



ngo group for the crc

STATE PARTY EXAMINATION OF TAJIKISTAN'S SECOND PERIODIC REPORT

53RD SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

11 – 29 JANUARY 2010

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Tajikistan ratified the Convention on the Rights of the Child (CRC) on 10 July 1990. On 19 January 2010, the Committee on the Rights of the Child (the Committee) examined the second periodic report of Tajikistan. It was last examined in September of 2002. The State party has no reservations to the Convention.

Opening Comments

The delegation of Tajikistan was led by Mrs. Rukiya Kurbonova, the Deputy Prime Minister of Tajikistan. She was supported by a high-level delegation¹, consisting of the Minister of Justice, the First Deputy Minister of Health, the First Deputy Minister of Education, the Deputy Minister of the Interior, a Senior Official in the Executive Office of the President, the Charge d'Affaires at the Mission of Tajikistan to the UNOG, and the Secretary from the Mission of Tajikistan to the UNOG.

Mrs. Kurbonova emphasised Tajikistan's commitment to fulfilling its role as a "social State" by supporting families and children. She also highlighted some of the State party's achievements in the area of health, education and protection of children while acknowledging that Tajikistan still faced significant challenges in implementing the CRC. She further noted that education was free and compulsory, available to all minority groups. Moreover, there was no repression or corporal punishment in the schools, and human rights subject was incorporated into the school curriculum. In addition, the delegate informed the Committee that the State had been able to reduce maternal and infant mortality, as well as the spread of infectious diseases, and increased its health care coverage. In order to more fully protect children's rights, the State party had established an Ombudsman institution and

¹The composition of delegation can be found at:
http://www2.ohchr.org/english/bodies/crc/docs/list/list_Tajikistan.pdf

laid the foundations for a Juvenile Justice system. There had been 15% drop in crimes committed by juveniles.

Budgetary allocations for children were increasing every year. There was a gradual decrease in maternal mortality. Unicef and WHO had introduced a new policy to reduce under-5 mortality to promote breastfeeding in Tajikistan. National rehabilitation center created a special facility and day care centers for those children with disability. Tajikistan had conducted a pilot project in support of girls in need of assistance. In her concluding remarks the delegate reaffirmed Tajikistan's commitment to continue working with the UN bodies in order to implement the MDG goals.

Mr. Puras, the country Rapporteur commended the State party for having identified and prioritised the issues restraining the implementation of the Convention, such as poverty, sexism, lack of reforms in the area of Juvenile Justice and inadequately developed infrastructure. He noted that although 60% of Tajik citizens lived in poverty, there was strong political will to carry out the necessary reforms and positive changes. He added that although Tajikistan achieved some progress, challenges and gaps were still huge.

He raised questions about the capacity of the Ombudsman institution established by the Presidential decree, the independent monitoring of the implementation of the CRC, the measures undertaken to involve NGOs both in the implementation of the CRC and in the policy development, and on the role of NGOs in governmental decision to increase the budgetary allocation for health and education. He posed questions about the low allocation of resources for health and education, whether the government was taking any measures to improve children's involvement and participation in decision-making process, whether children's rights to privacy were duly guaranteed and protected in residential institutions and what was being done to ensure the access to information for children especially in remote areas of the country.

General Measures of Implementation

Implementation

The Committee asked what the legal status of the Convention was, and if it had been applied in any legal proceedings in the courts. The delegation explained that international legal instruments were secondary only to the Constitution, and that they had primacy over domestic legislation. The delegation outlined its efforts to reform domestic law in areas such as family law, civil procedure code, and criminal procedure code to conform with the standards of the CRC.

The Committee asked about the composition and capacities of the Commission on the rights of the Child and the Ombudsman for human rights, and whether there was a complaints mechanism available to those whose rights had been allegedly violated. The delegation responded that it had recently consolidated two Commissions: one on human rights, and one on minors. The delegation further explained that the Commission on the CRC coordinated the different government agencies working with children and created guidelines for regional efforts to improve children's living conditions and rights. In addition, the delegation reported that two NGOs were working with the Commission.

Dissemination and training

The Committee asked what was being done to make both children and adults aware of children's rights, including through primary education, training for professionals, and the media. The delegation responded that the CRC had been translated into Tajik and Russian,

and that both the government and the mass media were participating in the dissemination of the CRC through special TV channels, magazines, and books.

Definition of the Child

The Committee asked why the age of marriage was set at 17, what were the reasons of lowering it to the age of 17, and whether the government considered raising it to the age of 18. The delegation explained that the legal minimum age of marriage was 17, although at some instances it was lowered to 16 by court decision. All cases of marriage at the age of 16 must be approved on a case-by-case basis by the courts, and a legislation to raise the age of marriage was being considered by the Parliament. The delegation also explained that the Constitution defined a child as “any human being under 18”, however a married person under 18 was considered an adult, who however was not subject to the criminal code.

General Principles

Non-discrimination

The Committee noted that although the Constitution guaranteed equality and the State had established a Presidential quota for girls’ education (which allowed some girls to enter higher education free and without an admission exam), there was often de facto discrimination against girls, who left the school when married off early. The delegation replied that the State party had established crisis centres for girls in need of assistance, and that these centres provided medical, legal, and social support, as well as education or vocational training. The delegation acknowledged inequity in higher-level education, but said that the gap was decreasing.

The Committee remarked that the high rates of violence towards women stem from their subordinate role in society and the perception that domestic abuse was a family matter, preventing the intervention of police, and asked what steps the State party was taking to change those views. The delegation did not provide any direct answer to this.

Survival and development

The Committee noted that as a percentage of GDP, investment in health and education was very low, and asked how the State party would allocate funds for such programmes, or other violence-prevention programmes, while protecting against corruption. Although the delegation claimed that the budget for health care and education was actually increasing, the Committee expressed doubt as to whether the increase was simply result of inflation or there was an actual increase in resources per capita. The delegation specified that the State party was focusing on funding training for teachers and health care professionals. Furthermore, the delegation noted the establishment of an anti-corruption agency. It informed the Committee that the government would be adopting a per-capita based funding approach for education, allowances, and health care.

The opinion of the child

The Committee asked if there were any policies to promote the participation and views of children. It further noted that it was obligatory to take into account the opinions of the child starting at the age of 10 in all decisions affecting their future, and asked how much weight these considerations were given in Tajikistan. The delegation confirmed that the views of children of 10 years of age and older were taken into account in judicial and administrative proceedings.

Civil Rights and Freedoms

Early and non-registered marriages; polygamy

The Committee raised concerns about the common negative side effects of early marriages and polygamous unions. The delegation admitted that it did not have any system to tackle the unregistered marriages. In order to reduce the number of unregistered marriages, Tajikistan adopted a normative legal document to deal with traditions and practices in Islamic marriage contract which was done after the civilian marriage contract was established. In 2007-2008, the registration of marriages had increased by 2/3rd amounting to 175.140 registered marriages.

On the issue of polygamy, the delegation explained that there was legislation on monogamy in place as well as Constitutional provisions criminalizing the polygamy. The delegation acknowledged that it needed to work in the area of awareness raising among men, women and girls. On the question of establishing parenthood, the delegation explained that it had always considered the best interests of the child and that there were two solutions in place: administrative and judicial. Administratively speaking these questions were dealt with the registration of civil status, when there was no dispute after the birth of the child. If the father did not recognise the parenthood, a determination of parenthood was established. The second intervention was judicial, when an application was lodged for establishing paternity by the guardianship body or the institution where the child was accommodated.

Name and nationality

The Committee commended Tajikistan for maintaining the relatively high level of birth registration at 88%. It noted however that there was a fee involved for birth registration, and that the birth registration centers were not always accessible in rural communities. The delegation replied that the State party had significantly decreased the fee and planned to eliminate it. It informed the Committee that parents could register the birth at any local authority in a rural area.

The Committee expressed concern about the fact that some children could potentially become stateless if born to a Tajik mother and stateless father, or if migrated with parents for more than five years without registration. The delegation replied that even in cases when the father migrated, it was common for children to attend schools. The delegation replied that any Tajik national could become a citizen, and that simplified process existed for children of citizens or minors. The delegation did not specifically reply to the question about the procedural differences for children with Tajik mothers but stateless fathers versus those with Tajik fathers but stateless mothers.

Protection from abuse and neglect

The Committee asked what the State party was doing, other than passing legislation, to prevent violence and corporal punishment, and if any studies had been done on violence against children. The delegation replied that it had criminalized corporal punishment and that it would monitor the implementation of that provision.

Family Environment and Alternative Care

Family reunification

The Committee asked what support was being given to families so that they could maintain

families and avoid putting their children in institutions. The delegation explained that there were largely two groups in residential care-those who had lost parents, or those who had parents but faced difficulties (so called “social orphans”). The State party had already started a programme on de-institutionalization that included a monitoring and assessment mechanism. In the event when children lost their parents, the children or their guardians received payments, and children had access to basic social services.

Adoption

The Committee inquired whether or not Tajikistan had ratified the Hague Convention on adoption. The delegation replied that it was carrying out reforms in the area of the family code to accommodate the issue of adoption. The family code prohibited the functioning of brokers in the matters of adoption. A new civil procedure code was under way to spell out the mechanism of adoption and other relevant matters related to court proceedings. Tajikistan was not party to the Hague Convention but it had been applying the norms of the Convention in cases of about 10 international adoptions. It believed that in order to overcome the issues connected to adoption, it had to carry out the whole range of steps from research, changing the legislation to ensuring that the State had a possibility to monitor the placement and conditions of the child. The Committee asked whether a child had an access to information to his or her biological family and was provided with a guarantee to the confidentiality of adoption. No response was provided.

Basic health and welfare

Disabled children

The Committee asked how the State party was preventing discrimination against, and promoting the social inclusion of, disabled children, and whether or not the country would ratify the Convention on the Rights of Persons with Disabilities. The Committee also pointed out that many disabled children were placed in large residential institutions with poor standards of care, and asked how the State party was finding alternatives for institutionalization. The Committee noted that children with disabilities were perceived as a matter of medical, not social concern. The delegation stated that Tajikistan had schools for the blind and deaf, and some, but not all, other disabilities. Furthermore, Tajikistan had established day care centres for disabled children and provided transport services.

Regarding the question on the number of children in the State boarding school establishments, the delegation said that the total figure included the categories of all vulnerable groups. Services were provided to those with disabilities and to children with limited capacities. About 19.000 children with disabilities at birth were trained in special and boarding schools.

Health and health services

The Committee requested information on the system of data collection and why the rates of child, infant and maternal mortality were increasing. The delegation explained that although they were committed to decreasing these mortality rates, challenges remained, including poor infrastructures, obsolete technology, insufficient knowledge among the population, and shortage of staff. The delegation said that they hoped to address the problem through a national strategy which included restructuring hospitals, educating the public, and using family medicine. The delegation also stated that Tajikistan had recently developed a number of specialised centres to tackle issues such as cardiovascular diseases or tuberculosis. There were special care services in these facilities that were funded by special grants, and were free

for children.

The Committee further asked for some clarification on health care policies for children, and whether the system was sustainable or part of a general policy on health services, and how the delegation planned to implement it. In addition, the Committee asked what was being done to raise awareness on HIV/AIDS. The delegation replied that, with the help of NGOs and international organisations, the State party had set up adolescent health centres to educate youth about reproductive health, and that it had also launched a mass media campaign and incorporated sex education into the curriculum. In addition, testing was available to mothers to prevent transmission to children. The Committee asked if children could seek confidential information about sexual health, to which the State party replied negatively, and reported that efforts were being made to change this. The Committee reminded the delegation that the WHO was releasing a report on adolescent sexual health and the barriers to education on the matter, and asked if the barriers would be eliminated. No specific response was given.

Social security

The Committee expressed concern that children and families were not receiving adequate support to sustain acceptable standards of living. The delegation replied that the President had launched an initiative through 2015 with the objective of ensuring targeted social support.

Education, leisure and cultural activities

Education

The Committee asked about funding for, and access to, education. The delegation replied that it devoted a significant amount of funding to education, and that it was compulsory and free of charge. The Committee asked if additional costs of education, such as supplies, were also free. The delegation acknowledged that teachers sometimes added on costs to attending class, but was working to combat this practice by raising salaries for teachers so that it would no longer be necessary.

Given the high drop out rate, the Committee also asked about second chances for children who had already dropped out, and preschool programs to help children take full advantage of educational opportunities offered. The delegation replied that it would pursue a strategy of increasing the quality of education offered so that students would want to attend. In order to do so, the State party offered financial incentives to teachers. Adolescents who had dropped out could return after a break or pursue alternative education. The State party acknowledged that its facilities, for pre-school, primary school, and secondary school, were inadequate.

The Committee asked if education was effective in preparing children for the labour force and in breaking down negative stereotypical attitudes about gender. No specific response was given.

Special Protection Measures

Refugee children

The Committee commended the State party for their acceptance of Afghan refugees, but noted that some refugee children were having difficulty accessing education because of some restrictions on the movement of refugees. The delegation responded that all refugee children had access to school in their own language.

Child labour

The Committee asked about the regulation of informal labour sectors. The delegation answered that no organisation was permitted to hire children for work. The Committee asked about cotton picking, which was traditionally done by children, but the delegation answered that they had conducted raids and satisfied themselves that children were at school during the cotton harvest.

Sexual offences against minors

The Committee asked how the State party identified cases of sexual abuse, how it was addressing them, whether there was any assistance provided to the victim and what remedies were available for victims of domestic violence. The delegation did not give a specific response.

The Committee asked what was being done to combat sexual exploitation. The delegation replied that sexual exploitation had been criminalized in accordance with the Palermo agreement, and that a special unit and commission on trafficking had been established. The criminal code of 2005 was changed to hold accountable those involved in trafficking minors and in disseminating pornographic materials. Tajikistan had ratified the UN Convention on organised transnational crime and adopted a variety of normative acts in the area of combating sexual exploitation of minors and trafficking. There was a special department on juvenile delinquency on combating this type of crimes. The victims of trafficking and sexual exploitation including minors were provided with shelters and pedagogical and medical treatment. Upgrading the capacity of the 15 staff members in those shelters was a priority.

Armed conflicts

The Committee voiced concern over the fact that children aged 15 and older attended a military academy run by the Department of Defence, which was prohibited under the OPAC. The delegation replied that the school's curriculum was determined by the department of education and that it did not provide a military education.

Rehabilitative care

The Committee noted the devastating effect of recent civil war on children, and asked if any rehabilitative services were being provided. No direct response was given.

Administration of juvenile justice

The Committee acknowledged Tajikistan's recent reforms regarding juvenile justice, but also noted that there was no separate judicial system or special juvenile courts for children in conflict with the law. The Committee was also concerned about reports of children being detained with adults, the protection of privacy, and the treatment of witnesses.

The delegation acknowledged that this was a problem, and said that it was seeking more funding to build separate facilities. It explained that holding children with adults was prohibited under the criminal code. Although there were no detention facilities specifically designed for juvenile offenders, minors were detained in separate sections. The delegation explained that the government had a five-year plan on training specialised professionals, amending criminal procedure, and reducing sanctions on juveniles while seeking alternative treatment.

The Committee asked for clarification on the age of criminal liability. The delegation explained that a person bore criminal responsibility at age 16 and could be sent to a special school or institution. A child under the age of 16 could not be brought before a court unless he or she committed a very serious crime. At ages 13 and under, there was no crime

considered to be serious enough to warrant a court case.

The Committee explained that the Commission on the rights of the child together with UNICEF had initiated and made significant changes and amendments in the criminal code of the country. One of the provisions of the criminal code provided the prohibition of deprivation of minors who committed minor crimes. One of the Supreme court decisions clearly stated and gave instruction to lower courts to respect these provisions in cases of minor offences and not to apply any form of criminal prosecution towards minors but send them back to their families or place them in education facilities. Trainings on children's rights were provided on ongoing bases for judges, lawyers and prosecutors at all levels from district to regional and local. An ongoing attestation of judges was being carried out in which one of the obligatory questions was the knowledge of international laws including the CRC.

The delegation further noted that one of the major changes was the establishment of special department on crimes on minors in the Ministry of Interior in 2007 and the creation of similar departments at regional levels. In 2007 a Memorandum of Understanding was signed on improving the conditions in detention centres, the capacities of specialised staff and creating a whole network of NGOs who could provide reintegration and rehabilitation services. A special national coordination committee composed of governmental officials was created to cover legal issues concerning minors. The Committee was responsible of analysing the situation in relation to protection of children and minor offenders and of reviewing the prevention of crimes in regions.

Concluding Remarks

The Country Rapporteur, Mr. Puras, called the dialogue fruitful and constructive. He emphasised the need to build a relationship of trust between NGOs and the government, accompanied with political will and monitoring. He recommended that the State party strengthen its resources and infrastructure in areas such as health care, juvenile justice, and education. He advised the government to take measures against domestic violence and informed the delegation that recommendations will follow.

The head of the delegation, Mrs. Kurbanova, thanked the Committee for their friendly dialogue and useful recommendations. She promised that the next examination would reveal positive results and invited all the Committee members to visit Tajikistan so that they could see the progress. She thanked once again by presenting a book about Tajikistan to the Chairperson.