Prevention, Punishment and Eradication of Violence Against Women "(Belém, Brazil, 1994), the Convention " On Prevention and Punishment of Torture "and convention" on Forced Disappearances of Persons".

The Inter-American Democratic Charter, adopted at the special session of the OAS General Assembly in Lima (Peru) September 11, 2001 plays an important role in the American system of human rights. It proclaims the right of the people of the continent to democracy and the obligation of governments to ensure it. Representative democracy is seen as the basis of the rule of law and constitutional regimes of member states of the Organization its basic criteria. According to Art. 3 of said Charter such basic principles of democracy include the respect for human rights and fundamental freedoms; the exercise of power in accordance with the

principle of the rule of law; the holding of periodic free and fair elections by universal and secret ballot as the expression of the sovereignty of the people; multi-party system; separation of powers, etc. The Charter also spells out how each of these criteria must be realized.

African states did not copy the ideas and the formulations of international treaties already in force, but instead outlined their own vision and understanding of the philosophy of human rights and freedoms. The African human rights system is based on "freedom, equality, justice and dignity", traditionally considered by Africans as the main purpose of their life aspirations. Such a consideration is close to the Western classical triad of human rights and freedoms and Africans, akin to Hispanics, have their human rights system in the form of a quartet. Rights and Obligations of the African Charter are closely linked. The Charter lists all the "rights, duties and freedoms" of not only the individual, but also of "peoples". Civil and political rights are not separated from the economic, social and cultural rights. Implementation of the latter is a guarantee of the enjoyment of civil and political rights as stated in the Charter's preamble.

The African Charter contains provisions that were not in other international agreements on human rights. Article 19 for instance declares that "All people are equal, "and that" All should enjoy the same respect and the same rights". Nothing shall justify the domination of one person over another. The Charter also recognizes that "Everyone shall have the right to exist, they have an absolute and inalienable right to self-determination". They can freely determine their political status and to pursue the path of economic and social development in accordance with this choice. Recognizing the rights of people under colonial or semi-colonial dependence to independence and self-determination, the Charter proclaims the rights and responsibilities (economic, political, or cultural) of states parties of the Charter in their liberation struggle.

Due to objective reasons, Asian States have not yet managed to create a continental system of protection of human rights and freedoms. However, there exist regional and religious institutions, which are striving to formulate a philosophy of human rights and to solve the problem in specific communities. For example, in the Charter of the League of Arab States members are under an obligation to "respect the systems of government of other states and to evaluate them as only their own interests in these countries." They shall refrain from any action, which has the aim of changing the state structure of any Arab country. Members of the LAS may conclude between themselves and with other States treaties, which will establish between them stronger links and relationships than those provided for by the Covenant. At the same time, such an agreement "shall not bind and limit the other members." The task of the governing board of the LAS is to regulate cooperation between the League and other international institutions in the areas of peace, security, economic and social relations, including human rights. LAS plays a prominent role in the improvement of education in Arab countries, the fight against illiteracy, the dissemination of scientific discoveries, the fight against crime and drug trafficking, as well as cultural cooperation between Arab countries.

A more active role in the protection of human rights, taking into account certain specific peculiarities, is played by the Organization of the Islamic Conference (OIC). In 1980, at an international conference in London devoted to the Prophet Muhammad and his message to Muslims it adopted the Universal Islamic Declaration outlining the Islamic philosophy of life. A year later, the OIC Conference endorsed the Universal Islamic Declaration of Human Rights. It sets out 14 principles of the Islamic world order, each of which guarantees certain rights. In accordance with this declaration for instance, "Everyone is equal, and free". The Declaration prohibits slavery and hard labor. Respect for the institution of the family is maintained. Any earthly power is considered as sacred and temporal, limited only by law. The property is divine, and all use it in accordance with the laws of the Koran and the Sunnah. All public business is conducted after consultation with the believers (Shura). Efforts should be made to eliminate exploitation, injustice and oppression. The Declaration is permeated by the idea that only Allah is the creator of the law under which people live, as well as the source of all human rights. Because of their divine origin, no leader or government, assembly or authority cannot restrict, cancel or violate in any way the human rights given by God. These include the right to life, liberty, family, property, education, housing, freedom of movement within the Islamic community and many others. Together, they cover almost all human rights contained in the UDHR, but in light of the interpretation of the Koran.

In 1990, at their conference in Cairo, the OIC adopted the Cairo Declaration of Human Rights, where in Article 25 fundamental human rights such as the rights to life, liberty, equality, work, family, property, security, and so on are expressly proclaimed.

In the conclusion, the author sums up the thesis and outlines the main findings of his research, which confirms the novelty of the formulated problems and theoretical significance of the research results. The abstract of the research dissertation meets the requirements. Scientific positions are reflected in 8 publications, including three - in the journals recommended by HAC of the Ministry of Education and Science of the Russian Federation. The abstract of the thesis corresponds to the content. He used a wide range of sources of normative, doctrinal and empirical character in the Russian and foreign languages.

Our positive review Carlos Quete Jorge's thesis is not an indication of its impeccability. In this work, there are a few shortcomings, controversial or insufficiently reasoned positions, which are duly noted below:

Firstly, referring to the question on the activities of the inter-regional, regional and sub-regional intergovernmental organizations in the sphere of protection of children's rights in Africa, the author did not dwell deeply on the activities of the African Committee of Experts on the Rights and welfare of the child. A deep consideration of these activities would have allowed the author to provide more information on the activities of the Committee.

Secondly, one of the objectives of the thesis is to show the achievements and problems faced by African States in implementing the provisions of the Convention on the Rights of the Child. The author gives some details on the implementation of

the provisions of the Convention but pays little attention to the achievements and problems faced by African States in the process of implementation of these provisions of the Convention.

- Thirdly, referring to paragraph 3.2. "Protecting children from all forms of violence," the author lists some of the international legal instruments such as the International Covenant on Civil and Political Rights (ICCPR) (1966), Articles 3, 7, 24, 20, 28 and 17;

- International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966) (where in the general comment on the right to education, discipline in schools and the question of corporal punishment are raised);

- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) – where the Committee's general recommendations XV on article 4 states that all racially-motivated violence is unacceptable;

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

- Declaration on the Elimination of Violence against Women (DINOZH) (1993);

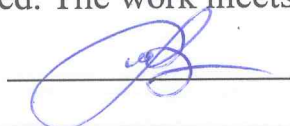
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979).

- African Charter on the Rights and Welfare of the Child (ACRWC).

However, save the "African Charter on the Rights and Welfare of the Child (ACRWC)", all other documents are not considered in detail.

Fourth, in Chapter 4, Section 4.4, the comparative analysis should have been made between the decision of the African Committee of Experts on the Rights and Welfare of the Child and the UN Committee on the Rights of the Child. An analysis of decisions of the two committees would have given more meaning and a better understanding of this point of the thesis.

The thesis of Carlos Jorge Quete is a holistic scientific work in which problems that are essential to the science and practice of international law are addressed. The work meets the requirements for research at the PhD level.



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