

## COMMITTEE ON THE RIGHTS OF CHILD

41<sup>st</sup> Session (Geneva, 9 to 27 January, 2006)

### Overview of the Committee Session

During its 41<sup>st</sup> session, the Committee on the Rights of Child (the Committee), which monitors the implementation by States of the *Convention on the Rights of the Child* (the Convention), the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (OPSA) and the *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict* (OPAC), considered reports submitted by Azerbaijan, Ghana, Hungary, Liechtenstein, Lithuania, Mauritius, Peru, Saudi Arabia, Thailand, and Trinidad and Tobago under the Convention; Andorra, Kazakhstan, and Morocco under OPSA; and Andorra, Bangladesh, and Switzerland under OPAC. The consideration of the initial report of Italy under the Optional Protocols to the Convention was postponed to the 42<sup>nd</sup> session.

In an attempt to eliminate the backlog it was facing and to examine reports under both Optional Protocols to the Convention, the Committee decided to consider 15 State party reports during its 41<sup>st</sup> session. In order to complete this task, the Committee opted to meet in two parallel chambers for the first time in its history. Mr. Jacob Egbert Doek acted as Chairperson of the Committee of Chamber A, while Ms. Joyce Aluoch was the Chairperson of Chamber B.

During the 41<sup>st</sup> session, the Committee also discussed general comments and interacted with United Nations (UN) entities, non-governmental organisations (NGOs) and other partners. On 17 January 2006, the Committee held informal discussions with State parties on issues related to modalities of work in the two-chamber system and in relation to consideration of reports under the two Optional Protocols to the Convention; the reform of the treaty bodies; and the Committee's country visits and workshops on follow up to the implementation of its concluding observations.

NGOs submitted parallel reports for the majority of countries presenting reports under the Convention, i.e. Azerbaijan, Ghana, Hungary, Lithuania, Mauritius, Peru, but only two parallel reports were submitted for the countries being considered under the Optional Protocols, and these focused only on OPSA. A number of NGOs were present at the meetings, such as the International Commission of Jurists (ICJ); the NGO Group for the Committee on the Rights of Child; Save the Children; Defence for Children; as well as some local NGOs, notably from Mauritius, Azerbaijan, Thailand and Saudi Arabia. The United Nations High Commissioner for Refugees (UNHCR) and the United Nations International Children's Emergency Fund (UNICEF) also attended some of the meetings.

Overall, the relationship between delegations and the Committee was professional and cordial. Due to the time restraints, it was not possible for some States to answer all of the questions and many therefore promised to subsequently provide written answers to the questions raised.

The main themes that were raised by Committee members throughout the session were: juvenile justice; discrimination against children from minorities children with disabilities; domestic violence and child abuse; health care focusing on HIV/AIDS; organisations and institutions on children's rights; education; budget allocations for children's policies; gender issues; ratification of human rights instruments; adoption and child care institutions; and rehabilitation and reintegration of former child soldiers.

### Reports of States

#### **Switzerland (initial periodic report (OPAC)<sup>1</sup>)**

##### *Overview of the country session*

On 9 January 2006, the Committee considered Switzerland's initial report on OPAC. In his opening statement, the head of the Swiss delegation, Mr. Jean-Daniel Vigny, Minister and member of the Swiss Mission to the

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<sup>1</sup> CRC/C/OPAC/CHE/1

United Nations Office at Geneva, summarised the implementation of OPAC in Switzerland, emphasising Switzerland's commitment to the protection of children's rights, especially with regard to their involvement in armed conflicts, both on a national and international level.

The main topics addressed during this session included: the requirement of the so-called "close link to Switzerland" for the prosecution of war crimes (Article 6); the legal provisions to implement OPAC (Article 6); the level of assistance provided to former child soldiers (Article 7); peace education (Article 6); international cooperation (Article 7); and the involvement of NGOs and civil society in the preparation of the report. The Committee commended Switzerland on a very clear and complete report, stressing that Switzerland was in perfect harmony with OPAC. As a result, discussions focused on legal issues rather than substantive ones. The session took place in an interactive and relaxed atmosphere, with the Swiss delegation actively seeking the Committee's advice and suggestions.

#### *Themes and issues discussed*

The Swiss delegation began by answering a written question submitted by the Committee requesting further information on the amendment of the *Military Penal Code of 23 December 2003* concerning the requirement of the so-called "**perpetrator's close link to Switzerland**" for the prosecution of war crimes taking place abroad. The delegation explained that this amendment was introduced to avoid a situation in which the Swiss authorities would be submerged by requests to try individuals with a vague link to Switzerland, as has been the case for Belgium. A close link is considered to be present in a number of instances, such as when individuals live in Switzerland, are staying in the country for medical treatment, have relatives in Switzerland with whom they have regular contact or own buildings in the country. The delegation stressed that owning a bank account in Switzerland is not considered a close link, and neither is paying a brief visit to the country. The delegation also explained that the interpretation of this "close link" lies with the competent legal authorities (the judges), but is always undertaken in conformity with international law. Furthermore, it was pointed out that this amendment was the result of a political decision reached by the Swiss National Assembly, following consultation with political parties, NGOs, and civil society.

Mr. Hatem Kotrane called attention to the potentially damaging consequences for children's rights of leaving the interpretation of the meaning of this "close link" up to judges instead of clearly defining it, declaring that it could lead to restrictive interpretations. He therefore suggested establishing more definitive criteria. The delegation argued that this lack of clear definition would not be problematic since judges always prioritise the best interests of the child, but reassured the Committee that the federal administration would study this concept further. The Chairperson, Mr. Doek, serving as country Rapporteur for the report of Switzerland, asked the delegation whether the "close link" applied only to perpetrators or if it could be invoked in the case of victims as well. In reply, the delegation explained that the "close link" would exclusively apply to foreign perpetrators and be used only when there was no other basis for jurisdiction, as there were alternative national laws available to protect Swiss victims or pursue Swiss perpetrators.

Several Committee members addressed the issue of the level of **assistance provided to former child soldiers**, as well as the procedures put in place to identify them. The delegation acknowledged the lack of a specific mechanism to identify these individuals, but explained that there are specific laws in Switzerland concerning the assistance that should be provided to victims, maintaining that former child soldiers are also protected by this law. It also informed the Committee that Switzerland has specific experience with victims of torture, and has developed a programme of both medical and psychological assistance for such cases that could be extended to children involved in armed conflicts. Mr. Vigny also stressed that there are other legal provisions in place to protect such children, such as trusteeships.

The Committee also asked the delegation whether any **peace education** was available in Switzerland. The delegation replied that to value peace also derives from the respect for human beings, and that although, to their knowledge, there is no peace education as such in Switzerland, there is an extensive human rights education, which also includes children's rights.

Mr. Kamal Siddiqui congratulated Switzerland on an excellent record, but urged the delegation to further expand their **international cooperation** to more countries than just Burundi and the Democratic Republic of Congo (DRC). The Swiss delegation explained that these two countries were just cited as examples in the State party report, and that Switzerland was also involved in many other countries like Sierra Leone and Liberia. Ms. Awa

N'Deye Ouedraogo also pointed out that although Switzerland's effort in terms of international cooperation was commendable, it appeared only in the form of support for NGOs and not for governments. Furthermore, she suggested that Switzerland move beyond raising awareness and providing information, to assisting with problems of demobilisation, such as rehabilitation and re-integration of former child soldiers. The head of the Swiss delegation argued that Switzerland was also helping governments, citing the example of Sierra Leone where two Swiss experts, including one member of the delegation, worked with the Special Court for Sierra Leone. The delegation took note of Ms. Ouedraogo's suggestion for demobilisation programmes and promised to pass it on to the appropriate authorities.

The Committee confronted the delegation about the **unequal obligations of men and women** to join the army. The head of the delegation reminded the Committee that historically in Switzerland women had not been able to enjoy as many rights as men, but he argued that in terms of obligations, it was an advantage that women should not have the obligation to join the army, informing the Committee that surveys had shown that most women did not want to do so.

Ms. Yanghee Lee asked for clarification as to what the delegation meant when it said that the report had been prepared in **collaboration with NGOs**. The delegation reassured her that there had been a real consultation process, and that the Child's Rights Network Switzerland had been very active in the preparation of this report.

The delegation also directly sought the Committee's advice regarding to the necessity of making child enrolment a war crime dependent on the existence of an ongoing conflict. The Chairperson suggested that there should be no such clause, and that a pioneering attitude might be to make this a crime under national law, and not necessarily a war crime. The Committee also argued that Switzerland, because of its own ban on national military enrolment before the age of 18, could lead the way in the protection of children between the age 15 and 18 by pursuing perpetrators with a "close link" to Switzerland who attempt to enrol these children, and not only those aged under 15 as is required by the *Rome Statute of the International Criminal Court*. The Committee also suggested that the protection of children's rights would be improved if States were to collaborate more with regard to respective jurisdictions.

#### *Comparisons with previous reports and recent appearances before other treaty monitoring bodies*

Both the discussion and the Committee's concluding observations focused essentially on issues of specific relevance to OPAC and did not address more general substantive issues. As such, there is very little overlap between the issues discussed during this session and previous reports and appearances before other treaty-monitoring bodies. However, during Switzerland's appearance before the Committee in 2001 for consideration of its report under the Convention, Committee members expressed concern over respect for the best interests of the child and the treatment of refugee, asylum-seeking and unaccompanied children. These issues were also briefly mentioned during this session.

#### *NGOs concerns*

There were very few NGOs present at the session and no parallel report was submitted. Committee members did not refer to NGO reports or concerns when raising questions.

### **Bangladesh (initial periodic report (OPAC)<sup>2</sup>)**

#### *Overview of the country session*

On 9 January 2006, the Committee considered Bangladesh's initial report on OPAC. In his opening statement, the head of the Bengali delegation, Mr. Mahbud-uz-Zaman, Minister at the Permanent Mission of Bangladesh to the United Nations Office at Geneva, summarised how the Government of Bangladesh is implementing OPAC, emphasising Bangladesh's commitment to the protection of the rights of children, especially with regard to their involvement in armed conflicts, both on a national and international level.

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<sup>2</sup> CRC/C/SR.1083.

The main topics addressed during this session included legal, administrative and other measures to ensure the effective implementation of OPAC (Article 6); the level of assistance provided to former child soldiers (Article 7); the involvement of NGOs and civil society in the preparation of the report; the legal age for serving in the armed forces (Article 2); the proliferation of small arms and light weapons; and armed political groups (Article 4).

#### *Themes and Issues discussed*

Committee expert Mr. Norberto Liwski served as the country Rapporteur. He thanked the delegation for presenting their timely report and for trying to reply to the questions raised by the Committee. He particularly stressed that efforts should continue to prevent forcible or coercive incorporation into the armed forces. He also deplored the lack of rehabilitation measures for child soldiers involved in the Chittagong Hill Tracts conflict<sup>3</sup>.

The delegation explained that the procedure through which the report was prepared involved the setting-up of an inter-ministerial committee and that its work had been approved by high-level authorities. However, no NGOs had been involved in the drafting of the report in question. In response to questions about the **legal age requirement for the armed services**, the delegation argued that children under the age of 18 were not engaged in any armed hostilities and that Bangladesh therefore met the obligations set out in OPAC. In terms of the **proliferation of small arms and light weapons**, the delegation stressed that several measures had been taken to monitor borders through which weapons were smuggled. The delegation also indicated that a law was being finalised, which would provide for technical training and foreign assistance on questions of smuggling and border security. Addressing the Committee's concern about the **rehabilitation of child soldiers involved in the Chittagong Hill Tracts conflict**, the delegation stressed that they had been reintegrated into society through government assistance, as provided for in the peace accords, and through social developments projects undertaken by NGOs. On the question of **armed political groups**, the delegation explained that measures had been taken to outlaw such groups, including those resorting to terrorist activities in the region. The delegation also indicated that there was no record of children under the age of 18 being recruited by these groups. With regard to **birth registration**, the delegation, while acknowledging that Bangladesh had experienced problems on this issue, stressed that there were now improved measures to determine the age of children. Enlistment in the armed services notably required examination by a medical board. Finally, concerning **military colleges**, the Committee was told that these ran from 7<sup>th</sup> through 12<sup>th</sup> grade, but were not a compulsory criterion for recruitment into the armed services.

#### *Comparison with previous reports and recent appearances before other treaty monitoring bodies*

During the consideration of the State party's second periodic report under the Convention<sup>4</sup> in 2003, the Committee also raised the issue of birth registration, recalling one of its previous recommendations in this regard. The Committee also expressed similar concerns as it did during this session with regard to the situation of children of the Chittagong Hill Tracts.

Bangladesh appeared before the Committee on the Elimination of Racial Discrimination (CERD) in 2001<sup>5</sup>. The only issue of common concern to both Committees was the situation in the Chittagong Hill Tracts, with CERD requesting more information on rehabilitation programmes for inhabitants of this region.

#### *NGO concerns*

No NGOs were present at the session and no formal shadow reports were presented to the Committee.

### **Kazakhstan (initial periodic report (OPSA)<sup>6</sup>)**

#### *Overview of the country session*

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<sup>3</sup> The conflict ended in 1997 with the signing of peace accords.

<sup>4</sup> CRC/C/15/Add.74

<sup>5</sup> CERD/C/304/Add.118

<sup>6</sup> CRC/C/OPSA/KAZ/1

On 11 January 2006, the Committee reviewed Kazakhstan's initial periodic report on the implementation of the provisions of OPSA. In her opening statement, the head of the delegation Ms. Madina Jarbussynova, Ambassador at the Ministry of Foreign Affairs, said that protecting the rights of children was one of the main foci of the Kazakh Government and that it had undertaken a targeted programme to improve the status of women and children and to increase the protection of children. The State also provided children with free and specialised health care. In 2004, the Government adopted a law aimed at preventing juvenile delinquency, which included measures to protect the rights and interests of minors with a view to preventing them from being drawn into crime, and to protect them if this was the case. Moreover, child prostitution, sexual exploitation of children and distribution of child pornography had been criminalised and legal provisions had established criminal responsibility for those abusing children.

The Committee raised a number of issues in two rounds of questions including assistance to HIV/AIDS orphans; awareness-raising efforts targeted towards children; child prostitution; the situation of victimised children; birth registration and nationality laws; street children; and protection of children victims of sexual exploitation or abuse in the legal process.

#### *Themes and issues discussed*

The country Rapporteur, Ms. Lee, expressed concerns about the bodies responsible for the implementation of the Convention and OPSA, and their budget. She also questioned the delegation on **internal trafficking** for the purposes of **sexual exploitation**, particularly inquiring about the fate of victims of such acts. Ms. Jarbussynova, responding to the questions, indicated that the National Commission on Family and Women's Affairs, which had the same status as a Ministry, carried out the coordinating activities with regard to children's issues. A Special Committee on the Rights of the Child, under the Ministry of Education and Science, would be established, which would coordinate all efforts and measures to implement OPSA. Budgetary figures would be provided in writing. On the issue of combating trafficking, the delegation explained that there was an inter-departmental commission to combat trafficking, which coordinated a council of law-enforcement bodies. These had been established in the context of the National Action Plan for 2004-2005, whose work had not been concluded, but would continue in the National Action Plan for 2006-2008. According to statistics, in 2003, eight individuals were recognised as having illegally trafficked children, and were subsequently punished. No such cases had been brought in 2004

A number of Committee members were concerned about **street children** and **HIV/AIDS orphans**, as there was a high level of infection among the baby-boomers generation in the population. The delegation replied that Kazakhstan was working closely with the Global Fund to fight AIDS, tuberculosis and malaria and other Central Asian countries on this issue and a National Plan had been developed to combat the spread of HIV/AIDS and to rehabilitate those with HIV/AIDS. The delegation stressed that the HIV/AIDS infection situation in Kazakhstan was not problematic due to high education levels and the availability of programmes on this issue.

The Committee stressed the need for a statistics collection system that would provide disaggregated data in order to give a clearer picture of the general situation in the country.

The Committee asked questions about the non-criminalisation of the **possession of child pornography** and about the protection of children **victims of sexual exploitation or abuse** in the legal process. Responding, Ms. Jarbussynova said that local authorities had the possibility of monitoring and ensuring that those guilty of producing or transmitting child pornography were brought to justice. However, at a national level and in the framework of the country's resources, it was difficult to prevent the dissemination of child pornography over the Internet. As to the protection of the rights of children participating in criminal proceedings, a legal provision had been drafted providing for their protection in such cases.

#### *Comparisons with previous reports and recent appearances before other treaty-monitoring bodies*

While the Committee acknowledged the State's efforts in implementing OPSA and congratulated the delegation for the ratification of two ILO Conventions, it stressed that there had been no answer to the list of issues<sup>7</sup> sent by the Committee.

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<sup>7</sup> CRC/C/Q/KAZ/1

Some of the recommendations made by CERD in its concluding observations in 2004 regarding Kazakhstan's ongoing efforts to prevent and combat trafficking and to provide support and assistance to victims have been met partially. However, the Committee's 2001 recommendations concerning the need to include detailed information in the State party's next periodic report on human trafficking and to make determined efforts to prosecute the perpetrators of such acts have not been addressed in the present session.

#### *NGO concerns*

The NGOs in attendance on the day were: the NGO Group for the CRC and the International League for Human Rights. One shadow report<sup>8</sup> was submitted by the Kazakhstan NGOs' Working Group on the protection of children's rights, deploring the lack of implementation of relatively progressive legislation on trafficking and sexual exploitation of children, as well as the absence of appropriate reporting mechanisms resulting in a dearth of statistics on these phenomena.

### **Morocco (initial periodic report (OPSA)<sup>9</sup>)**

#### *Overview of the country session*

On 11 January 2006, the Committee examined the initial report of Morocco on OPSA. Introducing the report was the head of the delegation, Mr. Azzeddine Farhane, from the Permanent Mission of Morocco to the United Nations Office at Geneva. The delegation was made up of representatives from the Moroccan Court of First Instance; the Ministry of Justice; the Ministry of Health; the State Secretariat for the Family, Children and Disabled Persons; and the Permanent Mission of Morocco to the United Nations Office at Geneva. In his opening statement, Mr. Farhane stated that since the ratification of OPSA, the instrument had been given maximum priority by the State, and that coordinated and sustained efforts had been undertaken to uphold the best interests of the child. The Government had also begun drafting a National Action Plan for Children in coordination with all members of society. Curbing poverty and developing human resources were also a central focus of activities aimed at increasing the protection and promoting the development of Moroccan children.

The Committee raised questions pertaining to domestic violence and child abuse; the National Action Plan for Children; the juvenile justice system; rehabilitation centres for victims of child abuse and exploitation; procedures concerning submission of complaints by victims to authorities; training of professionals dealing with sexual exploitation and abuse; and educating children in schools about their rights and issues of sexual abuse.

#### *Themes and issues discussed*

Committee Expert Ms. Moushira Khattab served as the country Rapporteur and in her opening remarks thanked the delegation for its efforts to respond to several questions posed by the Committee. She appreciated the legal reforms carried out in Morocco, as well as the active role of civil society in cooperation with the Government. Ms. Khattab acknowledged that Morocco had taken the step to sensitise the public with regard to child exploitation issues, not only in Morocco but also in the region by holding a conference in 2004<sup>10</sup>. On the implementation of the **National Action Plan for Children**, she inquired when it was to be adopted and requested further information on the problem of domestic violence and actions taken to try offenders.

In response, the delegation explained that there was a high rate of **domestic violence** accompanied by a high stigmatisation of girls and women victims of such violence. However, the situation had been changing due to a number of legal regulations combined with educational tools, as well as evolving attitudes towards this problem. Concerning the National Action Plan for Children, the delegation noted that its implementation was underway and that it focused on better education standards, better health services and HIV/AIDS. The delegation indicated that the National Action Plan for Children was expected to be finalised at the end of January. In its concluding observations, the Committee recommended that the Government take a further step towards the adoption and

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<sup>8</sup> The report is available at: [http://www.crin.org/docs/Kazakstan\\_OPSPA\\_ngo\\_report\(E\).doc](http://www.crin.org/docs/Kazakstan_OPSPA_ngo_report(E).doc).

<sup>9</sup> CRC/C/OPSA/MAR/1

<sup>10</sup> Second Arab African Conference Against Exploitation, Violence and Sexual Abuse of Children, Rabat, December 14-16, 2004.

implementation of the National Action Plan for Children and provide a specific budget allocation for its full implementation.

Responding to questions on **rehabilitation centres for victims of abuse and exploitation**, the Committee was informed that since the 1990s, centres for victims had been established with the intention to provide care and treatment. The functioning of these centres was routinely assessed and the Government had decided to establish a communication network to sensitise the public on their functions and locations.

In reply to questions on the **training of officials** dealing with sexual exploitation and abuse, the delegation explained that while there were no specialised courts for minors, the new penal code provided for judges and police officers specialised in cases dealing with minors.

Lastly, the delegation explained that cases of **allegations of sexual abuse** raised by children had been brought to court. The complaints procedure with regard to sexual abuse had no age limit and complaints could be filed on the basis of anonymity. The delegation stressed that refusal by any State authority to hear a complaint was a breach of the law. In response to this, the Committee expressed concern over the relative lack of data on sexual exploitation, child pornography and the sale of children. In addition, the Committee identified a need to raise public awareness on these issues, in order to change attitudes and behaviours.

#### *Comparison with previous reports and recent appearances before other treaty monitoring bodies*

The issue of juvenile justice reform is also taken up in the State party's 2004 report under the Convention<sup>11</sup>. It is recognised in both reports that prison reforms have provided for a series of assistance measures to persons in detention, notably juveniles in child protection centres. Morocco's report to CERD in 1999 also referred to the human rights education projects being carried out by the State party.

#### *NGO concerns*

The NGO Foundation Terre de Hommes was present at the session and submitted a shadow report<sup>12</sup>. It referred to the reports and recommendations of the second Arab African Conference against Exploitation, Violence and Sexual Abuse of Children (Rabat 2004), and described the role of numerous international and national actors pursuing projects on children in Morocco.

### **Peru (3<sup>rd</sup> periodic report<sup>13</sup>)**

#### *Overview of the country session*

On 12 January 2006, the Committee considered the 3<sup>rd</sup> periodic report of Peru. Ms. Ana María Romero-Lozada, Minister for Women and Social Development, headed the Peruvian delegation and was accompanied by delegates from the Ministry for Women and Social Development, the Ministry of Public Affairs, and the Ministry of Education. In her opening statement, Ms. Romero-Lozada reaffirmed Peru's commitment to fulfilling its obligations under the Convention, as well as under other conventions and treaties on human rights. The State party submitted extensive written replies to the Committee's list of issues<sup>14</sup>.

The main topics discussed at the session were: the relationship between poverty and children's rights; the lack of structural resources for children's rights in rural settings (Article 4); budget allocation for education, health and food (Article 4); the recent move towards decentralisation of agencies involved in children's rights (Article 4); birth registration (Article 7); the right to an identity (Article 8); the high incidence of disappearance of children (Article 11); respect for children's opinion and freedom of expression (Articles 12 and 13); the rights of children

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<sup>11</sup> CRC/C/CR/31/2., 2004.

<sup>12</sup> Fondation Terre de Hommes, *Rapport de la section Maroc du Groupe de ONG pour la Convention relative aux droits de l'enfant*. Septembre, Casablanca, 2005, available at: <http://www.crin.org/resources/infoDetail.asp?ID=6715>.

<sup>13</sup> CRC/C/125/Add.6

<sup>14</sup> CRC/C/PER/Q/3

with disabilities (Article 23); the right to health (Article 24); the right to education (Article 28); the rights of indigenous children (Article 30); and assistance to children affected by violence (Article 39).

#### *Themes and issues discussed*

Country Rapporteur, Ms. Rosa María Ortiz, welcomed the analytical and self-critical nature of the Peruvian report, but noted that the report did not follow the established reporting guidelines, nor did it address numerous issues brought up during the last country session. She made enquiries as to the preparation of the report. The delegation replied that it was produced by the Department of Children and Adolescents and covered the period between 1997 and 2002. The delegation apologised for not following reporting guidelines.

While recognising that democratic reform is still taking place after the main period of violence in Peru, the Committee criticised the inefficiency of State programmes and questioned the State's decision to move towards **greater decentralisation of programmes and ministries** related to children's rights. It specifically asked how this organisational shift would affect children in rural areas and indigenous children, especially given the existent disparities in resources in those areas. The Committee observed a lack of dialogue between civil society and the Government. It noted that elements of the civilian network corresponding with the Government were already decentralised, through the network of over 1,000 ombudsmen throughout the country, and asked how this system could run efficiently without a central figure. Concern was also raised about the nature of this network and what the background of most of these ombudsmen are. The delegation answered that these ombudsmen were positioned in various sectors of local institutions and were another method for the Government to engage with civil society. The ombudsmen come from various sectors of society and, in some cases, are elected by the children they represent and empower.

The Committee noted that while Peru has experienced economic growth in the last few years, the **budgetary allocation** for children has remained stagnant, especially in terms allocations for education. The delegation said that while the percentage of the Gross Domestic Product (6%) that was allocated to education remained the same during a period of economic growth, the money allocated actually increased between 2000 and 2005. Ms. Ortiz ended the conversation with a recommendation that the Government should strive to increase the allocation for the health sector as well.

The Committee observed that 28% of children in Peru still do not have their births registered and recommended that a long-term solution for this problem, such as a permanent, systematic programme for **birth registration**, be created. Other Committee members linked birth registration to the **right to an identity**. The delegation argued that the problem of birth registration was most likely due to registration fees, bureaucracy, and misinterpretations of the rules for registration. The delegation assured the Committee that there is an ongoing campaign to ensure that currently unregistered children are registered and argued that there would be better birth registration figures in the years to come. The delegation noted that the problem of birth registrations fed into the problem of disappearances of children. The Committee noted that of all **disappearances** in Peru, 35.3% of them concerned children. The delegation said that the figure could be higher given the problems of birth registration and concluded that these disappearances were related to the trafficking of children.

The Committee focused a great deal on the **disparities in access to services by children living in rural areas, children affected by poverty, and indigenous children**, noting that these categories often intersect. The delegation discussed several national plans being implemented to alleviate poverty in Peru, including the National Plan for Overcoming Poverty, which involves four ministries and representatives from civil society and attempts to locate the most vulnerable populations and areas in the country. Another programme, Juntos, provides restitution to people who have been expelled from their homes or who were victims of violence and provides incentives to parents to ensure that children stay in school. The programme had been running for four months and already results were noticeable. The delegation also mentioned a programme run by the Ministry of Women and Social Development for people affected by violence, which awards about \$12,000 worth of grants for the education of children as reparations. The delegation made it clear that the Government of Peru recognises the structural and resource disparities in rural areas and explained that it should be seen in the framework of the broader poverty problem in Peru.

Several of the Committee members asked about **the rights of children with disabilities** in Peru, observing that there were 700,000 children with some kind of disability. The National Council for the Integration of Disabled Persons was commended, even though its programmes had only helped a reported 15% of people with

disabilities. The delegation said that the National Council had recently started a registry for disabled people and hoped that this would lead to a more effective way of catering to the needs of disabled people.

The last part of the session focused on the **sexual exploitation of children and child labour**. On the issue of child labour, questions were asked about statistics on informal and domestic labour, monitoring of the labour code, and labour inspection in areas outside of Lima. The delegation explained that the Government is attempting to comply with ILO standards, but recognises that it still has a lot of work to do in this area. On sexual exploitation, the Committee asked about the treatment of victims of sexual exploitation and about sentences for producing and possessing child pornography. The delegation indicated that police and other special forces were completing specialised training for handling victims of sexual crimes. Moreover Law 28251, which was passed in 2004, provides harsh punishments for people involved in the production of child pornography, sexual trafficking, rape, and sexual tourism.

#### *Comparison with previous reports and recent appearances before other treaty monitoring bodies*

Peru had previously appeared before the Committee, and several of the issues highlighted by the Committee in earlier sessions were taken up, such as the end of the high level of violence in the country<sup>15</sup>. Outstanding issues stressed by the Committee include: budget allocation; economic rights and poverty; birth registration; provisions for disabled children; economic and sexual exploitation; and juvenile justice.

Peru was also considered by the Human Rights Committee (HRC) in 2000, which addressed common themes such as the high infant mortality rate; State assistance for mothers; neglect, cruelty and exploitation of children; juvenile justice; and education, particularly for minority populations.

#### *NGO concerns*

NGOs present at the session included Casa Alianza, the National Coalition of Churches, and the International Social Service. The Grupo de Iniciativa Nacional por los Derechos del Niño presented an alternative report<sup>16</sup> to the Committee. Concerns expressed in this report included: the right to a name and identity; budget allocation for impoverished populations; maternal and infant mortality rates especially in rural zones; chronic malnutrition; and multi-cultural and bilingual education.

## **Ghana (2<sup>nd</sup> periodic report<sup>17</sup>)**

### *Overview of the country session*

The Committee examined the 2<sup>nd</sup> periodic report of Ghana on 13 January 2006. Ms. Alima Mahama, the Minister for Women and Children's Affairs, led a high-level delegation comprised of diverse representatives from the Ghanaian Permanent Mission in Geneva; the Department of Social Welfare; the Ghanaian School of Health; the Ministry of Justice and Attorney-General's Department; the Ministry of Education and Sports; and the Ghana National Commission on Children. The delegation apologised for its late report, which was due in 1997, but expressed its willingness to respond to the challenges faced in the implementation of the rights of children.

The main topics addressed during the discussion included: discrimination against girls, refugee and disabled children (articles 2, 22 and 24); implementation of national legislation and coordination of national institutions (article 4); birth registration (article 7); family environment and abuse (articles 9, 16, 19, 20 and 27); children participation in schools and local communities (article 12); the right to privacy (article 16); corporal punishment (article 19); the right to health (articles 24, 27 and 33); the right to education (articles 28 and 29); protection from economic and sexual exploitation (articles 32, 34 and 36); and juvenile justice (article 40).

### *Themes and issues discussed*

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<sup>15</sup> 2 February 2000, 25 March 1998, and 8 October 1993.

<sup>16</sup> Available at: <http://www.crin.org/resources/infoDetail.asp?ID=6723>.

<sup>17</sup> CRC/C/65/Add.34

The Committee was satisfied with changes made in Ghana's legislation to strengthen the rights of children in the country. However, throughout the whole discussion, the Committee underlined the need to effectively implement existing legislation, and to improve coordination of national institutions working on children's issues. It also expressed its concern regarding the lack of budgetary resources devoted to these issues, and recommended that the Government adopt a specific budget for the implementation of children's rights.

The Committee requested details on how the **balance between customary law and written law** was struck with regard to children's rights. On this issue, several questions focused on institutions, such as the House of Chiefs, and on customary systems, such as Trokosi (customary servitude). Concerning the **implementation of the Convention**, the Committee asked whether a national action plan for children was planned. The delegation explained that children's issues were to be mainstreamed within the Ghana Poverty Reduction Strategy. Committee members urged the Government to finalise a plan of action for the implementation of the Convention and mainstream children's rights throughout all national plans and programmes. The Committee was also concerned about the coordination and monitoring of the new institutions created to implement children's rights. The Committee asked whether the rights of children were made widely known, in particular through public campaigns. The delegation replied that there was an important programme of information, which relied on participation by media and NGOs.

On **gender discrimination**, the Committee noted the high illiteracy rate of women and stressed the need to attract more girls to school. The delegation indicated that there has been a massive campaign promoting girl education, resulting in an increase in the number of girls attending school. However, the delegation agreed with the Committee that girls' dropout rate is still high, a phenomenon that is due to a number of reasons. The Committee also encouraged the Government to take consideration of the special needs of **refugee children**, in particular with regard to protection against violence and abuse in refugee camps, as well as in ensuring their access to education.

Concerning the **registration of births**, Ms. Ouedraogo highlighted the existing problems, which lead to an important number of children not being registered, and insisted on the need for improvement in this regard. The delegation explained that some measures have been adopted to improve birth registration. The Committee expressed serious concerns about the increasing placement of **orphan children** in institutions and the increasing number of privately run institutions. The delegation insisted that these orphanages were regulated and monitored. The Committee was worried that many children could stay as long as 12 years in such homes, and it was also concerned about these children's right to privacy.

On the issue of abuse in the family environment, the Committee encouraged the delegation to provide a toll-free hotline for children **victims of abuse or neglect**. This would provide the Government with useful information about the situation of children victims of domestic violence. Concerning **sexual exploitation**, the delegation indicated that the Government was trying to rehabilitate those children engaged in commercial sex activities. The Committee was also concerned about the **trafficking of children**, particularly important in the Western African region. The Committee also addressed the issue of **corporal punishment** and asked for its abolition, stressing that justifications for corporal punishment were too relative and subjective. The delegation replied that the *Criminal Justice Act* prohibited cruel and inhuman or degrading practices, thereby protecting children from unreasonable correction. The Committee discussed the definition of "unreasonable correction", and the delegation acknowledged there was a need for monitoring on and reporting of such practices, which take place especially in rural areas.

Addressing the **right to health**, the Committee identified a number of concerns, notably malaria, HIV/AIDS, teenage pregnancies and breast-feeding policy. According to the delegation, the Government has introduced a programme to reduce malaria rates by half, but acknowledged that HIV/AIDS remained a challenge. The delegation informed the Committee that there had been an improvement in access to safe water. Concerning female genital mutilation, a legislation prohibiting such practices had been passed in 1998, but it was not yet well implemented in all regions.

The Committee acknowledged that progress has been made with regard to **access to education**, in particular with the introduction of a capitation grant and compulsory childhood education, but noted that enrolment figures in primary and secondary education were still far from satisfying. The Committee was alarmed about the **child labour** problem, with the delegation acknowledging that more than one out of three children over five years old

was engaged in some form of labour. The delegation explained that some programmes have been established to address this problem.

The Committee only briefly mentioned the issue of **juvenile justice**, welcoming the increase in the minimum age for criminal responsibility (from seven to 12 years old), but expressing important concerns about the number of children being locked-up in prisons for adults or in remand homes. The delegation did not respond fully to the concerns of several Committee members on the issue of **child participation** in schools and local communities, insisting that the situation had improved in the past years.

#### *Comparisons with previous reports and recent appearance before other treaty monitoring bodies*

Many issues raised in this session by the Committee had already been raised when examining Ghana's initial report in 1997. These issues included insufficient coordination between institutions dealing with children's issues; lack of sufficient awareness of the Convention; birth registration problems; corporal punishment; the issue of customary practices, such as Trokosi and female genital mutilation; high drop-out rates from schools; refugee children; and juvenile justice. The Government has made many efforts to improve the situation, although in practice there has been very little progress in almost ten years.

The last treaty body that considered a report from Ghana was CERD in 2003. This treaty body was also particularly concerned by the continuing existence of discriminatory traditional practices, particularly those affecting women, and high illiteracy rates. CERD also inquired about the balance between statutory law, customary law and common law.

#### *NGO concerns*

In its alternative report<sup>18</sup>, the Ghanaian NGO Coalition on the Rights of the Child underlined the need for effective implementation of existing legislation. It also considered necessary to develop resources, data analysis systems and monitoring mechanisms in the field of children's rights.

### **Liechtenstein (2<sup>nd</sup> periodic report)**

#### *Overview of country session*

The Committee reviewed the 2<sup>nd</sup> periodic report of Liechtenstein on 13 January 2006, with Mr. Christian Wenaweser, the Permanent Representative of Liechtenstein to the United Nations Office at Geneva, introducing the report. He identified various steps taken by the State party to prioritise human rights, with particular emphasis on the reform of the UN treaty bodies. The delegation was comprised of representatives of the Office of Education; the Immigration and Passport Office; the Office of the Public Prosecutor; the Court of Justice; the Office of Social Affairs; the Office of Foreign Affairs; and the Permanent Mission of Liechtenstein to the United Nations Office at Geneva.

The Committee raised questions pertaining to the proposed Youth Act; corporal punishment; freedom of religion and religious education in schools; the question of national identities; the Office of the Ombudsperson; school violence; and drug and tobacco consumption.

#### *Themes and issues discussed*

Mr. Awich Pollar served as the country Rapporteur and in his preliminary remarks said that Liechtenstein, although small in size and population, had a fairly large percentage of children, including foreign children. He added that their basic rights and fundamental freedoms were enshrined in the State Constitution, which represented a positive image for children in the country.

The delegation noted that on the issue of **religious education** in school, in the past few years, a number of changes had been made. The Constitution guaranteed freedom of religion in schools, and students had the

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<sup>18</sup> Available at: <http://www.crin.org/resources/infoDetail.asp?ID=6541>.

option of choosing between religious denominational training and general religious and cultural training. The delegation added that, at present, the official separation of the Church and State was under discussion. The delegation emphasised that **corporal punishment** was forbidden under all circumstances and that there was a provision in the penal code stressing this point. On the issue of violence in schools, the delegation said there were no known cases of violence against children. Moreover, schools in Liechtenstein had taken serious measures to integrate young immigrants into the education system.

On the proposed Youth Act, the Office of the Ombudsperson, a completely independent institution, served to mediate in cases of differences of opinion between children and guardians and between children and the authorities. The delegation informed the Committee that there were associations serving to uphold national identities as there were more than 160 nationalities present in the country. The State supported such groups, which strive to teach their languages and culture.

Last of all, on the question of consumption of tobacco and drugs, the delegation argued that responsibility ultimately lay with the parents to prevent this type of behaviour, although teachers were also involved in such efforts. There was a broad campaign that began in 1998 to prevent shops from selling alcohol and tobacco to minors.

#### *Comparison with previous reports and recent appearances before other treaty monitoring bodies*

In its consideration of the State party's report in 2002<sup>19</sup>, CERD also expressed concern about the integration of children of refugees and asylum seekers in public schools, while acknowledging the progress made in this regard. In considering the State party report in 2004<sup>20</sup>, the HRC also expressed concern at the persistence of domestic violence against women and children and recommended that offenders be punished and material and psychological relief be provided to victims.

#### *NGO concerns*

There were no NGOs presents during the session to provide an oral briefing or written reports to the Committee.

### **Andorra (initial periodic report (OPAC and OPSA)<sup>21</sup>)**

#### *Overview of the country session*

On 16 January 2006, the Committee considered the initial report of Andorra under OPAC and OPSA. The Andorran delegation consisted of representatives of the Ministry of Health, Social Welfare and the Family; the Permanent Mission of Andorra to the United Nations Office at Geneva; the Ministry of Foreign Affairs; and the Department of the Interior.

In its opening statement, the delegation highlighted that since the submission of its initial and second periodic report under the Convention in 2002 and 2004, Andorra had changed government, and adopted a new Criminal Code in 2005, which reformed various legal provisions pertaining to children, such as the age of criminal responsibility and the definition of the crimes defined under the Optional Protocols.

The main issues discussed were: the jurisdiction of Andorran courts over non-nationals involved in recruiting an Andorran child to the military; the absence of legislation on children in armed conflict; criminal responsibility of corporations for crimes defined under the optional protocols; and the protection of victims during criminal proceedings.

#### *Themes and issues discussed*

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<sup>19</sup> CERD/C/SR.1520.

<sup>20</sup> CCPR/C/SR.2204

<sup>21</sup> CRC/C/OPAC/AND/1  
CRC/C/OPSA/AND/1

Mr. Kotrane, the Committee expert serving as the country Rapporteur, explained that the Committee had little to say with regard to OPAC, as Andorra had no armed forces. The country Rapporteur noted the fact that Andorra had signed international agreements contributing to the fight against this phenomenon and complimented Andorra's budgetary assistance to NGOs working this issue, as well as to the UN Programme on Children Involved in Armed Conflict. Despite recognising that Andorra, as a country without an army, was not fully concerned by OPAC, Mr. Kotrane expressed concern about the lack of **legislative provisions on the involvement of children in armed conflict**, as this could be problematic in cases where perpetrators had links to Andorra.

The delegation responded to the question of **jurisdiction over non-nationals recruiting Andorran children** by indicating that Article 8 of the new Andorran Criminal Code does not provide for universal jurisdiction, but that jurisdiction could possibly be extended to cover non-nationals recruiting Andorran children. The delegation went on to note that if Andorran courts did not have jurisdiction in such cases, they could still be addressed through cooperation with concerned governments. Furthermore, the delegation explained that if the Andorran Government feels that such an act of recruitment puts the safety or neutrality of the Andorran State in jeopardy, national courts would have jurisdiction over such cases. In its conclusions, the Committee stressed the need for the Andorran State to amend its Criminal Code to include acts covered in OPAC. The delegation indicated during the session that it would pass these recommendations on to the Government. In this context, Mr. Kotrane asked if the Government was envisaging a comprehensive examination of the incorporation and applicability of the Optional Protocols in national legislation, as well as their implementation. The delegation simply argued that all crimes defined in OPSA were covered by national legislation.

Mr. Kotrane emphasised the need to have the possibility of holding **corporate bodies** accountable for violations of OPSA and asked why there was no such mechanism. The delegation explained that the Criminal Code established the responsibility of physical persons, but that corporate bodies could be held responsible for acts committed by physical persons within the sphere of these bodies.

The Committee addressed the issue of **children's education regarding OPSA**, notably asking the delegation whether there were educational campaigns on OPSA and whether children were educated on how to protect themselves from the crimes defined under OPSA. The delegation pointed out the extensive campaigns launched to highlight children's rights under the Convention and said that the rights under OPSA were now being subsumed in these campaigns. Additionally, materials are distributed, classes held, and specialised training sessions are offered on these rights.

Responding to questions on the **protection of victims during criminal proceedings** the delegation indicated that there is currently no legal norm established for dealing with victims who are minors, but that efforts are being undertaken to this end.

On the issue of child pornography, Committee members noted the State report's reference to the criminalisation of the **intent to sell child pornography**, but were unsure as to how the Government could identify this intent. The delegation noted that this situation had never come up in Andorra so there are not specific provisions in the law in this regard. They added that the burden of proof would fall on the court, which would have to define this intent. The delegation explained that the absence of cases made it difficult for the Government to come up with risk factors that would indicate whether a particular child or group of children might be more prone to experience the acts defined under OPAC and OPSA. It was acknowledged that more work was needed to catalogue these factors.

#### *Comparisons with previous reports and recent appearances before other treaty monitoring bodies*

The Committee considered the initial report of Andorra under the Convention on 29 January 2002. At the session, the Committee also raised concerns about whether all the provisions of the Convention were being applied in domestic law.

Andorra has ratified one other treaty, the *Convention on the Elimination of All Forms of Discrimination against Women*, and appeared before CERD for examination of its initial periodic report on 10 and 15 July 2001. A common area of discussion was forced labour.

### *NGO concerns*

No parallel reports were submitted for this session, and very few NGOs were present.

### **Trinidad and Tobago (2<sup>nd</sup> periodic report<sup>22</sup>)**

#### *Overview of the country session*

The 2<sup>nd</sup> periodic report of Trinidad and Tobago on the Convention was considered on 16 January 2006. Introducing the report was the head of the delegation, Ms. Glenna Morean-Philip, High Commissioner of Trinidad and Tobago to the United Kingdom. She stated that in keeping with the ratification of the Convention, the State party had taken numerous strides forward in promoting the rights of children. The delegation also comprised representatives from the Ministry of Social Development and Social Services Delivery; the Ministry of the Attorney General; and the Permanent Mission of Trinidad and Tobago to the United Nations Office in Geneva.

The list of issues that were discussed in the session ranged from the role of institutions, such as the Family Court Committee and the Office of the Ombudsperson; corporal punishment; violence against children and domestic violence; children living with HIV/AIDS; religious freedom; association of children; adoption procedures; birth registration; dissemination of the Convention; poverty; the contribution of NGOs; sexual exploitation; and budgetary allocations and monitoring thereof.

#### *Themes and issues discussed*

Ms. Morean-Philip noted that the Convention uniquely placed children at the centre stage in the quest for universal application of human rights. In Trinidad and Tobago, the emphasis is being placed on reform of the social sector, improving the education and health system, alleviating poverty and making justice affordable and accessible. A major objective of all these undertakings is to create a better environment for the children. For instance in 2002, following the General Assembly's Special Session on Children, the Government produced a document – A World Fit for Children – providing the context for the revision of the National Action Plan on children being considered by the Parliament in 2006.

Mr. Kamel Filali served as the country Rapporteur, and in his opening remarks commended Trinidad and Tobago for embarking on a process of harmonising its legislation with the Convention. However, he added that there was a need for an intensification of programmes to combat poverty and improve the social welfare system. He also raised concerns on the delays with regard to the National Action Plan and enquired about potential conflicts between domestic law and child rights.

In response to the questions raised on the workings of the **Family Court Committee** and the **Office of the Ombudsman**, the delegation explained that 2001 saw a change of Government in Trinidad and Tobago, leading to a period of inaction in promulgating laws. Therefore, the Family Court Committee was established later than planned. The Family Court Committee was a pilot project set to run for an initial period of two years. One of its recommendations was the creation of the Office of the Ombudsperson for children, as the current Office was not directly related to children. On the issue of situations in which domestic law is in conflict with children's rights, the delegation indicated that national law would prevail. Nonetheless, the court always took the provisions of the Convention into consideration in such circumstances.

On **corporal punishment**, the delegation pointed out that there was a State policy decision to abolish this practice in schools. There was no such legislation prohibiting the practice at home, but steps were being taken to sensitise the public about this issue. The delegation informed the Committee that **birth registration** was done electronically and was available to all children for free. Steps had been taken to register persons who had not benefited from these reforms. The delegation pointed out that in terms of discrimination, it was not correct to say that children with **HIV/AIDS** were not allowed to attend regular schools. The delegation stressed that the legal system would challenge such a practice if it occurred. A National AIDS Coordinating Committee was set up in 2004, which aimed at mitigating the effects of infection, setting up public campaigns and fighting against stigma

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<sup>22</sup> CRC/C/SR.1096/97

and discrimination. There were also some NGOs that were actively involved with infected children or those orphaned by AIDS.

On the issue of **disseminating information** on the rights of the child, several programmes such as training for children, educators, and social workers, had been undertaken with an emphasis on user-friendly formats. In response to questions on **domestic violence** and **child abuse**, the delegation explained that Trinidad and Tobago had organised a symposium in 2005, following the publication of the Secretary-General's study on Violence Against Children, which was attended by 16 countries in the region. As to domestic violence, there were units specially focused on this issue operating under the auspices of the Ministry of Community Development and Gender. There was also a telephone hotline and shelters for women and children. In addition, there had been enhanced training of police officers to deal with such cases. Lastly, the issue of children exploited in the **sex trade** was discussed. It was noted that the number of victims was increasing and a series of projects had been initiated with the aim of reducing this phenomenon. There are also special courses taught in schools, as well workshops for all sectors of the population.

#### *Comparison with previous reports and recent appearances before other treaty monitoring bodies*

Some of the issues taken up in Trinidad and Tobago's initial report to the Committee in 1997 were repeated in this session.<sup>23</sup> The Committee had raised the questions of cooperation between bodies responsible for children's issues and the role of NGOs with respect to the initial report, at this session it enquired about the progress made in these areas. The Committee noted Trinidad and Tobago's limited financial capacity and how this impacted the efficiency of and cooperation between bodies responsible for children's rights. The Committee also referred to the severe economic restraints as a result of poverty and social difficulties and their impact on children. Corporal punishment, juvenile justice, domestic violence, and child abuse were some of the other issues raised in both the reports.

In relation to the State party's report to the HRC in 2000<sup>24</sup>, the issue of domestic violence; corporal punishment; sexual harassment; and discrimination on the basis of age, sexual orientation, pregnancy or infection with HIV/AIDS were also recurring themes.

#### *NGO concerns*

There were no NGOs present to provide an oral briefing to the Committee, but the Trinidad and Tobago Coalition on the Rights of Child did provide a shadow report<sup>25</sup>. They expressed their concerns about the situation of the girl child, the minimum age of criminal responsibility, children living with HIV/AIDS, street children and children with disabilities.

### **Hungary (2<sup>nd</sup> periodic report<sup>26</sup>)**

#### *Overview of the country session*

Hungary presented its 2<sup>nd</sup> periodic report to the Committee on 18 January 2006. Mr. Attila Mesterházy, the State Secretary to the Ministry of Youth, Family, Social Affairs and Equal Opportunities, headed the Hungarian delegation and was accompanied by an Ombudsman, as well as representatives from several ministries; the National Institute for Children's Health; the Permanent Mission in Geneva; local authorities of child protection and universities. The Committee welcomed the openness and honesty of the delegation in its answers.

Committee members raised the following issues: definition of the child (Article 1); discrimination against Roma children, children born out of wedlock, adopted children and asylum-seeking children (Article 2); the principle of the best interests of the child (article 3); coordination and monitoring of national institutions (article 4); infanticide (article 6); the right to identity (article 8); family environment and abuse (articles 9, 19, 20 and 27); respect for the

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<sup>23</sup> CRC/C/11/Add.10

<sup>24</sup> CCPR/CO/70/TTO.

<sup>25</sup> Trinidad and Tobago Coalition on the Rights of Child, April 2005.

<sup>26</sup> CRC/C/70/Add.25

views of the child (article 12); adoption (articles 20 and 21); the right to health (articles 24, 27 and 33); the right to education (articles 28 and 29); protection from sexual exploitation (article 34); and juvenile justice (articles 37 and 40).

#### *Themes and issues discussed*

Concerning the **implementation** of the rights of children, the Committee was alarmed to note that the Convention is not widely known, and therefore children, parents, as well as professionals are not aware of the existing rights. This is particularly worrying for the application of several key principles of the Convention, among them the principle of the best interests of the child. The delegation acknowledged that further training was needed, in particular for judges and lawyers dealing with family law. The **decentralisation** legislation was also of concern to the Committee, because it led to increased regional disparities in implementation, financing and monitoring of children's issues, projects and programmes. However, the Committee welcomed the development of a network of representatives of children's rights, and asked for details about its operation. The delegation stressed that this network did not have much experience yet and it was therefore still difficult to draw any conclusions on the efficiency of this new structure.

Mr. Kotrane was particularly concerned about the **definition of the child** under Hungarian legislation. The delegation explained the complicated situation, as there are different ages for legal majority, criminal responsibility and sexual majority.

The Committee requested details on the **collection and management of data**, in particular to know more about the situation of Roma children. The delegation stressed the fact that the ombudsman dealing with children's rights was different to the one dealing with data protection, which could sometimes lead to problematic situations. It stated that it was difficult to collect some data and that it could be legally released only under certain conditions. However, the delegation did not clearly explain why it was not possible to get more data about the specific situation of the Roma community, which would help to implement measures targeted at that minority.

The Committee expressed particular concerns about the situation of **Roma children**, among which their housing conditions, civic participation, and access to education and healthcare facilities. It noted the existing segregation of the Roma population from the majority population. A Roma member of the delegation exposed the important measures undertaken by the Government to solve this problem. However, the Committee was disappointed with the little progress made on this issue. The country Rapporteur, Mr. Lothar Friedrich Krappmann, noted that basic attitudes of the majority, as well as of the Roma community had to be changed. On another discrimination issue, Ms. Ortiz pointed out the problematic situation of **asylum-seeking children** and other foreigners. The delegation acknowledged these difficulties and said that some measures had already been adopted.

Concerning the **right to health**, the issues raised were: the high number of infanticides; teenage pregnancies; drug, alcohol and tobacco consumption; high suicide rates; and HIV/AIDS. The delegation underlined the Governments' efforts to tackle all these issues, but acknowledged that more progress had to be made. Upon questioning, the delegation affirmed that it was compulsory under law for doctors and other professionals to report mistreatment of a child, either to the police or to welfare services. The Committee welcomed the total ban on corporal punishment adopted in 2005.

The Committee inquired about the "imaginary father" theory, which consists of adding the name of an imaginary man to the birth certificate of a child whose father is unknown. It also asked whether there was discrimination under inheritance law between **children born in and out of wedlock**. The delegation said there was no discrimination between children and explained the reasons underlying the "imaginary father" provision. However, the Committee advised the Government to suppress this provision from its legislation, because of its inadequacy with regard to the **right to identity** of the child. The Committee was also concerned with the right to identity of adopted children, particularly in the case of "closed" adoptions. The delegation answered that the child could ask to know the name of his natural parents after the age of 14.

On the **right to education**, the Committee requested information on enrolment and attendance rates, the illiteracy rate, as well as on the quality of education and the budget spent on education. Particular questions addressed the situation of Roma children in the education system, where segregation is still the norm in practice.

To improve the situation of all minority children, the Committee urged the Government to develop human rights education in schools.

The Committee raised the issue of **children in homes**, focusing particularly on the time spent in these institutions. Committee members also wondered whether the views of the child were taken into consideration seriously when reviewing their placement in homes. The delegation insisted that the objective was to put children back in their family as often and rapidly as possible. While the need to respect the views of the child in administrative and judicial proceedings was taken into account, the delegation admitted that professionals were still reluctant to acknowledge the opinion of the child.

Concerning **juvenile justice**, the Committee focused its examination on the need to set a limit for the period of pre-trial detention. It pointed out that a two-year period was not acceptable. It encouraged the Government to make the judgment of minors private by reversing its system, which until now provides that the trial should be held publicly unless the judge decides otherwise.

#### *Comparisons with previous reports and recent appearance before other treaty monitoring bodies*

The Committee underlined that Hungary had adopted important legislation and international agreements, such as the 1993 *Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption*, which the Committee had recommended to adopt in its 1998 concluding observations. However, it should be noted that many issues referred to during the session had already been raised eight years before. The Committee recommended once more that the Government adopt a national plan of action on children. Other concerns already expressed in 1998 were, among others: the application of the general principles of the Convention (non-discrimination, best interests of the child, and respect of the views of the child); the discrimination against the Roma; high suicide rates; and the juvenile justice system.

#### *NGO concerns*

The Hungarian NGO Family, Child, Youth Association stressed in its shadow report<sup>27</sup> the need to develop a national plan of action on children's issues. It also put forward its concerns about the situation of children living in deep poverty (6% of the children); Roma children; disabled children; and children growing up in homes. It highlighted the lack of awareness on the rights of children in the country.

## **Lithuania (2<sup>nd</sup> periodic report<sup>28</sup>)**

### *Overview of the country session*

On 18 January 2006, the Committee considered the 2<sup>nd</sup> periodic report of Lithuania. Introducing the report was Ms. Violeta Murauskaite, Undersecretary in the Ministry of Social Security and Labour of Lithuania. She underlined various steps taken by the State party in the field of child protection, such as collection of statistical data on children and the establishment of the Council of the Child's Welfare in October 2005. The delegation was comprised of representatives from the Minister of Social Security and Labour, the Ministry of Education, the Ministry of Health, the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry of Justice, and the Department of Drugs Control; and the permanent mission of Lithuania to United Nations Office at Geneva.

Among the topics raised by the Committee experts were: cooperation with NGOs; domestic violence and child abuse; corporal punishment; situation of foreign children (from Chechnya and Afghanistan); Roma children; the Office of the Ombudsman; reproductive health issues; education; poverty reduction programmes; measures taken to address cases of missing children; trafficking in persons; and prostitution.

### *Themes and issues discussed*

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<sup>27</sup> Available at: [http://www.crin.org/docs/Hungary\\_FCYA\\_ngo\\_report.doc](http://www.crin.org/docs/Hungary_FCYA_ngo_report.doc).

<sup>28</sup> CRC/C/83/Add.14

Ms. Lucy Smith served as the country Rapporteur for Lithuania and thanked the delegation for a fruitful dialogue. She also applauded the Government for its efforts to implement the National Plan of Action of Children, although it required adequate funding.

On the question of **cooperation with NGOs**, the delegation informed the Committee that between 2001 and 2005, several joint projects had been initiated between the Government and NGOs focusing on children in need, especially in the context of domestic violence. The new law on social services would also increase financing for NGOs. The delegation explained that the State's policy is to support, assist, and facilitate NGOs in their activities.

The delegation acknowledged that **domestic violence** and **child abuse** was a major problem in Lithuania. However, the Government had reformed the State Penal Code, thereby allowing abusive family members to be removed from their home. Since 2004, there had been a countywide campaign promoting no violence and pointing out the harmful consequences of domestic violence. In addition since 2002, increased measures had been taken to improve reporting obligations of professionals to determine whether acts of violence against minors were occurring. The delegation insisted that there was a general understanding of this problem in Lithuanian society and that attitudes were changing.

On the topic of **Roma children** the delegation noted that for the academic year 2004-2005, 97 Roma students were enrolled in schools, making up 0.11% of the entire school population. The State's programme for the Roma community focused on four sectors: social, education, health and national identity preservation. Also, special training courses were conducted for Roma teachers. On the topic of foreign children, the delegation emphasised that all unaccompanied minors had the right to social services. Most of the children were from Chechnya and were housed in special centres providing health care, food and shelter. They also had the right to attend schools in Lithuania free of charge.

Replying to the concerns about **corporal punishment**, the delegation noted that even though there was no direct provision prohibiting it, it was not allowed in schools and homes. If a teacher or parent was caught, he or she could be held accountable through the Penal Code. Awareness-raising campaigns were also being conducted to sensitise the public on this issue, with messages emphasising no tolerance.

Responding to questions on the **Office of the Ombudsman for Children**, the Committee was told it was created in 2000. At present, it has nine specialised advisors and is accountable to the Parliament, but not the Government. It was encouraging to note that since its inception, the number of complaints had been rising steadily. The Ombudsman had the power to start a legal procedure if there was evidence that a crime had been committed. Nonetheless, in its concluding observations, the Committee expressed its concern that insufficient resources had been allocated in order to enable the Office of the Ombudsman to effectively carry out the mandate and monitor the implementation of the Convention throughout the country.

Regarding reproductive issues, there is a high rate of teenage pregnancies and to address this issue the State set up telephone hotlines and informative websites. On **education policies**, the delegation stated that the State paid the fees of approximately 35% of the children attending pre-school. However from the next year onward, full costs of all pre-school students would be covered. As to the school drop-out rate, the Committee was informed that the numbers had been falling due to the State's 'Yellow Bus', 'School Basket' and 'Free Lunch' projects.

In the end, the delegation replied to questions on **human trafficking** and **prostitution** and argued that such problems were rooted in socio-economic factors and were linked to poverty. There was no reliable data available as Lithuania was a transit and destination country. According to the EU, about 10,000 women were trafficked annually into Lithuania. 1999-2004 saw only 84 registered cases of trafficking, of which minors comprised only a small part. A national programme had been initiated in 2003-2004 to deal with this, under the leadership of the Ministry of Interior. Just last year, the Penal Code had been revised to include harsher sentences for traffickers of juveniles of up to 15 years of imprisonment. The Code also called for a harsher line on prostitution, both of women and children.

*Comparison with previous reports and recent appearances before other treaty monitoring bodies*

The Committee regretted that some of its previous concerns and recommendations with regard to the State party's initial report had been insufficiently or partly addressed. While some positive measures had been undertaken to bring national legislation into conformity with the Convention, the Committee felt that domestic legislation in some areas did not fully comply with the provisions of the Convention.

In 2004, Lithuania's initial report was considered by the Committee Against Torture (CAT)<sup>29</sup>. CAT discussed juvenile detention in detail, requesting further information and data on the subject, particularly on the conditions of the prisoners while detained. The same year, the State party was also considered at the session of the HRC. Issues like the integration of the Roma community; domestic violence against women and children; juvenile justice; and trafficking of women and children were also taken into direct consideration by the HRC.

#### *NGO concerns*

NGOs such as the Save the Children - Lithuania expressed their concern over issues such as violence; neglect and sexual abuse; poverty; and children in state institutions<sup>30</sup>.

### **Azerbaijan (2<sup>nd</sup> periodic reports<sup>31</sup>)**

#### *Overview of the country session*

On 19 January 2006, the Committee considered the 2<sup>nd</sup> periodic report of Azerbaijan. Mr. Khalaf Khalafov, Deputy Minister for Foreign Affairs, headed a high-level delegation comprising representatives from: the Ministry of Justice; the Ministry of Interior; the Ministry of Health; the Ministry of Labour and Social Protection; the Ministry of Education; the Ministry for Youth, Sport and Tourism and the Ministry of Economic Development. The First Deputy General Prosecutor; the Head of the International law and treaties Department of the Ministry of Foreign Affairs and the Permanent Representative of the Republic of Azerbaijan to the United Nations Office in Geneva were also present.

The main issues discussed at the session were: budgetary allocations for the implementation of child-related measures; the health system; adolescent health and more specifically the issue of sexually-transmitted diseases and reproductive health; child mortality; the high number of suicides; the high number of children in institutions; birth and death registrations; corporal punishment; children's participation in decision-making; the situation of children in the occupied territories; the registration process of NGOs; Millennium Development Goals; the programme of cooperation with UNICEF; the dissemination of information on the Convention; children accompanying imprisoned mothers; educational issues; child trafficking and sexual exploitation; adoption; child labour; and minors in armed conflicts.

#### *Themes and issues discussed*

The head of the delegation presented a list of legislative reforms and other measures taken to implement the Convention. The country Rapporteur, Mr. Doek, recognised that Azerbaijan was a relatively young country and was struggling with two major problems: the conflict in the Nagorno-Karabakh region and the transition to a market economy. He expressed concern on lack of funds available for the implementation of these measures and asked for further elaboration from the delegation in this regard. He was also interested in obtaining more information on the interaction of the Government with the UNICEF office in Azerbaijan.

On the issue of **budget allocations** for the implementation of relevant policies, the delegation replied that the Government was using a budget-planning mechanism involving all Government ministries in order to implement the Poverty Reduction Strategy and Goals.

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<sup>29</sup> CAT/C/CR/31/5

<sup>30</sup> Save the Children Lithuania, NGO Comments on the Report of the Republic of Lithuania for the 41st session of the Committee on the Rights of the Child, Geneva 2005, available at:  
[http://www.crin.org/docs/Lithuania\\_SCL\\_NGO\\_Report.doc](http://www.crin.org/docs/Lithuania_SCL_NGO_Report.doc).

<sup>31</sup> CRC/C/83/Add.13

On the issue of **health** the delegation stated that in 2006, Azerbaijan would carry out, with UNICEF's support, the next round of mass immunisation for various diseases. Furthermore, the Government was running programmes on respiratory diseases, and promoting breast-feeding, as well as reproductive health and family-planning. A system of "biological passports" would be issued in 2006, and given to each newborn child. All medical institutions provided free medical care for children up to the age of 15. The delegation indicated that the Global Fund to fight AIDS, tuberculosis and malaria provided financial support for the prevention of the disease's spread in the country.

On the high rates of **infant mortality** in Azerbaijan, the delegation noted that the Government was working on the basis of statistical data, and focusing on improving the capacity of care providers. According to data from 1999, infant mortality has decreased, but remains high when compared to other European countries. A new study is planned on this issue, with the assistance of UNICEF and other international organisations.

The delegation argued that the increase in **suicides** in the last few years was the result of the lack of education, hard living conditions in the rural areas of the country, family relations, as well as psychological factors.

The delegation described UNICEF as Azerbaijan's principal partner on the issue of children's rights, but expressed its hope that other international organisations would play a more active role. The delegation identified the issue of **Internally Displaced Persons** (IDPs) as a major area of concern. The Government's initiative on IDPs was drawn up on the basis of information gathered in 2003-2004 and takes into account the Millennium Development Goals, the State programme on refugees, and the State strategy on the reduction of poverty. Its main aim is the improvement of the standard of living of IDPs with major focus areas being: social policies for children; health; education; child protection; young people's development; and participation in decision-making. This ambitious programme has a total budget of ten million USD, half of which is provided by UNICEF and the rest is raised with UNICEF's support.

Committee members also drew attention to the topic of **adoption, children in institutions and disabled children**. The delegation explained that the high number of children in institutions is due to the poverty of their families and emphasised that the Government is working on a programme of de-institutionalisation of children through the initiative Save our Souls. The rehabilitation of disabled children was one of the Government's main priorities and there were plans to set up specialised educational institutions with the assistance of inter-governmental organisations.

#### *Comparisons with previous reports and recent appearances before other treaty monitoring bodies*

While the Committee was satisfied with the recent legislative measures taken to implement the Convention and praised the State's approach so far, it stressed that this periodic report should have been submitted in 1999. The Committee also noted that some changes were still lacking, for example with regard to corporal punishment and other forms of discipline. Further work was also required regarding the use of institutionalisation, as the Committee preferred and recommended family reunification, although it recognised that this was not always possible. The Committee regretted that some of its previous concerns and recommendations have been insufficiently or only partly addressed, particularly those related to budgetary allocations, street children, the overall health situation of children and the administration of juvenile justice.

The State party previously appeared before CERD in 2005 and the Committee on Economic, Social and Cultural Rights in 2004, which expressed similar concern to the Committee on issues such as trafficking in persons and discrimination against asylum-seekers, refugees, stateless persons and displaced persons. The HRC and the Committee both expressed concern about the continued practice of torture, or other cruel, inhuman or degrading treatment or punishment.

#### *NGO concerns*

NGOs present at the session included Defence for Children International; the NGO Group for the CRC; the International Social Service; the League on Defence of Child's Rights of the Azerbaijan Republic; and the Azerbaijan NGO Alliance for Child Rights. They expressed concerns about: obstacles to the implementation of the Convention and the lack of effective coordination of activities of child-related agencies.

## Mauritius (2<sup>nd</sup> periodic report<sup>32</sup>)

### *Overview of the country session*

On 19 January 2006, the Committee considered the 2<sup>nd</sup> periodic report of Mauritius. The head of the delegation, Ms. Indranee Seebun, Minister of Women's Rights, Child Development, Family Welfare and Consumer Protection of Mauritius, introduced the report. She said that despite Mauritius' limited economy and strained human resources a lot had been attained since the first report in 1995, such as the review of the National Children's Policy and the National Plan of Action. The delegation was made up of representatives of the Ministry of Women's Rights, Child Development, Family Welfare and Consumer Protection; the Attorney General's Office; the Ministry of Justice and Human Rights; and the permanent mission of Mauritius to United Nations Office at Geneva.

The issues raised by the experts pertained to: corporal punishment; street children; definitions of 'children' and 'minors'; the legal age for marriage; corporal punishment; criminal responsibility and age for sexual consent; discrimination in schools especially against the girl child; child morality; juvenile detention centres; and legal provisions on pornography.

### *Themes and issues discussed*

Ms. Seebun explained that Mauritius was one of the first 15 countries to ratify the Convention. Mauritius considered that one of its main achievements in the field of promotion and protection of children rights was the establishment of the Office of the Ombudsperson for Children. In addition to various child-related legislation, the Government would also introduce a Children's Act, which would be a comprehensive and consolidated piece of law for and on children. It would notably provide for tougher penalties for crimes committed against children.

In her preliminary remarks, Committee expert Ms. Aluoch, who served as the country Rapporteur, thanked the delegation for a frank and open discussion that allowed the Committee to better understand the situation of children in Mauritius. However, She added that the Committee in its concluding observations would recommend that the Government move towards full nationalisation of laws pertaining to the provisions of the Convention and outlaw all forms of corporal punishment.

In response to the question raised by the Rapporteur on the **definition of a 'minor' and a 'child'**, the delegation added that a child was defined as an unmarried person under the age of 18 and that a child was able to get married at the age of 16 upon parental consent. With regard to the **legal marriage age**, recommendations for the review of the legislation had been made by the Ombudsperson. The **age of criminal responsibility** was 14 years and the age of sexual consent was 16 years. Regarding freedom of association, the delegation acknowledged that in practice it was highly unlikely that a children's association would be prohibited on grounds of immoral activity. Concerning discrimination against the girl child, the delegation argued that there was no general prejudice against girls. As for the Creole children, the delegation claimed that there was no systematic **discrimination** either.

In answering a question on **corporal punishment**, the delegation confirmed that there was no provision in the Constitution plainly denouncing such a practice. However, according to the *Penal Code*, acts of violence against children in institutions and detention centres were treated as a criminal offence. There was also a provision prohibiting such practices in the *Education Act* and any such act was subject to severe prosecution under the *Child Protection Act*. On the issue of **juvenile justice**, the age of criminal responsibility was 14; according to the *Juvenile Offenders Act*, a juvenile under the age of 14 could not be ordered to prison or to pay a fine. Juveniles between the age of 14 and 18 could be sent to detention centres, although preference was given to alternative punishments like probations. It was noted that there are no juvenile court in Mauritius for cases involving minors.

### *Comparison with previous reports and recent appearances before other treaty monitoring bodies*

The Committee remained concerned as some of the legislation did not conform with the principles and provisions of the Convention, notably in the area of adoption and juvenile justice. Furthermore, the experts urged

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<sup>32</sup> CRC/C/65/Add.35

the State party to carry out all vital measures to address recommendations from the initial State party report's concluding observations that had not yet been implemented. The Committee also encouraged the Government to consider enacting a comprehensive Children's Act to consolidate the numerous pieces of legislation on children's rights. The Committee noted that some of its previous recommendations with regard to reservations; insufficient facilities for the rehabilitation of child victims of abuse; and inadequate research on critical areas concerning children have not been given sufficient follow-up.

The Committee addressed the issue of racial discrimination in a similar way to CERD when it considered Mauritius' State party report in 2001<sup>33</sup>. Discrimination on the basis of ethnicity and gender in fields such as education and health, as well as in prisons was a common theme in both reports. The HRC expressed similar concerns to the Committee when it examined the state party's report in 2005<sup>34</sup>, notably concerning the independence of and budget allocated to the National Human Rights Commission and the persistence of child labour and child prostitution.

#### *NGO concerns*

The NGO Mauritius Save the Children Fund presented a shadow report<sup>35</sup>. It expressed its concerns on girl child discrimination; the legal age for marriage; adoption procedures; the minimum work age limit; child exploitation; and the juvenile justice system.

### **Saudi Arabia (2<sup>nd</sup> periodic report<sup>36</sup>)**

#### *Overview of the country session*

On 24 January 2006, the Committee considered Saudi Arabia's 2<sup>nd</sup> periodic report. In his opening statement, the head of the delegation, H.H. Prince Turki bin Mohammed bin Saud Al-Kabeer, Assistant Deputy Minister for Political Affairs, emphasised Saudi Arabia's commitment to children's rights, stressing the Kingdom's willingness to cooperate and implement the Committee's recommendations. He also underlined the positive and crucial role of Islam in the implementation of the Convention. The delegation reported that it was aware that progress still needed to be achieved, but that the Kingdom was determined to make all the necessary efforts in this regard. The delegation also warned the Committee against using information from non-governmental sources, which it deemed unreliable and inaccurate.

The main topics addressed during this session included: measures to implement the Convention (Article 4, 17, 42); reservations to the Convention and the Optional Protocols; the relationship between the Government and NGOs; independent monitoring mechanism; non-discrimination against girls (Article 2); training in children's rights (Article 29); the institutionalisation of children (Article 28, 37); the relation between the Convention and national legislation; capital punishment (Article 6); minimum age for marriage; minimum age for employment (Article 32); status of religious minorities and Bedouin groups (Article 2, 14, 30); terrorism; juvenile justice (Article 37, 40); female circumcision; social protection of children (Article 9, 19, 34, 36); human rights education (Article 29); and child trafficking and street children (Article 11, 22, 35). The Committee repeatedly pointed out the high level of the delegation, which included a former Committee member, stressing that this was an indication of Saudi Arabia's strong political will to implement the provisions of the Convention. The discussion was highly interactive, although some Committee members noted that a number of questions were left unanswered. Saudi Arabia has made reservations with regards to all articles that are in conflict with the provisions of Islamic law.

#### *Themes and issues discussed*

The country Rapporteur, Ms. Ghaliya Mohammed Bin Hamad Al-Thani, requested more information on the measures taken to implement the Convention. Furthermore, she noted the legal quality of the report, stressing the need for more practical information about the everyday situation in Saudi Arabia. The delegation explained that implementing legislation was sometimes difficult, but that all the necessary efforts and measures were being

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<sup>33</sup> CERD/C/322/

<sup>34</sup> CCPR/C/MUS/2004

<sup>35</sup> Mauritius Save the Children Fund, Report of NGO's, June 2005.

<sup>36</sup> CRC/C/136/Add.1

taken to implement the provisions of the Convention. The delegation also reported that the persistence of tradition was sometimes responsible for violations of children's rights.

Ms. Al-Thani also requested more information on the **reservations** made by Saudi Arabia to the Convention and on the Kingdom's intentions to ratify the **Optional Protocols** to the Convention. The delegation replied that it had submitted reservations because it believed that it had already fulfilled, and even surpassed, all the requirements covered by the articles in question. The delegation also argued that some reservations were made as a precautionary measure in light of rapid development and changes in the area of human rights, but insisted that these reservations did not prejudice the core of the Convention.

Ms. Ouedraogo commented that measures reported on appeared to be oriented more towards ensuring the well-being of children, rather than promoting their rights, but the delegation argued that this was not the case.

Several Committee members asked the delegation to elaborate on the relationship between the Government and **NGOs**. The delegations indicated that these civil society bodies were called associations in Saudi Arabia, and are mostly involved in charitable works. The delegation declared that the Government mainly wished to support these associations, and therefore held regular meetings with them.

The Committee requested more information on the existence of an **independent monitoring mechanism** for human rights. The delegation informed them of a National Commission for Human Rights set up two years ago, which could receive complaints filed by child-related organisations. The delegation promised to include further information on this body in Saudi Arabia's third periodic report to the Committee.

The Committee asked questions about girls' freedom of movement, working prospect, marriage, education, and expressed a general concern with the situation of girls and women, asking what provisions were put in place to safeguard their rights. The delegation explained that the high percentage of female illiteracy was mainly reflective of the older population, which had not benefited from progress made in this area. The delegation informed the Committee that girls and boys could marry once they had reached the age of legal majority, but did not clarify what this age was.

Many experts asked whether **primary education** was free of charge. There were also questions regarding the main reasons for dropping-out of full-time education, the existence of human rights education, and the prevalence of corporal punishment in schools. The delegation reassured the Committee that primary and most of secondary education is free of charge, and that only private schools charge for these services. The delegation indicated that guidance and counselling is offered to students, and that continuous evaluation had replaced irregular examination to prevent dropping-out. With regards to human rights education, in recent years a human rights curriculum had been organised for universities, military organisations and secondary schools. The delegation recognised that although legislation prohibited corporal punishment, these practices persisted.

Several Committee members also asked questions regarding the relation between the Convention and national legislation. The delegation reported that the ratification of the Convention followed the same process as the one used for Saudi laws, and that they therefore had the same force as domestic law. It also indicated that pre-existing laws in conflict with the Convention were amended by royal decree, and that there was a provision in Saudi legislation stating that future laws should not be in contradiction with the provisions of the Convention.

Many Committee members noted the absence of any information on **religious minorities and groups**, such as Bedouins. The delegation claimed that children from minorities enjoyed the same benefits and rights as Saudi children and emphasised the Government's efforts to provide education to members of the Bedouin community. The delegation also indicated that mobile and seasonal health units were available to cater for the health of nomadic groups.

The Committee asked what the **minimum age for employment** was in Saudi Arabia and the delegation informed them that it had been raised from 13 to 15 years old, but that legislation prohibited the employment of children under the age of 18 in any work that could lead to professional health hazards.

Several experts mentioned the death penalty and required elucidation as to whether children under the age of 18 could be executed. The delegation explained that the **death penalty** was prohibited for children having not yet reached the legal age of majority, and that in accordance with the Shari'a, offences were judged immediately

and punishment applied in accordance with the age of the perpetrator at the time of the crime and not of the trial. The delegation pointed out that the legal age of majority could be reached before the age of 18 depending on the judge's decision, a measure that was strongly criticised by the Committee. The delegation also informed the Committee that the minimum age for criminal responsibility had been raised from seven to 12. Several members also raised the issue of whipping, as this could be regarded as cruel treatment, but is accepted as punishment in Saudi Arabia.

Many Committee members asked questions about the measures taken to avoid the **exploitation of children**. The delegation indicated that a special department on social protection had been established to maximise the protection of children. Furthermore, the Government had prepared plans providing more education and awareness-raising on the subject, as well as more assistance to victims.

#### *Comparisons with previous reports and recent appearances before other treaty monitoring bodies*

The Committee noted the constructive efforts made by the delegation to provide additional information in the course of the dialogue and indicated that progress had been made with regard to previous recommendations, such as the adoption of a National Plan of Action for Children 2005-2015; the preparation of a bill concerning the protection of children from abuse and neglect; the establishment of the National Human Rights Association; and the definition of a child. Although it acknowledged the State party's efforts to comply with previous recommendations, the Committee noted certain insufficiencies, especially with regard to the issues of reservation, civil rights and freedoms, and special protection needs. Furthermore, it repeated its recommendations from 2001 to review the general nature of the State party's reservation; to undertake a comprehensive review of domestic laws to ensure their conformity with international human rights standards; and to fully incorporate Article 3 of the Convention into all legislation. It also addressed similar issues to the ones mentioned in 2001, such as coordination; independent monitoring; data collection; dissemination of the Convention; non-discrimination; right to life; respect for the views of the child; freedom of religion; and protection from torture, inhuman or degrading treatment or punishment, as well as violence, abuse and neglect.

CERD, when examining Saudi Arabia's report in 2003, raised similar concerns to the ones put forward by the Committee, notably with regard to the lack of information on the practical implementation of the Convention; the broad nature of the State's reservations to international instruments; and the absence of information on ethnic minorities.

#### *NGO concerns*

Many NGOs and international organisations were present, including the Islamic Educational Scientific and Cultural Organisation, the Organisation of the Islamic Conference, and Amnesty International. Several Committee members relied on information submitted by NGOs in particular with regards to the application of capital punishment and the 11 March 2002 fire at a girls' public school in Mecca. Amnesty International sent a letter to the delegation concerning the presence of children on death row, but this issue was not taken up during the meeting.

### **Thailand (2<sup>nd</sup> periodic report<sup>37</sup>)**

#### *Overview of the country session*

On 24 January 2006, the Committee examined the 2<sup>nd</sup> periodic report of Thailand. The 26-member Thai delegation, headed by the Minister of Social Development and Human Security included representatives from the Permanent Mission of Thailand to the UN; the Ministry of Education; the Ministry of Public Health; the Ministry of Justice; the Ministry of Foreign Affairs; the Ministry of Interior; the Bureau of Child Promotion and Protection; the Sub-Committee of Child's Rights; and the Central Juvenile and Family Court. Child representatives from Thailand also attended the session as part of the delegation.

The overarching themes of concern to the Committee were birth registration (Article 7), statelessness, and asylum-seeking children. Remaining principal issues addressed were: health and education; rehabilitation and

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<sup>37</sup> CRC/C/83/Add.15

reintegration programmes for child soldiers; discrimination of immigrant children; trafficking of women and children; child pornography; low age of criminal responsibility; sexual exploitation and abuse of children (Article 19 and 34); the right to privacy (Article 16); and national and international adoption (Article 21).

#### *Themes and issues discussed*

The country Rapporteur, Mr. David Brent Parfitt, and Committee members acknowledged that despite economic difficulties, the Tsunami disaster of 2004 and ongoing hostilities in the southern part of the country, Thailand has made impressive steps since its last report. However, it also stressed that a lot remains to be done.

Concerns about the independent monitoring of the Convention and the **role of civil society** and **NGOs** in national programmes and policies were the first questions raised by the country Rapporteur. On independent monitoring, the delegation replied that there were two Ombudspersons who deal with complaints against the Government, and an independent agency, the Human Rights Commission responsible for children and adolescent issues. Some of the Commission's tasks include studies on the implementation and the impact of the Convention, visits to prisons, receipt of children's complaints and periodical reports to the Prime Minister and the Parliament. It was also mentioned that inviting national and international NGOs to participate in formulating policies was the normal practice for the Thai Government and funds were available for those organisations with projects concerning children.

A prominent matter throughout the session was Thailand's reservations with regard to Article 7 on **birth registration and nationality** and Article 22 on **refugee children**<sup>38</sup>. The delegation explained that the Government was in the process of registering all people of Thailand, including illegal immigrants and refugees, thus regularising their status. The latest policy developments with regard to illegal immigration included plans to give an appropriate legal status to persons residing in Thailand without a clear legal status. There is also a policy of systematically registering all asylum-seeking children. Furthermore, the Cabinet Resolution of 2005 stipulated the expansion of education opportunities and budget allocations to elementary and secondary educational institutions for people who have no civil registration documents or are non-Thai.

Ms. Nevena Vuckovic-Sahovic and Chairperson Ms. Khattab raised the issue of **discrimination**. It was noted that there were legal provisions allowing discrimination in health and education, with access to some branches of education being restricted to girls. The delegation argued that national laws are very much in conformity with the principle of non-discrimination and that the main challenge was their implementation. Recent developments included doing away with quotas of females entering universities and the creation of more ethnically sensitive school programmes.

Ms. Smith, touching upon the issue of **the right to be heard** and **children's participation**, asked the delegation whether children were educated to be confident enough to express themselves. The delegation said that cultural norms sometimes hindered children's participation. However, a National Plan of Action (NPA) for the year 2005-2014 had been proposed based on the approach suggested in the General Assembly document "A World Fit for Children" covering eleven areas: health; education; protection; HIV/AIDS; family strengthening; recreation; children's participation; media; culture and religion; physical safety of children; and laws, regulations, and administrative measures related to children. This NPA will promote children's participation by focusing on capacity building and creation of children's organisations at both local and national levels. The delegation also mentioned that children and youth were involved in the preparation of the second periodic report of Thailand and that they also submitted their own separate report to the Committee.

Many Committee members noted that because of Thailand's reservations on Articles 7 and 22, there is lack of legislation protecting refugees rights. They expressed their concern about **migrant children in camps** and asked whether there are any educational and health programmes available for these children. The delegation explained that although Thailand is not a party to the *Geneva Convention relating to the Status of Refugees*, efforts have been made to grant temporary asylum to refugees on the basis of humanitarian principles. Furthermore, the delegation said that it respected the principle of *non-refoulement* and that the status of asylum seekers was determined by special procedures.

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<sup>38</sup> The reservation states that the application of articles 7 and 22 will be subject to national laws, regulations and prevailing practices in Thailand.

On the issue of **juvenile justice**, the delegation answered the Committee that juvenile courts existed in 62 provinces of Thailand and it was expected that their number would increase until August 2006 to cover the whole country. The main focus in this area is rehabilitation and promotion of social skills for children who come into contact with the justice system. The longest period a child can be imprisoned is 50 years, but most juveniles are released after ten or 12 years. As for the age of criminal responsibility, the delegation replied that this is currently seven years of age, but the Government was considering whether to increase the age limit to ten or 12 years of age. The death penalty, corporal punishment and life imprisonment cannot be imposed on anyone under the age of 18.

Another issue of concern raised by Mr. Liwski was the **access of children to medicine** as part of the Free Trade Agreements (FTA). The delegation replied that the Government was making efforts to make medicine accessible to people.

*Comparisons with previous reports and recent appearances before other treaty monitoring bodies*

The country Rapporteur congratulated the Thai delegation for having answered most of the committee's questions and expressed his satisfaction with Thailand's positive developments including the ratification of ILO Conventions No.182 and No.138. He said that Thailand served as a positive example for neighbouring countries. However, the Committee noted that some of its previous concerns and recommendations regarding, *inter alia*, the minimum legal age of criminal responsibility, birth registration, statelessness, refugee and asylum-seeking children have not been sufficiently addressed.

Thailand also appeared before the HRC in 2005. The HRC raised similar concerns to the Committee with regard to the National Human Rights Commission, notably that insufficient resources were allocated to this institution and that its recommendations were not sufficiently implemented. The HRC also voiced similar concerns to the Committee regarding the application of the death penalty; statelessness and asylum-seekers; and child labour and trafficking in children.

*NGO concerns*

NGOs present included: 3D; Defence for Children International; International Social Service; Lutheran World Federation; and Geneva for Human Rights. No shadow report was submitted.