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# COMMITTEE ON THE RIGHTS OF THE CHILD

A shift in discussions towards coordination and monitoring of CRC implementation



Article by Roisin Fegan, NGO Group for the Convention on the Rights of the Child. For more information about the organisation visit [www.childrightsnet.org](http://www.childrightsnet.org)

During its 56<sup>th</sup> Session (17 January – 4 February 2011), the Committee on the Rights of the Child (the Committee) examined State parties' reports from eight countries:<sup>1</sup> Afghanistan,<sup>2</sup> Belarus,<sup>3</sup> Lao People's Democratic Republic,<sup>4</sup> Mexico,<sup>5</sup> New Zealand,<sup>6</sup> Ukraine,<sup>7</sup> and Singapore.<sup>8</sup>

In the course of the pre-sessional working group week, from 7 to 12 February, the Committee developed lists of issues for eight countries, based on inputs from States, UN agencies, civil society and child-led organisations:<sup>9</sup> Cambodia,<sup>10</sup> Costa Rica,<sup>11</sup> Czech Republic,<sup>12</sup> Egypt,<sup>13</sup> Finland,<sup>14</sup> Iceland,<sup>15</sup> Republic of Korea,<sup>16</sup> and Syrian Arab Republic.<sup>17</sup>

The session and pre-session were intoned with a mixture of emotions, as several longstanding Committee members participated in their final meetings, while news of incoming members was well received. Information on new members and a description of the election process and outcomes can be found in a separate report produced by the NGO Group for the Convention.<sup>18</sup>

## STATE REVIEWS

At the 56<sup>th</sup> Session, the Committee had the opportunity to meet with State representatives of Afghanistan to discuss the country's initial report. Many Committee members felt a sense of anticipation about the dialogue, given the time lapse between the 1994 ratification of the Convention and this initial review. This was compounded by the particular situation in the country and the subsequent challenges being faced by the State in implementing the Convention. The Committee saw the submission of the State report as a sign that the Government was developing its capacity to address its obligations under international human rights law, but regretted the report did not provide insight into the impact of the ongoing conflict on the realisation of the rights of children in the country. Overall, the dialogue was positive and the Government representatives spoke openly about the challenges Afghanistan faces in fulfilling its obligations under the Convention.

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1 See the OHCHR Website for more info <http://bit.ly/idb2FD>.

2 Convention on the Rights of the Child (the Convention).

3 The Convention, Optional Protocol on Children in Armed Conflict (OPAC), and Optional Protocol on the Sale of Children (OPSC).

4 The Convention.

5 OPAC and OPSC.

6 The Convention.

7 *ibid* and OPAC.

8 The Convention.

9 At the 57<sup>th</sup> pre-session, children from the Republic of Korea and from Cambodia represented their national youth organisations, which had produced alternative reports based on input from children of all ages throughout the two countries. Youth representatives travelled to Geneva to present their reports and express their views to Committee members.

10 The Convention.

11 *ibid*.

12 *ibid*.

13 *ibid*, OPAC and OPSC.

14 The Convention.

15 *ibid*.

16 *ibid*.

17 *ibid*.

18 <http://bit.ly/fRFBmJ>.

Three State Parties are yet to submit their initial reports: Nauru, Tuvalu and Tonga. Initial reports have recently been received from the Cook Islands and Niue, which will be reviewed by the Committee in the course of 2011, as a matter of priority. Since the end of the 56<sup>th</sup> Session, the report of Uzbekistan has also been submitted.

Reports submitted under the two Optional Protocols (OPs) represented five of the 13 reports reviewed by the Committee at the 56<sup>th</sup> Session. Confusion over the distinction between trafficking and sale of children was raised with both States being reviewed for their OPSC reports (Belarus and Mexico). Coordination and monitoring was a consistent theme discussed with States, both concerning the effective implementation of the Convention, as well as the two OPs.

### NGO participation at the session and pre-session

Representation of non-governmental organisations (NGOs) was secured at the public reviews of all States during the 56<sup>th</sup> Session. Although NGOs are not entitled to speak during these meetings, many of those attending said it was of great value for their work to observe the make-up of State delegations, witness the dialogue, and learn more about who was responsible within their respective governments for particular aspects of implementation of the Convention and its OPs. They felt it was particularly valuable with a view to the follow-up to the reviews.

While reviews of States by the Committee are consistently attended by international NGOs, the participation of national NGOs and coalitions is not always as regular. This is linked to the particularities of their operating contexts and the burden of having to travel to Geneva. However, the 57<sup>th</sup> pre-sessional working group was very successful, with national NGO representation from seven out of the eight countries discussed. The Committee consistently expressed its gratitude for the work of all stakeholders and highlighted the value of their input for an informed review of each State, ultimately resulting in targeted and relevant concluding observations.

### Coordination and monitoring of the Convention and OP implementation

At the 56<sup>th</sup> Session, the Committee raised the issue of coordination and monitoring gaps in different ways with all eight States under review, often in conjunction with concerns around national action plans, allocation of resources, and independent monitoring mechanisms.

This issue is not new, but the Committee's approach to it has evolved. Previously, the Committee simply requested the creation of coordination and monitoring mechanisms, whereas now it is trying to find out – both from NGOs in the pre-session and from delegations at the session – how these work, where they are placed in the State structure, and how they interact with the rest of the government and with civil society. While at first the Committee may have mostly welcomed these bodies, it has become increasingly inquisitive about the role of such

mechanisms and takes a nuanced approach to discussions on the issue. This reflects its sensitivity to the particularities of each State's governance structure and available resources, and the fact that there is no 'one size fits all' solution to the effective functioning of coordination and monitoring mechanisms.

'General Measures of Implementation' is not the most obvious source of interesting discussion on the spectrum of provisions covered in the Convention and its OPs. However, effective coordination and monitoring of implementation of the Convention and its OPs is a significant indicator of governments' commitment to fulfilling the whole range of obligations under these three treaties and, as such, the corresponding provisions act as a tool to guide effective implementation.

In dialogue with States, the Committee has routinely sought to draw a distinction between the emphasis it places on internal coordination and monitoring by a government body, and external monitoring by an independent mechanism such as a national human rights institution (NHRI) and/or child ombudsman. In past sessions, the Committee has reiterated the importance of the latter: with specific recommendations to States in this regard often being met with mixed responses. Less economically-advanced States, for example, tend to focus first on internal government coordination and monitoring, while even in industrialised countries where independent mechanisms have been established, these external mechanisms are given little power and minimal resources, rendering them ineffective.

The Committee considers that effective coordination and monitoring entails a multi-pronged approach: internal coordination and monitoring by the government; independent monitoring by a recognised mechanism, such as a NHRI; and the role of civil society organisations working in collaboration, or not, with government. The result has been that the Committee gives equal weight to the role of all three stakeholder groups and emphasises collaboration and dialogue accordingly.

According to the Committee, a strong coordinating body should preferably be established under the office of a Prime Minister, or equivalent, rather than under the auspices of one particular ministry, 'which may limit its cross-sectoral impact'. This body should typically be made up of representatives from all the different ministries that have a part to play in the implementation of the Convention and its OPs. In some cases, such bodies also include civil society representatives. The nature and functioning of this type of body will naturally vary across countries, depending on the level of decentralisation of powers from the national to the local levels.

In dialogues with States, the Committee addresses the establishment of an independent monitoring mechanism as an entirely separate issue from that of internal government coordination and monitoring structures. For example, the Committee systematically recommends that an independent monitoring mechanism such as a NHRI should have an entirely different set of tools at its disposal for the purposes of monitoring implementation of the Convention and its OPs.

Specialised competencies include the capacity of an independent ombudsman or NHRI to receive complaints from individual citizens regarding human rights or child rights violations.

The NGO Group for the Convention sees that the role of NGOs can be to advocate for the creation of an inter-ministerial body that coordinates and monitors the various ministries' activities for the implementation of programmes and policies, and thus the fulfilment of the government's obligations under the Convention and either of the OPs it may have ratified. Furthermore, as part of their ongoing work in reporting to the Committee, NGOs can monitor implementation and collect data as part of their follow-up activities. When the State Party is preparing its subsequent periodic report, this information can be used to highlight successes and identify gaps in implementation.

## ADDRESSING THE BACKLOG OF REPORTS

The Committee is proactive about addressing the backlog of reports and improving the efficiency of its working methods. In 2010, the Committee met in two separate chambers for two consecutive sessions in an effort to clear the backlog of reports; however, this was only sanctioned by the General Assembly to take place for two sessions, therefore the Committee has now moved back to one-chamber sessions.

To address the quantity of reports received but not yet reviewed, the Committee has formally requested that it be permitted to meet in two chambers for one session per year, while remaining in one chamber for its other sessions. If this request is accepted, the Committee will be in a position to review up to an additional ten countries per year, many of which are likely to include more than one treaty/OP.

The Committee is streamlining the drafting of Concluding Observations and Lists of Issues. According to its working methods, the adoption of these documents must be done in plenary. For the Lists of Issues, Committee members now meet in private during the final half hour of the pre-session meeting, immediately after consultations with civil society organisations and other specialised UN agencies. Consequently, the additional day at the end of the pre-session, traditionally used to adopt all Lists of Issues, was removed. Therefore, two additional countries can be reviewed at each pre-session. The downside is that the duration of the pre-session per country has been *de facto* reduced from three to two-and-a-half hours.

To address situations where delays are compounded by translation needs, the Committee now holds some pre-session meetings two sessions in advance, to allow for translation of the Lists of Issues and written replies. The Committee Secretariat also attempts to provide more transparency in this process, and is now posting information about the pre-session meetings for each country on its website.<sup>19</sup> Work is currently underway to ensure the new information is clear, so all stakeholders wishing

to participate can be informed of appropriate timelines and have an equal opportunity to take part.

## GENERAL COMMENTS

General Comment 13 on 'Article 19: The right of the child to freedom from all forms of violence' was adopted at the 56<sup>th</sup> Session.<sup>20</sup> Work continued on the draft joint general comment on harmful practices through a joint meeting with members of the Committee on the Elimination of Discrimination Against Women (CEDAW),<sup>21</sup> and on the draft general comment on the best interests of the child. Upcoming work will include the elaboration of general comments on the right to play and the right to health.

Currently, the Committee does not have a systematic procedure for drafting general comments. In contrast, CEDAW has an established three-step approach, which includes consultation with civil society at the outset of the process.<sup>22</sup> This is something that has been raised by a range of stakeholders at recent inter-committee meetings.<sup>23</sup>

## DAY OF GENERAL DISCUSSION

On 30 September, the Committee will host the annual Day of General Discussion, focusing on Children of Incarcerated Parents. Discussions will look at two different realities confronting children whose parents are in some form of detention or imprisonment: children who live with, or visit, their parents during incarceration; and children who live outside but whose parents are incarcerated.

The NGO Working Group on Children of Incarcerated Parents is working alongside the Committee taskforce<sup>24</sup> to attract broad participation from a range of stakeholders. This will include the presentation of a peer-to-peer research project being conducted by young people. Information on written submissions and registration will be available on a dedicated page of the OHCHR website<sup>25</sup> as of May 2011. The day is expected to be supplemented by external events, including an exhibition of artworks and video excerpts, and a workshop on the next steps to be taken.

This work will be complimentary to the recently adopted theme for the next Annual Day on the Rights of the Child of the Human Rights Council. The theme in 2012 will be on 'Children and the Administration of Justice'.<sup>26</sup> ■

19 <http://bit.ly/g0KnZ5>.

20 <http://bit.ly/fhEXcZ>.

21 <http://bit.ly/9CL7jc>. See also the article on CEDAW on p. 14 of this publication.

22 <http://bit.ly/e6kt35>.

23 See also the interview on treaty body reform on page p. 25 of this publication.

24 The Committee taskforce was set up to represent the Committee in planning for the Day of General Discussion. It is made up of five members: Mr Awich Pollar (Uganda), Ms Hadeel Al-Asmar (Syrian Arab Republic), Ms Kamla Devi Varmah (Mauritius), Mr Sanphasit Koompraphant (Thailand) and Ms Yanghee Lee (Republic of Korea).

25 [www.ohchr.org](http://www.ohchr.org).

26 See Human Rights Council *Resolution 16/12* at <http://bit.ly/i9nU8z>.