

STATE PARTY EXAMINATION OF YEMEN'S FOURTH PERIODIC REPORT

65TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

13 – 31 JANUARY 2014

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Yemen ratified the Convention on the Rights of the Child (CRC) on 1 May 1991. On 14 and 15 January 2014, the Committee on the Rights of the Child (the Committee) examined the fourth periodic report of Yemen. It was last examined on 1 June 2005.

Opening Comments

The delegation of Yemen was led by Mr. Naser Mohsen Nasser Baoom, Vice Minister of Public Health and Population. He was supported by a delegation consisting of representatives of the Ministry of Social Affairs and Labour, Ministry of Defence, Ministry of Human Rights, Ministry of Education, Supreme Council for Motherhood and Childhood and the Permanent Mission in Geneva.

Mr. Baoom, the Head of the delegation, opened his statement by expressing gratitude to the Committee, international organizations and Non-Governmental Organizations (NGOs) for their continuous support to the Yemeni government in protecting the rights of the child. He highlighted that the State report was prepared under direct supervision of the Supreme Council for Motherhood and Childhood and the Ministry of Social Affairs and Labour and included different stakeholders, such as NGOs, UNICEF and children themselves.

Note: This report is prepared at the discretion of Child Rights Connect. The content is designed to give a summary of the key discussions during the session of the Committee on the Rights of the Child but it is neither an official nor fully comprehensive report. More reports and further information can be found at www.childrightsconnect.org/index.php/publications-resources/crc#countrysum

Despite the 2011 crisis, which triggered tremendous challenges and difficulties, Mr. Baoom emphasized important progress made by the State Party in protecting the rights of the child, including a review of 54 laws and regulations, which had been amended on the basis of the Committee's Concluding Observations of 2005. He presented achievements made in the field of health, particularly the decrease in infant and maternal mortality, as well as in education, particularly the increase in enrolment rates and retention of girls in primary schools.

Mr. Baoom stated that the National Dialogue Conference (NDC) was revisiting the Yemeni Constitution in view of the constitutional referendum in February 2014 and had launched a public debate to ensure that the rights of the child will be enshrined in the draft Constitution.

Ms. Yasmeen Muhamad Shariff, the Coordinator of the Task Force for Yemen, commended the delegation for delivering the Written Replies to the List of Issues despite the narrow time frame. She stated that the Committee was conscious of the difficult political situation in the country and inquired about the impact of the crisis on the implementation of children's rights and policies.

General Measures of Implementation

Legislation

The Committee noted that the State Party's Written Replies to the List of Issues had provided clarifications on the amendments related to rights of the child that had been incorporated in the draft Constitution. The Committee asked more specifically about the timeframe for the adoption of these amendments. It also enquired about the work of the Committee for the Codification of Sharia Law and its impact on the proposed amendments in relation to the rights of the child.

The delegation explained that the amendments were discussed within the NDC and would be approved during the final joint session, planned for February 2014. After that, the adopted amendments would be submitted to the Constitutional Committee. The delegation said that a constitutional referendum was planned to be held after the final session of the NDC. The delegation explained that the constitutional amendments included a definition of the child in line with the CRC, a minimum age of criminal liability, a minimum age of marriage and the prohibition of death penalty for juvenile offenders.

Independent monitoring institution

The Committee asked for clarification about the establishment of an independent National Human Rights Institution (NHRI) as well as a National Observatory of Children's Rights (The Observatory). The Committee asked for more details about the Observatory's mandate and inquired whether children could directly participate in its activities.

The delegation explained that in June 2012 a governmental decree had established a technical committee tasked with preparing the legal project on NHRI. The committee had conducted visits to different countries, such as Morocco, Qatar and Jordan, to learn best practices in establishing an independent NHRI. The delegation stated that the final draft law on NHRI had been completed in 2012 and was currently waiting to be approved by the House of Representatives.

Regarding the Observatory, the delegation explained that its main mandate was to monitor and report child abuses, as well as to collect comprehensive data and statistics related to the rights of the child. An inter-ministerial committee had been holding meetings with members

of NGOs in order to prepare the launch of the Observatory. Workshops were organized in order to include children in the preparatory process. Eventually, the delegation informed the Committee that children would be able to participate in the activities of the Observatory.

Budgetary allocations

The Committee expressed concern about the negative impact of the economic crisis, the 2011 events and the widespread corruption on the country's budget. The Committee enquired whether the State Party had any plans to address the lack of a specific budget allocated to children's rights. The delegation stated that a new Committee on Child Affairs had been set up in order to discuss specific budgetary allocations on children. The delegation explained that the Committee worked jointly with representatives of the Ministry of Education and Ministry of Health.

The role of civil society

Concerning the political polarization of the NGOs since 2011, the Committee asked how the government had prevented that children would be affected by this phenomenon. The delegation stated that measures had been taken to ensure that the rights of the child prevailed over political affiliations of NGOs. For this purpose, civil society organisations had been invited to actively cooperate with the government and be part of the National Network on Rights of the Child. The delegation also explained that governmental agencies worked with UNICEF on a regular basis. Finally, NGOs and UNICEF had been invited to debate and comment on constitutional amendments made within the NDC framework.

Definition of the Child

The Committee expressed concern about the lack of a consistent definition of the child in legislation as well as the lack of action to harmonize domestic legislation with Article 1 of the CRC. The Committee noted that despite the Concluding Observations of 2005, no improvements had been made by the State Party in adopting a minimum age for marriage and in increasing the minimum age under relevant topics, such as criminal liability (currently set at 7) and labour, in conformity with international standards.

General Principles

Non-discrimination

The Committee expressed concern about discrimination against certain groups of children, including girls, children born out of wedlock and children with disabilities. It asked whether there had been any comprehensive strategy to integrate these groups of children and if social assistance had been improved. The Committee also asked about detailed information on measures taken by the State Party to prevent discrimination against *Adkham* marginalized children.

The delegation informed the Committee that there had been measures taken to eliminate discrimination against certain groups of children. As a matter of example, the delegation mentioned the National Strategy for Education (2012-2016), which targeted marginalized children, children with disabilities and the *Akhdam* marginalized children. It also stated that an inclusive education had been promoted.

Best interest of the child

The Committee commended the State Party for having included the principle into the Children's Act. In this regard, the Committee asked what measures had been taken to implement the principle in line with Article 3 of the CRC. It also investigated inquired whether the best interest of the child was taken into consideration in relation to children of parents on death row. The Committee asked more specifically whether media published information on death penalty enforcements and if the best interest of the child was considered in these cases.

The delegation said that the best interest of the child was taken into consideration. The delegation explained that, executions were not mediatized and children of convicted inmates had the right to visit their parents. There were also Social Care Centres taking care of children whose parents had been executed.

The right to life, survival and development

The Committee expressed concern about the slow progress in reducing child mortality rates, reporting the example of under-five mortality rate, which were 100 deaths per 1000 live births.

The Committee also expressed concern about the fact that more than 100 children remained currently at risk of being sentenced to death and that individuals had been sentenced to death and/or had been executed even though they were under 18 years at the time of having committed their alleged crime. The Committee also noted significant challenges in relation to age determination of juvenile offenders, predominantly due to the lack of birth registrations as well as the lack of specialized forensic doctors. Eventually, the Committee asked about the mandate and function of the Forensic Committee.

The Committee also regretted the execution of the juvenile Mohammed Abdulkarim Haza'a, in March 2013, and asked detailed information about the moratorium on capital punishment for child offenders announced in September 2013 by the President Abd Rabbuh Mansur Hadi. The delegation explained that all doubtful death penalty sentences had been suspended and that the age of concerned individuals was currently under forensic examination. The delegation acknowledged that the lack of birth registrations undermined the age verification process. The delegation informed the Committee that a decree had been issued to establish a Forensic Committee with the mandate to review all doubtful cases. Moreover, State Party's forensic specialists had received trainings from the Jordan Centre for Forensic Analysis. Finally, the delegation explained the role of the Forensic Committee, specialized in legal medicine, which had the mandate to review doubtful cases. The delegation promised to expand the mandate and membership of the Forensic Committee in order to analyse concerned cases more effectively.

Civil Rights and Freedoms

Birth registration

The Committee asked what specific measures had been taken in order to increase birth registration rates. The Committee further noted that despite the Prime Minister's decision number 120 (2006) which made birth registration free of charge, there had been cases when parents had to pay for birth certificates, due to the high rate of corruption among officers. Moreover, the Committee expressed concern about urban-rural disparities related to birth registration. In this regard, the Committee asked whether awareness raising campaigns had been carried out in remote areas.

The delegation acknowledged that despite the National Strategy on Birth Registration (2008), only 22 per cent of children had been registered. The delegation also stated that the Ministry of Health and Population, as well as NGOs and international organisations, had carried out promotional activities in hospitals during the period of 2012-2013 in order to raise awareness about the importance of birth registrations.

Nationality

The Committee expressed concern about Article 4 of the Nationality Act number 6 of 1990, which stated that “anyone born in Yemen to alien parents who resided in Yemen until he attained majority (...)” was granted the Yemeni nationality, unless the individual was mentally disabled. The Committee asked what measures had been taken to address this provision that violated the rights of children with disabilities as well as the CRC general principle on non-discrimination.

The delegation said that the Committee’s recommendations regarding this Article would be taken into account. An amendment would be prepared and submitted to the House of Representatives for adoption.

Corporal punishment

The Committee was concerned that corporal punishment was prohibited, but not criminalized. In this regard, the Committee asked the delegation what measures are taken to stop corporal punishment in homes and schools.

The delegation noted that the issue of criminalization of corporal punishments was taken to the drafting process of the new constitution. Corporal punishment should be prohibited and criminalized both in schools and in families, if it is detrimental to the mental and physical health of the child. As to the corporal punishment in schools, the Ministry of Education issued guidance to replace corporal punishment by alternative methods of discipline.

Family Environment and Alternative Care

Adoption and alternative care

The Committee was concerned that alternative care was only available in 25 per cent of the Yemeni territory and necessary alternative service for children was mainly provided by NGOs and the family foster care (*Kafalah*). In this regard the Committee asked about measures taken to tackle the issue of alternative care as well as about the functioning of the *Kafalah* system. It asked about minimum living conditions set out for the orphanage centres and whether quality of care service was being monitored. Eventually, the Committee asked whether there was a specific complaint procedure allowing children to report abuse or neglect. Finally, the Committee asked if adoption was possible for non-Muslim children.

The delegation stated that the Ministry of Social Affairs provided necessary alternative services for children. A specific Code of Procedure was set out to promote rights and responsibilities of orphan children. Moreover 1.1 million dollars from the Social Solidarity Fund were devoted to take care of orphans as well as of widows with children. Regarding the family foster care, the delegation indicated that more than 1000 children benefited from the *Kafalah* system. The delegation explained that the *Kafalah* system was regulated by strict procedures and concerned families must meet certain conditions to be considered. Regarding non-Muslim children, there was not a specific procedure for adoption.

Basic Health and Welfare

Children with disabilities

The Committee was concerned about stigmatization of children with disabilities and asked for more information regarding policies on inclusive education and awareness raising campaigns to fight discrimination and facilitate integration.

The delegation informed the Committee about several health service programmes, including the activity of the Fund for the Care and Rehabilitation of the Disabled, which provided assistance, care and trainings for more than 170 000 beneficiaries. Moreover the delegation stressed the importance of an early diagnosis of children with disabilities. For this purpose a joint project with the Development Fund on a Handbook to determine early disabilities was launched. The delegation explained difficulties in fighting social stigma of children with disabilities. In this regard, awareness-rising campaigns on inclusive education were launched, and 682 teachers were trained in the fields of teaching children who are deaf and have weak eyesight.

Health services

The Committee was concerned about worsening of health care services particularly decrease in vaccinations, destruction of health facilities and lack of comprehensive data on health services. The Committee also inquired about decrease in budgetary allocations to health services after the 2011 crisis.

The delegation explained difficulties in delivering health services, primarily due to the 5.6 per cent drop in budget for the Ministry of Health, the lack of infrastructure and equipment. In this regard, the delegation informed about an ongoing programme on access to health in remote areas. This includes establishment, in cooperation with the World Bank of mobile health centres and services in order to reach the most vulnerable in remote areas of the country. Further on, the delegation explained that budgetary allocations to the Ministry of Health represented 3.5 per cent of the general budget and that the government was committed to increase these allocations.

The delegation also informed the Committee about the National Strategy for Health adopted in 2010. It consisted mainly of awareness raising campaigns on good nutrition, prevention of respiratory illnesses, reproductive health and vaccination. The success of State Party's awareness raising campaigns was explained by the delegation through the example of the Polio prevention campaign for children under-5. In February 2006, it targeted 4 million of children and had 98 per cent of success rate.

Chronic malnutrition

The Committee expressed its concern about high rates of malnutrition among children. According to the UNICEF Smart Study, 58 per cent of Yemeni children were malnourished, which put them at risk of further complications and disabilities (blindness or hearing loss). Of these 58 per cent, 16 per cent were vulnerable to child mortality, because of low weight. The Committee inquired if there was a specific budget allocated to malnutrition.

The delegation reaffirmed its commitment to tackle malnutrition. Several awareness raising campaigns targeted to mothers and children had been organized in cooperation with government, NGOs and international organizations, including through educational channels on nutrition launched in public television. Moreover, the 1st Academic Conference on

nutrition was organized and proposed to include the issue of nutrition into school curriculums. Regarding budget allocated to malnutrition, international donors, such as UNICEF and the World Bank allocated respectively 53 million dollars and 17 million dollars to fight malnutrition. The delegation committed to increase budget allocated to the Ministry of Health, including on the issue of malnutrition.

Infant and young child feeding

The Committee was concerned about inadequate infant feeding practices co-existing with high rates of child mortality and malnutrition, such as low rate of exclusive breastfeeding, habits of giving other liquids to babies prematurely (water, breast-milk substitutes). Despite the adoption of the National Nutrition Strategy and the decree number 18 of 2002 that translated the International Code of Marketing of Breast-milk Substitutes into domestic law, rates of exclusive breastfeeding had not increased. In this regard, the Committee asked what measures had been taken to implement the current legislation and, in particular, to regulate the industry of breast-milk substitutes.

The delegation responded that in 2013 awareness raising campaigns had been carried to target women and children in remote areas. Moreover, the Programme for Advice regarding Nutrition had provided information regarding breastfeeding to medical personnel. The delegation further explained that marketing of breast-milk substitutes was prohibited in hospitals and that the Ministry of Health had been directly cooperating with companies producing substitutes on the issue of non-aggressive marketing.

Harmful traditional practices

The Committee was concerned about existent harmful traditional practices, such as child marriage, FGM or honour killings. In this sense, the Committee inquired about measures implemented to combat such practices, including legal action and awareness raising campaigns. The delegation explained that FGM was legally prohibited and a draft amendment on criminalization had been prepared and submitted for approval. The delegation further stressed the existence of National Strategy to combat FGM (2008). The delegation explained, that awareness raising campaigns to prevent FGM focusing on children in emergency cases and on children in remote areas were organized by the government in cooperation with NGOs. Regarding budget allocated specifically to eradication of traditional harmful practices, the State Party signed an agreement with UNICEF that will donate 60.000 dollars to deal with the issues of FGM and early child marriages.

Young people and adolescent health

The Committee inquired about adolescent health and asked whether adolescents could obtain medical treatment on a confidential basis. The delegation explained that the majority of its population is less than 20 years old. In this regard a programme on adolescent health had been established by the Decree 353 on Management of the Health of the Child and Adolescence. The delegation explained that, due to the 2011 crisis the programme could not be fully implemented. Some trainings and courses on reproductive health were delivered despite difficulties. A joint Committee between the Ministry of Health and the Ministry of Education integrated the issue of health into school curriculums. The same Committee had been working on a draft Action Plan on Adolescent Health for 2014.

Education, Leisure and Cultural Activities Education

Education

The Committee commended the State Party for increasing enrolment rates, particularly between 2005 and 2010. However it was concerned about an alarming percentage of children who left school and an increased gender gap in enrolment rates due to destruction of schools and social infrastructure during the 2011 conflict. The Committee also enquired about resources allocated to education. Finally, the Committee asked whether the government considered schools as an opportunity to strengthen patriotic sentiment, as there was a lack of comprehensive understanding of Yemen as one state.

The delegation emphasized its efforts in gender gap and drop-out rates reduction. For this purpose different incentives were launched, such as distribution of financial incentives, distribution of food, bags and stationary supplies or establishment of children friendly schools. Trainings to teachers were delivered in order to promote inclusive education: 682 teachers and administrators were trained in the field of teaching children who are deaf and new female teachers were trained and hired (the rate increased significantly ranging from 43 thousand in 2005-2006 to 65 thousand in 2011-2012).

Moreover the delegation explained that the Ministry of Education established by the Decree number 13 of 2010 an emergency Committee to survey damages in education premises, which included donors, NGOs and UNICEF. Projects to rehabilitate schools damaged or destroyed during the 2011 crisis were undertaken: 146 schools had been restored; new tools and supplies (computers, chairs, and furniture) were delivered. Psychological and counselling assistance to children and teachers were ensured in order to bring teachers and children back to schools. Patriotic sentiment had been built through civic education, sport and cultural activities as well as summer camps.

Finally, the delegation explained difficulties and challenges in education, such as drop in resource allocation to education after the 2011 crisis, lack of teachers (57.8 per cent of teachers did not have university degree), and lack of personnel such as medical staff or social counsellors.

Special Protection Measures

Child labour

The Committee expressed its concern about the fact that there were over three million of children working in the country although child labour was legally prohibited and the State Party joined the International Labour Office Conventions 138 and 182. The Committee asked whether any specific measures were taken to combat child labour (sanctioning employers, particularly in agriculture and fishing or organization of awareness raising campaigns) and whether children had time to leisure activity.

The delegation explained that statistics used by the Committee were not reflecting the reality of child labour in the State Party and that there were about 160.000 working children. The delegation explained that most of children were not involved in child labour, but were rather helping their families without being deprived of education. As to the leisure activity, schools were organizing cultural activities, sport lessons and summer camps. However children rather preferred to play at home, especially in remote areas.

Juvenile justice

The Committee asked the delegation to comment on the minimum age of criminal responsibility, currently set at 7 years. It also asked what measures applied to minors and whether there were specific detention centres for minors as well as specific courts for juvenile offenders. The delegation committed to raise the minimum age of criminal liability to 12 years. For juvenile offenders under 12 years, only protection measures would be taken. Mitigated circumstances could be applied for juvenile offenders between 12-15 years old and juvenile offenders between 15-18 years old would be brought before special juvenile justice courts. For juvenile offenders between 15-18 years old a prison sentence ranging from 3 to 10 years was set for murder (any death penalty sentence pronounced cannot be carried out for individuals under 18).

The delegation further explained that an amendment was passed regarding *blood money*, stating that if a child is unable to pay blood money it cannot be detained if his tribe, clan, family or legal guardian agrees to pay the fine. Regarding juvenile offenders incarcerated in regular prisons, the delegation explained that children are detained separately from adults, in line with the Bangkok minimum rules. Efforts were also made in advancing alternative and conciliatory measures to detention for children in conflict with law, such as the establishment of a reconciliatory justice system. This led to significant decrease in litigations against children.

Eventually, the delegation stated that the technical committee on juvenile justice launched a friendly tribunal initiative as well as a pilot project on child friendly police.

The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC)

The Committee, asked for more information on measures taken to implement provisions under the OPSC. It also stressed that the principle of universal jurisdiction, allowing states to claim criminal jurisdiction over an accused person regardless of where the alleged crime was committed, and regardless of the accused's nationality should be established for crimes under the OPSC. The delegation confirmed that in addition to pre-existing provisions criminalizing sale of children and child prostitution, all abuses listed under the OPSC, precisely child prostitution, sexual abuse, child pornography, sale of children for adoption, labour or removal of organs were criminalized by the new draft law of October 2013, which was submitted for approval to the House of Representatives.

Regarding trafficking, the delegation described the draft law on trafficking in persons, including in children which strengthened sanctions for perpetrators. As a matter of example, perpetrator, including members of victim's family could be sentenced, under this draft law up to 10 years of incarceration and to high fines. The delegation also noted that a new National Strategy to combat all forms of trafficking in persons, including the smuggling of children had been drafted and should be adopted in the first half of 2014.

The Committee was concerned about impunity of perpetrators of abuses listed under the OPSC, particularly regarding transnational crimes committed between the State Party and Saudi Arabia. The delegation explained that extradition agreement was signed with Saudi Arabia, but the implementation was obstructed by difficulties in communication. The delegation noted that perpetrators were brought to justice once arrested, but arrest rates for sale and trafficking of children remained low.

Regarding the phenomenon of child-marriage tourism and sexual exploitation of girls, the Committee was concerned about the fact that poor families accepted to receive money for arranging tourism marriages for their girls. These marriages would last the length of the visitor's stay and would serve as an entry point for sexual abuse.

The delegation explained that a special committee had been established to prevent child-marriage tourism. A procedural code had also been developed to provide safeguards for the protection of girls. Following this procedure, all marriages between a young bride and a non-national had to be reviewed and approved by the Ministry of Interior, who would also have to declare that the bride was mature enough to be married. The delegation added that this phenomenon only involved mainly Yemen and Saudi Arabia and that the rates of child-marriage tourism had decreased thanks to the procedural safeguards.

Concluding Remarks

Mr. Gehad Madi thanked the delegation on behalf of the Committee for the constructive dialogue and commended the State Party for the efforts made, both at legislative and political levels. He acknowledged that the State Party was facing significant challenges, such as terrorism and lack of resources, and called for the prompt adoption of the constitutional amendments. Mr. Madi also invited the State Party to ratify the Optional Protocol to the CRC on a Communications Procedure.

Mr. Naser Mohsen Nasser Baoom thanked the Committee on behalf the delegation for running the session and for providing constructive questions and recommendations. He welcomed all the comments and stated that the delegation had found the expertise and advice very useful.

Mr. Naser Mohsen Nasser Baoom explained that, despite difficulties and lack of resources, the State Party was committed to protect and promote the rights of the child. He stressed that the transition process under the NDC had included for the first time the rights of the child into the drafting process of the new Constitution. He emphasized that the outcome of the NDC would be in the best interest of children.