



ngo group for the crc

**STATE PARTY EXAMINATION OF KAZAKHSTAN'S SECOND
AND THIRD PERIODIC REPORT
45TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE
CHILD**

21 May – 8 June 2007

Contents

Opening Comments	1
General Measures of Implementation	2
Definition of the Child.....	2
Civil Rights and Freedoms	2
Non- Discrimination	3
Family Environment and Alternative Care	3
Basic Health and Welfare	3
Violence against Children	4
Education, Leisure and Cultural Activities	4
Special Protection Measures	5
Juvenile Justice	5
Concluding Remarks.....	5

Kazakhstan ratified the Convention on the Rights of the Child (CRC) on 12 August 1994. On 30 May 2007, the Committee on the Rights of the Child (the Committee) examined Kazakhstan's Second and Third Periodic Reports.

Opening Comments

Mrs. Madina Jarbussynova, Ambassador-at-large from the Ministry of Foreign Affairs, presented the report. In her opening statement, Mrs. Jarbussynova noted the importance of the many political, economic and social changes that had occurred in the country which aimed to improve the situation of the child. She underlined the importance of many new governmental programmes, such as those targeting gender equality, drug abuse and rehabilitation, and disabled children. Governmental spending in the areas of education and health had been increased. Mrs. Jarbussynova admitted that there were still many problems with the large number of children in institutional care and that progress was being made in these areas. She also noted problems in the areas of juvenile justice, health care, child labour, and education, despite the fact that it had achieved its MGD in primary school education.

Country rapporteur, Mr. Krappmann, noted that although there had been many developments made in many areas in the short two and a half years since the last reporting period, they were incomplete. The laws, plans of action and strategies seemed to be in good shape and now there needed to be more focus on implementation. He asked specific questions about the definition of the child, the status of the CRC in domestic law, the coordination of the Committee on the Protection of Child Rights, and the possibility of increased budget expenditure in the education, health and social sectors in light of the exponential growth in the GDP.

General Measures of Implementation

The Committee asked if the CRC superseded domestic law and if it could be invoked in court. The delegation admitted that in case of a conflict, domestic law superseded international law although the Supreme Court was going to be issuing a decree which would treat the use of international law in criminal and civil proceedings. It was also mentioned that ratification of international instruments included a vast process of domestic harmonization. The Committee enquired if the State planned on ratifying the Convention on Migrant Workers. The delegation responded that the process of harmonization was underway. The Committee asked if judges referred to the CRC in courts. The Committee noted that there was much intent to modify legislation, however there had been little action. They asked what was being done about this. The Committee asked about NGO participation in the drafting of the report, whether civil society was strong, and how NGOs were aided by the state. There were no responses.

The Committee noted that the GDP had almost doubled and despite this, there was no proportional increase in spending for children. They also noted that Kazakhstan was one of the richest countries in Asia and asked why then there was such difficulty in getting this money to the people. The delegation explained that most of the GDP growth was in the private sector and ways of increasing social spending were being considered. The Committee asked if local authorities had any control over their budgets. The delegation replied that local authorities were responsible for paying allowances in their areas.

The Committee wanted to know if there was a plan to transform the Human Rights Commission so that it abided by the Paris Principles. The delegation responded that the Commission had received positive feedback and more or less complied with the Paris Principles. The Committee asked if there was a possibility of creating an independent Ombudsman. The delegation responded that activities and funding of the National Human Rights Ombudsman were independent and there were efforts being made to bring it into line with the Paris Principles. When asked if the programme “Children of Kazakhstan” could be turned into a National Plan of Action, the delegation responded that this would be possible in 2011. The Committee asked if there was a child helpline. The delegation responded there were regional children’s receptions and a child helpline was being set up with UNICEF.

Definition of the Child

The Committee noticed that some data defined children as those under the age of 15 and wondered if this was the case in all legislation. The delegation responded that the definition of a child was less than 18 years; however the department of statistics was not always in line with this.

Civil Rights and Freedoms

The Committee asked why there was an age limit of 10 in order to speak in court. The delegation replied that they would consider reducing this age limit.

The Committee asked if there were opportunities for children to participate in social activities. The delegation explained that there were over 200 children’s clubs and that the State put on a children’s forum on child rights and a national week of action for child labour. The Committee asked if families in remote areas had access to birth registration. The delegation replied that there was no discrimination in legislation and registration was a right provided for by state officials. They noted that all children had been registered. The Committee asked what the process was when a child was born of parents of two nationalities. The delegation replied that the child would receive the citizenship of just one of its parents. The Committee asked to what extent the media was independent. The delegation explained that 80% of the media was independent and that there were several TV channels, magazines and sections of the general press devoted to children.

Non- Discrimination

The Committee asked if there were any legal provisions to prevent discrimination. The delegation responded that all discrimination was prohibited by the constitution. The Committee noted that the categorization of “social orphans” and the reference to children with disabilities as “invalid children” was discriminatory and that these provisions should be changed. The delegation responded that this was correct and the term “children with limited capacities” was now being used. The Committee asked for more information on the National Plan of Action concerning gender equity. The delegation explained that the legislation had been adopted, a working group had been established and a law based on European legislation was being debated. The Committee asked if anything was being done to prevent discrimination against children with HIV/AIDS and children with disabilities. The delegation did not respond. The Committee asked what was being done to combat discrimination against the Russian-speaking population. The delegation responded that there was no language-based discrimination and that children from these groups could attend school in Russian. The delegation emphasised their ratification of CEDAW and the Convention against all forms of Racial Discrimination and the positive feedback received from all of these treaty bodies.

Family Environment and Alternative Care

The Committee was extremely concerned that over 50,000 children were institutionalised and emphasised that more institutions was not the solution. The delegation explained that children were kept in a family environment as much as possible. The Committee asked if more support was being given to foster families. The delegation replied that foster families receive maintenance and hoped to provide additional benefits. The Committee asked if any training was given to foster parents or professionals caring for children. The delegation responded that foster parents are trained in special schools. The Committee asked if there was a special centralized body responsible for adoption and preventing corruption. The delegation responded that they were moving towards ratifying the Hague Convention on International Adoption and that there was legislation in the draft Code on Marriage and Family which solidified the domestic and international procedures of adoption. This would respect the cultural, ethnic and religious identity of the child and avoid adoption to unfit parents.

The Committee asked if there were any programmes for general family support. The delegation responded that there was financial support for all families with children, especially those with more than 5 children, and efforts were being made with UNICEF to create family support centres. The high rate of abandonment of children was also cause for concern as was the very large number of infants and young children in institutions. The Committee was alarmed that abandoned and neglected children were often held in detention or remand centres with children in conflict with the law. The delegation explained that there were temporary isolation and detention centres that housed children who were accused of committing crimes and those that were abandoned. They were staffed with psychologist and child specialists. The Committee was also concerned that over 90% of these children were neglected or abandoned and were not receiving the care and support that they needed. The delegation responded that children in these centres had been found on the street and remained there for a maximum of 45 days. There were different categories of children in the centres and social workers were being trained to transform the centres into social reintegration centres. The delegation explained that most children in the centres had no parents and if they could not be placed in an institution, more investigation was done as to if they have committed a crime or have a disease. The Committee asked if 45 days was an absolute maximum. The delegation responded that children could only stay for 45 days except in extraordinary circumstances. All efforts were made to place them in institutions. The Committee responded that these institutions were not acceptable and directly against the principles of the CRC.

Basic Health and Welfare

The Committee expressed concern that only 1/3 of all children with disabilities were receiving any sort of care. They asked what was being done to improve this and support families who had children

with disabilities. The delegation explained that there were over 144 institutions for these children where they were provided with medical assistance. They noted that a strategy for dealing with these difficulties was being developed. The Committee asked if it was true that children with disabilities were only counted as such until the age of 16. The delegation did not respond.

The Committee noted the much progress had been accomplished in the Semipalatinsk area after the years of nuclear testing. They asked if rehabilitation centres had been opened, if clean water was available, and if there was research on the effects of the radiation. The delegation noted that much still needed to be done. Children were dying disproportionately of disease, indicators were low, and local medical centres were overwhelmed. Testing was being done on soil, food, water and infectious diseases. The water pipelines had been cleaned, hospitals were being built and the Radiation Medical Institute was doing research.

The Committee asked if there were any prevention programmes for teenage pregnancy. The delegation said that there were sexual education programmes. The Committee asked what was being done in the area of mental health. The delegation responded that over 45,000 children suffered from mental diseases and that treatment was holistic. There was a general goal of rehabilitation and social reintegration. The Committee asked if there was underreporting of infant mortality rates because of the old Soviet LBD for reporting. The delegation responded that it was adopting the WHO guidelines on reporting. The Committee asked if there was any comprehensive policy on breastfeeding. The delegation responded that breastfeeding was increasing and UNICEF was helping in this area.

Violence against Children

The Committee expressed serious concern regarding complaints of intimidation, assault, battery and torture during the arrest of children in conflict with the law and yet there was no legal protection against torture. The delegation responded that torture was criminalized under the current penal code.

The Committee noted that over 80% of children in institutions reported neglect or abuse and that similar cases were noted for the police. The Committee asked what was being done in this area. The delegation responded that 17 cases of abuse had been brought to the courts in 2006. A bill was being considered in Parliament to prevent domestic abuse. There were programmes for the training of specialists in this area and an informational campaign was held. The Committee repeatedly asked what was being done to prevent corporal punishment and in response to the UN Study on Violence. The delegation responded that the Government Programme 2006-2008 covered this and that reports of violence had decreased.

Education, Leisure and Cultural Activities

The delegation replied to a question with regards to the completion of compulsory education. that 87% of children that start first grade complete secondary school. The Committee expressed concern about the hidden costs of education and the training of teachers. The delegation responded that despite economic growth, providing textbooks was difficult. Textbooks were given to orphans for free, whereas other children had to buy them. They also explained that there was ongoing retraining of teachers. The Committee asked about the attendance of children to early childhood education and whether this was free. The delegation explained that there were an enormous number of children of pre-school age and the coverage was currently at around 65% in free preschools.

The Committee asked if children had the opportunity and areas to play, and whether sports were available to all, even if they could not pay. The delegation responded that 2,000 children participated in camps. There were budgetary issues with implementing more leisure or playtime.

The Committee was very concerned about information that children in rural areas had limited school facilities and sometimes had to attend school in shifts. They also asked if there were sufficient sanitary facilities, especially for girls, in these schools.

Special Protection Measures

The Committee was very concerned that many families did not have access to adequate housing and were living in small rooms. The delegation responded that the draft Family and Marriage Code had a provision on property rights and providing children with adequate housing. The Committee asked if anything was being done to ameliorate the existing situation. The delegation said that they were developing a housing programme that would provide hostel-style housing to families.

The Committee asked how effective the current laws were against internal and international trafficking and its connection to sexual exploitation. The delegation responded that there had been progress and there were preventive measures for trafficking such as publicity and police resources. The Committee asked if there were any studies being done. The delegation responded that there was a special training centre for police officers for trafficking and sexual exploitation. The National Coordination Committee was working on these issues and a special conference in June will focus on sexual exploitation, trafficking and Internet crimes. The delegation explained that many ministries were involved in trying to coordinate action and were working closely with the Crisis Centre, an NGO working in these areas.

The Committee asked what protection was being given to refugee children. The delegation responded that there are over 500 people were registered as refugees and that the government was in consultation with the UNHCR about their proper treatment.

The Committee was very concerned that children as young as 6 were employed and that there seemed to be no control, protection or statistics about these children. The delegation explained that they do limit child labour and that a work contract could only be concluded if a child is 18 or has parental consent. Child labour was criminalized and the Inspection Body of Kazakhstan was doing inspections. The Committee asked further what was specifically being done in the field of agriculture. The delegation replied that there will be a conference on child labour in June and there were plans to raise awareness about the worst forms of child labour.

Juvenile Justice

The Committee was very concerned that there had been no follow-up on previous recommendations on juvenile justice. They asked specifically about specialized judges, the structure and provisions of detention centres, and the systematic arrest of juveniles. The delegation responded that efforts were being made to establish more juvenile courts and that a working group was being established which included all relevant sectors (advocacy, social services). The President had proposed that the Constitution be amended to create specialized courts for juveniles. The Committee asked what the role of the Prosecutor General was. The delegation explained that this was the highest body for ensuring legality and that that he was responsible for compliance with the rights of the child and investigating complaints.

Concluding Remarks

Mr. Krappmann, the country rapporteur thanked the delegation for the constructive dialogue. He highlighted that many problems still exist. He expressed concern that despite innovations and reforms, the introduction of child oriented patterns of problem solving in the areas of family support, teaching methods, child participation, juvenile justice, violence against children, sexual abuse and child labour would take much longer. He commended the interest of the delegation in these matters and saw it as a positive signal, however he encouraged them to take the next step of implementation. Mr. Krappman also emphasized the importance of cooperating with civil society.

The head of the delegation, Mrs. Jarbussynova thanked the members of the Committee and recognized the fact that there was much work ahead. With rapid economic growth and changes in healthcare and education, she foresaw many improvements in the situation of the child.