

STATE PARTY EXAMINATION OF GHANA'S THIRD TO FIFTH PERIODIC REPORT

69TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
18 MAY – 5 JUNE 2015

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Ghana ratified the Convention on the Rights of the Child (CRC) on 5 February 1990. On 21 May 2015, the Committee on the Rights of the Child (the Committee) examined the combined third to fifth report of the Gambia. It was last examined on 13 January 2006.

Opening Comments

The delegation of Ghana was led by Ms. Nana Oye Lithur, Minister of Gender, Children and Social Protection. She was supported by a large delegation consisting of 22 representatives from various child-related departments and ministries.

The head of delegation, Ms. Nana Oye Lithur, opened the dialogue by mentioning that Ghana made history by becoming the first State to ratify the CRC. She mentioned that progress had been made in birth registration which had increased from 17 per cent in 2002 to 66 per cent in 2013. The vaccination rate was 98.3 per cent. Furthermore, the State had seen a 25 per cent reduction in HIV/AIDS. Child labour, especially in the mining sector, remained a challenge.

The country rapporteurs, Ms. Amal Aldoseri and Mr. Benyam Dawit Mezmur, welcomed the delegation, commended the progress made by the State party, especially in terms of the ratification of relevant international treaties and highlighted the challenges concerning female genital mutilation (FGM), ritual servitude arising from the Trokosi system and domestic violence.

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 www.childrightsconnect.org/index.php/publications-resources/crc#countrysum

General Measures of Implementation

Legislation

While commending the State on the introduction of new child-related laws, the Committee expressed concern over the existing discrepancy between law and practice, since cases of Trokosi servitude, FGM and domestic violence had increased despite the laws that prohibited them. In terms of implementation of legislation in general, the delegation responded that some of the courts did apply the principles and the provisions of the CRC. In the State's adversarial courts, the lawyers made references to the CRC in their submissions and in their legal arguments, as well as the judges in their rulings.

Budget

The Committee asked whether measures have been taken to allocate sufficient budget for the implementation of the CRC, especially in the light of the fiscal crisis. Specifically, the Committee asked for more details on the budget allocated for the implementation of the Children and Family Welfare Policy. The Committee also inquired whether the Ministry of Gender, Children and Social Protection was sufficiently resourced with qualified personnel and with adequate budget to fulfil its mandate.

Coordination and monitoring

The Committee also wanted to learn more about the Commission on Human Rights and Administrative Justice with regard to its competencies, its independence, its accessibility by children (whether children were being informed of its existence and could lodge a complaint in confidentiality), its structure (the vocation of its members). The Committee also asked for disaggregated information on the number and nature of the complaints received by this body. The delegation responded that the Commission on Human Rights and Administrative Justice was a constitutional body, independent of the government and reported to the parliament. In terms of structure, it had a commissioner and deputy commissioners who possessed a status of court of appeal judges. It was in their mandates to receive complaints. One unit under this commission was dedicated to children's rights. From 2008 to 2013, a total of 26,428 child-related human rights cases were filed, which amounts to 40 per cent of the total number of cases that have been submitted. In terms of governance and institutional structure, there was a national headquarters and 216 human rights offices in every district, to which people can send their complaints (accessibility). The offices also ran awareness creation programmes in the communities, especially in schools, on human and children's rights. On the issue of confidentiality and monitoring, the offices reported to their regional directors in the 10 regions of the State, then to the headquarters.

Dissemination, awareness raising and training

The Committee asked whether there had been any awareness raising on children's rights for professionals working for and with children. In general terms, the delegation stressed the support from civil society, in addition to the work of the Department of Children, and mentioned the NGO coalition on rights of the child that had done some training across the State.

Data collection

The Committee asked what stage had been reached in data collection in all areas covered by the CRC and disaggregated by age, sex, disability, geographical location, etc. In particular, the Committee asked whether the government considered establishing a national database on

all cases of domestic violence that would also contain disaggregated information. The delegation responded that the police managed a national database on domestic violence against children which contained gender-disaggregated statistics on sexual abuse of children, including rape, incest, defilement and sodomy against young boys. It also contained data on perpetrators and victims.

Children's rights and the business sector

The Committee noted the considerable private sector investment within the mining, cocoa and fishing industries in various parts of the State. In relation to this, it expressed concern that local communities where these industries were concentrated did not necessarily benefit from them, while some of the children had become exposed to child labour and harmful substances. The delegation responded that the State had recently undergone a peer-review by the Economic Community of West African States (ECOWAS) mechanism. As a result of the gaps identified in its national plan of action on child labour, more than 2,000 children had been rescued from working in the mining industry, and last year alone 300 families received livelihood support to prevent their children from working in mines. Furthermore, the establishment of community-based child protection teams within mining communities had led to the withdrawal of more than 267 children from mining activities in 2014.

Definition of the Child

Legal minimum ages

The Committee asked if there were any exceptions to the law prohibiting marriage under 18, what were the procedural and substantive requirements in those cases and whether the children married under 18 were still legally considered as children. The delegation responded that while the age of marriage was 18 years the age of sexual consent was 16 years. If a child got pregnant at 16, then they would get married, but would remain children in the eyes of the law. The delegation also affirmed that it would not reduce the marriage age to 16 years.

General Principles

Non-discrimination

The Committee asked if there was a comprehensive strategy to address the de facto discrimination against girls especially in terms of early marriages, FGM and access to education.

Best interests of the child

While the State legally recognised the right of the child to have his/her best interest taken as primary consideration, the Committee was concerned that this right was not adequately and systematically applied in administrative, legislative and judicial proceedings, including in situations of asylum-seeking children. The Committee therefore asked if the persons concerned in these proceedings, such as judges, teachers, parents, those working with asylum seekers, were adequately sensitised to child rights. The delegation responded that in fact the best interest principle was the underlining principle of the Children's Act of 1998. It was in the preamble of this act and it was applied in every proceeding. There was also the family tribunal that dealt with cases relating to custody, child support and other child related issues. The three members of this tribunal (among whom there was a social welfare officer) were

trained in the interest of the child. Furthermore, all judges and lawyers had to pass through law school, where they received some training on the CRC and the ACRWC and of course on the 1998 Children's Act. The delegation also shared with the Committee a specific court case where the best interest principle had been clearly enunciated, and affirmed its commitment to progressively ensure that all the judges were well trained on the best interest principle.

Respect for the views of the child

While commending the State for its efforts in this regard so far, the Committee wanted to know whether the child participation programmes included children in rural areas, girls and children of vulnerable groups and whether the child rights clubs initiative had been extended to rural areas. The Committee also asked if children participated in decision making at home and in judicial and administrative proceedings as well as what measures were put in place to facilitate child participation in decision making.

Civil Rights and Freedoms

Corporal punishment

The Committee was concerned over the fact that, according to Article 13(2) of the Children's Act of 1998, corporal punishment was allowed if it was "justifiable and reasonable". The Committee therefore asked if any measures were being taken to curb these violations by amending said article and implementing other laws. The delegation responded that corporal punishment could only be applied if a head teacher gave permission to a teacher to use the cane in which case the reason for the punishment and the number of strokes given had to be logged in the official record. The Child and Family Welfare policy recommended to amend the Children's Act in the course of the next three years so as to prohibit the use of corporal punishment as a form of violence against children.

Birth registration

The Committee asked for more information on birth registration. In particular, the Committee asked about the situation of refugee and abandoned children, whether birth registration initiatives had been rolled out to the rural areas and whether the education and health systems had integrated birth registration mechanisms such as travelling courts in schools and registry offices in maternity health centres. The Committee also asked if there were any administrative costs for late registrations and wanted to know what the government was doing to tackle corruption that surrounded the birth registration process. The delegation explained that birth registration was decentralized with 216 Birth and Death Registry Offices in each of the districts of the State. There were several advocacy activities such as the Birth Registration Day every September and the Child Health Promotion week every May. Birth registration was free during the first year of the child's life and the late registration fee was so small as to prevent any form of corruption. Children born in refugee camps were registered by community nurses, while traditional birth attendants working in the most remote areas had been trained to record births so certificates could be issued at a later date when a community nurse visited the family. Abandoned children were usually registered when they were admitted into an orphanage. Birth certificates were necessary to enrol children into school which was an incentive for parents to register their children.

Access to appropriate information

The Committee deplored the fact that a few media provide and disseminate information that benefits children. The Committee was equally concerned about the unethical portrayal of children victims of abuse. In this regard it asked about the child rights training journalists received and whether there were any sanctions on media houses and journalists who flaunted the rules on ethical reporting on children. The Committee also asked whether there were any programmes in place to sensitise and educate children and parents on the dangers of exposure to harmful information such as violence or pornography. The delegation responded that children get information from the radio. There indeed were concerns of the media portrayals of abused children and for this reason the journalist receive training on reporting on cases relating to children. Additionally, there was a constitutional body called the National Media Commission that monitored and regulated the media in the State with regard to the reporting on children. The Ghana Journalist Association also had its own Code of Conduct with relevant sections on how to report on children. The NGO coalition on the rights of the child had also participated in the training and sensitisation of journalists across the State. In cases of inappropriate portrayal of children in the media the Department of Children would step in.

Right to nationality

The Committee expressed concerns that only children born in Ghana who had one Ghanaian parent were eligible for Ghanaian nationality and asked what the government was doing to address this issue. In this regard, the Committee also asked whether the State party was considering ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Violence against children

Domestic violence and sexual abuse

The Committee wanted to know to which extent the domestic violence legislation was actually bringing about positive change to the lived reality of children, how focused it was on children and whether it addressed issues pertaining to mental and psychological violence as well. The Committee also asked whether there was a sentencing policy regarding domestic violence. The delegation responded that the government was currently developing a sentencing policy - a process started in 2014. In the meantime, the Criminal Offences Act already contained stipulations on sentencing. There was, for instance, a range for cases of defilement. The minimum sentence that a judge could give was 7 years. For harbouring children and using them for prostitution the minimum sentence was also 7 years, and the maximum one 25 years. The delegation shared their concerns over the increasing trend of out-of-court settlements of sex-related offenses with respect to children under 18.

Harmful practices

The Committee asked for an update on efforts to combat scarring practices as well as the Trokosi ritual servitude. The Committee also wanted to know if there existed any symbolic practices that could be used to avoid the harmful ones being practiced on children. As regards the Trokosi tradition, the Committee asked how the concerned priests were being dealt with. Looking into the Criminal Code (Amendment) Act 29, section 314(a) that criminalised Trokosi, the Committee asked the delegation whether they found the penalty commensurate with the severity of the crime and if there had been challenges in terms of training law

enforcement officers in relation to the implementation of this provision. The delegation started by explaining that these were very sensitive socio-cultural and customary practices that have been in existence for centuries. In 1998, the Criminal Offences Act was amended to criminalise harmful traditional practices. Also, Article 26(2) of the Constitution of 1993 prohibits harmful cultural practices, and there were similar provisions in the Children's Act of 1998. Notwithstanding all these legal provisions, the Constitution and statutes, some of these practices were still going on unabated because it was difficult to use legal interventions as mechanisms for the protection of the rights of children and principally women against some of these harmful traditional practices. Fortunately, in the case of FGM, the 1994 amendment of the Criminal Offences Act criminalising FGM and harmful widowhood practices had recently been put to use with 6 convictions for FGM. But this came only after a strong awareness raising campaign in parallel to the promotion of the law. According to a study conducted in 2011 (multiple indicator cluster survey) it was found that the FGM incidence was reduced to 4 per cent from about 30 per cent 10 years ago. With regard to witchcraft, about 600 women had been branded as witches and confined to witch camps. Alarmingly, there were also about 130 children living in these camps. The government's strategy had been to engage with the traditional leaders and the elders in the communities in order to try and dissuade them first from getting the women lynched and pronounced as witches while encouraging the release of the women from the witch camps and their reintegration into the communities. That is how they were able to close down a witch camp, with the cooperation and support of Action Aid and a number of CSOs in the Northern region. Finally, the delegation conceded that it had been extremely difficult to secure convictions or even prosecutions, or even to get a single person to formally file a case of Trokosi - a harmful practice which occurred in the Volta region and in certain parts of the Greater Accra region. Basically this was because of the socio-cultural underpinnings of the practice - but the government was progressively working to engage with the traditional leaders. That was why the interventions by the Commission on Human Rights and Administrative Justice and the "International needs" NGO had used alternative mechanisms, mediation and also were supporting alternative symbolic practices to free girls from Trokosi.

Early, forced or child marriages

The Committee expressed concerns that despite the establishment of the Child Marriage Coordinating Unit, as well as the Ending Child Marriage initiative, the number of forced and early marriages was on the rise. The Committee asked if any evidence-based studies had been conducted to identify the specific reasons behind this trend, other than poverty (such as gender inequalities or negative social and traditional norms). The delegation informed the Committee on the creation of the Anti-Child Marriage Coordinating Unit. It was established by the government together with UNICEF and its function was to produce factsheets, training packets and resource guides, to inform the public on child marriages and to establish a committee of experts to advise it. Furthermore, a shelter for victims of child marriage was established in the Greater Accra area.

Family Environment and Alternative Care

Alternative care

The Committee expressed concerns about the very low number of fostered children (12 in 2014) and the high number of children placed for adoption. It therefore asked for clear statistics on national and international adoption. The Committee wanted to know what support was given to family-based alternative care. The delegation responded that a Care Reform Initiative was launched in 2007 to ensure children grew up in a family setting rather than in an institution. The initiative included training for orphanage staff, including on reunification processes, and support for families to keep their children in the first place. The number of Ghanaian children adopted outside the country had decreased drastically and in the first quarter of 2015 only one inter-country adoption had been approved, which was for a Ghanaian family living abroad. Since 2010 2,248 children had been reunited with their families and 83 orphanages had been closed down. The authorities were trying to collect information on the number of children who were living with their relatives under the ‘kinship care’ scheme, which was not a form of adoption and sometimes confused as a form of foster care.

Disabilities, Basic Health and Welfare

Teenage pregnancy

The Committee was concerned by the high incidence of teenage pregnancies and the high number of illegal and unsafe abortions for adolescents. It therefore asked whether there were any plans to improve sexual and reproductive health care for adolescents. The delegation responded that teenage pregnancy was a concern. Like all pregnant women teenage girls had free access to antenatal care but sometimes they did not use it. The government therefore started training health providers not to discriminate against pregnant adolescents in need of antenatal care and urging health clinics to offer adolescent-friendly services outside of peak hours.

Vaccination

The Committee stressed the need to synchronize vaccination campaigns with neighbouring countries. The delegation responded that for many years national immunization days, for example for Polio, had been synchronized with neighbouring countries across the sub-region. The said that it would consider synchronizing regular immunization services in the same way. It was also noted that, in particular in the border towns, vaccinations were available for foreign nationals as well.

Education, Leisure and Cultural Activities.

Private education

The Committee expressed concerns over the increase in private education in the State as parents were obliged to sacrifice a lot of money to compensate for the poor quality public education thus furthering the socio-economic gaps. The delegation responded that around 27 per cent of schools in the State were private for which it was difficult to collect statistics as they were unwilling to share data with the authorities. The government was however working hard to ensure that they provided quality education.

Access to education

The government was aware that poor families often needed support to send their children to school and although primary education was free it had for many years provided a subsidy to families and provided poor pupils with free uniforms and school books. The delegation also informed that this grant had been recently increased.

Computer skills

The Committee noted with concern that most schools in Ghana did not have or had very few computers, resulting in many children lacking computer skills. It therefore asked how the State party intended to address this issue. The delegation responded that, on the contrary, schools in the State did possess computers as the government had supplied 60,000 computers to the schools. There was also a programme within the education sector on ICT for children in schools.

Special Protection Measures

Juvenile justice

The Committee wanted to know more about the nature of the cases that went to the juvenile courts. It expressed concerns about the use of adult prisons for the detention of children as well as about number of juveniles in pre-trial detention. The Committee also inquired about the situation in regard to out-of-court settlements and the use of traditional justice systems. The delegation informed the Committee that a study on children in the criminal justice system was conducted at the end of 2014. A report on the study would be sent to the Cabinet by the end of June upon the basis of which a new juvenile justice policy was expected to be adopted by the end of 2015. According to the most recent available information dating from 2013, 59 children between 12 and 17 were held in correctional facilities managed by the Ghana Prison Service. The study identified that 1.2 in every 100,000 children were held in pre-trial detention. At the end of 2013, 72 children were held in pre-trial detention. Of those 72 cases, court proceedings had been started for 22 cases and the others had been charged with an offence.

Concluding Remarks

The Country Rapporteurs, Mr. Benyam Dawit Mezmur and Ms. Amal Aldoseri, thanked the delegation for the dialogue and acknowledged both the progress made and the challenges ahead, particularly in terms of budgeting, inter-ministerial collaboration and combating the discrimination against vulnerable groups of children, etc.

The head of the delegation, Ms. Nana Oye Lithur, thanked the Committee, the experts, the civil society present in the room, the development partners, and all the other stakeholders watching live. She assured the Committee of her government's high commitment to insure that all children in the State party were protected, and their rights realised, fulfilled, and respected.