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STATE PARTY EXAMINATION OF IRAQ'S SECOND TO FOURTH PERIODIC REPORT

68TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
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Iraq ratified the Convention on the Rights of the Child (CRC) on 15 June 1994. On 21 and 22 January 2015, the Committee on the Rights of the Child (the Committee) examined Iraq's combined second to fourth periodic report on the CRC. It was last examined on 23 and 24 September 1998.

Opening Comments

The delegation of Iraq was led by Mr. Mohammed Mahdi Ameen Al-Bayati, Minister of Human Rights of Iraq. He was supported by representatives from the Ministry of Human Rights, the Ministry of Labour and Social Affairs, the Ministry of Interior, the Ministry of Health, as well as representatives from the Permanent Mission of Iraq to the United Nations Office in Geneva.

The head of delegation, Mr. Mohammed Mahdi Ameen Al-Bayati, specified that the present report was based on collaborative efforts of a group of governmental bodies headed by the Ministry of Human Rights, as well as the input from civil society organisations (CSOs) and academics. The adoption of the periodic report by the Cabinet represented the political will and commitment to promote and protect children's rights. As a result of the terrorist attacks in the country, 2.5 million people were displaced, 30 per cent of whom were children. According to UNICEF, 858 children were separated from their families. Additionally, the post-2003 government inherited high illiteracy rates and weak rule of law from the previous regime. Despite these challenges, the government managed to reduce the poverty rate from 22.9 per

Note: This report is prepared at the discretion of Child Rights Connect. The content is designed to give a summary of the key discussions during the session of the Committee on the Rights of the Child but it is neither an official nor fully comprehensive report. More reports and further information can be found at

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cent in 2007 to 18.9 per cent in 2012, increase the primary school attendance from 89 per cent in 2009 to 90.4 per cent in 2011 and reduce the infant mortality rate from 28 per 1000 in 2012 to 17.4 per 1000 in 2013. In 2011, a child protection helpline was established in the Kurdistan region.

Ms. Renate Winter, member of the Country Taskforce, acknowledged the difficult situation in the State party, including its division into three parts and the terrorist attacks it recently suffered. She said that many problems had been inherited from the previous period and identified corruption, problems with civil society and the judiciary as some of the main issues faced in the country.

Mr. Hatem Kotrane, member of the Country Taskforce, welcomed the delegation and thanked the head of delegation for the opening remarks. He commended the constitutional and legislative reform that was taking place in the State party, despite the difficult situation.

General Measures of Implementation

Legislation

The Committee welcomed the State party's constitutional and legal reform and asked for updates on the Child Protection Act. The Committee also welcomed the ratification of the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC) and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) and asked if there were plans to ratify the Optional Protocol on a Communications Procedure (OPIC). The Committee was concerned that hate speech was not punishable under the State party's law. The Committee encouraged the State party to withdraw its reservation to article 14.1 of the CRC on freedom of religion and belief. The Committee noted with concern that the State's new Constitution of 2005 did not recognise the CRC's direct applicability and its supremacy over national law. The delegation responded that according to the legislation the CRC, the OPAC and the OPSC were part of the State party's legal system and several court decisions had already made reference to the CRC. Moreover, a committee was carrying out a study to bring national laws into line with international conventions. With regard to the OPIC, since this protocol required domestic institutions that would receive complaints, and as the State party was still in a transitional period, the OPIC could only be ratified once the human rights court would be established.

Coordination and monitoring

The Committee noted the establishment of a Commission for Human Rights as well as an independent Commission for Human Rights established in the Kurdistan region in 2013. The Committee asked for more information on these commissions, especially in terms of their monitoring capacity, independence, activities and competence. The delegation responded that the National Human Rights Commission represented all the sectors of society and was presided over by monthly rotation of its members. The Ministry of Human Rights provided the Commission with all information and statistics needed to prepare reports. The government was also seeking ways to address the issue of political pressure exerted on the members of the Commission.

Dissemination and training

The Committee encouraged the Ministry of Human Rights, to start disseminating a child rights culture more systematically. According to discussions, some judges from the State party believed that the age of criminal responsibility was 7, when in fact it was 9. The Committee therefore asked if there were plans to improve the training of judges on the existing child rights legislation of the State party. The delegation responded that the Ministry of Human Rights was

responsible for raising awareness on children's rights, providing child rights training to judges and officials from various ministries as well as children, organising workshops, and conducting visits to schools.

Budget

The Committee was concerned that there were no detailed allocations of budget to children's issues and that children's rights were not seen as a priority. The Committee further noted with concern the State party's limited expenditure on primary education. The delegation responded that despite financial difficulties, the government was still trying to address educational issues and was able to allocate 7 per cent of the national budget to education. The Ministry of Finance and the Ministry of Planning did not prepare a separate budgetary allocation for children. Rather, for 2015, 777 trillion Iraqi Dinars had been allocated to the Ministry of Education, while the Ministry of Health and the Ministry of Labour and Social Affairs received approximately the same amount.

Data collection

The Committee noted that the Ministry of Finance and the Ministry of Planning had systematically gathered information related to the CRC, yet it was not clear whether this institution gathered data covering all the aspects of the CRC. The delegation briefly responded that addressing data collection issues was a work in progress.

Public governance

The Committee was concerned about the widespread corruption in the State party and asked about the measures taken to strengthen the judiciary and the rule of law. Regarding civil society, the Committee was concerned that many CSOs and non-governmental organisations (NGOs) in the State party faced financial issues, as well as issues to be independent. The delegation asserted that the State's judiciary was independent and situated the roots of the current corruption problems in the governance of the State party between 2002 and 2010. To address this issue, the State party had ratified the UN Convention against Corruption (UNCAC) and set up an effective anti-corruption Commission that to provide ideas and assistance to monitoring and overseeing agencies, offices of inspectorates, CSOs and the judiciary. Regarding CSOs and their involvement in child rights, the delegation indicated that the civil society sector was established after 2003 and that an Act provided for its full independence. This Act also allowed children to actively participate in and become members of CSOs.

Definition of the Child

The Committee was deeply concerned that the Ja'fari personal status law set the minimal age for marriage at nine years old. The delegation responded that the minimum age for marriage was 18 years old. However, due to the social environment in rural areas, the judge could authorise a person below the age of 18 to enter into a marriage, with parental consent and under various conditions. With regard to the Ja'fari law, the delegation assured the Committee that the previous government had withdrawn this legislation and it was now abolished and repealed. It added that marriage below the age of 15 was prohibited and sanctioned.

General Principles

Non – discrimination

The Committee deplored the quasi-institutionalisation of gender-based discrimination against girls in terms of rates of illiteracy, enrolment in school as well as differences in inheritance and asked about the existence of any programs and resource allocations to stop this trend. The Committee also asked about the measures taken to address the discrimination of children with

disabilities. The delegation responded that there was no legal discrimination based on gender in the educational system, and in some areas, the enrolment rate of girls exceeded the one of boys. With regard to inheritance, the delegation stated that in accordance with Sharia law, men inherited twice as much as women, but Islam compelled male heirs to protect and offer decent living conditions to female heirs. The delegation also mentioned that while men had right to pension for 18 years – women received pension throughout their life and considered these provisions as a positive discrimination. The Committee responded that receiving a pension was different than enjoying the same rights to inheritance.

Right to life, survival and development

The Committee was deeply concerned about the continued increase of honour crimes - for which the Penal Code continued to recognise extenuated circumstances - as well as early or temporary marriages. Furthermore, although Female Genital Mutilation (FGM) was criminalised, it continued to be performed in rural areas. The Committee therefore asked if any measures were taken to put an end to FGM and other harmful practices on young girls. The delegation said there were only isolated cases of the practice of FGM in Kurdistan and the western regions of the State and that some of the doctors that performed it were punished under the Penal Code.

The Committee also asked if there were any protection measures in regard to explosive remnants of war and terrorist attacks on schools and hospitals. The delegation responded that police rounds took place around schools and kindergartens in order to prevent terrorist attacks.

Respect for the views of the child

The Committee was concerned that nothing in the legislation prevented the courts from disregarding the viewpoints of children. It therefore asked if any measures were taken to compel judges to take into consideration the views of the child before ruling on a particular case. The delegation responded that the courts started taking into consideration the views of children from 12 years onwards.

Civil Rights and Freedoms

Corporal punishment

The Committee asked if any plan were aimed at eliminating and eventually banning corporal punishment. The delegation responded that the ministry of education had very clear instructions prohibiting corporal punishment in school settings.

Children in street situations

The Committee was concerned that 70 per cent of children in street situations, mostly between the ages of 8 and 16, were illiterate and asked about the measures in place regarding children in street situations. The delegation responded that once children in street situations were found by the juvenile police, they were placed in rehabilitation centres which provided case-by-case rehabilitation programmes and encouraged them to seek education. In cases where the parents could not be found, social centres in Bagdad took care of the children until they reached adulthood and provided them with nationality in order to attend school.

Child labour

The Committee noted with concern that the legal minimal working age, which was in accordance with the ILO Conventions №138 and №182, was not properly enforced. The Committee asked about the existence of assistance programs or financial support to poor families that aimed at reducing child labour and domestic work. The delegation responded that there was a division on combating child labor under the Ministry of Labor and Social Affairs

as well as inspector teams that visited the places most prone to child labour and reported to the competent authorities those who did not respect the 1980 law on child labor.

Child abuse

The Committee was deeply concerned that early marriage and marital rape were in some cases legal under the State party's law. The delegation responded that the laws that were more tolerant towards rapists that married their victim had been inherited from the previous regime. The delegation cautioned, however, that this practice enabled some of the victims to avoid being subjected to honour crimes from members of their family or the community. The delegation said that awareness on this issue needed to be raised and assured the Committee that these laws would be amended as soon as the society would change mind-set and support these changes.

Drug-related crimes

The Committee expressed concerns over the prevalence of drug-related crimes among adolescents. The delegation affirmed the government's commitment in tracking down the gangs involved in drug trafficking. In addition, the border control authorities had been trained on how to deal with this particular crime in compliance with human and children's rights.

Right to a nationality

The Committee was concerned that mothers could not transfer nationality to their children if they were born outside of the State party unless the father was unknown - a requirement that did not apply to fathers. The delegation responded that the State party's Constitution clearly stipulated that any child of an Iraqi mother or father, whether inside or outside of the State's territory had the right to Iraqi nationality.

Family Environment and Alternative Care

Family support

The Committee asked if there were assistance programmes for poor families, such as financial support in order to reduce children engaging in domestic work. The Committee asked whether the State party thought that polygamy and repudiation had a negative impact on children and their access to family environment. The Committee was concerned that mothers were only considered as physical but not legal custodians and wanted to know how this problem was being tackled by the State party. The delegation responded that the Ministry of Labour and Social Affairs provided social benefits and allowances for families according to the number of children and if the children were vaccinated and regularly enrolled in schools. 1.25 billion Iraqi Dinars were allocated to these social benefits.

Institutions and family-based care

The Committee asked for the number of children present in the foster care system. The Committee also inquired if an expansion of the foster care system was being planned since the services it provided were mostly accessible in the urban areas. The Committee also wanted to know whether the State party had policies to prevent the separation of children from their families, avoid institutionalisation and reintegrate children with their families. The delegation responded that in 2014, 30 children were placed in foster families on the basis of a court decision as well as a recommendation of a social worker. This trial programme would be applied for six months and could be extended for further six months. There were currently 444 children in social institutions under the Ministry of Labour Social Affairs, which had a maximum capacity for 1,400 children. Out of those children, 352 were enrolled in schools and had a 90 per cent success rate. Admission to these institutions was often due to family problems.

Social workers tried to reintegrate children with their families, and about 20 children had rejoined their families in 2014. There were 51 institutions for children with disabilities under providing care for 3,658 children the Ministry of Labour and Social Affairs. The services in these institutions were comparable to the ones provided in the social institutions, namely, educational and pedagogical services, health, social and recreational programmes.

Orphans

The Committee asked what efforts were made to ensure that children living in orphanages were genuinely orphans and asked about measures for the care and protection of orphans and their reintegration into a family environment. The delegation responded that a survey on orphans conducted by the Central Statistics Bureau showed that there were 300.000 either partially or completely orphaned children in the State party. The delegation said that certain benefits were provided for orphan children of civil servants, while financial compensation (150 per cent of the minimal civil servant salary) was provided for orphaned children of victims of terrorist attacks. In general terms, all categories of orphans were protected through the Social Welfare Act. The delegation added that reintegration into families was prioritised whenever close family members were identified.

Disabilities, Basic Health and Welfare

Children with disabilities

The Committee asked if any specific measures were taken to improve the situation of, facilitate the access to education to, and tackle the de facto discrimination against children with disabilities. The delegation informed the Committee that in 2010 a comprehensive study was completed that situated the number of children with disabilities in schools in the State party at 13,500. The delegation acknowledged that these children did not receive sufficient support and mentioned that an advisory committee had been established under the Ministry of Education to remedy the situation and create a specialised education programme. Children with disabilities were registered with the Ministry of Labour and Social Affairs, which protected them from armed gangs and their transportation to and from school was either provided or monitored. Subsidies were also allocated to children with disabilities.

Adolescent Health

The Committee was concerned about the high percentage of adolescents and children that were suffering from post-traumatic stress and the high prevalence of substance abuse among adolescents and asked what measures were undertaken to support these children. The Committee also asked whether children had access to contraception and abortion in cases of sexual violence. The delegation agreed that armed conflict and terrorism acts negatively impacted on the mental health of the State party's children. In response, certain healthcare facilities provided psychological counselling, and social workers in schools had been trained to help children with psychological trauma. With regard to drug abuse, the Ministry of Health provided healthcare services to drug addicts and organised drug prevention campaigns.

Education, Leisure and Cultural Activities

School dropout and enrolment rates

The Committee expressed concerns over the low enrolment rate in secondary schools and among girls in rural areas. It was also concerned about the high school dropout rate. The delegation responded that the main issue was the shortage of schools, many of which had been destroyed. With regard to the 300,000 displaced children, the government, in collaboration with UNIESCO, had created programmes and ad hoc school premises in camps.

Human rights education

The Committee also asked about the measures taken to combat the spread of ideological indoctrination and militarisation of children's mentalities and promote human rights education. The delegation responded that a committee was monitoring and revising the school curricula on a yearly basis and that human rights education had recently been incorporated in the education system.

Educational infrastructure

The delegation mentioned that in response to the increase in population, funding was provided for the implementation of a National Strategy for Education (2011–2020) which was elaborated in coordination with UNICEF, UNESCO and the World Bank in order to scale up and modernise the State party's education system. As part of this strategy, by 2020 the government planned to build 14,440 kindergartens and primary schools, 4,300 secondary schools, 270 buildings for vocational training, a number of universities and colleges, and increase the number of schools for children with special needs to 7,500.

Special Protection Measures

Juvenile justice

The Committee requested more information on any provisions regarding child victims and witnesses of crime and the maximal time for pre-trial detention and custody. The delegation responded that according to the law, any adolescent held at a police station would remain there until the judge reached a decision on referral. The delegation also mentioned that there was a department for juvenile police under the Ministry of Interior. At the detention facilities, children and adults were held separately and the police officers were trained to keep their arms out of sight, wear civil clothes, and use special non-violent techniques for obtaining information during the preliminary investigation. There was also a policy to treat children in contact/conflict with the law in a manner that would facilitate their social reintegration. The delegation added that the Ministry of Human Rights organised special trainings and workshops on human rights and treatment of adolescents and monitored the juvenile detention facilities.

Concluding Remarks

Ms. Renate Winter, member of the Country Taskforce, acknowledged that there were the huge differences between rural and urban areas, as well as between the three regions of the State party, and encouraged the State party to improve the implementation of its laws. She also said that many cases cultural issues – such as integration of women into the modern economic fabric of society and amending gender-discriminatory heritage laws – were not automatically religious ones and could therefore be changed to comply with the CRC.

Mr. Hatem Kotrane, member of the Country Taskforce, thanked the delegation for the dialogue and expressed hopes that, despite the tremendous difficulties, additional measures would be taken in accordance with the Committee's recommendations, particularly in the area of non-discrimination.

The head of delegation, Mr. Mohammed Mahdi Ameen Al-Bayati, thanked the Committee for the dialogue and affirmed that the cooperation between the Committee and the State party on the implementation of the CRC would continue in spite of the difficult circumstances.