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.

Vanuatu - 5th Session - 2009
12th May 2009, 9am - 12pm

National Report

20. In Vanuatu, a child under the age of 10 years is recognized as incapable of committing a criminal offence and a child of 10 years of age or over but under 14 years of age is also presumed to be incapable of committing a criminal offence unless it is proved by evidence that he or she was able to distinguish between right and wrong and that he or she did so with respect to the offence with which he or she is charged.

22. However, under the Correctional Services Act, the Government with the assistance of the NZAid is working on a project to build a new correctional detention centre in Port Vila. This project would later be implemented in other provinces in the future. The new facility will accommodate around 200 detainees and will address juvenile issues.

65. Access to education was limited in some islands of Vanuatu in terms of classroom spaces, financial constraint, remoteness, available services, qualification and teacher’s commitment.

119. Vanuatu has committed itself to adhere to international human rights obligations, by ratifying four human rights conventions namely:
CRC and its optional protocols
CEDAW and its optional protocol
CRPD
ICCPR.

123. There is a great need for financial and technical assistance to set up a Juvenile Justice System to gather for juveniles.

Compilation of UN Information

5. Similarly, in 1999, the Committee on the Rights of the Child expressed concern that domestic legislation and customary law do not fully reflect the principles and provisions of the Convention, recommending a review of domestic legislation to ensure full conformity. 16 It called for further efforts to ensure that the general principles of the Convention are integrated in all legal revisions, judicial and administrative decisions and programmes and services which have an impact on children. 17 It recommended that Vanuatu consider enacting a comprehensive children’s code. 18

11. CRC noted that Vanuatu has elaborated a National Programme of Action for Children and encouraged all appropriate measures for its implementation. 25

22. Similarly, CRC recommended that cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, be properly investigated within a child- friendly judicial procedure and that sanctions be applied to perpetrators. Measures should be taken to ensure provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of victims of rape, abuse, neglect, ill-treatment, violence or exploitation, and the prevention of criminalization and stigmatization of victims.50 The 2007 UNDP and UNIFEM report also noted that, in non-compliance with CEDAW, incest is an offence for a girl aged 15 years or above attracting a penalty of seven years. Criminalising all parties to an incestuous sexual encounter is contrary to CEDAW and may dissuade a victim from reporting it for fear of being charged with an offence. 51 Moreover, protection from sexual harassment is absent under the criminal code of Vanuatu. 52
23. While corporal punishment is prohibited by law in schools, CRC remained concerned that traditional societal attitudes encourage its use within the family, in schools, in care and juvenile justice systems and in general. It recommended reinforcing measures to raise awareness of the negative effects of such punishment, and the provision of counselling and other programmes for parents, teachers and professionals working in institutions to encourage use of such alternatives. It strongly recommended that measures be taken to ensure full and effective implementation of the ban on corporal punishment in schools. 53 CRC noted the Ombudsman’s efforts to facilitate this ban and to promote greater awareness of the Convention among the police. 54

27. CRC expressed concern about the low minimum age for criminal responsibility (10 years) and recommended reviewing the legislation to bring it into full conformity with the Convention. 59 Concerned about problems with respect to the judiciary, including the juvenile justice process, CRC recommended that Vanuatu undertake measures to reform the system of juvenile justice in the spirit of the Convention and of other United Nations standards in this field; and introduce training programmes on relevant international standards for all professionals involved. 60

29. CEDAW and CRC expressed concern that the law provides for different ages of marriage for women and men - 16 years for women and 18 for men. 62 CEDAW urged Vanuatu to raise the minimum age to 18 years for women. 63

37. CRC was concerned that the survival and development of children within Vanuatu continued to be threatened by malaria, acute respiratory infections and diarrhoeal diseases. Concerned about the insufficient number of trained health workers, wide discrepancies in the distribution of health professionals between communities, limited access to health services in some island communities, poor sanitation and limited access to safe drinking water, particularly in remote areas, CRC recommended allocation of appropriate resources and comprehensive policies and programmes to improve children’s health and facilitate access to primary health services. 81

43. Noting the importance of the role of traditional education, particularly in remote island communities, CRC was concerned about the limited access to education, low literacy rate, poor quality of education, general lack of relevant learning material and other resources, and insufficient numbers of trained/qualified teachers. 94 Appreciating Vanuatu’s achievement of parity in primary education, and its commitment to achieve, by 2015, access for all children to free and compulsory primary education of good quality, CEDAW was concerned at the high levels of adult women’s illiteracy, and girls’ high drop-out rates. 95 CEDAW and CRC expressed concern about the low level of enrolment of girls in secondary and higher levels of education, CEDAW was also concerned by the marked difference in the quality of and access to education in urban and rural/remote areas, including the lack of sufficient boarding facilities for girls. 96 CRC and CEDAW recommended raising awareness of the importance of education, as a fundamental human right and as a basis for the empowerment of girls and women, 97 and to influence cultural attitudes positively in this regard. 98 CEDAW recommended that Vanuatu enhance implementation of its national action plan for education for all. 99

46. In 1999, CRC noted the efforts to improve the general situation of health, in particular infant mortality and under-five mortality rates had declined rapidly, immunization coverage had improved, and a food and nutrition programme had resulted in a reduction in malnutrition. 104

49. CRC acknowledged that the socio-economic, geographic and political difficulties facing Vanuatu have impeded full implementation of the Convention, particularly regarding children in its dispersed island communities, some of which are very difficult to reach. 107

50. CRC also acknowledged the vulnerability of Vanuatu to natural disasters such as cyclones, typhoons, tidal waves and flooding, and the challenges faced in this regard. 109 The CCA noted that Vanuatu’s natural environment is under threat from natural disasters, unsustainable development and climate change and that on average, one damaging cyclone passes through its waters every year and periodic larger events cause extensive damage. On the worst affected islands they render thousands homeless by damaging houses, schools and public buildings, flooding gardens, destroying most commercial and subsistence crops, and wrecking many small coastal vessels on which fishing and local transport depend. 110 A 2007 UNDP report noted that Vanuatu is highly vulnerable to climate disasters and annual damages are estimated at 2–7 per cent of GDP. 111

53. In 1999, CRC recommended that Vanuatu seek technical assistance from various United Nations bodies with regard to enactment of a comprehensive children's code; 114 implementation of the National Programme of Action for Children; 115 sensitizing civil society about children's rights; 116 recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment and violence; 117 improving primary health care; 118 training of persons working with and for children with disabilities; 119 access to education; 120 and juvenile justice. 121

Summary of Stakeholder Compilation

4. AI mentioned that Section 74 of the Constitution provides that the “rules of custom shall form the basis of ownership and use of land.” In addition, there is also no clear provision in the Constitution that states that when customary law and domestic legislation are in conflict, the equality provisions of the Constitution must prevail. AI called on the Government to review the Constitution and add a clear provision that the Constitution (particularly the human rights chapter) prevails when there is conflict between customary law and domestic legislation. 12 The NGO Coalition also called on the Government to amend its domestic law to include provisions for protection in compliance with the Convention on the Rights of the Child. 13

19. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) indicated that corporal punishment is lawful in homes and in alternative care settings, while it is prohibited in schools under the Education Act (2001). GIEACPC highlighted that, while corporal punishment is not available as a sentence for crime in relevant acts, it is used in rural areas as a traditional form of punishment favoured by chiefs. In addition, GIEACPC indicated that corporal punishment is not among permitted disciplinary measures in the Correctional Services Act (2006), but that there is no explicit prohibition of its use in relation to disciplinary measures in institutions accommodating children in conflict with the law. 56
25. The NGO Coalition noted that the River Care Water Project is improving water sources in Vanuatu, but expressed concern at the pollution of water sources and at the lack of water supply in the country. It noted that the availability of clean water, environmental sanitation and hygienic practices are of the utmost importance for good health. Malarial mosquitoes breed in water pools and diarrhoeal diseases are associated with contaminated water and food, unhygienic practices and insanitary conditions. In that respect, the NGO Coalition recommended that the Government undertake additional measures to increase access to safe clean drinking water and improve sanitation, in accordance with the recommendations of the Committee on the Rights of the Child.

27. Marist Asia – Pacific Solidarity Office; Fondazione Marista per la Solidarietà Internazionale and Franciscans International (MA/FMSI/FI) commended Vanuatu for the progress made regarding the right to education but highlighted that free primary education has still not been realised. According to them, parents are not taking seriously their responsibilities to send children to school, in spite of the Education Act (No. 21 of 2001), which makes it a duty for them to do so. In addition, MA/FMSI/FI stated that primary education is not yet free and that fees are due in accordance with the Education Act. This hindrance to school attendance was recognised in the Education for All National Plan of Action (2001-2015 Republic of Vanuatu). The NGO Coalition also referred to the payment of fees, which is the most common reason why children do not attend primary school and are not able to progress to secondary school, according to a survey conducted by MA/FMSI/FI. They recommended that the Government of Vanuatu find effective ways to support children whose families cannot afford school fees. The NGO Coalition recommended that the Government of Vanuatu implement the concluding observations of the Committee on the Rights of the Child to make education compulsory and free of charge, with a priority for primary education.

Final Report

11. Ms. Lesines said volcanic activities have caused all catchment water sources such as water tanks and fibreglass and concrete wells in every community and school in the western and northern part of Ambrym to be highly contaminated with acid rain. Acid rain water has been absorbed into root crops as well as fruits, making them unsafe for human consumption. Acid rain causes acid infection in children’s and old people’s stomachs, which can lead to stomach pain and respiratory infections such as asthma.

18. To promote and uphold children's access to education, the Council of Ministers has decided that in 2010, education will be free for all children from grades 1 to 8. The Ministry of Education has supplied stationery to all schools in the country to assist children with logistical constraints in attending school.

35. Slovenia noted that some of the constitutional norms did not respect the principle of equality of women and the prohibition against discrimination, and expressed concern that the customary laws did not fully reflect the rights of the child. It asked how the Government intended to pursue the efforts of bringing the national legislation into line with the standards of CEDAW and the Convention on the Rights of the Child, and how the Government intended to modify attitudes and stereotypes that allow violence against women and discrimination against women in public life, decision-making, marriage and family relations. Slovenia also asked whether the Government envisaged elaborating a similar initiative for women as it had done for children with its National Programme of Action for Children. Slovenia recommended that Vanuatu follow up its ratification of CEDAW and the Convention on the Rights of the Child with implementation.

45. With regard to the promotion and protection of human rights of women and children, Malaysia asked if Vanuatu could elaborate on whether it would be in a position to take on board the recommendations of the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, specifically those stated in pages 4 and 5 of the compilation report. Malaysia recommended (a) considering stepping-up measures to comprehensively address the problem of violence against women, including by increasing public awareness campaigns to sensitize the community on the issue; (b) addressing the problem of disparities in the delivery of and access to quality basic social services such as health, education, water and sanitation services; and (c) continuing engaging members of the international donor community with a view to building capacity, particularly with regard to securing improvements in the economic and social rights situation of its population.

Conclusion and Recommendations

13. Consider (Brazil) reviewing the legislation on the minimum age for criminal responsibility (Azerbaijan, Brazil) with the purpose of bringing it into full conformity with the Convention on the Rights of the Child (Azerbaijan);

21. Pursue the initiative to establish Child Desk Officers within the Department of Women’s Affairs and intensify efforts to ensure access to free compulsory education for all children in the country (Czech Republic);

36. Take all measures to eradicate the practice of corporal punishment in the family and juvenile justice systems and to ensure effective implementation of the ban on this punishment in schools (Azerbaijan);

41. Step up its efforts to ensure adequate access to quality basic health and education services, particularly for those living in isolated rural areas and for vulnerable groups (Azerbaijan); consider addressing the disparities in the delivery of and access to quality basic social services such as health, education, water and sanitation services (Malaysia); Continue to enhance access to basic health services, especially for children (Philippines); continue its efforts in developing a policy on free primary education (Philippines);

43. Promote more effective efforts to keep children in schools, particularly girls (France); enhance its education plan to improve women’s attendance rate in secondary schools and provide quality secondary education in rural areas (Canada);