



Convention on the Rights of the Child

Distr.: General
5 March 2010
English
Original: French

Committee on the Rights of the Child Fifty-first session

Summary record of the 1413th meeting

Held at the Palais Wilson, Geneva, on Thursday, 4 June 2009, at 10 a.m.

Chairperson: Ms. Lee

Contents

Consideration of reports submitted by States parties

Second periodic report of the Niger

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties *(continued)*

Second periodic report of the Niger (CRC/C/NER/2; CRC/C/NER/Q/2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of the Niger took places at the Committee table.*
2. **Ms. Gnaudou** (Niger) said that the State party's second periodic report had been prepared under the direction of the National Committee for the Survival, Protection and Development of Children, in cooperation with civil society and development partners, and that it had been publicized in all regions of the country. The report took account of the Committee's comments following submission of the initial report in May 2002, and a plan to follow up on the Committee's recommendations had also been put in place.
3. Within the progress achieved by the State party, she highlighted the significant investments made for the benefit of children, especially in the areas of health and education, which had led to a fall in infant and child mortality and a rise in the gross school enrolment ratio. The adoption of new legislation, such as the 2003 act amending the Criminal Code, which had established new offences and increased the penalties for existing ones, and a decree providing for free prenatal consultations and care for children under the age of 5 years, had contributed to promoting respect for the rights of the child. In addition, female genital mutilation was on the decline and the draft Children's Code was in the process of being adopted.
4. Within the framework of the Multilateral Cooperation Agreement to Combat Child Trafficking in West Africa, the Government had created a National Commission for Oversight and Coordination of the National Plan of Action to Combat Child Trafficking. Under that plan, several child victims of cross-border trafficking had been repatriated and rehabilitated. Capacity-building had been undertaken for those working to combat trafficking in children, and campaigns to raise awareness and mobilize public opinion had been stepped up.
5. A legal protection programme for young people had been established, which had led to establishment of a partnership among those working with children at risk, such as social workers, the police or children's judges, and to an improvement in children's care.
6. The Niger had adopted a national civil registration policy with the aim of achieving better coverage across the country and in particular increasing the rate of registration of births.
7. Despite progress made, many challenges remained in areas such as registration of births, combating violence and exploitation, improving the quality of teaching, school attendance among girls, effective harmonization of domestic legislation with international child protection instruments and care of orphans and other vulnerable children.
8. **Mr. Filali** (Country Rapporteur) thanked the delegation of the Niger for its second periodic report, and commended the methodology adopted for the report, which was both descriptive and written with a critical eye.
9. He observed that population growth remained very high in the Niger and the economic constraints weighing on poor families, driving them out of rural areas, were a serious handicap. Despite investments made in the areas of health, education and access to drinking water, children still had limited access to basic social services.
10. However, some progress had been made in promoting child rights. Examples included the 2007 act on free birth registration, the 2007 act on HIV/AIDS prevention and control, the 2006 act on reproductive health, as well as provisions relating to female genital

mutilation, slavery, abortion carried out on girls under the age of 16, alcohol consumption and admission to drinking establishments for people under 18. A draft Children's Code prepared in conjunction with the non-governmental organization (NGO) Plan Niger had been approved in 2005 and a bill on human trafficking was under way.

11. The State party had also ratified the Convention on the Rights of the Child and its two optional protocols in 2003, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in 2004 and the Convention on the Rights of Persons with Disabilities in 2008.

12. He wished to know what steps the State party was taking to cope with the coexistence of customary law, sharia law and positive law, which prevented harmonization with the Convention on the Rights of the Child, and whether it intended to adopt the draft Children's Code. He also wished to know what progress had been made by the commission responsible for harmonizing laws with the conventions.

13. He asked whether the National Commission on Human Rights was in compliance with the Paris Principles and in particular, whether it was independent and whether regional branches had been set up throughout the Niger. Also, he wished to know whether the Commission's directorate in charge of promoting the rights of women and children was competent to receive complaints; if so, what action had been taken with regard to those complaints? He requested clarification on the controversial report drafted by the Commission denying the existence of child labour in the Niger. Had the report been made public and its recommendations implemented?

14. Noting that the departure of NGOs from the Niger was likely to exacerbate the situation of children, he wondered whether the budget allocated to the Ministry of the Promotion of Women and Protection of Children was sufficient to protect the rights of the child and he regretted that the mediator appointed in 2008 did not deal with children's issues.

15. Finally, he wished to know whether any measures were envisaged to bring an end to the unequal treatment of children, dependent on whether they were legitimate, born out of wedlock, or as a result of adultery or incest, and to the discrimination against girls from rural areas, who struggled to complete their compulsory education.

16. With regard to corporal punishment, it would be useful to know whether inspections were performed regularly in Koranic schools, whether any schools had been closed as a result of a court judgement and whether any Koranic teachers had been prosecuted.

17. **Ms. Varmah** (Country Rapporteur) wished to know whether any progress had been made bringing about registration of births since the national registration policy had been launched, particularly in rural areas and among the Mahamide community, and whether any steps had been taken to decentralize the administrative departments in charge of birth registration.

18. She also wished to know what measures had been taken to ensure follow-up to the National Plan of Action for the Survival, Protection and Development of Children, and in particular, to reduce infant mortality, combat malnutrition among children and ensure that they lived in a favourable environment and received legal assistance when necessary. Had any progress been made in encouraging mothers to breastfeed and did children of HIV-positive mothers receive medical monitoring?

19. She asked whether measures were taken to encourage girls to attend school, whether special funds had been earmarked to assist destitute children and to improve the quality of the teaching, in particular in primary education, and whether the Government and the municipalities intended to provide resources for the establishment of public libraries and sports facilities. Noting that corporal punishment was a common practice among teachers

despite it being prohibited, she wished to know what steps the Government was taking in order to abolish the practice completely. She also requested information on the legal age for marriage.

20. She asked the delegation to provide information on adoption procedures, indicating in particular whether adopting parents had to meet certain requirements and whether the situation of adopted children was tracked.

21. **Ms. Aidoo** wished to know whether the right of children to be heard was respected, given the traditional view in the Niger that children should submit to adults' decisions and "passively follow the path mapped out by adults", as stated in paragraph 158 of the State party's second periodic report. She also wished to know what steps were being taken by the State party to change those attitudes, whether children had the possibility to have their views heard, particularly with regard to decisions relating to their marriage and dropping out of school, whether children, particularly those living in rural areas and those from poor families, were informed about their rights under the Convention. She asked whether rural radio broadcasts addressed those issues and whether any studies had been conducted to determine the impact of the broadcasts.

22. **Mr. Citarella** wished to know whether the Convention was directly applicable under the State party's legal system, in view of the fact that legislation was governed by three sources of law: customary law, sharia law and positive law. Had it been possible to adopt a single definition of the child across these different systems? He asked the delegation to explain why the legal age for marriage differed depending on the system and to bring the Committee up to date on the adoption of a Children's Code, which had been under consideration for four years.

23. **Mr. Gurán** wished to know what institutional mechanisms were available to ensure the implementation of the Convention, to which body the National Committee for the Survival, Protection and Development of Children belonged and whether it was provided with adequate human and financial resources. He also wished to know how non-governmental organizations interacted with the National Commission on Human Rights and Fundamental Freedoms, whether the Commission was independent and whether it operated in compliance with the Paris Principles.

24. **Ms. Villarán de la Puente** commended the State party for its achievements in reducing infant mortality and malnutrition. However, some 60 per cent of the population lived on less than a dollar a day, which had an impact on a child's well-being. She therefore wished to know what steps had been taken within the framework of the National Plan of Action for the Survival, Protection and Development of Children to remedy problems relating to sanitation, chronic malnutrition and access to drinking water.

25. **Ms. Al-Asmar** wished to know whether the State party planned to take steps to enhance the legislative framework of the protection of girls' rights, particularly with respect to early marriage, sexual harassment and dropping out of school.

26. **Ms. Ortiz** expressed satisfaction at the State party's active cooperation with civil society organizations, in particular in the area of training of personnel. She wished to know what role civil society played in the preparation of policies and draft laws.

27. It was encouraging to learn that the State party cooperated with traditional leaders and made them aware of child rights, as their action was critical to implementing the Convention. Noting that some ministries were gradually adopting the use of educational manuals on the Convention issued by civil society organizations, she wished to know whether future professionals who would be working with children received information on child rights during their training.

28. **Mr. Kotrane** enquired whether the State party took into consideration the advice and recommendations of the numerous NGOs with which it worked. He expressed satisfaction at the establishment of a unit in charge of defending the rights of women and children within the National Commission on Human Rights and Fundamental Freedoms. However, he wished to know whether those bodies were independent, and in particular, whether the unit in question enjoyed sufficient means. He also asked whether it received complaints from victims of child rights violations.

29. **Mr. Koompraphant** asked the delegation to explain how the State party guaranteed the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment. He wished to know how the State party went about ensuring respect for that right, and whether female genital mutilation was a practice penalized by the Criminal Court, given that it represented an act of violence committed against a child. What recourse did child victims have?

30. **The Chairperson** expressed satisfaction at the Niger's increased budget allocation for education, but wondered whether the impact of that measure had not been partially cancelled out by the high population growth. Was it, in fact, a real increase? She noted that budget allocations for social services and health appeared to have been shrinking in recent years and asked the delegation for an explanation.

The meeting was suspended at 11.15 a.m. and resumed at 11.40 a.m.

31. **Ms. Gnandou** (Niger) said that, under article 132 of the Constitution of the Niger, all ratifications of legal instruments entailed their applicability in domestic law. Therefore, the Convention could be invoked by all and must be applied.

32. With regard to the administrative organization of the State, the Niger had adopted a State structure based on decentralization and devolution, drawn from the traditional French system. The services put in place through decentralization enjoyed prerogatives stemming from the State and were financially independent. State representatives such as governors, sub-prefects and heads of administrative posts had no influence on decisions made by local elected officials but did ensure that those decisions were in compliance with the law.

33. **Mr. Filali** (Country Rapporteur) wished to know what office dealt with children's programmes. Was it the governor or the mayor? Was the representative of the devolved system empowered to suspend an elected official?

34. **Mr. Zermatten** said that traditional chiefs represented another level of decentralization and wished to know their powers.

35. **Ms. Gnandou** (Niger) said that representatives of the devolved system acted on behalf of the State directly at the local level. They could under no circumstances suspend an elected official, as the Conseil d'Etat (supreme administrative court) had to deliberate beforehand on the soundness of such a decision, which would then have to be endorsed by those representatives.

36. The role of traditional chiefs, who were on the whole former civil servants, was crucial because they were in contact with the population. In particular, they handled the friendly settlement of disputes in the villages, but had no authority to rule on legal matters. Their decisions relating to such mediation were not judicially binding – hence there was a clear distinction between the roles of judges and traditional chiefs.

37. **Mr. Illo** (Niger) explained that the decentralization process was in its final stages and that the upcoming departmental and regional elections would reflect that situation. Local government bodies were not appointed, but elected; traditional chiefs served as administrative auxiliaries and were responsible in particular for resolving disputes over rural matters.

38. **Mr. Issouffou** (Niger) said that devolved services were State services responsible for implementing child protection policies. Local governments were in charge of enforcing the State's decisions relating to child protection and the State afforded them some latitude in implementing the specific local policies they deemed necessary.

39. **Ms. Gnandou** (Niger) said that the problem posed by multiple legal systems was a matter for concern and that the State had striven for several years to find a solution. Multiple sources of law especially posed a problem with regard to personal status and real rights because case law did not cover personal status and there was no list of traditional practices, which were many and based to a great extent on Islam.

40. The Children's Code, drafted in 2005 and currently under consideration by the General Secretariat of the Government, was an instrument which if adopted would help do away with the multiplicity of legal systems. Given that the majority religion in the Niger was Islam, the authorities were closely examining the Code to determine its conformity with the precepts and rules of that religion.

41. With regard to divorce and repudiation, custom applied, but in cases where a child's future was at stake, positive law prevailed and the child was entrusted to the parent judged to be more capable of assuming his or her parental responsibilities, with precedence being given to the very best interests of the child.

42. Since the Niger's legal system was based on civil law, in all areas legitimate children were favoured over children born out of wedlock, as a result of adultery or of incest. Islamic law did not recognize inheritance rights for children born out of wedlock. That was therefore a thorny problem to be handled in a spirit of conciliation in order to avoid causing offence. The provisions of the Children's Code, which protected all children regardless of their personal status, attempted to resolve the problem.

43. **Mr. Filali** (Country Rapporteur) wished to know whether all children — whether born out of wedlock, as a result of adultery or of incest — had the possibility of being registered at birth, which was a prerequisite for enjoying the rights arising from the Convention.

44. **Mr. Citarella** asked the delegation to provide the definition of the child as used in the Niger. Was it in compliance with that of the Convention? He wished to know whether the concept of the child in customary law differed from that of positive law; if so, did that result in discrimination?

45. **Ms. Gnandou** (Niger) said that, except for inheritance issues, children were all equal before the law, regardless of their personal status, and were all entitled to have their birth registered.

46. Nonetheless the definition of the child did pose a problem because of the significant difference between positive law and the reality on the ground, and means of control were sorely lacking. It was, for example, difficult to prevent a father from marrying off a daughter or son who was a minor. The Government had therefore taken steps to increase awareness in traditional chiefs and religious leaders who could have an influence at the grass-roots level. They were thus responsible for ensuring that girls were in fact of legal age for marriage — at least 15 — before the celebration of a marriage.

47. **The Chairperson** drew attention to the Committee's recommendation at its previous session to raise the age of marriage for girls, which did not appear to have been done. She wished to know the current situation regarding that issue.

48. In addition, referring to the earlier statement by the delegation that the role of traditional chiefs was primarily that of mediation and that their recommendations were not

legally binding, she expressed surprise at their ability to rule on marriage and requested clarification.

49. **Ms. Aidoo** drew attention to the disparities existing between girls and boys with regard to the minimum age for marriage. According to practice, girls were allowed to marry as early as 14 years of age, compared with 16 for boys. The Civil Code set the minimum age for marriage for girls at 15 years, as opposed to 18 for boys. She wished to know how the State party intended to proceed in order to carry out the Committee's recommendations in that respect and how it intended to eliminate those disparities.

50. **Mr. Citarella** said that the definition of the child did not have a bearing solely on the minimum age for marriage, but on the implementation of the Convention in general. He wished to know whether the draft Children's Code contained a precise definition of the term "child" as understood in the Niger.

51. **Ms. Gnandou** (Niger) said that the draft Children's Code was totally compatible with the requirements of the Convention. As far as the role of traditional chiefs was concerned, they did not go beyond giving advice: if parents did not follow their recommendations, they could only pass the matter on to a higher authority, but had no power of enforcement.

52. **Mr. Filali** (Country Rapporteur) wished to know what had been decided regarding the strict applicability of the future Children's Code and whether it would include provisions stipulating that customary practice should not prevail over written law, in particular with regard to the minimum age for marriage.

53. **Ms. Gnandou** (Niger) said that marriage was not the only area in which there was a difference between the age recommended by the Convention and actual practice. In fact, the age of majority was set at 18, which was also the age at which a child was allowed to work.

54. **Mr. Issouffou** (Niger) said that the draft Children's Code was in compliance with human rights principles, as well as with the spirit and letter of the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child and other international instruments ratified by the Niger. The draft Code had been drawn up on the Government's initiative in collaboration with religious leaders of the Muslim and Christian faiths, traditional chiefs and civil society. A compromise had been reached on issues such as the legal age for marriage, which had been set at 18, except where a judge granted a special waiver allowing a child to enter into marriage before the age of majority. Even in such cases, the minimum age for marriage was 16. A participatory approach had been taken in order to enable the population to understand the reasoning behind the decision to raise the age of marriage. The commission in charge of harmonizing legislation with the Convention was working unstintingly, but progress was slow owing to a lack of resources.

55. **The Chairperson** wished to know whether the traditional chiefs were familiar with the Convention and to what extent child rights were currently protected, given that the Children's Code, in the project stage for the past four years, had not been adopted by Parliament.

56. **Ms. Gnandou** (Niger) said that each time a law was enacted, the traditional chiefs were informed of its provisions. Since most of the chiefs were former government ministers, they were already aware of certain issues.

57. The legal system, undergoing a process of reform, was still incomplete. While the Constitutional Court and Court of Audit had already been set up, the Court of Cassation and the Conseil d'Etat (supreme administrative court), had not, owing to a lack of qualified staff.

58. **Mr. Filali** (Country Rapporteur) wished to know whether, in the absence of a court of cassation, a decision handed down by a court of appeals was final.
59. **Mr. Illo** (Niger) said that according to article 138 of the Constitution of the Niger, the Supreme Court was competent pending the establishment of the Court of Cassation.
60. **Mr. Filali** (Country Rapporteur) wished to know whether the Children's Code had been amended during the Government's validation of it.
61. **Ms. Gnandou** (Niger) said that the draft Children's Code had been validated by a workshop representing all components of society. It was now being examined by a committee of the General Secretariat of the Government and would then be submitted to the Council of Ministers. Some 60 NGOs dealing with children's issues were working together with the Ministry for the Advancement of Women and Protection of Children to push the project forward.
62. **Ms. Varmah** (Country Rapporteur) enquired whether a child born of non-native parents in the Niger obtained the nationality of that country.
63. **Mr. Filali** (Country Rapporteur) wished to know whether, in the event of separation of a child's parents or desertion by the father, children were entitled to receive support payments and whether the Government supported the establishment of community and departmental family planning centres.
64. Stressing that 60 per cent of the population lived below the poverty line and that women and children were the most affected, he asked which programmes had been put into place to achieve the Millennium Development Goals.
65. Observing that schools had been paralysed by a series of strikes, hampering children's education, he urged the Government to meet the strikers' demands and wished to know whether the Ministry of National Education, while striving to maintain quality education, intended to gradually offer tenure to teachers who were hired on a temporary basis and accounted for the majority of the teaching staff.
66. It was regrettable that judges appointed to the jurisdictions for minors lacked experience and tended to favour repressive measures over educational ones. The lack of social educators and judges responsible for the enforcement of sentences was also regrettable. He wished to know about that public policy measure of the Government and the reason for its failure to produce the desired results.
67. He observed that labour legislation did not protect working children and that the rules aimed at ensuring employers' respect for young domestic servants were not binding, and found it surprising that a provision of the Criminal Code prohibiting begging did not apply to *talibé* children.
68. He requested additional information concerning the Multilateral Cooperation Agreement to Combat Child Trafficking in West Africa and the National Commission for Oversight and Coordination of the National Plan of Action to Combat Child Trafficking. In particular, who were the parties to the Agreement?
69. **Mr. Krappmann** recalled that half of all children of the Niger did not attend school. He wondered whether the 10-year educational development plan should not be revised to enhance its efficiency. As funds budgeted for education were inadequate, he wished to know, in the light of paragraph 347 of the State party's second periodic report, whether those resources were likely to be cut even further. Noting that children were allowed to work from the age of 14 onwards, he wished to know how children who left school at the age of 12, as well as many others who dropped out before that age or had never attended school at all, spent their time. Had the Government set up vocational training programmes for them, including options for combining work and education?

70. **Ms. Ortiz** wished to know whether the Government included civil society organizations in the preparation of policies, plans and strategies, whether it considered their participation necessary and what difficulties it had encountered when dealing with those institutions. She also wished to know why Médecins Sans Frontières had pulled out of the Niger and whether it could be persuaded to return, as its assistance was invaluable.

71. **Ms. Maurás Pérez** acknowledged the progress made in the health and food sectors, even if much remained to be done to reach the Millennium Development Goals. Chronic malnutrition, still affecting nearly 40 per cent of the population, was the cause of 60 per cent of cases of under-five mortality. Malaria, acute respiratory infections and diarrhoea were the main causes of mortality among children in that age group. It was surprising that a mere 4.4 per cent of mothers breastfed their children, while less than half of the population had access to drinking water. She therefore asked for information on breastfeeding policies and steps taken to combat malnutrition, to set up sanitation and drinking water supply networks and to promote basic hygiene, such as hand washing with soap to prevent the spread of disease.

72. She requested additional information on the measures adopted to combat HIV/AIDS and prevent mother-to-child transmission.

73. **Ms. Aidoo** expressed satisfaction at the adoption of the Reproductive Health Act and the related promotional activities despite people's reluctance. She welcomed the prohibition of female genital mutilation, as well as the efforts of the Government and NGOs in that area. Nevertheless, the Committee remained concerned about adolescent health, and regretted the lack of information on the matter. She wished to know what steps were being taken to provide health services, advice and assistance to the many adolescents who suffered from genital ulcers, sexually transmitted infections, psychological problems and drug addiction, and whether they had confidential access to health services.

74. Pointing out that only a small percentage of youths between the ages of 15 and 24 knew how to protect themselves against HIV/AIDS and sexually transmitted infections, and that there was a disparity between men and women in that regard, she wished to know how the Niger expected to maintain a zero rate of HIV/AIDS prevalence among young people.

75. Since many girls who became pregnant married before completing their studies, she wished to know whether they were given the opportunity to continue and conclude their studies.

The meeting rose at 1 p.m.