

National Conference 5th Anniversary of the UN
Resolution A World Fit for Children

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**The CRC Committee's Concluding Observations for Azerbaijan
A Summary**

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1. Introduction

Before presenting a summary of the Concluding Observations on Azerbaijan issued by the CRC Committee in March 2006, I will briefly explain what Concluding Observations are by putting them in the wider context of international monitoring of Human Rights implementation.

The ratification of a Human Rights Treaty such as the CRC includes among many others the obligation to report regularly to the UN Committee in charge of examining the progress made by the State Party in the realization of rights enshrined in the Convention.

To be more specific: Azerbaijan is a State Party to the CRC - one of the 193 - and has to report to the CRC Committee two years after ratification and thereafter every 5 years. Azerbaijan did report twice.

In the ongoing efforts to implement the CRC this reporting obligation is much more than an administrative nuisance meant to keep a UN committee happy. It is an important instrument and without going into details let me mention some of the functions of the reporting

- the report is a regular assessment of the progress made - that is: a check whether the measures undertaken had their intended effects.

But it is also - at least should be - an analysis of the difficulties and obstacles met in the process of implementing children's rights in order to be able to address/overcome them with effective measures;

Even if the CRC did not require reporting to the Committee every State Party should produce such a regular report as a matter of self-interest.

If a State undertakes a variety of measures - legislative, administrative or others, perhaps as part of a National Plan of Action - it should want to know what the effects of these measures are and to adjust/change them if necessary to achieve the intended results;

- reporting on the implementation of the CRC is an activity that requires the involvement of a wide variety of governmental ministries, directorates and civil servants because of the many areas covered by the CRC. It means that reporting generates or increases the awareness in governmental circles regarding the importance of the CRC;

- this awareness is not limited to the inner circles of the government.

First: the government has the obligation to make its report widely available to the public (art. 44, par. 6 CRC). Second: the CRC Committee recommends States Parties to involve NGO's in the preparation of the government's report and at the same time encourages NGO's to submit their own report.

In short: the reporting under the CRC is an important tool for awareness raising but it is also, and in the first place, meant to inform the CRC Committee on the progress made, the difficulties in the implementation of the rights of the child and the plans to address them.

This information provided via the reports is discussed in a meeting of the CRC Committee and a delegation of the State Party. The (last) meeting with a Azerbaijan delegation took place on 19 January 2006 for a discussion of its second report on the implementation of the CRC.

This dialogue results in a document known as Concluding Observations.

This document does three things:

- acknowledging and appreciating progress made;
- expressing concerns regarding difficulties in the implementation of the CRC, difficulties that sometimes amount to serious problems for children in the enjoyment of their rights;
- providing suggestions/recommendations for actions that should be taken to address the difficulties in order to promote full enjoyment by children of their rights.

In this regard: the CRC Committee tries to make its recommendations as concrete as possible and that is much depending on the quality of the information provided by the government, the NGO's and the UN

agencies. UNICEF in particular has shown to be a very important partner in providing additional information.

Finally: Concluding Observations are not the end of the reporting process after which everybody can sit back till the next report. It has to be a start of ongoing and where necessary new efforts for the implementation of the CRC using the recommendations of the Committee. This follow-up is crucial and I am very pleased that the government of Azerbaijan has organized this National Conference in order to take stock of progress made and to present and discuss the various measures taken to further promote the realization of children's rights. The CRC Committee highly appreciates the commitment shown by the government of Azerbaijan and hopes that all other States Parties to the CRC undertake similar actions.

After this introduction let me now present a brief summary of the Concluding Observations for Azerbaijan issued by the Committee just over a year ago.

2. The concluding Observations; a summary

The CRC is a very rich human rights treaty. It covers all aspects of the life of children and the Concluding Observations try to address all the provisions of the CRC. It often results in a long document (for

Azerbaijan 16 pp.) and in order to facilitate the reading of it a certain structure is applied.

After the acknowledgement of the major achievements, the concerns of the Committee and its recommendations are presented in the following clusters

1. General Measures of implementation (art. 4, 44, 46 CRC).
2. Definition of the child (art. 2 CRC).
3. General Principles (art. 2, 3, 6, 12 CRC).
4. Civil rights and freedoms (art. 7, 8, 13-17, 37(a) CRC).
5. Family Environment and alternative care (art. 5, 18, 9-11, 19-21, 27(4) and 39 CRC).
6. Basic Health and Welfare (art. 6, 18(3), 23, 24, 26, 27 (1-3) CRC).
7. Education, leisure and cultural activities (art. 28, 29, 31 CRC)
8. Special Protection Measures (art. 22, 30, 32-36, 37 (b+d), 38-40 CRC).

It is impossible to do justice to all the recommendations made to the government of Azerbaijan in the Concluding Observations issued last year. In my summary I will focus on the recommendations that can be linked to and are relevant to the topics on the agenda of this conference. First: the Committee notes with appreciation the adoption of many legislative and programmatic measures taken with a view to implementing the CRC. By way of example:

- the State Programme for the Protection of the Rights of the Child;
- the law on the Earmarked State Social Aid;
- the ratification of the two optional Protocols to the CRC, the ILO convention 182 on the elimination of the worst forms of child labour, the Hague Convention on Inter-country Adoption and the Protocol to prevent, suppress and punish trafficking in persons, especially women and children.

In addition the Committee expresses in various paragraphs of the CO's appreciation for other measures like the translation of the CRC in Azeri, the establishment of the Ombudsman, the efforts to improve birth registration, the protection of refugee children of Chechen ethnicity, the National plan of action to combat trafficking in persons and the reform of the Criminal Codes together with efforts to develop a juvenile justice system in line with the CRC. But the CO's also indicate that a variety of measures have to be taken to further improve the implementation of the rights of the child.

General Measures

One of the major concerns of the Committee - applicable in many other countries - is that the many legislative and other measures are not or not effectively implemented due to lack of human and financial

resources. The recommendation to provide these resources is self-evident but to be more specific: when a government introduces legislative measures or a specific plan of action - e.g. to combat trafficking - these plans should come with an elaborated indication of the human and financial resources needed over a period of time e.g. the next 5 years to implement them.

An example in this regard is the recommendation of the Committee - while acknowledging the UNICEF country programme 2005-2009 - to develop and implement a comprehensive and well-structured National Plan of Action and to allocate adequate human and financial resources for the implementation of this plan.

The general measures of implementation are meant to create an infrastructure necessary for an effective implementation of the CRC. In this regard the Committee recommended the government inter alia:

- to strengthen and empower the National Coordination Council for Children's Affairs so that it can effectively coordinate all activities related to children and to provide Commissions on Minor's Affairs with the necessary resources and training;
- to establish within the Office of the Ombudsman an identifiable commissioner or a specific division for monitoring the implementation of children's rights which should include the capacity to deal with complaints from children in a child sensitive and expeditious manner;

- to develop a system for a comprehensive collection of data on the implementation of the CRC.

Violence against Children (art. 19 CRC)

In the CO's the Committee is concerned that neglect and abuse of children within the family continues to be a problem that is not sufficiently addressed.

Recommendations of the Committee are e.g.

- to undertake a comprehensive study to assess the extent, causes, scope and nature of abuse and neglect of children within the family;
- to continue and strengthen awareness-raising and education campaigns on this problem which should include promotion of non-violent, participatory forms of child-rearing with a view to eliminate corporal punishment as a way of disciplining children. In that regard it is also recommended to prohibit all forms of corporal punishment, not only in schools and in juvenile justice as has been done, but also in other settings such as child institutions and the homes;
- take measures for an effective reporting of abuse of children in all settings and especially for children in schools, in orphanages, in juvenile detention centres and in centres for psychiatric treatment;

- ensure that children victims of abuse or other forms of violence are provided with the care and assistance needed for full physical and psychologically recovery and social reintegration.

While appreciating the government's active participation in the UN Study on Violence against Children the Committee recommends the government to take concrete and time-bound actions, as a follow-up to the recommendations made at the regional consultation in Ljubljana (July 2005) and the recommendations made in the report of the UN Study, to ensure the protection of every child from all forms of physical or mental violence.

Alternative care/de-institutionalisation (art. 9, 18, 20 CRC)

Like in many other countries Azerbaijan is struggling with the problems of many children in need of alternative care. High numbers of these children are placed in institutions where the conditions are often not meeting their needs of adequate care, protection and education. In addition the committee is concerned at the lack of regular review of the placement of children in institutions and they have little contact with their parents. The Committee made inter alia the following recommendations in this regard

- in the first place it is necessary to invest in prevention e.g. by providing disadvantaged and other families with problems with adequate forms of support such as counselling and educational services and by increasing the number and quality of child care services/kindergartens;
- to fully implement the appreciated State Programme on De-institutionalisation and alternative care with specific measures to develop family-type of alternative care such as foster care. As a personal note: I would encourage the government to set time-bound targets e.g. halving by the end of 2010 the number of children in institutional care by placing them as much as possible back in their family of origin, with foster parents or in other forms of family types of care like SOS children villages;
- to ensure that children while in institutions do enjoy all rights of the CRC and receive in particular appropriate protection, education and health care.

Health care (art. 24 CRC)

The Committee expressed various concerns regarding the accessibility and quality of health care services in general and for adolescents more

in particular. These concerns were followed by various and specific recommendations such as:

- take urgently measures to reduce infant, child and maternal mortality;
- increase and strengthen efforts to establish a model of family-based health care, including promotion of health and prevention of diseases available to all children;
- use the General Comment of the Committee on Adolescent Health and Development as a guidance for improving (accessibility and quality of) mental and physical health care with particular attention for the prevention of Sexually Transmitted Diseases (STD's) among young people and the promotion of a healthy life style addressing especially the use of tobacco, alcohol and drugs.

Education

Education - and in particular primary education - for all children is one of the Millennium Development Goals adopted by the UN in 2000.

While welcoming the progress made in the field of education the Committee expressed its concern at the decreasing quality of education, the growing number of children not in school and the hidden costs of education which, inter alia, makes access to education difficult

for children of economically or otherwise disadvantaged families. The Committee therefore recommends to take inter alia the following measures:

- improve the quality of education by ensuring that schools are adequately equipped (quality/facilities, teaching materials), that teachers are well trained and paid, and that human rights and children's rights more specifically are included in school curricula and introduce provisions to that effect in the new Law on Education;
- eliminate any additional/hidden costs of primary education;
- take measures, as a matter of urgency, to ensure that children are not excluded from regular education because they have HIV/AIDS or other chronic diseases;
- increase availability of vocational training programmes for young people with a view to facilitate their access to the labour market.

Many more and other recommendations for actions are made in the CO's regarding e.g.

- the special needs and rights of displaced and refugee children;
- the need to develop and implement a comprehensive policy to prevent and combat child labour;
- the effective implementation of the National Plan on Street and Neglected Children;

- the improvement of the juvenile justice system, with special attention for reduction of the use of deprivation of liberty and the quality of living conditions of juveniles in detention.

In short: the CO's contain many recommendations for a wide variety of actions and is in fact a very ambitious programme for the government of Azerbaijan.

In September 2009 the government has to report to the Committee on the implementation of these recommendations. If that report would inform the Committee that all the recommendations made in the CO's are fully implemented that would be an unprecedented miracle. To be realistic: such a full implementation in a period of 3 ½ years is not what the Committee expects. But it does expect that the government undertakes targeted and effective measures to address the concerns the Committee has expressed while using its recommendations in that regard. It is the government's right and responsibility to decide on the priorities and the allocation of necessary budgets.

In addressing the committee's concerns the government should involve as much as possible national NGO's and other parts of civil society and UN agencies. The Committee has made recommendations in that regard to seek technical assistance of UNICEF in the first place and for various activities, but also of the WHO (health). ILO (child labour), UNESCO (education) and UNHCR (refugee children).

The Committee certainly hopes that the commitment of the government of Azerbaijan, illustrated by the various presentations during this conference, will be reflected in the report in 2009 in terms of further actions and new initiatives which resulted in significant progress in the implementation of the rights of children in Azerbaijan.