



**Convention on the
Rights of the Child**

Distr.
GENERAL

CRC/C/SR.1217
19 February 2007

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-fourth session

SUMMARY RECORD OF THE 1217th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 25 January 2007, at 3 p.m.

Chairperson: Mr. DOEK

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GE.07-40261 (E) 050207 190207

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

First periodic report of Malaysia (continued) (CRC/C/MYS/1 and CRC/C/MYS/Q/1 and Add.1)

1. At the invitation of the Chairperson, the members of the delegation of Malaysia took places at the Committee table.
2. Mr. SIDDIQUI asked how the Government planned to improve the living conditions of poor indigenous communities in remote rural areas, low-income migrant workers and the urban unemployed.
3. Mr. LIWSKI asked whether the slight drop in Malaysia's health budget between 2004 and 2005 indicated a reallocation of funds or a reduction in health services. He wished to know whether mother-to-child transmission of HIV/AIDS had decreased. He asked whether Malaysia's family planning policy was part of a wider demographic policy. He wished to know whether the Government had taken any measures to address the problem of adolescent suicide. The delegation should explain whether progress in the provision of health care had led to improved access and protection for the most vulnerable children, such as children of migrant families or children living in remote areas.
4. Ms. ALUOCH asked whether Malaysia would consider ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Many African and European girls went to Malaysia to work, and she wished to know what types of employment they were engaged in.
5. Mr. POLLAR asked whether the Government had a national strategy to combat trafficking in persons in Malaysia, and whether there were special law enforcement units to monitor such trafficking. The delegation should describe any preventive or remedial measures taken to address the problem of child labour in both the formal and informal sectors.
6. The CHAIRPERSON asked the delegation to define the term "light work" used in Malaysian legislation. He wished to know whether Malaysian legislation prohibited the use, procurement or offering of children for the purpose of sexual exploitation or pornography, and whether Malaysia had a national plan of action for the elimination of the worst forms of child labour.
7. Ms. FAIZAH (Malaysia) said that, according to a recent population census, there were 10.6 million children in Malaysia, including children who were not Malaysian citizens. Malaysia did not have a comprehensive database on children, particularly indigenous children, children from remote areas and non-citizens. The Orang Asli child population was 71,188, of whom 35,803 were boys.
8. In order to reduce road traffic accidents, efforts were being made to enforce speed limits, conduct awareness-raising programmes in schools, and establish road-safety clubs and competitions. The Ministry of Transport was conducting campaigns to promote road safety.

9. Although preschool was not compulsory in Malaysia, the number of preschool classes had increased by 20 per cent between 2003 and 2005, and enrolment had increased by almost 60 per cent since 2003. All facilities, teaching aids and materials were provided by the Government in public-run preschools. Most preschools were free; the rest charged only a small enrolment fee.

10. In Malaysia, two government agencies, the Department of Social Welfare and the Ministry of Education, were responsible for early childhood care and development programmes. The former was responsible for children under 4 attending childcare centres, while the latter was in charge of monitoring and registering preschools. After a national survey sponsored by the United Nations Children's Fund (UNICEF) revealed the poor quality of childcare at child centres, the 1984 Childcare Centres Act had been adopted to ensure quality alternative childcare for children under 8. The Act applied to all centres enrolling more than 10 children for a fee.

11. Community childcare centres had recently been established for low-income families in both rural and urban areas. Six community childcare centres had been established, and there were plans to establish 10 additional centres every year. The centres were run by NGOs and received financial assistance from the Government.

12. Since 1995, Malaysian vocational schools had been incorporated into technical schools in order to allow students to study specialized subjects at technical institutes until they obtained a diploma, after which they could undertake a university degree. Since students who opted for vocational education could achieve the highest level of education, it was clear that they did not receive a second-class education.

13. Mr. KRAPPMANN said that the number of children attending vocational schools in Malaysia was surprisingly low.

14. Ms. FAIZAH (Malaysia) said that "moral education" was part of the process of inculcating ethical and moral values through community service projects and extra-curricular activities. Participation in such activities was integrated into the overall grade-point average considered for university admittance.

15. The study of human rights was part of the Malaysian school curriculum. The Human Rights Commission of Malaysia had sent books on human rights to schools as teaching materials.

16. In order to raise awareness on the dangers of drug abuse, schools organized anti-drug clubs, forums, exhibits and competitions, with the help of NGOs. Malaysia had planned activities for the treatment and rehabilitation of young addicts, including counselling and guidance, religious studies, recreation, skills training, civic studies and reintegration into the community.

17. The Government had taken a number of measures to encourage Orang Asli children to attend school: such measures included supplementary food programmes, parental outreach programmes, free milk, uniforms and transport to schools, and transit homes for parents visiting schools.

18. The Malaysian Government was consulting with a number of NGOs with a view to creating education programmes for undocumented children. The Government planned to establish child activity centres in areas with large concentrations of undocumented children. Malaysia was working closely with the National Registration Department to provide such children with documentation, particularly children who had been rescued and placed in homes instead of detention centres, in accordance with the Child Act 2001.
19. The Government had recently launched a national strategic plan on HIV/AIDS for 2006-2010. The plan placed priority on training and capacity enhancement, advocacy and reducing HIV/AIDS, particularly among marginalized and vulnerable groups. The plan would increase children's access to education, make health and social services more youth-friendly and increase psychological counselling and social support for children infected and affected by HIV/AIDS. The plan also included antiretroviral therapy for infected children and awareness-raising campaigns to combat the stigmatization of HIV/AIDS patients. A programme to prevent mother-to-child transmission of HIV/AIDS had been implemented for the first time in State-run facilities in 1998 and would be extended to private medical institutions in 2007.
20. In order to promote breastfeeding, Malaysia had declared a breastfeeding week every year at the beginning of August. It had also undertaken baby-friendly hospital initiatives and established a monitoring team to ensure that guidelines were observed.
21. The number of malaria cases was declining in Malaysia, except in Sabah, one of the two Malaysian States on the island of Borneo, where it was very high. As tuberculosis and malaria had re-emerged, the Government had taken measures to raise public awareness about those diseases, in particular by strengthening the surveillance system, using the direct observation treatment of tuberculosis, training health staff in the management of malaria, and providing medical examinations for migrant workers before their employment in Malaysia.
22. Adults and children with disabilities had access to health care in all the government health facilities, which provided such services as early detection, screening for autism, prevention and control of blindness, prevention and management of deafness and hearing impairment, and rehabilitation services. Children with disabilities had access to special schools, including single disability schools for the blind and the deaf. The Ministry of Education also provided inclusive education for deaf and blind children and children with learning disabilities by placing them in special classes together with the other children. Children with learning or multiple disabilities received special education in community-based rehabilitation centres.
23. Probation hostels were institutions for pretrial detention and the rehabilitation of juveniles, particularly those who were "beyond control." The maximum detention period for such juveniles was 12 months. The administration of the probation hostels was currently being reviewed to ensure quality care and creating a more child-friendly atmosphere. The hostels provided care and protection, counselling and guidance, education, moral and religious education, vocational training and sports and recreation.
24. The approved schools were institutions for the detention and rehabilitation of juveniles in conflict with the law. Juveniles were admitted by court order for a period of 3 years, with the

possibility of discharge after 12 months; the school's board of visitors decided whether or not a juvenile was eligible for early discharge. The approved schools provided services similar to those of probation hostels. The administration of the approved schools was also under review.

25. The CHAIRPERSON asked whether antiretroviral drugs were provided free of charge to HIV/AIDS-infected patients.

26. Ms. FAIZAH (Malaysia) said that antiretroviral drugs were provided free of charge to persons infected with HIV/AIDS. Children were placed in children's homes by court order for a period of three years or until the child reached the age of 18, whichever was shorter. An individual intervention programme was prepared for each child, and a review panel evaluated each child's progress. After their release from the homes, children could be placed in a foster family or put up for adoption. If it was not suitable or possible to release the child, there was a provision for extending the child's stay in the home. Draft guidelines on the management of children's homes had been prepared for the purpose of ensuring that the homes were child-oriented and met quality standards. The guidelines, which included inspections by social welfare officers, were currently ready for testing, finalization and approval; the guidelines would also apply to homes managed by NGOs.

27. Mr. KRAPPMANN said that the delegation should define what was meant by the term "beyond control".

28. Mr. ABDUL GANI (Malaysia) said that "beyond control" was used to refer to children with serious behavioural problems whose parents had no other choice but to put them in a home. Such decisions were not made by parents or social welfare officers but by a judge. The Court for Children had appointed two advisers trained in children's matters to assist judges in their decisions.

29. The CHAIRPERSON asked whether the Government paid for children's placement in probation hostels or whether parents shared in the costs.

30. Ms. LEE asked whether statistics were available concerning the number and age of children placed in children's homes, and the reasons for their placement in those homes.

31. Mr. SIDDIQUI asked whether the advisers assigned to the Court for Children had been trained in child psychology.

32. Mr. ABDUL GANI (Malaysia) said that, under the Child Act, probation officers, who were well trained in psychology, were required to submit a probation report to the Court for Children. The probation report served as a basis for the court's decision whether or not to order the temporary detention of the child in an approved school or probation hostel. The courts were required to ensure that parents understood the consequences of such orders and gave their consent.

33. Ms. FAIZAH (Malaysia) said that probation officers visited families to prepare them for the return of their children from the homes. Child welfare committees also assisted in the reintegration of children through vocational guidance, job placement and temporary placement in

foster families. Steps were being taken to train institutional staff in preparing the reintegration of children to be released from the homes. Under the Child Act, the court could order parents to participate in interactive workshops to help them to rehabilitate their children.

34. Mr. ABDUL GANI (Malaysia) said that, since the Malaysian Government provided certain drugs free of charge to the population, it preferred less costly generic drugs to proprietary drugs. There were no laws in Malaysia regarding refugees and their status. Before it could ratify a particular convention, the Government ensured that the legislative and administrative foundation necessary for its implementation had been laid. That was part of the reason for delays in ratifying certain conventions.

35. Ms. FAIZAH (Malaysia) said that the considerable increase in the number of complaints of sexual abuse was attributable to increased public awareness of the problem and higher rates of reporting. The Government had requested Child Helpline International to assist it in setting up a helpline to provide information and assistance to children on such issues as sexual abuse.

36. Mr. ABDUL GANI (Malaysia) said that, although there was no specific legislation on child pornography, a number of provisions contained in various laws prohibited child pornography. The Law Reform (Marriage and Divorce) Act 1976 established the rebuttable presumption that mothers should be awarded custody of children under age 7. Notwithstanding, custody rulings issued by courts took into account the best interests of the child and the child's wishes, and custody could therefore be awarded to either parent.

37. The CHAIRPERSON asked whether, under Islamic family laws, there were circumstances in which mothers could lose custody of their children.

38. Mr. ABDUL GANI (Malaysia) said that, under both the domestic law of Malaysia and Islamic family law, mothers could lose custody of their children. The religious conversion of one of a child's parents gave rise to a number of questions concerning the regime under which custody and inheritance issues would be settled. Many Malaysians considered that jurisdiction over such matters should revert to the civil courts if the parents had been married under the Law Reform (Marriage and Divorce) Act 1976, and in a Syariah court if the spouses had been married by Muslim rites.

39. Magistrates of the Court for Children were trained in the provisions of the Convention and were assisted in their rulings by two advisers. A Government-sponsored legal aid bureau had been given responsibility for representing children in all children's cases. Owing to the large backlog of cases, children were often detained for long periods before their case was tried. However, the Government believed that trials involving children should be processed quickly, and was planning ways to shorten pretrial detention periods. The Government did not pay for the detention of children in homes. The law provided that, in cases involving an adult and a child, children would be tried and sentenced with adults in ordinary courts since the holding of separate trials might give rise to the problem of prejudicial evidence. Although it was generally not desirable to try children with adults, special measures, such as taking testimony from children by videoconferencing, could be implemented during a joint trial in order to protect the child.

40. Ms. ALUOCH asked whether a child who was convicted of a crime perpetrated together with an adult who had been sentenced to death could also receive the death penalty.
41. Mr. ABDUL GANI (Malaysia) said that, under the Child Act, children could not be sentenced to death. Children had the right to be heard in court. Magistrates in the Court for Children had a duty to consider the best interests of the child in all cases. Guardians who represented children in court were obliged to act on the child's instructions.
42. In 2005, a total of 69 children had lived in prison in order to be with their mothers. In January 2007, a total of 360 children were living in deportation centres with their mothers. Children aged 3 or under could stay in prisons and deportation centres with their mothers.
43. While homosexuality was outlawed in Malaysia, it was generally tolerated by society.
44. A bill to address trafficking in persons was currently under consideration. The bill introduced the specific offence of trafficking in children and included several provisions on the protection of victims of trafficking. Once the bill was adopted, the Government would be able to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
45. Mr. FILALI asked whether Malaysian legislation prohibited journalists and publications from revealing the identity of children involved in court cases. He wished to know whether the amount of child maintenance that divorced fathers had to pay the mothers of their children gave the children a decent standard of living. He enquired whether there was a fund to provide maintenance for children whose fathers did not pay.
46. The CHAIRPERSON asked whether there was a limit on the period of time children could be held in pretrial detention. He requested additional information on alternative penalties to detention that were applied to children in conflict with the law.
47. Ms. ALUOCH asked whether juvenile offenders received legal representation free of charge prior to and during their trials.
48. Mr. ABDUL GANI (Malaysia) said that all children in conflict with the law were provided with legal defence free of charge by the Legal Aid Bureau until their cases were closed.
49. Under the Child Act, it was an offence to reveal the identity of children who appeared in court. It was, however, difficult to uphold that provision, since it could be interpreted as conflicting with the freedom of the press. The Government would welcome the Committee's advice on how to protect the identity of children who appeared in court.
50. Measures were being taken to introduce alternatives to deprivation of liberty for minors in conflict with the law. Alternatives under consideration included mediation and the possibility of ordering juvenile offenders aged 14 to 18 years to perform community service.
51. Children could not be detained longer than 24 hours after arrest without appearing before a magistrate for a remand order. The orders could be obtained in courts other than the Court for Children in districts that had no such court. While children could be detained for a maximum

of 14 days while their cases were being investigated, for the most part they were held only for 2 or 3 days. If no charges were brought by the court after that period, the child had to be released. Additional judges' posts had been created to deal with the backlog of court cases.

52. While the Children and Young Persons (Employment) Act did not currently include a definition of light work, the issue would be considered when the Act was reviewed. Malaysia was a party to ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. While Malaysia's domestic legislation was already in line with the provisions of that Convention, the Government would consider enacting another law specifically prohibiting the worst forms of child labour.

53. Domestic legislation required that all children born in Malaysia should be registered. However, some people living in remote areas, illegal immigrants and single mothers did not register their babies. The Government had taken steps to promote birth registration, such as taking mobile registration units to remote areas and working with tribal chiefs and local communities. While not all children born in Malaysia had the right to Malaysian citizenship, they all had the right to an official birth registration document.

54. Mr. FILALI asked whether all marriages, particularly those in the Muslim community, were recognized by law. If not, the delegation should indicate whether the children of those marriages had the right to be registered.

55. Mr. ABDUL GANI (Malaysia) said that such marriages were recognized under the Islamic Family Law (Federal Territory) Act. The Government enforced that Act in order to protect the children of those marriages.

56. Ms. OUEDRAOGO asked whether a child born to a Malaysian mother and a non-Malaysian father had the right to Malaysian nationality.

57. Mr. ABDUL GANI (Malaysia) said that, pursuant to provisions of the Constitution, if one parent was a Malaysian and the other was not, the child had the possibility of obtaining Malaysian nationality.

58. The CHAIRPERSON asked whether the child of an unmarried Malay mother and a father of unknown nationality who had left the country could obtain Malaysian nationality.

59. Mr. ABDUL GANI (Malaysia) said that nothing prevented such a child from obtaining Malaysian nationality, regardless of whether the mother was Malay or a member of any other ethnic group.

60. The CHAIRPERSON asked the delegation to comment on information received by the Committee according to which refugee children could enrol in school but could not take examinations. He wondered how access to education was guaranteed for Rohingyas and other Muslim children from Myanmar, who had been living in Malaysia for many years. He enquired whether such children would be given temporary residence permits.

61. Ms. FAIZAH (Malaysia) said that, in 2005, the Department of Social Welfare had approved 1,554 domestic adoptions. The Department had not handled any intercountry adoptions.

62. A study carried out in 2003 by the Ministry of Health had found that, in general, adolescents were fairly well informed about sexual and reproductive health. Classes on sexual and reproductive health were taught as part of courses on science, ethics and religion. The Ministry of Health and the Ministry of Education planned to introduce comprehensive guidelines for the teaching of sexual and reproductive health in school. Public-sector clinics also disseminated information on the subject.
63. Malaysia had been conducting a poverty reduction strategy and had programmes to improve the standard of living of the poor. Initiatives had been taken to increase the coverage of basic infrastructures and social amenities, raise incomes in low-productivity sectors and create opportunities for upward mobility. The Government offered vocational training courses for the poorest segments of society. It provided low-income housing and childcare facilities, distributed dietary food supplements to schoolchildren and had a special education programme for Orang Asli children. Needy children received financial assistance. As from 1 January 2006, the Government had increased the minimum monthly child allowance from 80 Malaysian ringgit (RM) to RM 100, and the maximum family allowance from RM 350 to RM 450. Financial assistance was available for the purchase of school uniforms and spectacles and for transport to and from school. The national development plan included a rural development component. The private sector and NGOs were encouraged to participate in Malaysia's poverty eradication efforts.
64. The Ministry of Health was preparing a training module and manual for adolescent mental health. Later in 2007, staff in all public mental health clinics would be trained in the use of the module.
65. Steps had been taken to reduce mother-to-child transmission of HIV/AIDS. Measures had been introduced in all health-care facilities in 1998 to combat the transmission of HIV/AIDS to newborns and infants. HIV/AIDS screening was carried out for pregnant women at public clinics, and private clinics were being encouraged to follow suit.
66. Budget allocations for health care had declined slightly, because public hospital construction had been more or less completed, and the number of private hospital facilities had also grown rapidly.
67. Ms. LEE asked whether birth certificates as well as documents needed to attend school and benefit from other services had been issued to Muslim children from the Philippines.
68. Ms. FAIZAH (Malaysia) said that all children who wished to enrol in school, regardless of their religion or country of origin, were provided with the necessary documents. Where possible, undocumented children were issued documents enabling them to attend public school. Once enrolled, such children were allowed to take examinations. The Government was working with NGOs to ensure that undocumented children received some form of education. However, children attending classes that were run by NGOs and were not based on the national curriculum could not take public school exams.
69. With regard to the question concerning lost documents, she said that it took no more than 20 minutes for the authorities at the National Registration Department to replace them.

70. Mr. ABDUL GANI (Malaysia) said that temporary residence permits were issued to persons who did not have travel documents. The permits allowed a temporary stay of one year, which could be renewed indefinitely. No one with a temporary residence permit would be deported. Such persons could also apply for citizenship, provided they met certain criteria. The Constitution guaranteed the right of citizenship to all children up to the age of 21, even if only one of the parents was Malaysian.

71. On the deportation of children, he pointed out that it was very difficult for any country to deport children but not their parents, or parents but not their children. Malaysia's immigration authorities had never intended to separate families. Such deportations usually took place when persons refused to acknowledge that they were the parents of their children.

72. Ms. FAIZAH (Malaysia) said that family planning services were provided by both public and private clinics and were readily accessible to all. Current policy focused on birth spacing rather than birth reduction.

73. Mr. KRAPPMANN (Country Rapporteur) said that the delegation had clearly demonstrated the Government's commitment to children's rights. Concerns remained with regard to child asylum-seekers and child refugees, corporal punishment, domestic violence, poverty, preschool education, sexual abuse, trafficking in persons, the situation of domestic servants and so-called "light work". He had misgivings about the dual law system, under which children's rights and status differed from those of adults in a number of areas. Some of Malaysia's problems, such as those associated with migration, asylum-seekers, child labour, trafficking and HIV/AIDS, could be confronted only through greater regional cooperation.

74. Mr. ABDUL GANI (Malaysia) said that his Government looked forward to receiving further advice and guidance from the Committee and intended to submit its second periodic report before the end of the next five-year period.

The meeting rose at 5.55 p.m.