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STATE PARTY EXAMINATION OF AZERBAIJAN'S THIRD AND FOURTH PERIODIC REPORT

59TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

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The Republic of Azerbaijan ratified the Convention on the Rights of the Child (the Convention) on 21 July 1992. On 17 January 2012, the Committee on the Rights of the Child (the Committee) examined the third and fourth periodic report of the Republic of Azerbaijan. It was last examined on 17 November 2009.

Opening Comments

The delegation of the Republic of Azerbaijan (Azerbaijan) was led by Mrs. Hijran Huseynova, head of the State Committee on Family, Women and Children Affairs of Azerbaijan. She was supported by a delegation representing the Ministry of Internal Affairs, Ministry of Education, Ministry of Health, Ministry of Economic Development, Ministry of Labour and Social Protection, Ministry for Foreign Affairs, Ministry of Finance, and the Ministry of Justice.

Mrs. Huseynova noted the delegation's appreciation for the Committee's List of Issues and stressed the State's willingness to address all of the Committee's previous recommendations. She assured the Committee that the State was committed to ensuring children's rights and acknowledged the difficulties the State faced during the period of transition to independence. She noted the high number of refugee children, and children killed on the front lines and by landmines. The economic crisis had posed a threat to children's rights. Mrs. Huseynova reiterated the State's belief that children's rights were fundamental. She mentioned that 2009 had been declared the Year of the Child, and that it had been implemented with corresponding financial support for children's issues. She noted that the State had translated the Convention into Azeri and that various forms of media had been used to disseminate the information. Mrs. Huseynova highlighted the creation of the State Committee on Family, Women and Children Affairs in 2008, which had a comprehensive legal and practical framework for the rights of boys and girls. She acknowledged that challenges still existed that impeded children's rights, but confirmed that the State would combat challenges by

developing a stronger legal framework for child rights. She reported that 30 new State programmes for children had been adopted, and 200 million Euros had been allocated for health only. She mentioned legislative reforms, which had included an amendment concerning children and families, as well as new laws and bills to address human trafficking, domestic violence and corporal punishment.

The head of delegation noted that the State had ratified the Optional Protocol on the Sale of Children. Mrs Huseynova discussed child marriage, noting the recent amendment that increased the minimum age for marriage for girls from 17 to 18. In addition, she mentioned the penalties for forced marriage, which ranged from imprisonment to a fine. Mrs. Huseynova noted that there had been overall improvements in living standards and reported that in 2011 the Parliament had adopted a new law to increase access to social services. In particular, families from identified vulnerable groups, as well as neglected children and disabled children, were given social aid. The head of the delegation stated that with respect to policy, steps had been taken towards more inclusive education for children with disabilities and particular learning needs. She mentioned the State's work with UNICEF to reduce the number of institutionalised children, which had resulted in a reduction of children in State institutions from 22,000 to 11,000.

The Committee was notified of the transfer of authority of kindergarten from the State to local entities. She stated that increased financial resources would be used for preschools. The role of NGOs and the State's willingness to cooperate with civil society was acknowledged. The head of the delegation reported that the State Party President had approved The National Plan of Action on Protection of Human Rights in the Republic of Azerbaijan, which encompassed the rights of children. Mrs. Huseynova recognised the help the Committee had given to the State to implement the Convention; she hoped the Committee would acknowledge the progress made by the State.

Mr. Koompraphant, the country Rapporteur, thanked the delegation and acknowledged the new laws in place on trafficking, domestic violence and corporal punishment. He noted that several government institutions had been assigned by law to address the various facets of child protection; however, relevant legislation had not defined how the relevant institutions should adopt the principles of the Convention. Mr. Koompraphant noted the lack of a coordination mechanism between the various government institutions working on the development and implementation of children's rights-related programmes, laws and policies. He asked how the State's laws complied with the Convention, and what mechanisms were used by government agencies to implement the Convention and its mandates. Mr. Koompraphant requested information about corruption in both the national government and in municipal governments.

The Rapporteur noted the percentages of Gross Domestic Product (GDP) spent on economic aid and education as being relatively low, and inquired about the training of education professionals. It was pointed out that the State's institutionalised care of children was in conflict with the Convention. Mr. Koompraphant stated with regard to juvenile justice that children were tried as adults for some offenses. He noted newborn babies' lack of access to healthcare and low birth registration rates. Mr. Koompraphant asked what mechanisms had been set up to monitor the living conditions of children. Mr Koompraphant asked what administrative efforts had been taken to address stigmatisation of children with disabilities, internally displaced, asylum seeking, and refugee children

To conclude, Mr Koompraphant discussed discrimination against girls. The issue of abortion of female foetuses was addressed. He noted the new amendment increasing the age of marriage for girls to 18, and inquired about forced early marriage statistics and legislation on the issue. The stigma of sexual abuse was noted particularly as it relates to child victims feeling shame, and sexual offenders enjoying a level of impunity. Mr Koompraphant asked what administrative efforts had been taken to address stigmatisation of child victims of sexual abuse. He hoped dialogue with the Committee would help the State implement the Convention.

General Measures of Implementation

Legislation

The Committee noted the progress that had been made in the legislative sphere, in particular a law that had been introduced in June 2010 that prevented domestic violence, as well as a new draft bill that would prohibit corporal punishment, and the accession of the State to the International Labour Organisation (ILO) Convention 183 on Maternity Protection. The Committee wanted to know whether the State would create a comprehensive code or law on children's rights, and inquired about the prevalence of the Convention over domestic law, noting that the provisions and principles were rarely applied in courts.

Children's ombudsman

The Committee noted there was no specific ombudsperson for children's rights and inquired about the accessibility of the Office of the Ombudsman, to children, to encourage their participation in its activities and to make complaints about violations of their rights. The Committee stated that the ombudsman's office had been downgraded to B-status by the International Coordinating Committee of National Human Rights Institutions (ICC).

The Committee acknowledged the existence of a Commissioner for Children's Rights and asked for information about the role and status of the Commissioner and the process of appointment for this position, as well as for the Councillors on children's rights. The Committee raised questions about the status of the child's rights staff member of the Office of the Ombudsman. The Committee suggested upgrading the status of the child's rights staff member to give the position more authority with agencies that work with children.

The delegation explained that the Office of the Ombudsman was fully independent and a young institution. It was explained that the child's rights staff member of the Office of the Ombudsman was an independent structure. The delegation stated they would continue working with UNICEF to establish a special office within the Office of the Ombudsman, to address children's rights. The delegation noted that the mandate of the Ombudsman did not extend to the Nakhchivan Autonomous Republic, which had its own institutions.

Dissemination and training

The Committee inquired about what measures had been taken to disseminate information to schools, communities and local councils. The Committee asked specifically whether children were aware of their rights under the Convention. The delegation responded that the State had translated the Convention into Azeri and had utilised the media for broad dissemination in society.

The Committee raised questions about the training of judges, legal professionals, psychologists, social workers, teachers, and other professionals working with children. The Committee inquired about training for judges that would hear cases involving children. The Committee asked about specific protocols for the behaviour of forensic doctors and police officers assisting children who were victims of crime.

The delegation responded that there were no judges specifically trained to handle cases involving children, and that there were no distinct juvenile courts. The delegation added that in the future they would establish juvenile courts, but that currently the most experienced judges had handled youth cases.

Monitoring

With regards to implementation of the Convention, the Committee noted the lack of a coordination mechanism between government agencies, municipalities, and localities. The Committee asked what the national strategy was for children and what its timeframe for implementation was. Furthermore, it asked what government agencies were primarily responsible for implementing the Convention and how they were coordinated to avoid duplication of work and gaps in implementation. As an example, the Committee asked about coordination between the National Commission for Minors, the Office of the Deputy Prime Minister, and the State Committee for Childhood Affairs. It inquired about sub-committees for these agencies at the local and regional levels.

The delegation acknowledged the need for new structures. It stated that the Commission for Minors had existed in government bodies at all levels of authority. The delegation noted that in the 85 regions of the State there were complex structures and mechanisms.

The Committee raised questions about corruption in government and its impact on the implementation of the Convention. It asked specifically whether there were laws to prevent and punish corruption in public services and whether there was an anti-corruption institution. The delegation responded that the State had a civil responsibility to end corruption, and would work toward ending it. The delegation stated that an anti-corruption law had come into force in 2000 and had resulted in 100 charges of criminal liability for corruption. Furthermore, 60 judges had been examined at legal council meetings and 10 were subsequently dismissed.

Data collection

The Committee asked whether there was a centralised national data collection system that disaggregated data by age, region, gender, socio-economic status, and rural and urban populations. The Committee noted that 52 per cent of children were urban and 48 per cent were rural. It inquired about countrywide data collection for programme and policy planning to remove inequalities among children living in different regions and socioeconomic conditions. It also requested more data on refugee, asylum seeking, and internally displaced children. The Committee asked about a comprehensive data collection system for the general population of children. The delegation noted it had established a database on children in 2010.

The role of civil society and Non-Governmental Organisations

The delegation stated their commitment to working with civil society organisations to advance the children's rights agenda in the country. The delegation noted that the State had consulted NGOs in their projects during the drafting phase of the State report on the Convention and its optional protocols, and that it had listened to their recommendations. The Committee asked about the State's process of allocating funds to NGOs. The delegation explained that NGOs must submit a proposal for approval in order to qualify for funding. The

delegation stated that fraud with regard to illegitimate NGOs was a problem.

Definition of the Child

The Committee asked how the national legislation defined a child. The delegation stated that the age of maturity in Azerbaijan was 18 years of age and that several pieces of legislation had been reformed accordingly. The Committee acknowledged a bill that would amend the State's Family Code, and would raise the minimum age of marriage for girls from 17 to 18.

General Principles

Non-discrimination

The Committee mentioned a general level of discrimination towards girls, which included the practice of female infanticide. The Committee inquired about discrimination against girls who wore the hijab, noting that the State had enacted a law that banned Muslim girls from wearing the hijab in schools, which had resulted in girls being taken out of school by their parents. The Committee stated that this was an infringement of religious freedom, and indirectly denied Muslim girls the right to an education. The delegation responded that Azerbaijan was a secular State and that many girls were forced by their parents to wear a hijab, which the State viewed as a violation of those girls' rights. The delegation explained that the ban had been intended to free girls from being forced to wear the hijab. It added that it was aware that some girls had stopped coming to school, but that in these cases the local government had held consultations with parents and students and that many returned to school once the intention of the law had been explained. Girls who wore the hijab could do so on the way to school and remove it once they arrived. The Committee suggested changing school uniform rules.

The right to life, survival, and development

The Committee was concerned about the State's definition of life, which was negatively impacting on its methods of calculating child mortality rates. The Committee asked specifically about the State's plan to adopt World Health Organization (WHO) standards in reporting instances of infant deaths.

The Committee expressed its concern about the high suicide rate among children. The Committee also commented on the sharp decrease in the suicide rate from 2010 to 2011. The Committee asked how this had been achieved. It stated that statistics from other sources showed the rate to be steadily increasing. The Committee asked whether the government had analysed a possible link between this phenomenon and the level of violence in the media. The delegation stated that statistics on suicide among children had been collected by the Ministry of Interior and noted that the rates had gone down in recent years. The delegation reported that social workers had been trained to provide support to families and assist them to resolve disputes and address the needs and concerns of the children and their families, as a means of preventing suicide among children. The delegation added that a child helpline had been set up to prevent suicide, which offered free psychological support.

The right to be heard

The Committee raised questions about the State's practice in hearing children on matters concerning them. The Committee asked about the establishment of a Children's Parliament and inquired about children's participation in school management. It also asked about the right of children to be heard in family courts especially below the age of 10.

The delegation responded that there was a Republican Forum for children and a Children's Parliament for children to be heard. There was also a website and a hotline that children could use to ask questions and comment on government policies and programmes. These were managed by the Children's Social Council, which transmitted inputs received, to the relevant ministry. In response to questions about children's participation in school management, the delegation responded that 100 schools had implemented policies that would allow children to be involved in the management of their school.

Civil Rights and Freedoms

Access to appropriate information

The delegation noted that a Ministry of Justice policy permitted that every citizen should be able to access information freely. The delegation noted that human rights education was a mandatory part of the curriculum in school before fifth grade and could be taken as an elective afterwards. The delegation stated there were textbooks that included chapters on human rights and the Convention

Freedom of expression

The Committee inquired about children's freedom of expression, noting that the State did not have a free press initiative. The 2008 report of the Special Rapporteur Report on Freedom of Expression had recommended that crimes against press workers should be punished and that there should be a review of broadcasting laws. According to the Committee, the report also recommended licensing for independent communicators and establishing the Press and Broadcasting Commission as independent from the government. The Committee asked with respect to children expressing their views through media, whether progress had been made to implement the recommendations of the Special Rapporteur.

Birth registration

The Committee expressed concern about low birth registration rates, particularly in rural areas, which presented a problem in determining the age of some children. It asked about low birth registration among underage mothers from rural areas. The delegation stated that all children should be registered and explained that many poor mothers do register their children. The delegation noted the stigma of disability as a reason for some children not being registered at birth.

Child abuse

The Committee acknowledged the law passed in 2010 on domestic violence and asked about the status of a draft bill on corporal punishment. The Committee asked about sexual abuse and the stigma associated with it. It noted that cases of sexual abuse were often not reported when they occurred in the home.

Early and Forced Marriage

The Committee raised questions about early and forced marriages. The delegation noted a high level of early marriage in southern regions and stated that early marriage was a cultural practice that should be abolished. The delegation noted that in some families the head of household thought they had a right to decide when a girl should get married.

Poverty

The Committee asked for statistics on the child poverty rate. The delegation provided statistics that demonstrated an overall reduction of poverty.

Family Environment and Alternative Care

Adoption

The Committee addressed foster care and kinship care and noted that the funds for foster care were insufficient. As such, it inquired about the State's plans to reform its policy – and therefore the practice – for quality foster care and kinship care. The Committee stated that divorce seemed to be a cause for children being in foster care, noting that there were few adoptions taking place and that the process was cumbersome, with many obstacles. It stated that the right to adopt did not exist, and that as such, adoption should be based on a strict interpretation of the rules, and should only take place where it was in the best interests of the child and not of the prospective parents. The Committee mentioned that a child had the right to know the origin of his or her parents, and stated that many adopted children did not know that they were adopted. The Committee also noted that the State Party had not ratified the Hague Convention on Protection of Children in International Adoption.

The delegation responded that they had in fact acceded to the cited Hague Convention and admitted that there were indeed problems with domestic adoption. One of the problems was that parents could ask that their children be institutionalised, but that in these cases, the parents did not give up their parental rights. The delegation stated that illegal organisations were also a concern in the adoption process. International adoption agencies had to be accredited and have proper facilities. Prospective parents had to meet certain requirements and if the application were accepted, then it went to the courts for final approval.

The Committee addressed the high number of children in institutions. It noted that 86 per cent of children living in institutions had been placed there on their parents' request. Half of these children had been institutionalised because their families were low-income. The Committee noted that in many countries it was prohibited by law to place children in institutions for economic reasons. The Committee stressed the importance for children to be with their biological families and asked what preventative measures were in place for family support.

Alternative care and De-institutionalisation

The Committee inquired about the deinstitutionalisation of children, and noted that boarding schools were not a solution, but rather a different type of institutionalisation. The Committee noted that 37.7 per cent of children in State institutions had been taken out and put in boarding schools. It noted that 86 per cent of children in institutions had been placed there by their parents as a result of poverty. The delegation responded that the State was still transitioning from a Soviet model of alternative care for children.

Basic Health and Welfare

Children with disabilities

The Committee raised questions about the State's definition of a child or person with a disability and the low number of children registered as disabled. The delegation explained that the State's definition of disability had been used to reflect the condition of a child born with a disability, in an established medical facility. The Committee also noted that the State had not factored all forms of disability, such as behavioural and mental disability, into its calculations. The Committee commented on the reported statistic of 2.2 per cent of children having a disability, which is lower than the WHO's figure of 10 per cent. The delegation responded that the low percentage was a good thing.

The delegation stated that disability could be cured. The Committee responded that the State Party was taking a medical approach to disability instead of adopting a social model. The Committee also drew the delegation's attention to the need to distinguish between disability and disease.

The Committee commented on the State's use of the category "Backward" for disabled children. The Committee noted the social stigma attached to disability in Azerbaijan. The Committee asked what specific measures would be taken to deal with the stigmatisation. The delegation noted the issue of parents abandoning disabled children at hospitals or not registering them at birth. The delegation noted that the financial situation of the family might impact the decision along with social stigma. The Committee in response asked if parents themselves had chosen to abandon disabled children and if parents were given information about the services available to disabled children and their families. The Committee also noted that stigmatisation, coupled with a low amount of financial assistance for disabled children, would contribute to low registration numbers.

The delegation acknowledged the need for increased training of professionals who work with disabled children. The delegation noted that the Ministry of Labour and Social Protection had a programme to provide assistance to people working with children with disabilities and their families. The delegation noted that children with disabilities had received health and social rehabilitative care, as well as 70 dollars per month in social aid.

Health services

The Committee acknowledged that 200 million Euros had been allocated for health. The delegation noted that the State Party had increased the budget for health from 55 million in 2006 to 300 million in 2012. The delegation reported that in 2006, spending on health services had amounted to one per cent of GDP, which had been raised to 1.6 per cent of GDP in 2012; 25 per cent of the health budget was spent on children. The Committee noted that the State Party's spending on health had been significantly lower than WHO standards. The Committee noted that large segments of the population had been without adequate access to health care.

The Committee noted the promotion of breastfeeding was an area that required attention. The delegation responded that in 2006 the number of infants breastfed up to 6 months had been 28.5 per cent. In 2010, after the adoption of a law on feeding infants and a breastfeeding campaign programme, the number had increased to 43.3 per cent.

The delegation explained that the State's priority areas of interest for health were improving primary care and reducing fixed costs. The delegation reported that between 2006 and 2010, neo-natal centres had been created to provide highly specialised interventions for high-risk births. The delegation also mentioned that there were fewer home births taking place and added that births that do take place at home are now more likely to have been assisted by a medical professional. The delegation that there had been 95,500 live births in 2006, rising to 175,000 live births in 2011. This corresponded with a reduction in the infant mortality rate, which had decreased to 10.8 deaths per 1,000 live births.

Education, Leisure and Cultural Activities

Education

The Committee noted the State's President had approved educational reforms to the effect that preschool education had become mandatory for all five-year-olds. The Committee reported UNESCO statistics, which stated that preschool education only covered 22 per cent of three to five-year-olds in 2008. It also reported that in 2008 only five per cent of children who had entered primary school had attended preschool. The Committee noted that only 15 per cent of children had transitioned from preschool programmes to kindergarten. The Committee raised questions about the President's new decree that would transfer control of kindergartens to local authorities. The Committee asked if local authorities would be able to ensure quality and equality of access.

The delegation mentioned that spending on education had increased four-fold between 2006 and 2011. The delegation reported that the State had increased technical and vocational training. The State had also implemented a state-wide graduation exam. The Committee asked how the State would improve teacher training and ensure quality control. The delegation responded that the State would use an education reform bank, new curriculum, and improved teacher preparations. The delegation stated that the annual budget for education had an allocation structure of 10 per cent for higher education; 70 per cent for middle schools; and 20 per cent for preschools, technical schools, and colleges.

School attendance

The Committee noted that 16 per cent of children were not in primary school and that 57 per cent of those children not in school were girls, which equated to one in ten girls not in school. The Committee raised question about this because school was, in theory, mandatory and free. The delegation responded that the percentage of children not in school was in fact only six per cent. The delegation noted that many parents had not allowed their children to go to school after the ninth grade.

Special Protection Measures

Asylum seekers

The Committee requested data on asylum seekers, refugee children, and internally displaced children and asked about the protection policies that were in place for the 300,000 refugee children in the country, particularly Chechen children. It raised questions about education for children who were refugees, internally displaced, or asylum seeking.

Child labour

The Committee inquired about child labour and the legal age at which a child could begin to work. The delegation stated that children were permitted to work from the age of 15. With their parents' permission a child could work for eight hours per day or for four-and-a-half hours if they were in school.

The Committee responded by citing information from a 2005 ILO report that 156,000 children were working, and 82 per cent of those children worked in agriculture. It reported that children were working in tea, tobacco, and cotton production. The children in these industries were reportedly working an average of 10-12 hours per day throughout the year, not just at harvest time. The Committee noted ILO Convention No. 138 on the minimum age for admission to employment and work and ILO Convention No. 182 on the worst forms of child labour. It noted that the minimum working age should be 16. The Committee addressed children working without formal contracts, and the lack of government monitoring in these cases. The delegation disputed the numbers reported by the Committee. The delegation reported the State's figures, which showed that 25,000 children from age 15 to 17 were working.

Street children

The Committee inquired about children leaving school early and living on the street and expressed concern about their vulnerability to economic exploitation. The Committee asked what measures had been taken to solve the problem of street children, including alternative programmes such as vocational training, as well as efforts to address stigmatisation. The Committee raised questions about the possible link between children identified with behavioural problems being placed in special programmes and drop-out rates, leading to children living on the street.

The delegation responded that in 2011 measures had been introduced for police forces to

identify street children. The delegation reported that some of the indentified street children had been placed in orphanages or boarding schools. The delegation stated that 73 street children had been sent back to education facilities and reintegrated into the social sphere in 2011. The delegation stated that parents and schools were responsible for monitoring children to prevent drop-out from school and moving to live and work on the street. The delegation noted that the phenomenon of street children was an issue, but that it was not a large problem.

The Committee inquired about reports of police raids on street children and asked about the procedures followed in these instances. The delegation responded that raids had not involved a lot of police and that those officers involved had special training to work with children

Illicit transfer

The Committee inquired about children who were transported unlawfully out of the State, particularly to neighbouring countries such as Iran. Article 11 of the Convention addressed illicit transfer and non-return of children who were moved to neighbouring countries. The Committee noted that the State was not party to the Hague Convention on the Civil Aspects of International Child Abduction. It asked what its practice was to recover these children. The Committee asked if the State had bilateral agreements with neighbouring states.

Juvenile justice

The Committee raised questions about the juvenile justice system and the protections for children in the courts. The Committee asked about specialised courts for minors and training of judges and other legal professionals. The delegation noted that a special court for juveniles had not yet been established and that judges had not yet received specialised training. To date, only the most experienced judges had handled juvenile cases, and the State had planned to invest 16 million dollars in training for judges dealing with cases involving children.

The Committee asked whether children were detained in the same facilities as adults, both during pre- and post-trial detention. In this regard, the Committee asked whether there were child-specific holding areas in police stations, and whether police officers were systematically trained on how to deal with children in custody. The delegation responded that minors had been detained separately from adults, and that three centres in Baku had specialised juvenile cells.

The Committee noted that the age of criminal liability was 16 years, but expressed concern that children of 14 and 15 years old could be deprived of their liberty for some offenses. The delegation responded that children aged 14 and 15 years would be imprisoned if found guilty of having committed one of a list of 13 identified grave crimes. The delegation responded that for those 13 offenses, children of the age of 14 and 15 years could be held criminally responsible if convicted. The delegation added that if a child committed a crime along with adults, the child would be tried separately from the adults. The delegation noted that during the first half of 2011 121 children were judged of which 21 had been imprisoned and the rest had been fined.

The Committee asked about training for police offices that were involved with juvenile offenders. The Committee raised questions about the child's right to be heard only from the age of 10, which it thought was late. With respect to children who were victims of crime, the Committee asked about special training for forensic doctors and police officers. The Committee asked about any special procedures to protect children when giving evidence against a perpetrator.

Concluding Remarks

The Country Rapporteur thanked the delegation for the dialogue and looked forward to developing the recommendations, which he hoped would reflect the situation of the country and would be implemented fully.

The head of the delegation noted that Azerbaijan was firmly committed to the norms and obligations of the Convention and its optional protocols. Mrs Huseynova said the government would be open to a continued dialogue with the Committee and consultation for issues of implementation. She noted that the recommendations would provide advice to solve challenges. Mrs. Huseynova mentioned the constraints the country had been under when it joined the Convention in 1992. At the time Azerbaijan had been very unstable. She expressed the State's concern for the rights of all children, and thanked the Committee for an active discussion and valuable recommendations.