

STATE PARTY EXAMINATION OF JORDAN'S FOURTH AND FIFTH PERIODIC REPORT

66TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

26 MAY – 13 JUNE 2014

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Jordan ratified the Convention on the Rights of the Child (CRC) on 24 May 1991. On 26 and 27 May 2014, the Committee on the Rights of the Child (the Committee) examined the fourth and fifth report of Jordan. It was last examined on 22 September 2006.

Opening Comments

The delegation of Jordan was led by H.E. Dr. Rajab Sukayri, Permanent Representative of Jordan to the UN in Geneva. He was supported by representatives from the Ministry of Foreign Affairs and Expatriate Affairs, the Ministry of Justice, the Shariah Court, the Ministry of Social Development, the Ministry of Interior and the National Council for Family Affairs.

Dr. Sukayri indicated that the State party had responded to the previous Concluding Observations of the Committee. He underlined that national efforts had been made to ensure that local and national legislation was in accordance with the articles of the Convention. He presented the new modern Juveniles Bill that was being adopted and noted that it would focus on rehabilitation.

Dr. Sukayri added that financial help was being given to civil society organisations that were working with children. He also underscored that the Disabled Persons' Welfare Act No. 12 of 1993 had been replaced by the Persons with Disabilities Act No. 31 of 2007. Dr. Sukayri concluded by speaking of the services provided by the State party to the large number of refugees, including children. He noted that 13 per cent of schools in Jordan were working on double shifts to ensure education for all.

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 1

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Mr. Hatem Kotrane, Ms. Amal Aldoseri, Mr. Jorge Cardona and Ms. Olga Khazova, the members of the Task force, welcomed the multidisciplinary delegation and recognised the many efforts that had been made to improve the situation of children in Jordan. They further thanked the State party for the information contained in the Written Replies, which would enable a fruitful dialogue.

General Measures of Implementation

Legislation

The Committee asked if the State party was considering the ratification of other conventions, such as the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Convention for the Protection of all Persons from Enforced Disappearances (CED). It further asked if the State party had any intention of ratifying the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OPIC), noting that it had not ratified the protocols on a communications procedure for the Convention on the Elimination of All Forms of Discrimination against Women and the Covenant on Economic, Social and Cultural Rights. The delegation underlined that the State party had ratified the majority of human rights treaties and that, as far as migrants were concerned, it favoured bilateral agreements. It added that it was studying the possibility of acceding to the CED and the OPIC.

The Committee noted with satisfaction that the CRC had been published in the official gazette under Act No. 50 of 2006 and asked to further specify its legal status in national legislation. It acknowledged that Article 32 of the Constitution of 1952 gave prevalence to international law but asked if there were any court decisions which confirmed this fact. The Committee raised concern about the lack of harmonisation of national legislation with the CRC, as well as the withdrawal of the Children's Rights Bill due to a fear of duplication. It also pointed out the slow process of adoption of laws. The delegation confirmed that national judges could invoke international treaties in their decisions and specified that the Court of Cassation had confirmed the prevalence of international law. It further explained that, following ratification, a national law is usually adopted to enable the direct implementation of an international treaty. The delegation added that a number of workshops were organised for judges and prosecutors on international human rights conventions, including the CRC.

The Committee encouraged the State party to consider removing its reservations to Articles 14, 20 and 21 of the CRC and noted that other States in the region who made similar reservations had withdrawn them. The delegation responded that it kept the best interest of the child in mind and based its reservations on religious, cultural and social traditions. It argued that these reservations were not a hindrance to the CRC and that the one made to Article 14 protected children in accordance with Shariah law. As for the reservations to Articles 20 and 21, the delegation said that, as a Muslim country, the State party could not allow adoption.

Coordination and monitoring

The Committee asked about the results of the assessment of the National Plan of Action for Children (2004–2013) and if there would be a new plan. It further enquired how the National Council for Family Affairs (NCFA) and the Higher Council for Persons with Disabilities (HCPB) worked in a coordinated way. The Committee also asked about coordination between national, provincial and local levels. The delegation responded that it was currently drafting the second action plan for children, which will run from 2014 to 2017 and will focus on children deprived of family care. The plan was developed in coordination with the NCFA

and the HCPB, as well as other relevant stakeholders, including children. The delegation explained that the assessment of the previous plan was based on a number of principles from the CRC as well as indicators. It added that legislation was rolled out from the central government to all provinces.

The Committee asked about the ability of the National Centre for Human Rights (NCHR) to receive complaints from children directly and in a child friendly manner. The delegation answered that the NCHR accepted direct complaints from children for any violation of their rights. For violations which amounted to crimes, children under 15 had to complain through a guardian or the public prosecutor. The delegation underlined that the NCHR had a section of specialised lawyers who provided free legal assistance to children.

Dissemination and training

The Committee asked if the CRC had been incorporated in the curriculum of schools and if it was also part of the training of all professionals who work with children. It enquired about awareness raising campaigns that had been done in the last three years. The delegation explained that the CRC had been printed and distributed in schools with the collaboration of the Ministry of Education. It added that a core of judges had received training on the CRC.

Ombudsman

The Committee asked if the State party had considered establishing an Ombudsman for children. The delegation did not respond to this question.

Data collection

The Committee recognised that the State party was a regional leader in the collection of data but was unsure if there was a separate child-specific database. The delegation explained that it had a database which was used systematically to follow-up cases of domestic violence involving children.

Budget

The Committee commended the State party for having clear allocations in its budget for children and asked if the funding had been affected by the adoption of austerity measures. The delegation emphasised that current austerity measures were due to the situation of the State party and that they had hardly impacted on children's budget. It further explained that the budget allocated for children had not been reduced but that children were still affected by general austerity measures.

Definition of the Child

The Committee expressed concern for the legislation on marriage that allowed children between 15 and 18 to get married. The delegation answered that marriage was only legal from 18 onwards, though there were exceptions for children between 15 and 18.

General Principles

Non – discrimination

The Committee asked about discrimination based on the status at birth and on origin. It underlined that the notion of “illegitimate children” was discriminatory and asked if the State party was going to remove such terminology. The delegation explained that orphans and children born from a non-Jordanian or a stateless father were given rights and Jordanian

nationality. It added that for children born out of wedlock the mother could take care of the child and was even legally obliged to do so.

The Committee underscored that gender discrimination was one of the most serious problems and that girls were not considered equal to boys. It asked what was being done by the State party to overcome this and to create a conducive environment for women to work. The delegation explained that the labour law enabled women to have 2 years of maternity leave in the public and private sectors. Companies were encouraged to create a conducive environment adapted to women. The delegation underlined that women were free to choose their spouse and studies but admitted that certain families preferred women not to work.

The Committee also asked about inheritance provisions and asked why women generally received less than men. The delegation responded that inheritance was governed by the Shariah and used a mathematical code which was the best system to ensure repartition.

Best interests of the child

The Committee pointed out that its understanding of the best interest of the child was not necessarily the same as the one of the State party. The delegation answered that the best interest of the child had been an integral part of the training of judges. It also stressed that the highest interest of the child was at the heart of the reservations to the CRC.

Respect for the views of the child

The Committee welcomed the inclusion of children in the report from the NCHR. The delegation explained that 25 children from various governorates were involved and that 75 per cent of them were girls. These 25 children became focal points for a further 1,500 children being taught about the CRC. The delegation underlined that the children were free to give all the information they wished.

The Committee asked about the Children's Parliament and its composition. The delegation responded that the Children's Parliament met periodically and raised important issues such as how to participate in electoral activities. It added that the Children's parliament also had the opportunity to join the Arab Children's parliament.

Right to life, survival and development

The Committee noted that the living standard had improved but that benefits had not been increased. It further asked about any potential increase of the zakat fund, as it was an important resource for non-Jordanian children. The delegation underlined that the State party was going through economic and financial difficulties.

Civil Rights and Freedoms

Corporal punishment

The Committee welcomed the efforts that had been made to fight ill-treatment and domestic violence. However, it noted that 66 per cent of children had been exposed to corporal punishment and that the latter was not completely prohibited. The delegation responded that corporal punishment had been prohibited in schools and that Article 62 of the Criminal Code had been amended in 2011 to now stipulate that certain corrections measures given out by the parents were allowed only if they did not lead to injury. It added that it considered injuries as being both physical and psychological which amounted to a de facto prohibition of corporal punishment as parents were liable to conviction. Furthermore, it emphasised that the State party believed in progressive legislation which corresponded to the cultural environment and that eventually there would be a complete ban on corporal punishment.

Child abuse

The Committee noted the National Strategic Plan on Family Protection and the Prevention of Violence and asked what its outcome was. It further enquired about the cases of ill-treatment that had been reported in centres for children with disabilities. The delegation explained that the Plan was geared towards prevention and provided intervention measures. The Plan had been approved by the Council of Ministers and involved the participation of a wide range of national organisations. The delegation added that, under the Act No. 6 of 2008 on protection from domestic violence, a team of social workers was made available for the victims. It also said that girls who were under threat were put under protective custody and sent, either to shelters or, when these were full, to detention centres.

The Committee raised concerns about Article 308 of the Criminal Code that allowed rapists to escape sanctions if they married their victim. The delegation explained that this legislation was under review in order to determine if this provision was in the best interest of the victim and if compensation was needed.

Freedom of thought, conscience and religion

The Committee noted that its understanding of the best interest of the child was not the same as the one of the State party as far as freedom of religion was concerned. The delegation responded that the State party being a Muslim state, the Personal Status Code was governed by the Shariah and protected religion.

Family Environment and Alternative Care

Family support

The Committee expressed concerns about the rights of the mother in relation to custody and in particular about the provision under which non-Jordanian women could keep their children up to the age of 7. The delegation responded that the best interest of the child was at the heart of any decision on custody. It explained that the Personal Status Code had been developed with the participation of civil society and that it included several criteria including those based on the age of the child. It added that if an agreement was reached on custody the child would stay with the mother.

Institutions and family-based care

The Committee noted that the number of children in State institutions had not decreased. The delegation underlined that alternative care institutions were a last resort and that they were administered by the Ministry of Social Development and the Ministry of Social Affairs. It added that the Ministry of Social Development was working in collaboration with Colombia University to develop alternative care outside of governmental centres.

Adoption

The Committee asked if the State party would complement the Kafalah system with adoption. The delegation answered that under the Shariah adoption was not permitted and violated the rights of the child.

Basic Health and Welfare

HIV and AIDS

The Committee welcomed the anti-HIV campaign and asked for more information. The delegation responded that the State party was raising awareness about transmission of the disease and worked on the reintegration of HIV positive persons.

Health services

The Committee asked about reproductive health and it noted that abortion was criminalised. The delegation answered that funds had been allocated to raise awareness on reproductive health. Games and cartoons had been produced to explain to children how to keep their integrity.

Harmful practices

The Committee was concerned by the fact that, in 2013, 13 per cent of weddings involved under 18s. The delegation responded that no contract of marriage could be made before the age of 15 and that there were no cases of forced marriages of children between 15 and 18. It explained that marriage was defined in Article 2 of the Personal Status Code and that a comprehensive as well as holistic consent was required. The delegation added that girls were interviewed individually and privately by judges, in the presence of a social assistant and a psychologist. It further pointed out that the contracts were reviewed by the Supreme judge and that any contraventions led to a sanction. The delegation also said that marriages of under 18 year olds concerned around 5,000 girls. It finally said that if a girl got married abroad, she would still have the possibility of filing a complaint and initiating judicial proceedings.

The Committee asked about reported cases of hysterectomies on women with disabilities. The delegation answered that such cases were criminalised under Article 334 of the Criminal Code. It added that jurisprudence placed responsibility on the person who had performed the operation who could be required to pay “blood money” to the victim. This compensation could be up to 100 times the average Jordanian salary.

The Committee noted that there were mitigating circumstances for honour crimes concerning children over 15 and emphasised that these should be removed. The delegation responded that the mitigating circumstances described in Article 98 of the Criminal Code had not been applied in 75 per cent of the 50 cases which had been investigated. It added that in the State party these crimes were called crimes for family honour or vengeance. The delegation underlined that honour crimes did not exist in Jordanian law and that mitigating circumstances were emotional or mental reasons. It further pointed out that Article 340 of the Criminal Code required other mitigating circumstances than honour and that, since 2010, the State party had adopted a different approach.

The Committee asked if polygamy was still allowed. The delegation responded that Act No. 36 of 2010 had introduced very stern conditions if a man wished to undertake polygamy. The law had led to a reduction in the number of polygamous marriages.

Breastfeeding

The Committee enquired about breastfeeding and noted that most women ended it after 5 months. The delegation explained that women that worked were allowed one hour off in order to breastfeed. It also said that awareness raising campaigns were conducted on how to incorporate breastfeeding in the family routine.

Education, Leisure and Cultural Activities

Pre-school education

The Committee asked about how many mothers in detention could not keep their child. The delegation said that, since 2009, a kindergarten had been created in a women's prison which enabled mothers to see their children. It further explained that work places had to provide nurseries and that 80 had been set up so far in different companies. In private companies, nurseries had to follow Government guidelines on safety and teaching.

Education

The Committee noted that there was a 4 per cent rate of dropout. The delegation answered that if the child returned to school and had previously completed 3 years of school he was placed in unofficial schools. It underlined that the State party had the lowest illiteracy rate in the region and that there were no restrictions based on nationality to access school.

Education for children with disabilities

The Committee called for data on the number of children with disabilities attending school and asked how inclusive the education system was. The delegation said that the used language was "children with unique needs" or "reduced mobility". There was an agreement with the Ministry of education to ensure that these children could go to private and public schools. The delegation explained that there were numerous projects to ensure inclusion of children with disabilities and that financial help was given to them by the State.

Special Protection Measures

Juvenile justice

The Committee asked for more information about the Juveniles Bill and why it had not yet been approved. The delegation said that the age of criminal responsibility had been raised to 12 in the Juveniles Bill of 2011. It added that the supreme interest of the child was always taken into account and that the State favoured alternatives to detention, such as social work. The delegation explained that specialised staff was being trained and that there would be a specific administration for minors. It further said that security forces could seek an agreement between the accused minor and the victim for minor offences.

Asylum seekers and refugees

The Committee commended the attitude of the State party in the context of the conflict in Syria and asked about cases of violence against children in refugee camps. The delegation described the situation since 2011 which had led to a current number of 650,000 Syrian refugees living in the State party. Children accounted for the majority of these refugees and the cost of ensuring their health and education impacted on the State party's economy. The delegation reiterated the call that had been made by the State party for funds from international donors and underlined the enormous social cost. It acknowledged that there were problems with security, with an increase in the number of children involved, and said that efforts were being made with international partners to strengthen security in the refugee camps. The delegation listed its provision of free schools, healthcare centres, hospitals, prenatal care facilities and pregnancy prevention classes in refugee camps.

The Committee asked about reported cases of refusal of entry of Palestinians from Syria. The delegation reaffirmed that there was a policy of *non-refoulement* and that if some Palestinians were sent back, this was for security reasons.

Statelessness

The Committee enquired about reported cases of withdrawal of nationality for Palestinians children which led to them becoming stateless. The delegation answered that the withdrawal

of nationality did not happen, though some Palestinians had their situation reviewed due to their employment by the Palestinian authority.

Child labour

The Committee asked about the measures taken to combat child labour. The delegation explained that there was a national strategy for the elimination of child labour. There were also penalties for parents and guardians who removed their children from school to let them work. It added that the minimum age had been raised from 16 to 17 and that, in 2012, the list of situations of economic exploitation or threat to the wellbeing of the child had been amended. 180 labour inspectors monitored the implementation of these provisions and the State party had conducted awareness raising campaigns targeting employers.

The Committee enquired about the provisions such as minimum age or social security in regard to domestic workers. The delegation answered that the labour law had been amended and now set the minimum age at 16. Special regulations existed for Jordanian and non-Jordanian girls as the latter made up most of the domestic workers.

Concluding Remarks

Mr. Hatem Kotrane, Ms. Amal Aldoseri, Mr. Jorge Cardona and Ms. Olga Khazova, the members of the Task force, welcomed the positive and constructive dialogue. They remained concerned about certain aspects such as healthcare, especially in rural areas, and honour crimes. They were confident that the Concluding Observations would be reviewed and expressed satisfaction that the reservations would be looked into.

The delegation said that it had listened with attention and in a positive manner to the questions of the Committee. It underlined that this was an opportunity to review a number of issues and that the Concluding Observations would be used as guidelines. The delegation also emphasised the constant efforts of the State party to improve its human rights record and children's rights. It concluded by underscoring that the State party had shouldered the responsibilities due to the current developments in the region and called for the international community to assist.