



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Fifty-ninth session

### Summary record of the 1671st meeting\*

Held at the Palais Wilson, Geneva, on Tuesday, 17 January 2012, at 10 a.m.

*Chairperson:* Mr. Zermatten

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\* No summary record was prepared for the 1670th meeting.

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

### **Consideration of reports of States parties**

*Combined third and fourth periodic reports of Azerbaijan on the implementation of the Convention on the Rights of the Child (CRC/C/AZE/3-4; CRC/C/AZE/Q/3-4; CRC/C/AZE/Q/3-4/Add.1)*

1. *At the invitation of the Chairperson, the delegation of Azerbaijan took places at the Committee table.*
2. **Ms. Huseynova** (Azerbaijan) said that the Azerbaijani Government was committed to ensuring the rights of the child in all spheres, despite the difficulties the country had to face.
3. With a situation where there were 300,000 refugee and displaced children in Azerbaijan; where 47 children were held hostages; and children were being killed everyday or injured by landmines in frontline villages near territories occupied by the Republic of Armenia, the protection of the rights of the child was fundamental for the Government, as evidenced by the fact that, despite the economic crisis, 2009 had been declared the Year of the Child in Azerbaijan and the necessary financial support had been raised.
4. The Committee's 2006 recommendations (CRC/C/AZE/CO/2) had been translated into Azeri and widely disseminated, particularly in Parliament and among NGOs and the general public. Since its creation, also in 2006, the State Committee on Family, Women and Children's Affairs had spared no effort in establishing a comprehensive legal and practical framework for ensuring the rights of boys and girls living in Azerbaijan. To that end, the State Committee cooperated closely with the international organizations, State institutions and Parliament, and took into account the recommendations of the Committee on the Rights of the Child in the formulation of State policy. Over 30 State programmes for children had been adopted and over 200 million euros had been allocated to health alone. Legislative reforms had been particularly significant and, in March 2009, the Constitution had been amended to strengthen the constitutional foundations of family and child policies. Several important laws and programmes had been adopted, notably relating to the fight against trafficking in human beings, and a bill on protection of children against all forms of corporal punishment was currently before Parliament. A bill on amendments to the Family Code had recently been adopted, and had raised the minimum age of marriage for girls to 18 and had set penalties of imprisonment or a fine for forcing girls into marriage. The Government had also signed and was preparing to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and had launched a countrywide awareness-raising campaign on the subject.
5. Azerbaijan welcomed the adoption by the United Nations General Assembly of the third optional protocol to the Convention on the Rights of the Child, establishing a communications procedure, and would consider the possibility of acceding to that instrument.
6. The stable economic growth of recent years had created the conditions for social development and the possibility to improve the living conditions of the population. The Social Services Act, adopted by Parliament at the end of 2011, enlarged the scope of social services and increased the number of State-run structures and international organizations providing such services to neglected adolescents and children with disabilities. Furthermore, the President had signed a decree to increase social protection for some categories of population, primarily children. Azerbaijan was cooperating closely with the United Nations Children's Fund (UNICEF) to implement the 2006–2015 deinstitutionalization and alternative care programme, and the programme on inclusive education for children with special needs; and it had created, under the Ministry of

Education, a Child Protection Department, with a helpline. Seventeen mainstream schools and 13 preschools were already involved in inclusive education programmes. Day-care centres had opened in order to avoid children being institutionalized and there were over 40 community-based rehabilitation centres, administered under most governmental structures. Through the implementation of that policy, the number of institutionalized children had fallen from 22,000 in 2006 to 11,000.

7. Since the end of 2011, local authorities were responsible for kindergartens. Extra funding would be allocated to the renovation of preschools and to new buildings. It had become standard practice to take into consideration the opinion of children in the development of new State programmes and work plans, and two national children's forums had already been held for that purpose. NGOs were active in the protection of the rights of the child and in the implementation of associated projects and programmes, particularly the Heydar Aliyev Foundation.

8. **The Chairperson** commended the National Action Programme to improve the protection of human rights and freedoms, which involved close cooperation with civil society organizations. In addition, since 2008, the NGO Support Council under the President of the Republic of Azerbaijan had been reviewing requests for NGO project funding. The State had allocated 3 million dollars to those projects in 2011 and 5 million dollars were earmarked for 2012.

9. **Mr. Koompraphan** (Country Rapporteur) applauded Azerbaijan's adoption of numerous laws to enhance child protection, particularly the Social Services Act, which provided for increased cooperation with NGOs. The laws, however, did not specify how the principles and provisions of the Convention should be applied. Moreover, there was no competent mechanism for supervising all the public bodies responsible for the implementation of the Convention, and the coordination of their activities.

10. Only 1 per cent of the State party's gross domestic product (GDP) was spent on health and 3 per cent on education, which could be considered quite low, in the light of reports that some groups of children, such as children with disabilities and internally displaced children, child refugees or child asylum seekers did not have access to education and health or other social services. Furthermore, corruption appeared to be rife in the administration, including among the municipal birth registration authorities and health and education professionals.

11. Discrimination against girls was another cause for concern, particularly abortions of female foetuses, and the impunity enjoyed by sex offenders through the stigmatization of the victim. The Committee was also concerned by forced early marriage, which led young girls' delivery outside health facilities — for fear that the authorities would learn of the marriages — which would lead in turn to a high infant mortality rate. It was also concerned by the failure to register the births of the children of such marriages.

12. While the State party had projects for non-institutional care for children in conflict with the law, no progress had been made on enactment of the relevant provisions. At the same time, it was reported that children were tried as adults and were detained with them, including for long pretrial periods.

13. It was essential to establish how the State party applied the principles and provisions of the Convention through its domestic legislation; what mechanism had been set up to supervise and coordinate the actions of all public bodies responsible for its implementation and what its mandate was. It would also be useful to have information on the mechanism that monitored children's living conditions, which could be used to refine national child policies, and on the social and administrative measures taken to change attitudes towards child victims of sexual abuse, children with disabilities, internally displaced children, and children belonging to ethnic minorities.

14. **Mr. Kotrane** asked when the bill on the protection of children against all forms of corporal punishment would be adopted and if the State party planned to establish a child rights code, in the form of a general text that would help strengthen knowledge of child rights, especially among judges. In fact, although the Convention prevailed over domestic legislation, apparently judges rarely applied its provisions directly. Had all appropriate steps been taken to familiarize judges with the Convention? And was it taught at university, particularly in law faculties?

15. The principle of the best interests of the child did not seem to occupy a central place in judicial decisions, especially regarding family matters and adoptions. He would like further information in that regard.

16. **Mr. Gurán** asked whether the Ombudsman's Office had a children-specific department responsible for reviewing complaints filed by children or on their behalf, and whether its staff was adequately trained. In response to the Committee's recommendations in the previous concluding observations, the Ombudsman had appointed a child rights adviser and had created the Child Rights Centre. The delegation could perhaps elaborate.

17. He also wished to know if children could participate in the activities of the Ombudsman's Office and if they were told how to file a complaint. The report gave little information on children's participation and its various forms. It was important to know whether there were programmes to promote the active role of children — notably at the local level — in school councils, especially children from vulnerable groups, such as internally displaced children. It would also be helpful to know what the authorities were doing to promote the equality of boys and girls in that area and if the State party had publicized the Committee's general comment No. 12 (2009) on the right of the child to be heard.

18. Lastly, given the inadequate coordination of child rights protection activities in the State party, it would be appreciated if the delegation could state what action had been taken with regard to Presidential Decree No. 317, tasking the Cabinet of Ministers with formulating proposals for establishing a monitoring mechanism for the implementation of the Convention.

19. **Ms. Aidoo** said that, despite the significant rise in oil and gas revenue, which created social development and child protection opportunities, the written replies did not provide information on the possible increase in funding for health, education and social protection for all Azerbaijani children. She wished to know if the sums allocated to the health sector had brought the State party further into line with WHO standards. In fact, the 1 per cent share of GDP devoted to the health sector in Azerbaijan until 2008–2009 had been well below the average for the Commonwealth of Independent States (CIS) countries which had been 3.8 per cent. The budget allocated to education, which was 3 per cent of GDP, was also much lower than the average budget for CIS countries, which was 4.5 per cent of GDP. Further information on the subject would be helpful.

20. She would like to know if the State party had adopted legislation to fight government corruption and if there was a special anti-corruption mechanism. She also wished to know if all children benefited from the current education, health and social protection system and whether the authorities planned to extend the system and include NGOs in service delivery. As to budget formulation, one should know whether there were child-specific indicators or if resources were globally allocated by major sectors such as health and education. Lastly, noting that the written replies contained no data on children as a whole, disaggregated particularly by sex, age, region, socioeconomic background, and rural or urban areas despite the Committee's request in the list of issues for information on the child data system. She emphasized that such data would be very helpful to the authorities in the preparation of education policies, plans and programming, especially with

a view to eliminating disparities between children living in different regions and in different socioeconomic situations.

21. Lastly, Azerbaijan did not use the same definition of “live births” as WHO, which affected how the country calculated the infant mortality rate. There were, in fact, well-established international standards on what constituted infant and child mortality, and the method of calculation of the Azerbaijani authorities did not correspond to those standards, making it difficult to interpret the data and could obscure the reality of child mortality in the State party.

22. **Ms. Lee** asked whether the State party had designed a national child development strategy and which authority coordinated it. She also wished to know why certain priority sectors, such as health and education, appeared not to receive adequate budget allocations. In addition, she asked whether, and from what age, the principles of the Convention were taught in schools. She would also like to know if the report had been compiled in consultation with civil society.

23. **Ms. Nores de García** asked if children of early marriages were officially registered and what measures were taken to combat the bribing of official registrars in exchange for children’s registration.

24. **Ms. Maurás Pérez**, recalling that in 2008 the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression had recommended that the State party take measures to tackle media-related offences, to undertake a thorough review of television and radio broadcast laws, and to set up an independent audiovisual council, asked what progress had been made in that regard with a view to improving children’s freedom of expression.

25. **Mr. Pollar** requested further information on the State party’s application of article 12 of the Convention and, more particularly, on children’s participation in school affairs. Could youth centres not be put to better use so that they became primary forums for children’s expression of their views?

26. **Ms. Al-Asmar** asked how the right of the child to be heard was actually applied in family courts. She also requested clarification on the measures taken to guarantee children’s right to privacy within the framework of alternative care and juvenile justice.

27. **Ms. Varmah** asked when the law to raise the legal age of marriage of girls to 18 years would be adopted. According to reports the Committee had received, early marriages were increasing in rural areas. What steps did the State party plan to take to change attitudes and foster awareness of the phenomenon among the population?

28. Recalling that the ban on wearing the hijab at school had encouraged some parents to remove their daughters from school, thereby depriving them of the right to education, she wondered whether the State party had considered amending the school dress codes.

29. **Ms. Wijemanne** asked how the State party aimed to improve birth registration. The delegation might also elaborate on the steps taken to disseminate the Convention.

30. **The Chairperson** asked how the National Commission on Minors coordinated its actions with the State Committee for Family, Women and Children’s Affairs. He would also like to know if the State Committee had any municipal subcommittees and if they were adequately funded.

31. Recalling that in 2006, during the consideration of its second periodic report, the State party had been asked to develop a comprehensive national child protection plan, he asked whether that plan had ever been actually realized and how it had been financed and evaluated.

*The meeting was suspended at 10.55 a.m. and resumed at 11.20 p.m.*

32. **Mr. Gurbanov** (Azerbaijan) said that, in the context of child rights awareness activities, the Convention could be viewed on the website of the Ministry of Justice. Furthermore, judges received mandatory training on the Convention and its Optional Protocols.

33. Azerbaijan was an active participant in the International Association of Anti-Corruption Authorities, and was a member of the Council of Europe's Group of States against Corruption. It had also adopted an anti-corruption Act, which formed part of the national anti-corruption strategy. The General Prosecutor's Office had a special anti-corruption unit, authorized to conduct investigations. The results of those activities were widely disseminated in the media and on the Internet. The Ministry of Justice, which worked closely with the Prosecutor's Office, had set up an anti-corruption monitoring group. Other anti-corruption measures included a helpline that gathered information on cases of corruption and passed it on to the relevant authorities.

34. **The Chairperson** asked when the anti-corruption Act had been created and whether its enforcement had led to prosecutions and sanctions.

35. **Mr. Gurbanov** (Azerbaijan) replied that the Act had entered into force in 2000 and that some 100 people had been tried on corruption charges. About 60 judges had been prosecuted, several had resigned, and others had been disciplined.

36. In Azerbaijan, the Office of the Ombudsman was responsible for ensuring respect of human rights and freedom of the press. The appointment of a children's ombudsman was being considered, in consultation with UNICEF and other international bodies.

37. **Ms. Maurás Pérez** asked how children could make their voices heard in the media: television, print press and the Internet.

38. **Ms. Huseynova** (Azerbaijan) said that the Republic had a children's office through which children could ask questions and submit proposals, which were subsequently reviewed and passed on to the competent authority. Child Parliament sessions also offered children the opportunity to discuss bills, one of them being a recent bill on domestic violence. In addition, the authorities had held campaigns to take children's opinions into account in school, and had created a dedicated child issues website, as well as a child helpline. In Azerbaijan, the Internet was freely accessible and through it children found many ways to make their voices heard.

39. The Office of the Ombudsman was a tiered structure with a special child rights unit. The State was accountable to the various units of the Office, including the child rights unit.

40. **The Chairperson** asked if the idea to create a children's ombudsman would be independent of the current Office of the Ombudsman. The International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights had recommended downgrading the status of the Office of the Ombudsman from A to B status, which implied that it was not totally independent.

41. **Mr. Gurbanov** (Azerbaijan) said that the Ombudsman's Office, which still enjoyed A status, was totally independent.

42. Freedom of expression was a reality in Azerbaijan, where there were more than 500 newspapers and magazines, some aimed at children; they were not subject to any State authorization and enjoyed total freedom of expression.

43. **Ms. Lee** requested clarification on the mandate of the newly established child rights adviser, and particularly whether children could easily call on his services.

44. **Ms. Huseynova** (Azerbaijan) said that there was no children's ombudsman as such in Azerbaijan, but that there was a person within the Ombudsman's Office exclusively responsible for issues regarding children, and authorized to invoke State accountability in the event of a suspected violation of the rights of the child.

45. **Ms. Lee** wished to know if that person, who had no investigatory power, had access to military schools and to services and establishments which took in children, and whether the children themselves had easy access to that person should the need arise.

46. **Ms. Herczog** enquired about the independence of that person, who was appointed rather than elected.

47. **Ms. Aidoo** asked whether the State party planned to appoint that person at a sufficiently high rank to enable him or her to deal directly with the various ministries and public bodies responsible for children. If so, the rights of the child would be in the vanguard and the person concerned would be protected from all external influence and administrative harassment. In certain countries the Ombudsman was appointed by Parliament, bestowing on the incumbent enormous powers.

48. **Ms. Huseynova** (Azerbaijan), while understanding Committee members' concerns, insisted that the Office of the Ombudsman was totally independent and that the person responsible for children had access to all necessary information and even enjoyed the right of parliamentary privilege. Given the creation in 2006 of the State Committee on Family, Women and Children's Affairs, which had extensive powers in child issues, there was no need to appoint an ombudsman for the rights of the child.

49. Recalling that Azerbaijan had only been independent for about 20 years, said that since then new structures had had to be built to implement child policy at local level. Since 2006, the year the State Committee on Family, Women and Children's Affairs had been created, 11 centres specializing in children's issues had been created. Despite the financial crisis, the share of State budget put aside for the creation of those centres had increased, the objective being to expand coverage countrywide. Four additional centres would likely be built shortly and old structures were to be renovated in certain areas, which would help the decentralization process.

50. **Mr. Gurbanov** (Azerbaijan) noted that, in the past, births had not been systematically registered, but the law currently required parents to officially register their children in the three days following the birth, or face a fine. In 2009, there had been 14,000 birth registrations, and the figures were rising every year.

51. Under Azerbaijani law, minors could not be detained with adults and a new penitentiary establishment was being built to take in juvenile offenders. In addition, minors could not be sentenced to prison for longer than 10 years, even if they had committed a serious crime.

52. **Ms. Varmah** asked if children from poor families or born to underage mothers were also registered at birth.

53. **Mr. Gurbanov** (Azerbaijan) said that his country did not collect such statistics but under the Family Code, all parents, whatever their social background or age, were required to declare their child at birth. But underage parents often did not declare their children for fear of prosecution. She asked if the State Committee on Family, Women and Children's Affairs was responsible for raising awareness of the importance of registering marriages and births — including a posteriori — even if they had taken place before the parents reached the age of majority, so that the children from such marriages might enjoy social coverage and access to public services. It had to be recognized that, in remote areas of the country, marriage and birth registration still posed a problem, even if, according to statistics, the number of underage marriages seemed to have dwindled between 2010 and

2011. Indicator development had made it possible to identify areas said to be “at risk” (where the numbers of undeclared children, early marriages, families “with problems” and families that had a child with disabilities were particularly high) which social services therefore needed to monitor more closely.

54. **Ms. Huseynova** (Azerbaijan) said that a minimum age for a marriage Act had been adopted by Parliament, and the enabling decree signed by the President. The Act set the legal age for marriage at 18 years and imposed sanctions for parents who gave their child in marriage before the age of majority. Nevertheless, in some areas the head of the household, sometimes through ignorance of the law, would give his daughter in marriage even when she had not reached the age of majority. The Committee therefore needed to pursue already ongoing awareness-raising activities in those regions, through TV advertisements and even meeting children in schools.

55. The State Committee on Family, Women and Children’s Affairs was working in close collaboration with the State Statistics Committee to obtain detailed information on girls, women and children. Each year, a publication entitled *Children in Azerbaijan* presented an overview of the situation of children, supported by statistics. In order to obtain such information, the State Statistics Committee liaised with the local committees responsible for producing detailed statistics at regional level on school dropout rates of young girls, and the number of young girls who went on to secondary education, which would help reduce the rates of early marriages and pregnancies. In the south of the country, in the area bordering Iran, information and awareness-raising campaigns had produced results, with the number of girls registered in secondary school and gaining employment having increased considerably.

56. All NGOs, whether or not they were registered with the Ministry of Justice, participated in the Committee’s projects and in writing its reports. Joint work was also being done with international experts, and with international organizations such as UNICEF.

57. **The Chairperson** asked whether NGOs were also consulted when laws, projects and other programmes were devised, and on what basis the budgetary resources put aside for them were allocated. Were they paid in a lump sum to the NGOs or were they granted on a case-by-case basis depending on their projects?

58. **Ms. Huseynova** (Azerbaijan) said that the funds were allocated to the NGOs on the basis of the project they planned to undertake in a specific area and that the council responsible for distributing those funds consulted the Committee beforehand to verify the intention of the NGO concerned, as some of them were fictitious and were created only to receive public funding. If it deemed the amount allocated to an NGO to be insufficient to complete its project, the Committee allocated it additional resources, which came from its own funds. Most of the projects concerned the areas of health, education and employment. NGOs also sometimes collaborated with the Ministry of Internal Affairs to set up reception centres.

59. The Republic of Azerbaijan was a secular State which had established the separation between Church and State. Nevertheless, girls who wore the hijab could receive a religious education in the madrasas.

60. **Ms. Al-Asmar** said that to prevent girls who wore the hijab from registering in a secular school amounted to discriminating against them and that it would be more constructive to reflect upon the reasons why their parents wanted them to wear the hijab.

61. **The Chairperson**, observing that in Azerbaijan children could only be heard from the age of 10 onwards in cases regarding family law, asked whether children could make

their voices heard in the administrative system, particularly at disciplinary proceedings against them at school.

62. **Ms. Huseynova** (Azerbaijan) said that the judicial authorities worked in close collaboration with the Commission on Minors' Issues. A child under 10 was not directly heard by the courts but was invited to the hearings of the Commission, which could communicate the child's opinion to the court dealing with the case. Furthermore, in 2009, the Year of the Child in Azerbaijan, numerous public programmes had received funding, and a database on children had been established across the country in 2010 through the Ministry of Information. All information regarding the rights of the child could be found on the Internet. A helpline under the Child Protection Department, part of the Ministry of Education, and a helpline under the Ministry of Internal Affairs had been set up and were working well.

63. The Convention on the Rights of the Child had been translated into Azeri and was displayed on the website of the Ministry of Justice. It was available as a brochure in the Child Rights Centre and in schools. Children were taught about the rights of the child from the fifth year of school.

64. **Mr. Koompraphant** asked whether child victims received support throughout court proceedings and whether they were required to testify in front of their aggressor.

65. **Ms. Lee** asked whether Azerbaijan planned to ratify the Rome Statute of the International Criminal Court, the UNESCO Convention against Discrimination in Education, and the Hague Convention on the Civil Aspects of International Child Abduction. Remarking on the fact that 156,000 children aged between 5 and 17 years old worked, 84 per cent in the agricultural sector (tea, tobacco, cotton production), between 10 and 12 hours a day year-round in harsh conditions, she wondered what measures were taken to combat the phenomenon. She would like the delegation to elaborate on the definition of "disability" in Azerbaijan and explain the gap between the official figures, according to which 2 per cent of children had a disability, and WHO figures which estimated the figure to be 10 per cent. She requested detailed and disaggregated data on the different disorders and disabilities, and not only on "backward" children. She would also like further information on the fight against stigmatization of children with disabilities, and on any improvement in the services and infrastructures created for them.

66. She sought clarification on the measures taken to reduce the suicide rate. Lastly, she stressed that teachers' salaries should be competitive so as to dissuade competent and qualified teachers from resigning, and requested details on teacher training programmes.

67. **Mr. Pollar** asked what measures the Government of Azerbaijan had taken to implement the provisions of article 11 of the Convention on the Rights of the Child.

68. **Mr. Guráň** said that he would like to know what measures were planned to reduce the number of children placed in institutions by their parents for financial reasons, which accounted for almost half of the 86 per cent of children institutionalized at the request of their parents.

69. **Ms. Maurás Pérez** said she wished to know the number of children in preschool education since 2008, and the situation of the 16 per cent of children (over half of them girls) who, in 2008, according to UNESCO, were not in school. She also wished to know if a link had been made between the suicide rate, mental health problems among adolescents and violence.

70. **Ms. Sandberg** asked whether the municipalities would receive the funding needed for implementing the Social Services Act.

71. **Ms. Aidoo** asked whether if the municipal authorities had the human, financial and technical resources necessary to fulfil the mandate entrusted to them following adoption of the Presidential Decree transferring responsibility for kindergartens to them. She would like to know if there was an overall programme devoted to children in the 0–5 age group.

72. Applauding the increase in the standard of living, she asked if wealth was equitably distributed among all sectors and if the reduction in poverty affected all families and all children. She would like to know if studies were being conducted into the root causes of poverty.

73. **Ms. Wijemanne** requested clarification on the resources allocated to primary health care and on access for mothers and children to health care. She would also like information on breastfeeding, and whether maternity wards had infant formula. Also, did Azerbaijan have plans for separate registration of the deaths of children under 1 year of age.

74. **Mr. Cardona Llorens** asked about the measures taken to combat the social stigmatization of children with disabilities and asked if the fact that it was the responsibility of the parents to register their child's disability might explain the low official percentage of children with disabilities, since parents were ashamed of their child's disability. Noting that the age of criminal responsibility, set at 16 years, could be lowered to 14 in numerous cases, he asked if that meant that the children concerned could be remanded in custody from 14 years onwards. He also wished to know whether only judges with child rights training could hear cases regarding children and if there were police units specializing in child issues, and areas reserved for children in police stations and detention centres.

*The meeting rose at 1 p.m.*