Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

France – 2nd Session – 2008

Date of consideration: Wednesday 14th May 2008 - 9.00 a.m. - 12.00 p.m.

National Report

The law of the 15th March 2004 on wearing ostentatious religious symbols in public schools – primary and secondary – is designed to reaffirm the secular principle which guarantees freedom of conscience, protects the freedom to believe or not to believe by assuring that everyone can express themselves freely and peacefully observe their faith and practice their religion. It is also designed to combat discrimination, particularly among young girls, in all school activities. Ostentatious religious symbols constitute symbols or behaviour that displays excessive religious proselytising. However, discreet symbols of religious belief are permitted. In extreme cases, this law will not affect the right to education as it is possible to be home-schooled or to enrol in a private school, religious or otherwise.

This law is equally applied throughout the country and is the result of general consensus that is not simply Islamophobia nor stigmatisation of the headscarf. The State Council interprets that this law can be applied in the case of behaviour that isn’t in itself religious but can be seen as an ostensible manifestation if is not discreet, and that the pupil undertakes the behaviour continuously and refuses to do otherwise.

A National Education circular of 25th April 2002 recalled that the right to education applies to all, including the “enfants de voyage”. They are obliged to attend school, irrespective of how long they are staying in France, and they have to abide by the same rules as the rest of the pupils. A national survey in 2003 shows a rise in school attendance, especially in secondary schools. Pupils who live very far from any school facilities or who move around a lot can attend one of 42 mobile school networks. There are additional staff to help with the “enfants de voyage” in each of these academies.

The government created a children’s ombudsman on 6th March 2000.

To try to combat child kidnapping, the government undertook a media initiative as from February 2006 whereby there will be a media campaign in the case of the kidnapping of a minor. Subject to the approval by the state prosecutor, and if a media appeal will not put the kidnapped minor further at risk and can help the enquiry, an alert will be put out with a description of the child and a toll-free number to call with information on all television and radio stations. To avoid panic and repercussions, the public will be advised not to intervene themselves but to contact the police.

The court of appeal, which refused to acknowledge that the CRC had any effect on internal matters as the terms used in it were too general, has completely changed its position. In two rulings in 2006, the court recognised the direct applicability of articles 3.1 and 12.2 of the Convention, which is a significant step forward.

ONED (the National Observatory for Children in Danger) was created in 2004 to provide information on matters relating to the newly-ratified Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

To combat “sex tourism”, a group of 20 travel agents have started a national charter of ethics so that tourism respects the rights of children. The aim of this is to inform those closest to where this practice takes place, ie by having videos in certain airlines warning of the penalties of taking part in sex tourism.

The treatment of unaccompanied minors depends on how they enter the country. Those who arrive at airports are held in waiting areas if they are not immediately admitted to France. A convention of 5th March 2004 allows certain organisations, supported by ANAFE, to enter the waiting areas and evaluate the circumstances of the children. Efforts should nonetheless be made for the protection of minors in
For those who arrive by road, a variety of local measures are undertaken in a coordinated effort by a variety of associations. Further coordination in this regard is still necessary.

In the absence of a legal representative for the unaccompanied minor, the state prosecutor will appoint an ad hoc administrator to help and represent the minor in administrative and judicial proceedings.

The law for the prevention of the ill-treatment of minors and the protection of childhood of 1989 is designed to improve child protection in a decentralised way. This includes better circulation of information on children in danger by creating departmental “cells.” This law encourages the coordination of a variety of actors to organise the sharing of information. This allows for greater coherence in dealing with young people in practical and administrative ways. This will allow for unaccompanied minors to enjoy full rights in France.

The law of 5th March 2007 makes it compulsory for asylum-seeking unaccompanied minors to be heard by a judge. The judge must also inform the young person of his/her right to be heard and to be represented by a lawyer. A judge will no longer be able to reject a request by the child to testify if that is what they chose to do.

Recently reform in the penal system is designed to improve the efficiency of the penal system for minors. This has been designed to speed up the process of juvenile justice in order by reinforcing the role of the state prosecutor and the efficiency of the penal system as a whole. The young person in question will have a personalised programme designed for them to encourage their rehabilitation.

The law of the 5th March 2007 has also introduced new penalties to respond to act of delinquency carried out by younger minors. These include the creation of closed educational centres for them.

**Compilation of UN Information**

The Committee on the Rights of the Child (CRC) urged France to withdraw its reservation to article 30 of the Convention.

CRC welcomed the establishment of an Ombudsman for Children, as well as a Commission of Inquiry on the Rights of the Child. It further welcomed the establishment of the National Monitoring Centre for At-risk Children (Observatoire national de l’enfance en danger).

CRC and the HR Committee were both concerned about detention of minor suspects in police custody for up to four days, and the detention by the police of children aged 10 to 13 years, for up to 24 hours. CRC called on the State to use detention, including pre-trial detention, only as a last resort, for as short a time as possible and to ensure that minors are separated from adults, while the HR Committee recommended that measures be taken to reduce the length of pre-trial detention and to ensure legal aid to juveniles.

CEDAW was concerned about the increase in trafficking, in particular of women and girls. CRC expressed concern about the incidence of trafficking of children, prostitution and related issues. CRC also urged the State to pursue measures to dismantle trafficking and exploitation networks, in particular of foreign children; and to develop a comprehensive programme to address child pornography.

CRC encouraged the State to ensure that the right of the child to know his or her parents be fully enforced. CRC recommended that France ensure that cases of inter-country adoption be dealt with in accordance with the principles and provisions of the Convention, in particular article 21, and the Hague Convention of 1993.

In 2006, the Special Rapporteur expressed her concern about, in particular, Law 2004-228, of 15 March 2004, on the wearing of conspicuous religious symbols in public schools. She was of the opinion that this law has mainly affected certain religious minorities, and notably people of a Muslim background. In her opinion, its implementation has led, in a number of cases, to abuses that have resulted in humiliation. The stigmatisation of the headscarf has provoked instances of religious intolerance when women wear it outside school, at university or in the workplace.

CERD, CRC, CEDAW, the Special Rapporteur on freedom of religion or belief and the Independent Expert on minority issues recommended that the State monitor Law 2004-228 of 15 March 2004, governing the wearing or clothing denoting religious affiliation in State primary and secondary schools, to ensure that it has no discriminatory effects. In 2006, an ILO Committee of Experts noted that for the school year 2003-2004 about 600 pupils resisted complying with this Act, and that for 2004-2005, 47 definitive expulsions were pronounced. The Committee feared that in practice the Act might end up keeping some children, particularly girls, away from public school, at university or in the workplace.

The Independent Expert on minority issues recommended that the right to education in mainstream schools for children of Gypsy/Traveller families is guaranteed and that steps are taken to protect the right of those children to not be segregated into schools or classes for the learning impaired, when there is no evidence of need. CRC urged France to ensure that children with disabilities may exercise their right to education and facilitate their integration in the mainstream education system.

CRC expressed concern, also highlighted by UNHCR, about the methods in place to deal with asylum seekers and unaccompanied children in waiting zones of airports, and recommended that the principle of non-discrimination be included in judicial or administrative proceedings.

CRC expressed concern, also highlighted by UNHCR, at the length of family reunification procedures for recognised refugees. CERD expressed similar concerns in 2005 and both CERD and CRC recommended France, also highlighted by UNHCR, to process applications from refugees for family reunification as speedily as possible.

CRC was concerned that discrimination persists, in particular in the field of economic and social rights, especially with respect to
ANAFE (The National Association for Border Assistance for Foreigners) said that in 2006, 505 unaccompanied minors were kept in a
theoretical and has come second to so-called “basic” teaching.

The syllabus contains human rights education and the actual implementation of this into the school syllabus, which has been purely
training as part of the United Nations Decade for Human Rights Education. DEI has observed a gulf between schools claiming their
needs to be repealed or reconsidered. They indicated that in 2008, the Ministry of Interior announced that it will re-examine the 1905
concerning the separation of the churches and the State (known as “loi sur la laïcité”) is still in place, and that the strict separation
symbols by public school employees and students. The Becket Fund for Religious Liberty (BFRL) noted that the Law of 1905
banned all conspicuous religious symbols including the Muslim headscarf, Jewish skullcap, Sikh turban, and large Christian crosses.

In 2001, the About-Picard law was passed, which, according to BFRL, placed tighter restrictions on associations, especially “cults,” and
facilitated the dissolution of such groups. BFRL indicated that members of minority religious groups report numerous instances of
discrimination as a result of the About-Picard law, including towards children of sect members within the school system.

In 2001 and 2004 that provide for the dissolution of groups under certain circumstances and ban the wearing of conspicuous religious
symbols by public school employees and students. The Becket Fund for Religious Liberty (BFRL) noted that the Law of 1905
concerning the separation of the churches and the State (known as “loi sur la laïcité”) is still in place, and that the strict separation
between church and state is interpreted to limit the expression of religion in the public space. In the opinion of BFRL, the effects of this
application have been most difficult for minority religions like Islam and new religious movements. IRPP informed that the 2004 law
banned all conspicuous religious symbols including the Muslim headscarf, Jewish skullcap, Sikh turban, and large Christian crosses.

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facilitated the dissolution of such groups. BFRL indicated that members of minority religious groups report numerous instances of
discrimination as a result of the About-Picard law, including towards children of sect members within the school system.

The CNCDH helped with the adaptation of the national curriculum and the national plan of action for human rights education and
training as part of the United Nations Decade for Human Rights Education. DEI has observed a gulf between schools claiming their
syllabus contains human rights education and the actual implementation of this into the school syllabus, which has been purely
theoretical and has come second to so-called “basic” teaching.

ANAFE (The National Association for Border Assistance for Foreigners) said that in 2006, 505 unaccompanied minors were kept in a

waiting area at Roissy airport in inhuman conditions (this figure doesn’t include minors who turned 18 during this time, who numbered 89 in Roissy in 2006), and 327 of these minors were then forcibly repatriated. ANAFE believes that keeping unaccompanied minors in waiting areas in a violation of the CRC (articles 3 and 37) and is condemned by UNHCR. In 2006, the CoE CHR indicated that the law on admission to French territory does not distinguish between minors and adults, and minors are not automatically admitted. This legal vacuum, which also exists in other European countries, is contrary to several provisions of the CRC. ANAFE added that currently, children aged over 13 are held in waiting areas without being separated from adults, which is a violation of the CRC. Those under the age of 13 are separated from adults, but the conditions of their detention remain unknown (at an unknown location, inaccessible to family members, the ad hoc administrator or ANAFE, and in the care of people who have not been approved). DEI added that when the police carry out governmental orders to regularise or forcibly return illegal immigrants, this has lead to daily violations on an almost daily basis of the rights of the children concerned, especially since 2006. During forced repatriation attempts, some people have claimed they were the victims of police brutality.

With regards to forced marriage, the CNCDH (National Consultative Commission on Human Rights) noted with appreciation the modification of the minimum age for marriage for girls, which has been raised to 18, the same as for boys.

Final Report

- Regarding Travellers (Gens du voyage), a consultative national commission has been established and includes representatives of the authorities and of Travellers (Gens du voyage), and measures have been taken with regard to residence, housing, access to work and right to education.

(ii) Interactive Dialogue with the State under Review

- Noting the legislative measures taken for the rights of women and children and concerning the fight against all forms of discrimination and intolerance, Cuba expressed hope that this legal structure will be found in effective policies to strengthen the concepts of inclusion, equality and non-discrimination and will apply in an equal manner to all members of the multicultural and diverse French society.

- Canada noted that France prohibits wearing the veil, be it religious or not, in its public schools while tolerating wearing crucifixes. Canada is of the view that wearing the veil is part of freedom of religion and recommended that France remove its prohibition on wearing the hijab in public schools.

- France stressed that there was no law on the religious veil in France; the law addresses the issue of distinctive religious symbols in public places, and mentions open religious symbols of any religion. In accordance with France’s conception of laïcité (laïcité), public places, including schools, should not be places of confrontation, where debates that exist at the domestic or international level would be reflected, but places where tolerance is taught.

- The Czech Republic asked France to elaborate on measures adopted in reply to concerns expressed by the Committee on the Rights of the Child, CERD and UNHCR regarding the length of procedures for family reunification of recognised refugees and recommended that these procedures be executed with utmost speed to ensure the protection of family life of the persons concerned.

- Regarding the 2004 legislation which forbids employees and students of public schools to wear conspicuous religious symbols and the ruling of the European Court on Human Rights that the law banning religious symbols in schools did not violate the freedom of religion, the United States of America enquired about the impact of this law on religiously observant children and teachers, asked how many children have been expelled or teachers fired from school since 2004, and enquired about steps the Government has taken to integrate these children into society.

- Brazil asked how France assesses the law banning conspicuous religious symbols in public schools and its impact on religious pluralism and human rights promotion and protection.

- Highlighting that France is home to one of the largest immigrant communities, Bangladesh stated that France visibly chooses assimilation over integration in engaging immigrants in society, which has negatively affected the social values and cultural life of some communities. For example, the prohibition of the Hijab in schools did not promote religious freedom, cultural diversity or improve the relationship between Muslims with other communities but rather instilled religious intolerance and racial hatred. Bangladesh recommended that the Government review the law which prohibits the wearing of clothing denoting religious affiliation in schools. While appreciating the measures already taken to deal with the increase of trafficking in persons, Bangladesh highlighted that full success depends on a concerted effort of all three levels, source, transit and destination, and that the issue of demand at the destination, particularly regarding exploitation of women and girls in the sex industry in France, must be addressed.

- Indonesia also referred to the Global Initiative to End All Corporal Punishment of Children, according to which in France corporal punishment is still lawful in the home, and to reports of cases of violence against women, and enquired about plans to improve the legislation.

- Referring again to the law on religious symbols and its impact, France specified that out of 48 cases, only two persons could not be provided with schooling.

- Referring to the alarming human rights situation in the administrative detention centre of Pamandzi in Mayotte, to the detention of minors, inhuman and degrading treatment, the impossibility for detainees to exercise their right to communicate, the absence of the right to health, Côte d’Ivoire asked how France plans to reconcile these conditions with the international human rights instruments to which it is a party.
- The United Kingdom asked for more information on what it is doing to address overpopulation in prisons, and to modernise its prison facilities, particularly with regard to juveniles.

- Despite measures taken in the area of the protection of the rights of the child, Chad stated that certain associations have been escaping the oversight of public authorities and breaching the elementary rules of law, and in particular the rights of the child; the case of the “Arche de Zoé” brought to light these failures by the public authorities, and asked what steps are being taken by France to prevent such acts from occurring.

- The Islamic Republic of Iran shared concerns expressed by various United Nations human rights mechanisms regarding: persistence and worsening of discriminatory practices; the unfavourable situation of migrants, especially migrant women, with respect to housing, employment and education; existing grave concerns about Law 2004-228 which has mainly affected certain religious minorities, notably Muslims, with discriminatory effects and has led to violations of freedom of religion and of expression and the right to education; increase in trafficking, particularly of women and girls, and also alarming incidents of child pornography and trafficking of children, prostitution and related issues. It called on the French Government to take the necessary measures to put an end to these incidents of human rights violations.

- Japan asked what political measures the Government is taking to ensure the right to work and education of immigrants and their families, and regarding deportation of illegal immigrants, what considerations are made for families with school-age children. In reference to concerns raised by CEDAW and the Committee on the Rights of the Child, Japan enquired about measures the Government is taking to combat trafficking in women and children and encouraged the Government to consider withdrawing its reservations to the Convention on the Elimination of All Forms of Discrimination against Women.

- Haiti welcomed the adoption of legislation concerning the Optional Protocol on the sale of children, prostitution of children and child pornography.

- Regarding shortcomings in the “Arche de Zoé” case, France noted that the case is being prosecuted in France.

**Conclusion and Recommendations**

In the course of the discussion, the following recommendations were made to France:
- To remove the prohibition on wearing the hijab in public schools (Canada); review the law which prohibits the wearing of clothing denoting religious affiliation in schools (Bangladesh);