



child rights connect

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STATE PARTY EXAMINATION OF THE GAMBIA'S THIRD AND FOURTH PERIODIC REPORT

68TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
12 JANUARY – 30 JANUARY 2015

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The Gambia ratified the Convention on the Rights of the Child (CRC) on 3 August 1990. On 15 and 16 January 2015, the Committee on the Rights of the Child (the Committee) examined the combined second and third report of The Gambia. It was last examined on 5 October 2001.

Opening Comments

The delegation of The Gambia was led by Ms. Fanta Bai Secka, Director of Social Affairs. She was supported by representatives from The Gambia Bureau of Statistics and the Ministry of Justice.

The head of delegation, Ms. Fanta Bai Secka, opened the dialogue by mentioning the progress made by the State party in relation to immunization coverage (99.5 per cent), reduction of infant mortality by 32 and child mortality by 36 per cent. Furthermore, since 2014, basic education was free and compulsory and educational parity between girls and boys was reached at the basic school level. Challenges still existed in the area of water and sanitation, malnutrition, human and financial resources.

The Country Rapporteurs, Ms. Yasmeen Muhamad Shariff, and Ms. Mária Herczog welcomed the delegation and thanked the head of delegation for the informative opening remarks. The Committee was pleased to note the progress made despite the challenges faced by the State party and commended the State party for adopting several pieces of legislation and ratifying the OPSC.

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

General Measures of Implementation

Legislation

The Committee commended the increase of the age of criminal responsibility from 7 to 12 years old and recognised the adoption of the Children's Act of 2005 as an important step in the harmonisation of child-related domestic legislation with the CRC. However, the law presented weaknesses, such as proclaiming child marriages "voidable" instead of directly "void", and providing no penalty for or criminalisation of Female Genital Mutilation (FGM) and other harmful practices. The Committee therefore asked whether plans were made for the review of this law. The Committee was also concerned that customary and Sharia laws of the State party did not necessarily accommodate the principles and provisions of the CRC and the Children's Act. The delegation assured the Committee of its commitment to work on harmonising the laws with the CRC and address the gaps existing in the Children's Act, for example concerning child marriage. The government had a Plan of Action on FGM, but was careful on legislating on the matter, to avoid the risk of underground practice and alienating the well-respected community leaders who performed the circumcision. Instead, the approach had been to educate the communities to change their mind-sets and give income generating opportunities to circumcisers while maintaining their status within the community.

Coordination and monitoring

The Committee was concerned that poor links between local and central governments as well as an overall structural weakness in the State's child protection system contributed to weaker promotion and implementation of child-related laws and policies. The Committee asked about the mechanisms put in place to monitor the compliance with the Children's Act and respect of the best interest of the child in all judicial and administrative decisions regarding children. The Committee also asked for more details on the structure and roles of the newly established Ministry of Children's Affairs. The delegation responded that a countrywide mapping and analysis of child protection services was recently undertaken. The gaps and challenges it detected would serve as a basis for the National Child Protection Strategic Plan that the State party was presently working on with support from UNICEF. In relation to the monitoring of the Children's Act, the State party had recently established a Juvenile Justice Advisory Committee who monitored the juvenile justice issues under the act by supporting the children's court. The Ministry of Children's Affairs was separated from the Ministry of Women's Affairs for effective coordination on child issues but was yet to become operational.

Dissemination, awareness raising and training

The Committee was concerned that the Children's Act was not widely known among parents, community and religious leaders and professionals dealing with children and asked what measures were taken for its popularisation and translation into local languages. The Committee asked in particular if the State party had plans to train magistrates, Qadis' Courts, social workers, police, and others on the general principles of the CRC. The delegation responded that the Qadis were continuously trained on children's rights and that forums were frequently organised. With regard to the dissemination of the Children's Act, annual countrywide consultations with the police were conducted with the help of UNICEF, and many copies of the act were distributed to the security forces. The act was also part of the child protection modules introduced in police training schools. Furthermore, there were child protection units in the army, the police, the State party's peacekeeping missions and the immigration office. The government also introduced diploma-level training and capacity-building for social workers.

Budget

The Committee commended the State party's efforts in increasing the budget for education from 14.4 per cent to 19.4 per cent in 2014. However the budget allocated to health remained at 8.6 per cent, which was well below the international target. The Committee therefore asked if there were any plans to further increase the budgets for health and education. The Committee also asked whether plans were made to allocate adequate human, financial, administrative and institutional resources to fully implement the Children's Act. The delegation responded that the health budget had been increased to 10.97 per cent for 2015 and that the government had started rolling out programme-based budgeting in order to address budget gaps across sectors.

Data collection

The Committee noted that data was not available on all areas of the CRC, or that available data was not regularly updated. It further noted that data was rarely used for programming, planning or monitoring the situation of children's rights and welfare. The Committee asked whether the State party shared the available data with the NGOs. The delegation responded that while the State party's Bureau of Statistics did not collect data itself, it was continually working to improve the coordination between all the data collection systems and ensure that the data collected was useful, coherent and standardised.

Birth registration

The Committee was concerned that the birth registration fees constituted an obstacle for many parents to register their children and asked the State party if there was a possibility to relieve parents from the fees. Furthermore, the Committee asked about the eligibility of unregistered children for social services. The delegation responded that there were no initial fees for birth registration, only a minimal fee (four Dalasi) for late registration (beyond the age of 5 years old). However, to minimise costs, birth registration had been incorporated into the Productive and Child Health Care Services Programme. Even for mothers who delivered at home, the Traditional Birth Attendance had been trained and given books to record the time and date of delivery which was then passed to the nearest health facility in order to process the birth registration. A Birth Registration Strategy Plan was also developed to increase the registration rate from 55 per cent to 100 per cent. With regard to eligibility for social services, the delegation explained that the vaccine immunisation card received upon birth by most children was also used as documentation for access to services. Once this card had been issued, as part of the Productive and Child Health Care Services Programme, the birth registration was processed automatically.

Definition of the Child

The Committee noted that the definition of the child had not been included in the 1997 Constitution of the State party, which resulted in inconsistencies with the CRC and the Children's Act. The protection from economic exploitation of children under the age of 16 gave as such the impression that the Constitution defined the child as a person of 16 years old and below. Furthermore, there was no specific and unambiguous legal age for marriage, which was subject to personal laws. As a result, statistics showed that 8.5 per cent of girls were married before the age of 15 and 46.5 per cent before the age of 18. The Committee therefore invited the State party to set the minimum age for marriage at 18, to prohibit early marriages and to review its Constitution and all the relevant laws in this regard. The delegation recognised that child marriage was not prohibited by law. Despite statistics that revealed that child marriages were contracted from the age of 12, an extensive study had yet to be conducted. A rapid assessment was recently made to help the government understand the magnitude of the issue and formulate its advocacy on legislation and programming. The delegation also indicated that

the Constitution defined the age of majority and voting rights at 18 and therefore recognised the child as a person below the age of 18.

General Principles

Non – discrimination

The Committee was concerned about the discrimination faced by children with disabilities in the State party, in particular as access to structures and facilities including schools remained inadequate. The government was introducing ramps in the schools to ease the access for children with disabilities.

The Committee also raised concerns about the discrimination faced by children born out of wedlock in terms of birth registration. The requirement to produce the father's national identity card for registering children prevented many mothers who could not do so to refrain from registering the birth of their child. In addition, if the child reached the age of seven, custody was systematically granted to the father. The delegation responded that, in the case of paternity dispute or rejection, mothers could register a child born out of wedlock as a single parent without having to produce the father's documents. The public was being sensitised on this possibility, as the main issue in this regard was stigmatisation of single mothers.

The Committee asked if there were any plans to fully enforce the Women's Act on the elimination of all forms of discrimination including gender-based discrimination. The Committee expressed concerns about the discrimination faced by homosexual parents of children in the State party. While agreeing that there were global changes on the issue of homosexuality, the delegation indicated that the existing deep-rooted traditional values in the State party required careful consideration in order for a change in policy to be successful. The Committee suggested removing the provisions punishing homosexuality from the Penal Code as a first step in this direction.

Best interests of the child

Although the principle of the best interests of the child was mentioned in the Children's Act, the Committee was concerned about the lack of understanding and inconsistent application of this principle by the magistrates and judges. Furthermore, it was not clear whether the Qadis' courts – which had jurisdiction over children's issues, especially in custody – utilised this principle. The Committee noted that the Children's Act provided that children could be held in prison with their mothers until the age of six and invited the State party to reduce this age limit. With regard to the Qadis' courts, the delegation informed the Committee that, due to the training received, when the Qadis decided on custody cases, most of the time they referred to a social welfare enquiry report. The delegation added that there were no children in prison with their mothers and that in many cases women delivering in prison received a Presidential pardon.

Right to life, survival and development

The Committee expressed concerns that mother and child mortality rates were twice as high for rural, poorer or less educated families. The delegation responded that, according to statistics, the disparity in child mortality was particularly affected by the education level of the mother and that this cross-cutting issue was not specific to the State party.

Respect for the views of the child

The Committee asked about the plans the State party had taken to ensure that children could express their opinions and participate in decisions that affected their wellbeing. The Committee also asked if a children's parliament had been established. In terms of child participation, the

delegation responded that children were consulted in all government programmes and projects and that they formed part of government delegations to relevant regional and international fora. Respect for the view of the child within the family was still a challenge because of a deep-rooted culture of silence. In schools, children had youth groups and peer groups. Furthermore, intergenerational meetings between children from rural and urban areas and parliamentarians had recently been launched, and the need for a children's parliament would be revisited.

Civil Rights and Freedoms

Corporal punishment

The Committee asked if there were any plans to explicitly ban corporal punishment in all settings. The Committee further asked if there was awareness raising and training of parents on alternatives to corporal punishment for discipline purposes. The delegation responded that corporal punishment had been expunged with regard to prisons, institutional and alternative care settings. It was not prohibited at school, even though there were procedures set in place. However, there was still a gap regarding corporal punishment within the family. Until the Children's Act was reviewed in relation to corporal punishment, the government would proceed with awareness raising activities at the community level. In this regard, a parenting manual had been developed to address this issue and provide guidelines on protection of children in general and corporal punishment in particular.

Child labour

The Committee was concerned that even though the legislation allowed children of 16 years old to do light work, many children between the age of five and 14 were already working, mostly in the family businesses. The Committee was also concerned that there was a four year gap between the compulsory school age (until the age of 12) and the minimum working age (16 years old). The delegation mentioned that the government planned to conduct a nationwide study on child labour.

Sexual abuse and child sex tourism

The Committee was concerned about rampant sexual abuse in the communities and asked if there were any plans or programmes being developed to address this issue. The Committee was also concerned about increasing child sex tourism in the State party, despite its legal prohibition. Reportedly, organised sex trafficking networks used both European and Gambian travel agencies to promote child sex tourism. The Committee wanted to know how effective the Tourism Offences Act of 2003 was and if there had been any arrests and convictions under this Act. The delegation responded that the Act had been used, for instance in the case of a Norwegian citizen who was serving prison sentence for sexual offenses and of a Dutch citizen who was sentenced to an important fine for child abuse. In relation to sexual abuse, the delegation said that a study on sexual exploitation of children was being conducted in order to inform the State's relevant legislation.

Access to appropriate information

The Committee was concerned about the limited access to libraries, particularly in rural areas. The Committee asked if there were any online protection regulations in place and if there was a censor board that ensured that the national TV programme during prime time was child-sensitive. The delegation responded that the government had put in place protocols, guidelines and agreements with internet cafés to block sites that were not child-friendly and that all internet cafés had been registered and monitored by the Public Utility Regulatory Agency. With regard to child-sensitive TV programming, the delegation said that the National TV Services as well as the Ministry of Information and Communication were child-sensitive institutions.

Child abuse

The Committee welcomed the adoption of the Sexual Violence Act and the Domestic Violence Act in 2013 and asked if any survey had been conducted on domestic violence. The Committee also inquired about the specific services and the accessibility of the shelter for victims of domestic violence. The delegation responded that while no survey on domestic violence had been conducted, a review of the situation had been undertaken and had resulted in the Domestic Violence Act. According to the Act, an advisory committee was established, which would advise the Minister of Women's Affairs on gaps and programmatic activities to address this issue.

Right to nationality

The Committee was concerned that undocumented refugee children who arrived as minors in the State party could not get any identity documentation remained without one until adulthood and were thus at risk of becoming stateless.

Family Environment and Alternative Care

Family support

The Committee asked about any systemic implementation strategy for a comprehensive family support scheme to prevent separation of children from their families, and inquired about the existence of prevention programmes to tackle situations of baby abandonment. The delegation also said that babies were abandoned both by married women and teenagers and that sensitisation on the issue had been carried out in schools, youth fora and the media.

Alternative care

The Committee asked if there were plans to strengthen community and family-based care. The delegation responded that there were two foster care systems in the country. In cases of child abandonment, the system of foster care with a view to adoption was applied, with parenting skills and assistance being provided by the social services. In cases of parental child abuse, the kinship fostering system was applied and children were placed with the extended family. Alternative care or placement in institutions remained a measure of last resort.

Disabilities, Basic Health and Welfare

Malnutrition

The Committee asked for the status of the plan to regulate the use of iodine, Vitamin A and micronutrients to decrease child malnutrition.

Adolescent health

The Committee asked about the use of contraceptives and sexual education in schools. The Committee was concerned that abortion was illegal in the State party even in cases of rape of an adolescent girl. The delegation said that abortion was illegal even in cases of rape where the State provided prophylaxes to prevent sexually transmitted diseases. Abortion was permitted only if the pregnancy jeopardised the mother's life. The delegation recognised this as was one of the gaps in the Children's Act that needed to be reviewed.

HIV/AIDS treatment

The Committee asked if comprehensive medical services for adolescents with HIV/AIDS were provided, apart from awareness raising and prevention measures. The Committee was also concerned about the promotion of traditional medicine to the detriment of modern medicine in the treatment of HIV/AIDS. The delegation stated that traditional medicine treatments were

optional, and that both traditional and modern medicine were being promoted at the same time within the HIV packages provided by the State. In addition, Nutritional support was provided to mothers infected by HIV.

Education, Leisure and Cultural Activities

Inclusive education

The Committee was concerned that the very low number of children with disabilities were attending school. The delegation responded that there were special schools for children with severe disabilities, while the quality of teachers was the main challenge for the inclusion of children with mild disabilities.

Access to education

The Committee asked what measures were taken to increase school attendance. The delegation responded that most schools were now within a walking distance from children's homes, and that a donkey cart programme was put in place in order to facilitate transportation to more remote schools.

Special Protection Measures

Juvenile justice

The Committee commended the State on the creation of a separate children's court and asked for more information on the implementation and administration of juvenile justice. The delegation said that an annual training on child rights and juvenile justice was organised for social workers, and judicial and prison officers. International standards were respected during the arrests and interviews with the children in contact with the law.

Helplines

The Committee was concerned that the helpline number was not working at all times, in particular during night-time, that some mobile networks did not provide free access to it. The delegation responded that the child helpline was functional and that 170 calls were recorded as of 2014. 50 per cent of the calls had come from the police and other partner institutions. The private mobile companies that were charging fees for these calls had been approached by the government and discussions on this issue were ongoing. The delegation also added that the hours of the team working in the evenings had to be reduced as there were usually no calls after 8pm.

Concluding Remarks

Ms. Maria Herczog, the Country Rapporteur, thanked the delegation for the dialogue, and encouraged the State party to increase its efforts in the implementation of its child protection laws in all the legal systems of the State, strengthen the coordination of activities, harmonise local traditions with the CRC, incorporate civil society in the decision-making process and train more child rights specialists.

The head of the delegation, Ms. Fanta Bai Secka, thanked the Committee for the detailed and open discussion which had given them recommendations and inspiration.