

BAHRAIN

CRC CRC/C/114 (2002)

452. At its 769th and 770th meetings (see CRC/C/SR.769 and 770), held on 28 January 2002, the Committee on the Rights of the Child considered the initial report of Bahrain (CRC/C/11/Add.24), which was received on 3 July 2000, and adopted, at the 777th meeting, held on 1 February 2002 (CRC/C/SR.777), the following concluding observations.

A. Introduction

453. The Committee notes that the initial State party report was structured in accordance with the guidelines, although much of the information related to legal provisions or assertions of guarantees without providing information about how rights are actually enjoyed in practice. It notes with appreciation the additional information provided. The written replies were timely but did not provide sufficient information in terms of what had been requested. The Committee appreciates the attendance of a high-level delegation which contributed to an open and frank dialogue.

B. Positive aspects

454. The Committee welcomes:

- (a) The pace of political reform, including the adoption of the National Action Charter, and the preparations for an elected lower house of parliament in 2004, as well as for the creation of elected municipal councils;
- (b) The establishment of the Consultative Council's Human Rights Committee in October 1999;
- (c) The abolition of the 1974 State Security Law and the State Security Courts in February 2001;
- (d) Cooperation with the international community in the field of human rights, including the visit by the Working Group on Arbitrary Detention in October 2001 and visits by international human rights NGOs, as well as efforts to promote and facilitate the work of national NGOs;
- (e) The ratification of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) of the ILO and the establishment of the Supreme Council for Women to assist the Government in formulating policy on women's issues;
- (f) The fact that human rights studies are compulsory for law undergraduates at Bahrain University;
- (g) The ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182) of the ILO;
- (h) The establishment of the National Committee on Childhood in 1999 to coordinate the implementation of the Convention; and

(i) Excellent health indicators and the country's high ranking in the UNDP Human Development Report, 2001.

C. Factors and difficulties impeding the implementation of the Convention

455. Noting the universal values of equality and tolerance inherent in Islam, the Committee observes that in the State party narrow interpretations of Islamic texts in areas relating to personal status law may impede the enjoyment of some human rights protected under the Convention.

D. Principal subjects of concern and recommendations

1. General measures of implementation

Legislation

456. The Committee is concerned that in the case of Muslims the Shariah Court system - which applies Shariah personal law (marriage, divorce, custody and guardianship, inheritance, maintenance) and criminal law - lacks many basic and minimum international safeguards and procedures, including those contained in the Convention, without which the right to a fair trial or adequate access to the courts cannot be guaranteed in practice. In particular, the Committee is concerned that:

(a) Shariah remains uncodified and is applied in its classical sense without reference to State legislation; and

(b) Because it is uncodified the system may be subject to arbitrariness, inconsistencies, and lack of uniformity between judgements of different cadis, or judges, between Shi'a and Sunni departments and disparities with decisions of the secular courts.

457. The Committee recommends that the State party:

(a) Conduct a comprehensive review of its domestic laws, administrative regulations and procedural rules, including Shariah, to ensure that they conform to international human rights standards, including the Convention;

(b) Ensure that laws are sufficiently clear and precise, are published, and are accessible to the public.

Coordination

458. The Committee notes that the National Committee on Childhood is entrusted with the task of coordinating government ministries and NGOs in the implementation of the Convention but does not seem to have a clear mandate in this regard. At the same time, it notes that the National Committee monitors the implementation of the Convention and receives and addresses complaints. The Committee is concerned about this combination of tasks and the lack of clarity with respect to the relationship of the National Committee to the Consultative Council's Human Rights Committee.

459. The Committee recommends that the State party:

- (a) Establish an effective body for the coordination of the activities of government ministries and NGOs for the implementation of the Convention, with a clear mandate and adequate power, a legal framework, and a general secretariat with sufficient human, financial and other resources; and
- (b) Complete and implement its comprehensive national plan of action for children, ensuring that it has been prepared through an open, consultative and participatory process, is human rights based, and includes the implementation of the Convention.

Monitoring structures

460. The Committee notes the establishment of the Consultative Council's Human Rights Committee. It also notes the information that the Human Rights Committee continues to receive individual complaints regarding the implementation of children's rights. The Committee is nevertheless concerned that the Human Rights Committee:

- (a) Does not fully reflect the Paris Principles; and
- (b) Does not have a child rights-sensitive procedure for dealing with complaints under the Convention.

461. The Committee recommends that the State party:

- (a) Ensure that the Human Rights Committee fully complies with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134);
- (b) Strengthen its support of the Human Rights Committee through the provision of adequate human and financial resources, and explicitly include in its mandate the monitoring and evaluation of the implementation of the Convention. The Human Rights Committee should be accessible to children and empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner, and to address them effectively. In this regard, the State party could consider the establishment of a focal point for children within the Human Rights Committee; and
- (c) Seek technical assistance from, among others, the Office of the High Commissioner for Human Rights and UNICEF.

Data collection

462. The Committee welcomes information that the National Committee on Childhood undertook a survey in 2000 to collect and compile data on the situation of women and children in Bahrain. It further welcomes information that the Central Statistics Organization jointly with the United Nations Economic and Social Commission for Western Asia have launched the National Gender Statistics Programme aimed at strengthening national capacity to produce, use and disseminate statistics related to gender.

463. The Committee encourages the State party:

(a) To continue its efforts to establish a data collection system such that disaggregated data are collected on all persons under 18 years for all areas covered by the Convention, including the most vulnerable groups (i.e. non-nationals, children living in remote areas, children with disabilities, children of economically disadvantaged households, etc.), and to use these data to assess progress and design policies to implement the Convention; and

(b) To seek technical assistance from, among others, UNICEF.

Resource allocation

464. While noting information provided by the delegation with respect to increased investments in the health and education sectors, the Committee is concerned about the increasing trends towards the privatization of these sectors and the potentially negative consequences this may have on the enjoyment of economic, social and cultural rights by all children in Bahrain.

465. The Committee recommends that the State party:

(a) Continue and strengthen its efforts to allocate available resources - human and financial - to the maximum extent to health, education, culture and other social services;

(b) Undertake similar efforts to ensure the full implementation of the Convention; and

(c) Identify the amount and proportion of the State budget spent on children in the public and private sectors in order to evaluate the impact and the quality, as well as - in view of higher fees - the accessibility of services for children.

Cooperation with civil society

466. Noting significant steps to facilitate the establishment of NGOs, including in the field of human rights, the Committee remains concerned that insufficient efforts have been made to systematically involve civil society, particularly in the area of civil rights and freedoms, in the implementation of the Convention.

467. The Committee recommends that the State party:

(a) Consider a systematic approach to involving civil society, especially children's associations and human rights NGOs, throughout all stages in the implementation of the Convention, including with respect to civil rights and freedoms; and

(b) Ensure that the 1989 Law Governing Societies, Clubs and Organizations of a Cultural, Social or Sports Nature conforms to article 15 of the Convention and other international standards on freedom of association, as a step towards strengthening their participation.

Training/dissemination of the Convention

468. The Committee is concerned that the Convention has not been published in its entirety, in particular, that articles 11, 21, 22, 38 and 41-54 have been deleted in the published text. The Committee acknowledges information with respect to efforts, including in the media, to raise awareness of the Convention, but it is concerned that the State party is not undertaking adequate awareness-raising and training activities in a systematic and targeted manner.

469. The Committee recommends that the State party:

- (a) Ensure that the Convention is published in its entirety, and that it is disseminated as such;
- (b) Undertake an ongoing programme for the dissemination of information on the Convention and its implementation among children and parents, civil society and all sectors and levels of government, including initiatives to reach those vulnerable groups who are illiterate or without formal education;
- (c) Develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers and health personnel); and
- (d) Seek assistance from, among others, the Office of the High Commissioner for Human Rights and UNICEF.

2. Definition of the child

470. The Committee is concerned that there is no defined minimum age for marriage, and that there are inconsistencies in other areas of Bahraini law with respect to minimum ages.

471. The Committee recommends that the State party:

- (a) Continue to review, and accordingly take steps to amend, its legislation so that the minimum-age requirements are gender neutral, are explicit, and are enforced by law; and, in particular,
- (b) Establish a minimum age for marriage which is the same for males and females.

3. General principles

472. The Committee is concerned that the principles of non-discrimination (article 2 of the Convention), best interests of the child (art. 3), survival and development (art. 6) and respect for the views of the child (art. 12) are not fully reflected in the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children.

473. The Committee recommends that the State party appropriately integrate general principles of the Convention, in particular the provisions of articles 2, 3, 6 and 12, in all relevant legislation

concerning children and apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children. These principles should guide planning and policy-making at every level, as well as actions taken by social and health welfare institutions, courts of law and administrative authorities.

The right to non-discrimination

474. The Committee welcomes the steps being taken to revise legislation to ensure that it is in line with the 2001 National Action Charter, and to draft amendments to the Constitution. However, it remains concerned that the grounds of non-discrimination contained in article 18 of the 1973 Constitution and chapter 1, section 2, of the National Action Charter do not reflect the grounds of non-discrimination contained in article 2 of the Convention.

475. The Committee encourages the State party to use this occasion to review article 18 of the Constitution, as well as chapter 1, section 2, of the National Action Charter, concerning non-discrimination, and ensure that these provisions fully reflect all the grounds of non-discrimination contained in article 2 of the Convention.

476. Noting the significant achievements in the status of women in Bahrain, the Committee is nevertheless concerned that discrimination, contrary to article 2 of the Convention, persists in the State party. In particular, the Committee is concerned about:

- (a) Discrimination against females and children born out of wedlock under existing personal status law (e.g. inheritance, custody and guardianship); and
- (b) Certain vocational courses at the secondary level that are restricted to one sex.

477. In accordance with article 2 of the Convention, the Committee recommends that the State party:

- (a) Take effective measures, including enacting or rescinding legislation where necessary, to prevent and eliminate discrimination on grounds of sex and birth in all fields of civil, economic, political, social and cultural life;
- (b) Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes in this regard, particularly within the family; and
- (c) Train members of the legal profession, especially the judiciary, to be gender sensitive. Religious leaders should be mobilized to support such efforts.

478. Encouraged by significant developments in this area, the Committee is nevertheless concerned at the disparities in access to social services available in Shariah communities in comparison to those in largely Sunni areas. It is also concerned about the enjoyment of rights by the *bidoon* and by non-national children, particularly children with disabilities.

479. The Committee recommends that the State party:

(a) Continue its efforts to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2;

(b) Continue to prioritize and target resources and social services for children belonging to the most vulnerable groups; and

(c) Consider ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

480. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29 (1) of the Convention (aims of education) adopted by the Committee.

Best interests of the child

481. The Committee is concerned that in actions concerning children, the general principle of the best interests of the child contained in article 3 of the Convention is not always a primary consideration, such as in matters relating to family law.

482. The Committee recommends that the State party review its legislation and administrative measures to ensure that article 3 of the Convention is duly reflected therein and that this principle is taken into account when administrative, policy, court or other decisions are made.

Respect for the views of the child

483. The Committee welcomes the information provided concerning the production of a television series for children by children. However, it is concerned that traditional attitudes towards children in society may limit the respect for their views, especially within the family and schools, and that children are not systematically heard in court and administrative proceedings in matters that affect them.

484. The Committee recommends that the State party:

(a) Continue to promote and facilitate, including through legislation, within the family, the school, institutions, the courts and administrative bodies, respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention;

(b) Develop skills-training programmes in community settings for parents, teachers, social workers and local officials so that they can assist children to express their informed views and opinions and learn to take those views into consideration; and

(c) Seek assistance from, among others, UNICEF.

4. Civil rights and freedoms

Protection from torture and inhuman or degrading treatment or punishment

485. The Committee is encouraged by the efforts made by the State party towards greater openness and accountability with respect to human rights, including the withdrawal of its reservation to article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the decision to transfer the public prosecution office from the Ministry of the Interior to the Ministry of Justice. The Committee regrets, however, that no information has been provided in the State party's report concerning the serious allegations of torture and arbitrary arrest of persons under 18 referred to in other reports, including the decisions and opinions of the Working Group on Arbitrary Detention (e.g. E/CN.4/1997/Add.1, E/CN.4/1998/44/Add.1) and the reports of the Special Rapporteur on torture (e.g. E/CN.4/1997/7/Add.1, E/CN.4/1999/61, E/CN.4/2000/9, E/CN.4/2001/66).

486. The Committee strongly recommends that the State party:

- (a) Investigate effectively all cases of torture and inhuman and degrading treatment or punishment by police officers or other government officials and bring the perpetrators to justice;
- (b) Pay full attention to the victims of these violations and provide them with adequate compensation, recovery and social reintegration; and
- (c) Include in its subsequent reports information concerning the above recommendations.

5. Family environment and alternative care

Violence/abuse/neglect/maltreatment

487. The Committee welcomes information that a regional conference on child abuse was held in Bahrain in October 2001, and that the Bahrain Institute for Science has been commissioned to undertake a national study on child abuse. Nevertheless, it is concerned that there is insufficient awareness of the ill-treatment of children within the family, as well as of domestic violence and its impact on children.

488. The Committee recommends that the State party:

- (a) Ensure that the study is comprehensive, assesses the nature and extent of ill-treatment and abuse of children, including within the family, and that it is used to design policies and programmes to address this issue;
- (b) Take legislative measures to prohibit all forms of violence, including corporal punishment and sexual abuse of children in the family, schools and other institutions;
- (c) Carry out public education campaigns about the negative consequences of ill-treatment of

children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(d) Establish effective child-sensitive procedures and mechanisms to receive, monitor and investigate complaints, including intervening where necessary;

(e) Investigate and prosecute instances of ill-treatment, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected;

(f) Provide care, recovery and reintegration for victims;

(g) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of ill-treatment cases; and

(h) Continue to seek assistance from, among others, UNICEF and WHO.

6. Health and welfare

Adolescent health

489. The Committee welcomes information that adolescent health education has been proposed for inclusion in the curricula. Nevertheless, it is concerned that insufficient information is available in relation to adolescent health, such as access to reproductive health services, and mental health counselling services.

490. The Committee recommends that the State party:

(a) Formulate adolescent health policies and programmes, including education, with the full participation of adolescents;

(b) Ensure that adolescents have access to child-sensitive and confidential counselling services, strengthen efforts in the area of adolescent health education within the educational system; and

(c) Seek assistance from, among others, UNICEF and WHO.

7. Education

Education

491. Noting the information provided that access to basic education is free and almost universal, the Committee is nevertheless concerned that education is still not compulsory, and that pre-primary education is available only through private institutions.

492. The Committee recommends that the State party:

- (a) Expedite the promulgation of the draft law on free and compulsory education; and
- (b) Take steps to provide free pre-primary education.

493. The Committee welcomes the detailed information provided in the report on the aims of education. And noting the proposal adopted by the National Committee in this regard, the Committee is concerned that human rights education, including the Convention, is not currently part of the curricula.

494. The Committee recommends that the State party, taking into account the Committee's general comment No. 1 on the aims of education:

- (a) Include human rights education, including children's rights, in the curricula, particularly with respect to the development and respect for human rights, tolerance, and equality of the sexes and religious and ethnic minorities; and
- (b) Seek assistance from, among others, UNICEF and UNESCO.

8. Special measures of protection

Economic exploitation

495. The Committee is concerned that the minimum age for admission to employment under article 50 of the 1976 Law (14 years) is less than the age for completion of basic education (15 years). Moreover, it is concerned that article 58 of the Law exempts family enterprises.

496. The Committee recommends that the State party:

- (a) Ratify the Minimum Age Convention, 1973 (No. 138) of the ILO;
- (b) Implement ILO Recommendations No. 146 (Minimum Age Recommendation) and No. 190 (Worst Forms of Child Labour); and
- (c) Seek assistance from, among others, the ILO.

Administration of juvenile justice

497. The Committee is concerned that:

- (a) There is no minimum age of criminal responsibility: although article 32 of the 1976 Penal Code provides that persons under 15 are not criminally responsible, they can nevertheless be subject to sanctions under the 1976 Juvenile Act, such as detention in social welfare centres for up to 10 years for felonies (e.g. article 12 of the 1976 Juvenile Law);
- (b) Under article 2 of the 1976 Juvenile Law, persons who commit status offences (e.g. begging,

dropping out, misbehaviour, etc.) are subject to legal sanctions;

(c) Under the 1976 Penal Code and 1966 Criminal Procedure Code persons under 18 may be prosecuted for crimes in the same manner as adults (i.e. without special procedures), and be subject to the same penalties as adults.

498. The Committee recommends that the State party:

(a) Review and reform all existing legislation to ensure that, with respect to persons under 18 years, the criminal justice system fully integrates into its procedures and practices the provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System;

(b) Establish a minimum age of criminal responsibility that is in accordance with the principles and provisions of the Convention;

(c) End the criminalization of status offences;

(d) Ensure that the deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults;

(e) Ensure that children have access to legal aid and independent and effective complaints mechanisms;

(f) Consider alternative measures to deprivation of liberty, such as probation, community service or suspended sentences;

(g) Train professionals in the area of rehabilitation and social reintegration of children; and

(h) Seek assistance from, among others, the Office of the High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

9. Optional Protocols

499. The Committee recommends that the State party ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

10. Dissemination of documents

500. The Committee recommends that in accordance with article 44, paragraph 6, of the Convention, the initial report presented by the State party be made widely available to the public at large and that

consideration be given to the publication of the report along with the written answers to the list of issues raised by the Committee, the relevant summary records of the discussion, and the concluding observations adopted thereon by the Committee following its consideration of the report. Such documents should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the parliament and the general public, including concerned non-governmental organizations.