



child rights connect
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STATE PARTY EXAMINATION OF INDONESIA'S THIRD AND FOURTH PERIODIC REPORT

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

26 MAY – 13 JUNE 2014

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Indonesia ratified the Convention on the Rights of the Child (CRC) on 5 September 1990. On 5 June 2014, the Committee on the Rights of the Child (the Committee) examined the third and fourth report of Indonesia. It was last examined on 13 January 2004.

Opening Comments

The delegation of Indonesia was led by H.E. Ms. Linda Gumelar, Minister for Women Empowerment and Child Protection. She was supported by representatives from the Permanent Mission of the Republic of Indonesia to the UN, WTO and Other International Organisations in Geneva, the Ministry of Law and Human Rights, the Ministry of Women Empowerment and Child Protection, the Ministry for Religious Affairs, the Ministry of Home Affairs, the Ministry of Manpower and Transmigration, the Ministry of Health, the Indonesian Commission for Child Protection, the Jakarta Community Service Centre for the Protection of Women and Children, the West Sumatra Community Service Centre for the Protection of Women and Children, the Embassy of the Republic of Indonesia in Paris, the Ministry of Foreign Affairs and the Ministry of Social Affairs.

Ms. Linda Gumelar underlined the full commitment of the State party for the rights of the child. She noted that there were 80 million children in the State party of which 51.2 per cent were boys. She added that, despite the gaps and challenges, progress had been made. Ms. Gumelar described key achievements, such as the process of decentralisation which began in 2004. She also spoke of civil society which contributed to the system of checks and balances.

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

www.childrightsconnect.org/index.php/publications-resources/crc#countrysum

Ms. Gumelar highlighted the ratification of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC), the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC), the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Convention on the Rights of Persons with Disabilities (CRPD).

Mr. Gehad Madi, Ms. Amal Aldoseri, Mr. Jorge Cardona, Ms. Yasmeen Shariff and Ms. Kirsten Sandberg, the members of the Task force, welcomed the delegation and commended the improvements that had been achieved since the last review of the State party in 2004.

General Measures of Implementation

Legislation

The Committee expressed concern about the decentralisation process though it acknowledged the advancement in democratic governance. It underlined that there were by-laws not in line with the CRC and it asked if there was a special governmental institution to review them, which would also act on the draft legislation before its adoption. The delegation explained that the State party was still measuring the impacts and effects of decentralisation. It underlined that the State party was composed of 34 provinces and 504 districts. The delegation said that there were 3 mechanisms for the harmonisation of by-laws: executive, legislative and judicial review. It added that the Ministry of Home Affairs was in charge of reviewing by-laws and that there were law centres which assisted local governments, at their request, in the process of law making. It underscored that all by-laws had to be in accordance with the CRC and international treaties in general.

The Committee enquired about the incorporation of the 4 core principles of the CRC in the State party's legislation. The delegation explained that the CRC was ratified through a Presidential decree and that the Law No. 23 on the protection of the child of 2002 incorporated the essence of all standards and norms that existed in the CRC.

The Committee 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 (OP3-CRC), the Rome Statute of the International Criminal Court, the Convention Relating to the Status of Refugees as well as the Convention Relating to the Status of Stateless Persons. The delegation responded that the State party was considering the ratification of the OP3-CRC and that as far as the other conventions were concerned they would be ratified in the next few months as is set out in the National Action Plan for Human Rights.

Coordination and monitoring

The Committee asked if the Ministry of Women Empowerment and Child Protection had the sufficient power to coordinate the implementation of the CRC. The delegation answered that the mandate of the Ministry of Women Empowerment and Child Protection enabled it to fully coordinate, build capacity and raise awareness around the CRC. It further explained that the Ministry of Women Empowerment and Child Protection coordinated with the Ministry of Social Affairs and other key ministries, as well as with the three national human rights institutions, namely the Child Protection Commission, the National Human Rights Institution and the National Commission on Violence against Women.

The Committee enquired about the strengthening of the legal mandate of the Child Protection Commission. The delegation explained that Law No. 23 of 2002 had created the Child Protection Commission and had given it the mandate of taking up public complaints and pursuing mediation. It added that the Child Protection Commission produced monitoring

reports and had for example intervened with the Ministry of Education and Culture to prevent the expulsion from a school of pregnant girls.

The Committee commended the State party for the existence of a child helpline and it asked if it was a nationwide service. The delegation explained that the helpline was called TeSA and that it was present in 11 provinces. It noted that 12,000 children had called in 2012. The delegation added that telecommunication companies were cooperating with the three ministries in charge, namely the Ministry of Women Empowerment and Child Protection, the Ministry of Social Affairs and the Ministry of Communication and Information.

Dissemination and training

The Committee enquired about the dissemination and training on the CRC at the local and district levels. It noted that the CRC had not been published in local languages. The delegation did not answer this question.

Data collection

The Committee acknowledged the efforts that had been made in the collection of data but asked if a comprehensive data collection system was being envisaged. The delegation responded that the State party was cooperating with a statistic agency for the development of a profile of women and children. It added that guidelines were being formulated on the collection and analysis of disaggregated data.

Definition of the Child

The Committee underlined that the age of marriage was 16 for girls which was not in accordance with the definition of the child in the CRC. The delegation responded that the age of marriage was 18 for men and 16 for women. It underlined that early marriages were only performed with the consent of the parents and for certain cases such as pregnancy.

General Principles

Non – discrimination

The Committee asked if there was a proactive strategy to eliminate discrimination. It noted that in the Shariah there was still discrimination based on gender in regard to inheritance, marriage and female genital mutilation (FGM). The Committee also underlined discrimination against children born out of wedlock, children with disabilities, as well as children from religious minorities and from the Papua indigenous populations. It asked if positive discrimination was being considered. The delegation answered that Article 41 of Law No. 1 of 1974 stated that a child born out of wedlock was part of the family of his mother. It specified that the father must be recognised if it can be scientifically proven, which entitles the child born out of wedlock to equal inheritance rights. The delegation acknowledged that the age of marriage should be the same for girls and boys and noted that the law on marriage was being reviewed. It emphasised that there was no discrimination against children with disabilities and it mentioned the 169 communication forums that had been established to fight prejudice.

Best interests of the child

The Committee noted that decisions on custody were based on the age and religion of the child and not on his best interest. It asked if the best interest of the child was a right and if it could be used as a basis for a complaint. It further enquired about the awareness of Shariah

courts about this principle. The delegation responded that the best interest was a legal requirement for adoption decisions.

Respect for the views of the child

The Committee asked about the impact of the National children Forum and the Child Friendly City programme. It further enquired about the respect of the views of vulnerable children such as those with disabilities or from religious minorities. The delegation explained that children were consulted for matters related to reproductive health and environmental change.

Right to life, survival and development

The Committee raised concerns about reported forced evictions in the context of development projects. It noted that the legislation of the State party allowed forced evictions even if tenants were made homeless and asked if there were measures to protect families and provide children with necessary services. The Committee also asked if children were involved in the assessment of the impact of laws and policies. The delegation explained that provincial governments gave the possibility to evicted persons to relocate or provided them housing. It underlined that children were given access to schools near to them and that there were always lengthy impact assessments. The delegation added that at the heart of any development project there was a humanistic approach and that local child forums were consulted.

Civil Rights and Freedoms

Corporal punishment

The Committee asked if corporal punishment was prohibited in all settings. The delegation responded that Article 4 of the Law No. 20 of 2003 regarding the national education system contained 6 principles which did not envisage corporal punishment. It acknowledged that there was no prohibition of corporal punishment in the law but underlined that some local administrations and schools had prohibited it.

Child abuse

The Committee raised concerns about violence against children and noted there were victims in all settings, including schools, homes and detention centres. It underlined that depending on the regions the rate of victims of violence varied between 40 and 60 per cent. The Committee asked if there was disaggregated data on victims of sexual violence. The delegation acknowledged that, since 2009, there had been a rise in violence against children. It mentioned the National Action Plan on the Prevention and Eradication of Violence against Children as well as the National Campaign to End Violence against Children. Awareness raising at the grass root level was being done with comics for children being produced. The delegation explained that there were Integrated Service Centre Units for Women and Children in 247 districts which dealt with public complaints.

Freedom of thought, conscience and religion

The Committee noted that children had to attend religious schools and that the State party had recognised 6 religions. It raised concerns about reported cases of intimidation of religious minorities and the mention of the religion on identity cards. It further asked if there were penalties for blasphemy and if the Shariah applied to non-Muslims. The delegation explained that there was no officially recognised religion by the State party, though the 6 regulated religions received specific services. It added that a draft proposition had been finished last month on the possibility of providing services to religions which were not part of the 6 regulated ones. In relation to religion on identity cards, the delegation said that this was for

administrative purposes and that the government was currently discussing the possibility of changing this practice. It acknowledged that religion-based discrimination happened in practice but emphasised that the law was not discriminatory and that, in the Aceh province, non-Muslims did not have to follow Shariah law or wear a Muslim attire.

Right to privacy

The Committee asked about measures taken in relation to cases of children having their belongings searched by their parents. The delegation did not respond to this question.

Birth registration

The Committee noted that, in 2012, 28 per cent of births were unregistered. It asked if free birth registration and the provisions of Law No. 24 of 2014 on civil administration were effectively being implemented as well as monitored. The delegation responded that the law ensured that all children were given free birth certificates and provided criminal sanctions for violators. In 2013, according to the data from the Ministry of Women Empowerment and Child Protection, 72 per cent of children had birth certificates. It added that the law covered all children, without discrimination towards children born out of wedlock.

Family Environment and Alternative Care

Family support

The Committee asked about data on the number of children living in prisons with their mothers and on the support they were given to see their parent after 3 years of age. The delegation noted that in the last 4 years there were 37 cases of children being taken care of in prisons.

Institutions and family-based care

The Committee noted that some families gave up the care of their children for economic reasons and enquired about targeted financial support. It also asked about parenting education programmes, the level of community service and the assistance given to extended family. The delegation underlined that the State party promoted family resilience and that there was a change of paradigm with a focus on family-based care. It noted that 15 million children were receiving scholarships to attend school. The delegation said that financial assistance was being provided to reduce poverty.

The Committee welcomed the National Care Standard for Children but was concerned about the ease with which a license to run an institution could be acquired. It enquired about the possibility for children to meet their families and asked about the legal requirements for a child to be placed in an institution. The delegation explained that the Ministry of Social Affairs focused on returning institutionalised children progressively to their families and had so far reached 175,000 children. It added that staff had been receiving training on family reunifications and that subsidies were gradually being redirected from orphanages to children.

Adoption

The Committee underlined the reported high rate of illegal adoptions and asked if the State party was considering the ratification of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. The delegation answered that the best interest of the child had to be at the heart of any adoption decision. It recognised cases of abductions and that adoptions by extended families might have been unregistered thus

making them illegal. However, a monitoring system existed and social workers were involved in it.

Basic Health and Welfare

Health services

The Committee underlined that there was a steady drop in infant mortality but that recently the progression had stalled. It further noted a disparity in the rate between provinces and that the State party had the lowest total health expenditure in the region. The delegation responded that the mortality rate was decreasing and that the State party would reach the Millennium Development Goals. It stated that the statistics were inaccurate and needed to be read differently. It added that in 2014 there would be a total budget of 64.7 billion rupiah for healthcare. It referred to the Healthy Village Development Policy which aimed at ensuring the presence of a doctor and a midwife in every village, as well as clean water and sanitation across the country.

The Committee asked for more information on the Reproductive Health National Strategy. The delegation said that there was a discussion forum on reproductive health and that students participated in the development of the strategy.

Breastfeeding

The Committee noted that complementary food was given too early to babies and asked if there were any baby friendly initiatives. It also enquired about a code for commercial milk. The delegation explained that there was a national breastfeeding programme that promoted exclusive breastfeeding from six months until the age of 2. It recognised that the rate of breastfeeding remained low and there was a disparity due to the unequal distribution of health personnel. It added that the national association of midwives sent its personnel to remote areas. The delegation said that commercial milk was regulated and that it was a priority to provide lactation rooms.

Children with disabilities

The Committee welcomed the ratification of the CRPD and asked about concrete measures taken for its implementation. It enquired for more information on the National Action Plan on Persons with Disabilities and asked how children with disabilities were identified. The delegation explained that children had access to basic services including reproductive health and that there were counselling programmes for parents. It added that there were early detection facilities in all health facilities and that congenital hypothyroidism was screened in 14 provinces.

HIV and AIDS

The Committee highlighted the increase of HIV positive women and asked about the treatment given. It further enquired about measures taken to prevent the transmission of the disease to children and underlined the high rate of HIV in Papua. The delegation responded that the screening of mothers was mandatory in Papua to prevent the transmission of HIV to their children. It added that financial assistance had been increased with the help of the Global Fund. The delegation further spoke of a safe syringe programme and of antiviral programme in health centres.

Drug and substance abuse

The Committee noted that substance abuse was on the rise and asked for figures as well as what preventive measures had been taken. The delegation explained that the Ministry of

Health and the Anti-Narcotics Agency coordinated all the efforts against substance abuse. It added that the list of synthetic narcotics was being expanded.

Harmful practices

The Committee emphasised that 86 per cent to 100 per cent of women had undergone some form of FGM. It asked if there were recovery programmes for victims of FGM, reporting mechanisms and efforts to stop this practice. The Committee highlighted that medical supervision for FGM did not make it less harmful and asked if practitioners were being included in trainings to eliminate the practice. The delegation explained that Regulation No. 1636 of 2010 was meant to inform medical personnel but had been revoked by Regulation No. 6 of 2014. It stated that FGM was prohibited in the State party and that due to the recent change in regulations advocacy and potential convictions remained to be undertaken.

The Committee asked if the consent of the girl was necessary in the case of early marriages. The delegation explained that the consent of the parents was important but that the consent of those getting married was required. It acknowledged that there were marriages of under 16 year old girls but it emphasised that the person who performed such weddings was prosecuted. The delegation said that the universal education system which was till the age of 18 combined with reproductive health education were used to overcome marriages between the ages of 16 and 18.

The Committee enquired about polygamy and if it was still allowed. The delegation did not respond to this question.

Education, Leisure and Cultural Activities

Pre-school education

The Committee asked about the status of pre-school education. The delegation did not respond to this question.

Education

The Committee commended the State party for the significant improvements that were achieved such as compulsory education for all children from the age of 7 to 15. It however noted that there were 2.3 million children who were out of school and that grants and scholarships did not deal effectively with them. The Committee asked if there were any hidden costs and if the infrastructure as well as the teacher ratio were appropriate. It further enquired about the training given to teachers. The delegation spoke of the provision of education material for schools and the training of personnel. It underlined that 20 per cent of the State budget, as well as local budgets, had to be allocated to education and that in 2013 300 trillion rupiah had been provided. The delegation noted that the Scholarship for Poor Students programme had reached 8 million children in 2013 and that in 2014 750,000 rupiah were being spent on each elementary student. It added that 148,000 schools had received funds in 2013 and underlined that in some cases children did not attend schools because of the unavailability of teachers. The delegation emphasised that the drop-out rate was being reduced and that parents were also receiving training. It finally described the provision of books in printed PDF versions by the Ministry of Education and Culture and the continued efforts to reduce hidden fees.

The Committee welcomed the integration of human rights education in the curriculum but noted that the CRC was not included. The delegation explained that there was great

awareness on the importance of human rights education. It underlined that the State party had an integrated approach to civic education which included subjects relating closely to human rights.

Children with disabilities

The Committee highlighted the question of the accessibility of schools for children with disabilities. The delegation responded that the aim of inclusive education was to provide the widest number of opportunities and that the State party wanted to achieve equality in education. It underlined that each district needed to have at least one school which offered inclusive education.

Leisure and cultural activities

The Committee referred to General Comment No. 17 and asked if in the State party there was awareness about the importance of leisure activities. The delegation answered that districts and municipalities provided playgrounds, parks and libraries. It also mentioned the creation of child friendly schools by the Ministry of Women Empowerment and Child Protection. The delegation further spoke of community based activities and facilities which support children.

Special Protection Measures

Juvenile justice

The Committee welcomed Law No. 11 of 2012 on children in conflict with the law and asked about its implementation. It noted that the age of criminal responsibility had been raised to 12 years but emphasised that this was still considered too low by the Committee. It further asked if the increase had retroactive implications and if it would lead to sentences being reviewed. The delegation responded that the State party was considering to further raise the age of criminal responsibility in the future. It underlined that the new law was based on restorative justice and that the Ministry of Law and Human rights was preparing regulations for its implementation. The delegation noted that there were 5,435 children in prison and acknowledged that there would be some problems when the new law came into force in July 2014 as far as the revision of sentences was concerned. It added that there were 16 child detention centres and that the minimum age for detention was 14. The delegation emphasised that children were kept apart from adults when they were housed in the same detention centre and that the new law envisaged the construction of new child detention centres. It also described Article 93 of the new law which provided integrated training for police officers and State attorneys.

The Committee asked about information on street children. The delegation answered that the Ministry of Social Affairs was conducting a social welfare programme which gave conditional cash transfers for the children to stop living in the street. It had reached 10,000 children and involved 117 social workers. The delegation added that there was also an integrated programme to bring street children in Islamic boarding houses.

Refugees and asylum seekers

The Committee raised concerns about the situation of unaccompanied minors and if they were assigned a guardian. It asked if children were detained and if they were kept with adults. It further enquired about judicial controls and the conditions in detention centres. The Committee noted that the high number of asylum seekers was due to the lack of a clear definition of the refugee status. The delegation highlighted that children were provided with healthcare and education. It noted that there were currently 147 unaccompanied minors in the State party. The delegation underlined its work with the International Organisation for

Migration and United Nations High Commissioner for Refugees for the provision of services. Families with children had priority to be placed in shelters. The delegation emphasised that the State party was a country of transit and needed to work with destination countries. It further underscored that violence against children was criminally punishable.

Child labour

The Committee noted that the National Action Committee on Elimination of Worst Forms of Child Labour had improved the situation but underlined that there was still no legislation which covered children over the age of 15. It underscored that there was no disaggregated data on the reported 2.8 million children who worked between the ages of 10 and 17. The Committee further noted that there were 7,000 children employed in domestic work and it asked if the State party was considering the ratification of the ILO Convention concerning decent work for domestic workers No. 189. It emphasised that in the State party it was culturally accepted for children to work. The delegation answered that it had ratified the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour No. 182 and the ILO Convention concerning Minimum Age for Admission to Employment No. 138. It noted that 2.2 million children were currently working and that 48,000 children had been returned to school. The delegation added that it had conducted awareness raising campaigns and that it had a programme to return children to their homes. It further said that the ratification of the ILO Convention No. 189 was being processed.

Sexual exploitation

The Committee asked if victims of rape were provided reproductive health services. It noted that the Law No. 21 of 2007 regarding the eradication of trafficking in persons did not cover all the crimes described in the OPSC and that there were gaps. The delegation explained that girls victim of sexual violence had access to free healthcare across the country. It added that doctors had been trained to identify victims and that efforts were being done to develop trauma healing.

Concluding Remarks

Mr. Gehad Madi, Ms. Amal Aldoseri, Mr. Jorge Cardona and Ms. Kirsten Sandberg commended the progress that had been achieved. They underlined that there were still gaps in the legislation and that it did not correspond to all the expressed good intentions. They also noted that there seemed to be a lack of oversight about remote areas.

The delegation said that it was looking forward to the Concluding Observations and that they would contribute to the further efforts of the State party. It welcomed the invaluable opportunity that was given to identify key areas which required improvement.