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.

Serbia – 3rd Session – 2008
DATE OF REVIEW: 5 December - 14.30 p.m. to 17.30 p.m.

National Report
5. The Republic of Serbia is a State Party to six principal international human rights treaties: the International Covenant on Civil and Political Rights (and two Optional Protocols to the International Covenant on Civil and Political Rights), the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (and Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women (and Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women), the Convention on the Rights of the Child (and two Optional Protocols to the Convention on the Rights of the Child).

32. The Council for Child Rights is a counseling body of the Government of the Republic of Serbia first established in 2002. The mandate and mission of the Council are: proposing a coherent and holistic policy in accordance to the National Plan of Action for Children which will be based on the United Nations Convention on the Rights of the Child and in accordance with the global priorities established in the United Nations Millennium Development Goals, the United Nations Declaration World Fit to Children and other relevant international documents; initiating measures for harmonization of the policies of the Government of the Republic of Serbia with the legislation of European Union and international standards in the areas relating to children; promoting awareness on child's rights in the Republic of Serbia, with a special focus on rights of child to protection from all forms of exploitation, abuse and neglect and the right of children to inclusive education; promoting participation of children in defining and implementing policies concerning child rights; analyzing the measures and policies concerning children, young people, families with children and birth rate adopted by the Government and applied by the authorities so far, and monitoring the implementation and protection of the rights of the child in the Republic of Serbia.

49. Special projects realized by the Ministry of Education in cooperation with NGOs, UNICEF and UNESCO, are: the programme-activities with NGOs Help to Children, Save the Children, Civic Initiatives, Center for Interactive Pedagogy; programmes for active learning/teaching – adapted methodology for children with special needs; correlation of the Ministry of Education's programme-activities and local self-governments' programme-activities by agency of the local Roma representatives.

55. The Constitution of the Republic of Serbia under Article 64 specifies that a child shall enjoy human rights suitable to their age and mental maturity. Every child shall have the right to personal name, entry in the registry of births, the right to learn about its ancestry, and the right to preserve his own identity. A child shall be protected from psychological, physical, economic and any other form of exploitation or abuse. A child born out of wedlock shall have the same rights as a child born in wedlock.


109. The criminal-law protection of minors in the Republic of Serbia is primarily realized in accordance with a special law – Law on Juvenile Offenders and Criminal Protection of Juveniles – which has been in force since January 1st, 2006. This is a modern law which respects human rights standards proclaimed in the international documents such as the Universal Declaration of Human Rights, the Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

110. The Law on Juvenile Offenders and Criminal Protection of Juveniles regulates the criminal-law position of minors, both offenders and victims. The Law combines provisions of material, process and executive legislation referring to minors and introduces novelties which prioritize the principle of upbringing over the principle of punishment, insist on extra-judicial forms of intervention while respecting the subsidiarity principle in passing criminal sanctions, and pay more attention to the protection of minors in all phases of the criminal proceedings.

111. The Law on Juvenile Offenders and Criminal Protection of Juveniles explicitly foresees the specialization of all people responsible for the criminal protection of juveniles, in all phases of the criminal proceedings. The Judicial Training Centre, in cooperation with the competent ministries of the Government of the Republic of Serbia, scientific institutions, professional associations and non-governmental organizations, is responsible for the acquisition of specialized knowledge and professional development of all participants in the criminal proceedings against minors. After the first training phase, the Judicial Training Centre issued certificates for 4 642 trainees during 16 regional seminars.

112. In the first instance, the procedure is conducted in front of a judge for juveniles and the council for juveniles of the county court. In the second instance, the responsibility lies with a specialized council for juveniles of a higher court. At the time being, since there are no appellate courts, the specialized higher council is that of the Supreme Court of the Republic of Serbia.

119. Priorities of the Republic of Serbia relating to the human rights enhancement and protection at a national level are:

(a) To ratify international agreements it has not yet signed;
(b) To continue the harmonization of national regulations with international obligations relating to human rights protection;
(c) To strengthen the role of national mechanisms for human rights protection;
(d) To implement measures for promoting complete and effective equity in different fields;
(e) To adopt the anti-discrimination law;
(f) To adopt the Law on Children’s Right Ombudsman;
(g) To promote the role of women in different fields;
(h) To protect children from abuse

UN Compilation

3. In 2008, CRC recommended inter alia that the State ensure compliance with the Paris Principles by the Ombudsman offices and that the existing Ombudsman offices at all three levels of Government include the monitoring and promotion of child rights in its mandates.16

12. In 2008, CRC recommended that Serbia continue and strengthen, as a matter of priority, its efforts to establish a system ensuring the registration of all children born within its territory, irrespective of the nationality and status of the parents.51

15. In 2008, CRC recommended that Serbia take all necessary measures to put an end to practices that could amount to torture or ill-treatment against children with disabilities in institutions. CRC also recommended that legislative measures be adopted for the full compensation and rehabilitation of children victims of such practices and to systematically provide training for health and social care professionals with regards to the rights of children with disabilities.61

16. In 2008, considering the fact that corporal punishment in the family remained lawful and widely used as a disciplinary method, CRC recommended to Serbia to expressly prohibit all corporal punishment in the family.62

19. In 2008, CRC expressed concern about the lack of a comprehensive national strategy to prevent trafficking and sexual exploitation of children, the lack of reintegration and rehabilitation programmes and services exclusively for child victims, and reports of sexual abuse by law enforcement officials.70

20. In 2005, CESCR recommended that the State ensure the protection of minors against economic and social exploitation and take all necessary measures to combat and punish employment of children below the age of 15.71 Concerning children living and/or working on street, CRC encouraged in 2008 Serbia to continue its efforts in cooperation with relevant NGOs to address the root causes of this phenomenon and develop effective strategies to increase awareness about the rights and needs of these children.72

25. In 2008, CRC was concerned at the lack of an effective juvenile justice system of specialized prosecutors, judges and social workers to deal with children in conflict with the law, and recommended that Serbia continue and strengthen its efforts to ensure the full implementation of juvenile justice standards.78

26. In 2007, CEDAW was concerned about the persistence of early marriage in Serbia, particularly within the Roma population, and regretted that too little information was provided about the new Family Law and its enforcement. CEDAW recommended that Serbia enforce the legal minimum age of marriage, which is set at 18, and undertake awareness-raising measures throughout the country on the negative effects of early marriage on women’s enjoyment of their rights.79 In 2008, CRC made similar recommendations.80
39. A 2004 UNDP report noted that 30 per cent of Roma children had never attended primary school. In 2005, CESC recommended that effective measures be taken to promote school attendance by Roma children and children belonging to other minority groups, as well as refugee and internally displaced children, by increasing subsidies, scholarships and the number of teachers instructing in minority languages. In 2007, CEDAW recommended that literacy and vocational programmes be provided to Roma women, in particular the elderly and illiterate, as well as to women belonging to other marginalized groups. In 2008, CRC recommended that Serbia continue developing and implementing, in close collaboration with the Roma community itself, policies and programmes aimed at ensuring equal access to culturally appropriate services, including early childhood development and education.

**Stakeholder Compilation**

14. The Global Initiative to End All Corporal Punishment of Children (GIEACP) reported that the Serbian Family Act (2005) states that “parents may not subject the child to humiliating actions and punishments which insult the child’s human dignity”, but this is not interpreted as prohibiting all corporal punishment. In December 2007, the Government stated its commitment to enacting prohibition. Corporal punishment is prohibited in schools and in the penal system.

16. According to ASTRA, Serbia has become a country of origin for victims of trafficking, with growing numbers of internal human trafficking and trafficking in children. ASTRA welcomed that in January 2006, the new Criminal Code came into effect, introducing novelties in this area. The new Code, however, generally brings lower penalties, such as a decreased minimum penalty for trafficking in children from five to three years of imprisonment. ASTRA regretted that Serbia has still not adopted a National Action Plan for combating human trafficking.

35. BIBIJA expressed deep concern about lack of action by the Government on the issue of racial segregation of Roma in the field of education. A large percentage of Roma children are placed in schools for the mentally disabled. The enrolment of Roma children in such schools is indirectly supported with special financial support for families where children attend such schools. Moreover, 75 per cent of Roma children in Serbia are not enrolled at all. Roma girls are in an even more vulnerable position, elementary school drop outs of many Roma girls happening with silent permission of the educational staff and school directors. BIBIJA urged Serbia to assess the segregation of Roma in the field of education and take action to ensure their equal access to education.

42. According to the Association of Returnees Reintegration (ARR) about 50,000 persons who returned to the area of Sandzak between 2000 and 2005 face problems, including renewal of personal identification documentation, verification of diplomas, certificates, disclaim of some secondary schools diplomas to returnees children. Unemployment among returnees is extremely high and the level of education for their children is unacceptable according to ARR. ARR also noted that many of the returnees have no place to stay upon return, and do not have access to health care due to the lack of appropriate documents.

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9. Regarding the protection of children of detainees/prisoners, social welfare services took appropriate protection measures in the child’s best interest. On domestic violence, the Family Law stipulated the measures aimed at separating a violent spouse from the family and prohibiting access to the family. The victims of violence had access to shelters and 24-hour availability of social welfare services. A general protocol for the protection of children against ill treatment and neglect, which regulated inter-sector cooperation in the processes of assistance and support, had been adopted. Serbia reported that broader inclusion of Roma children into the education system was achieved by affirmative action measures reflected in coordinated action by the National Council of Roma and Roma assistant teachers on the inclusion of children into the educational system and the prevention of dropouts; adoption of new instruments for testing the aptitude of children for primary school enrolment; and functional primary education for Roma adults. Affirmative action in enrolling Roma in secondary schools led to an increase in the number of students enrolled (2.5 times higher in 2008 than in 2005). Children with special needs (disabilities) were included in the educational system by attending classes at special schools with adjusted curricula.

18. Italy was concerned that a number of non-governmental organizations have reported high levels of domestic violence against women and children and recommended that Serbia take all appropriate measures, in legislation, implementation and awareness-raising, to tackle such issues. Italy noted that the implementation of the law in 2006 on churches and religious organizations was giving rise to a significant number of complaints by “non-traditional” religious communities, which have been denied official recognition and were thus deprived of any legal status. Italy recommended that Serbia take adequate measures to guarantee the protection and promotion of religious freedom, including by adopting legislation related to the recognition of all churches and religious communities. While welcoming the adoption of a strategy to improve the situation of disabled persons, Italy noted that the legislative framework was incomplete and that not enough resources were allocated to this sector. It recommended that new anti-discrimination legislation be adopted to protect the rights of disabled persons, including the living conditions in residential and mental health institutions, and that their social integration be promoted.

19. Finland acknowledged the State’s commitment to improving the situation of the Roma, who however still lived in poor conditions and faced discrimination in several areas, including education, social protection, health care and employment. Finland asked for further information on concrete measures for the improvement of the situation of the Roma and recommended that the Government adopt and implement comprehensive anti-discrimination legislation, and commit to effectively integrating the Roma into society. Expressing its concerns about the realization of the rights of persons with disabilities, Finland recommended that the Government take concrete measures to address the high rate of unemployment among persons with disabilities and the special needs of children with disabilities at schools.

21. Greece was interested in receiving more detailed information on measures to ensure registration of and documentation for the Roma. It recommended that the Government take measures to enhance the function of the Ombudsman and to include, inter alia, effective monitoring and promotion of child rights in its mandates. Greece commended Serbia for its efforts to deal with the issue of refugees and
23. Cuba congratulated Serbia on the efforts made and results achieved in human rights. It emphasized that the national report clearly identified the main challenges and priorities in the field of human rights. Cuba commended the State for the special measures adopted in 2002 and the legislation approved in 2007 aimed at improving women’s access to political posts, the national measures taken to meet the Millennium Development Goals, including the Poverty Reduction Strategy, and the national employment strategy. The national action plan for children, adopted in 2004, was based on the principles of the Convention on the Rights of the Child, and which defined Serbia general policy with respect to children and young people for the period until 2015. Cuba appreciated the State’s endeavours to combat discrimination against national minorities and to promote tolerance and intercultural dialogue between different ethnic, linguistic and religious groups. Cuba asked whether there was a specific programme to train police officers on the human rights of vulnerable groups, including minorities, and whether national minorities were allowed to join the police force. Cuba recommended that Serbia continue to promote equality and non-discrimination among the national minorities living in the country, its positive efforts to promote and protect children rights and to attain the full empowerment of women.

24. Poland appreciated the adoption of the national action plan for children, but stated that, as indicated by the Committee on the Rights of the Child in 2008, a comprehensive national strategy to prevent trafficking and sexual exploitation of children and reintegration and rehabilitation programmes and services exclusively for child victims are lacking. Therefore, Poland recommended that Serbia implement a comprehensive national strategy to prevent trafficking and sexual exploitation of children, and ensure full compliance of domestic legislation and relevant procedures with juvenile justice standards of the Convention on the Rights of the Child. Serbia was also asked to elaborate on the steps taken to limit the scope of corruption. Poland recommended that Serbia strengthen its anti-corruption policy.

25. Germany commended Serbia for the progress achieved in recent years in the promotion and protection of human rights and encouraged it to continue its efforts. Germany asked for further information on the improvement of the schooling situation of Roma children and on additional efforts that the Government envisaged to take in this regard. Germany asked what measures Serbia had taken to guarantee that minority groups were not discriminated in the recognition of university degrees or secondary school diplomas. It recommended that the Government follow up the recommendation of the Special Representative of the Secretary-General on the situation of human rights defenders and denounce more forcefully the verbal and physical attacks against human rights defenders.

31. Argentina recalled article 14 of the Constitution, on the rights of national minorities. Argentina stressed it would appreciate obtaining statistics on the literacy levels of children from ethnic minorities in Serbia.

34. Austria stressed that both the Human Rights Committee and the Committee on Economic, Social and Cultural Rights had expressed concerns about widespread discrimination against Roma in all areas of life. The Representative of the Secretary-General on the human rights of internally displaced persons had noted that problems in obtaining documents were particularly acute for the Roma. Austria recommended that measures to ensure registration of all Roma in Serbia be strengthened. It also recommended that, in line with the recent recommendation of the Committee on the Rights of the Child, all corporal punishment be expressly prohibited, including in the family. Serbia was asked to elaborate further on measures taken to put an end to practices that could amount to torture or ill treatment against children with disabilities in institutions, as recommended by the Committee in 2008.

42. The Republic of Korea appreciated the fact that Serbia had a good track record of cooperation with the treaty bodies and had issued a standing invitation to special procedures. It noted that progress had been achieved in various domains, such as protecting internally displaced persons, addressing gender gaps and combating trafficking in persons. Particularly appreciated was the plan of action to extend the availability of education to Roma children. Meanwhile, it noted that some concerns remained and recommended that Serbia work with the international community to continue to improve the socio-economic situation of the Roma minority. It also recalled the recommendation of the Committee on the Rights of the Child in 2008, that Serbia strengthen its efforts to establish a system ensuring the registration of all children born within its territory, irrespective of the nationality and status of the parents.

43. Ukraine, as a member of the troika, welcomed the State’s openness regarding the human rights situation in the country and readiness to discuss within the Council all relevant problems. Ukraine expressed its appreciation for the measures taken in the field of the rights of the child, such as adoption of the national action plan for children. However, it wished to know if any steps had been taken to fulfil the recommendations made by the Committee on the Rights of the Child in 2008 relating to the prohibition of corporal punishment in the family and practices that could amount to torture or ill treatment against children with disabilities in institutions. Ukraine was also interested in learning more about activities aimed at raising awareness of human rights and measures taken to guarantee the right to the highest possible level of health.

49. While appreciating the measures taken by Serbia to improve human rights in the country, Bangladesh noted that the success of all the measures would largely depend on their effective implementation. Bangladesh hoped that the anti-discrimination law would strengthen ongoing efforts to improve the situation of minorities. Regarding trafficking in persons, mainly women and children for sexual exploitation, Bangladesh acknowledged the action being taken in various countries and noticed that Serbia was a country of transit, origin and destination. It recommended that effective measures be taken to combat trafficking in women and children in cooperation with countries in the trafficking network.

Conclusions and Recommendations

8. To continue its positive efforts to promote and protect children rights and to attain full empowerment of women (Cuba); and take all appropriate measures, in the fields of legislation, implementation and awareness-raising, to tackle domestic violence against women and children (Italy);
9. To ensure full compliance of domestic legislation and relevant procedures with juvenile justice standards of the Convention on the Rights of the Child (Poland);

10. To take concrete measures to address the high rate of unemployment among persons with disabilities and the special needs of children with disabilities at schools (Finland);

11. To prohibit corporal punishment, including in the family, in line with the recent recommendation of the Committee on the Rights of the Child (Austria);

12. To implement a comprehensive national strategy to prevent trafficking and sexual exploitation of children (Poland); to take effective measures to combat trafficking in women and children in cooperation with countries in the trafficking network (Bangladesh);