



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-fifth session

SUMMARY RECORD OF THE 928th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 19 January 2004, at 10 a.m.

Chairperson: Ms. ALUOCH
(Vice-Chairperson)

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

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Second periodic report of the Netherlands (CRC/C/117/Add.1; CRC/C/Q/NLD/2; CRC/C/RESP/48; HRI/CORE/1/Add.66)

Initial report of the Netherlands (Aruba) (CRC/C/117/Add.2; CRC/C/Q/NLD/2; CRC/C/RESP/48; HRI/CORE/1/Add.68/Rev.1)

1. At the invitation of the Chairperson, Ms. Blom, Ms. de Cuba, Mr. de Jong, Mr. Hageman, Ms. Kok, Mr. Meurs, Ms. Peterson, Ms. Reusma, Ms. Ross-van Dorp, Ms. Schalken, Ms. Scholte, Mr. Ter Kuile, Ms. Thuis, Mr. van der Burg, Mr. van der Heiden, Mr. van der Hoeven, Ms. van Dijk, Ms. van Horck, Ms. van Muijden, Mr. Verbeek, Mr. Weekenborg, Mr. Würzner and Mr. Zoomers (Netherlands) took places at the Committee table.
2. Ms. ROSS-VAN DORP (Netherlands), introducing the second periodic report of the Netherlands (CRC/C/117/Add.1), said that the Convention was being more widely discussed in the Netherlands and its provisions were being steadily integrated into domestic legislation. There had been a campaign to publicize the Convention, and more than €200,000 had been made available to non-governmental organizations (NGOs) for that purpose.
3. Between 2004 and 2007, some €77 million would be added to the budget to strengthen institutional care programmes and to implement the Government's policy on children at the local level. Efforts would focus on meeting the overall needs of children in the areas of health, education and leisure with a view to preventing such problems as school dropouts, juvenile delinquency and unemployment. Emphasis was being placed on reorganizing and developing sports and leisure activities in cooperation with schools and other institutions. Other policy aims included giving parents and civil society organizations greater responsibility for educating children, establishing closer ties with municipalities and allocating additional resources to meet the needs of vulnerable groups of children.
4. In order to improve coordination of planning at the national level, the Youth Agenda had been developed, and a youth commissioner had been appointed as its head. Better coordination among the various organizations that provided care and services for children was needed at the local level. The Youth Care Act, which was currently being considered in Parliament, was expected to enter into force in 2005. The Act provided for the establishment of provincial youth care offices that would offer young people easy access to a variety of services. The National Youth Monitor (Landelijke Jeugdmonitor) had been established to collect data relating to youth policy.
5. Ms. PETERSON (Netherlands), introducing the initial report of the Netherlands for Aruba (CRC/C/117/Add.2), said that, shortly after the Convention had entered into force in Aruba, the Government had established the National Committee on the Rights of the Child. The National Committee had held meetings with government departments and NGOs in order to raise awareness of the Convention, and it would discuss and widely publicize the Committee's concluding observations on the initial report.

6. A number of new developments had taken place in Aruba: new legislation on sexual offences had entered into force; a computerized registration system had been introduced in the Aruban Child Protection Agency, and the Child Abuse and Reporting Centre had been established. In addition, the new Foster Family Recruitment and Guidance Centre had been set up to limit the number of children currently placed in institutions and place them in a stable family environment. In order to provide more targeted and structured social services for vulnerable children, the Minister of Social Affairs and Infrastructure had set up a programme in which teams of social workers, including child workers, were assigned to six districts of Aruba.

7. In April 2003, the National Youth Council had been established to promote the participation of young people in political decision-making in matters that concerned them. The Youth Council had elected the 23 members of the Youth Parliament, which would participate biannually in the deliberations of Parliament and would meet annually with the Council of Ministers. The Government had earmarked \$70,000 in 2003 and a similar amount in 2004 for the activities of the Youth Council and Youth Parliament.

8. In spite of those achievements, much remained to be done. Important legislation on compulsory education and the treatment of juvenile offenders was pending in Parliament and there was a lack of necessary research and data in some areas. The Government of Aruba remained committed to respecting the rights of the 26,000 children on the island and would give due attention to the Committee's recommendations.

9. Mr. KOTRANE said that he was concerned that the Netherlands' reservations to articles 26, 37 and 40 of the Convention might hinder the application of those articles. The fact that Netherlands legislation had not yet been brought into line with the Convention was also a matter for concern. Other problems included the absence of a systematic coordination policy among government ministries and between the central Government and the provinces, the lack of a children's ombudsman, and the need for greater clarity on important issues concerning 16- to 18-year-olds, such as euthanasia and criminal responsibility.

10. With regard to Aruba, he was concerned that the youth policy programme for 2001-2005 did not cover all the articles of the Convention. He was dismayed that there had been cutbacks in allocations for social services and that migration issues had not yet been satisfactorily resolved.

11. Mr. LIWSKI said that it was important to examine budget cutbacks on social security and health. Although the Government encouraged young people to exercise their rights and responsibilities under the Convention, it had not made any budget allocations for children's organizations or legal advisory services. The recent tragic school shooting in the Netherlands pointed to the need for research into the root causes of violence. The State party should enact legislation to prohibit corporal punishment and take measures to eliminate attitudes and practices that contributed to the vicious cycle of violence.

12. The principles underlying the Aliens Act did not appear to be in conformity with the provisions of the Convention. The Council of State had interpreted the Act in such a way as to deny the rights of children of illegal residents.

13. He requested additional information on the activities of the Netherlands National Youth Council and asked whether its three-year grant would be renewed. The delegation should provide more information on the system for coordination between the Government and NGOs that dealt with children's issues.

14. He asked why the Netherlands had not fulfilled the commitment, made in that outcome document of the special session of the General Assembly on children, entitled "A world fit for children", to develop a national action plan establishing an overall strategy for children and youth policy.

15. He wished to know whether the policies designed to alleviate the socio-economic situation of young people in Aruba had been effective. He requested updated information on the status of legislation on compulsory education in Aruba.

16. Mr. CITARELLA requested information on the legal status of the Convention in the Netherlands and enquired whether judges could invoke it directly. The Netherlands should review its legislation with a view to withdrawing its reservations to the Convention. In particular, its reservation to article 37 of the Convention was contrary to the definition of the child under article 1

17. He wished to know the anticipated impact on children of the amendments to marriage legislation that allowed same-sex partnerships. He requested further information about how decisions were taken when children under 16 wished to terminate their lives.

18. Ms. AL-THANI welcomed the results of a survey that had shown that 62 per cent of children in the Netherlands knew of the Convention's existence and that a considerable number were also aware of their rights under the Convention. She wondered whether a similar survey had been conducted in Aruba. She requested additional information on the training of professionals who worked with children, both in the Netherlands and in Aruba. Since the Constitution of Aruba did not include disability as one of the grounds for discrimination, she wished to know what legislative protection there was for children with disabilities. She also asked what was being done to encourage parents to take account of children's views.

19. Ms. KHATTAB asked why the Netherlands had not yet ratified the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, which it had signed in 2000. She asked what measures had been taken to prevent the practice of female genital mutilation in the Netherlands, which had been the subject of a previous recommendation by the Committee (CRC/C/15/Add.114, para. 18), and what assistance the Netherlands gave to help combat that practice in the countries of origin of its immigrant population.

20. She wished to know how efficiently children's complaints were dealt with by the appropriate bodies and whether a forum existed for the Government to meet regularly with NGOs in order to ensure that no group of children was overlooked. With regard to euthanasia, she did not agree that there was usually consensus between 16- to 18-year-old patients and their parents or guardians, and she wished to know what would happen in cases where there was no consensus. The delegation should inform the Committee of the results of the study that had been conducted in that area.

21. She asked what the Netherlands was doing to combat de facto discrimination against foreigners and asylum-seekers and to instil values of acceptance and coexistence. She wished to know what was being done to prevent de facto discrimination in access to public services.

22. Ms. SARDENBERG asked why the Netherlands had not signed or ratified the European Convention on the Adoption of Children, the European Convention on the Legal Status of Children Born Out of Wedlock and the European Convention on the Exercise of Children's Rights.

23. She wished to know which ministry had been in charge of the inter-ministerial working group that had prepared the report. She asked whether the Ministry of Health was the central authority for the implementation of the Convention and, if so, how it coordinated its activities with other ministries. She was concerned at the lack of a structured approach or long-term plan for communication with children and young people of any age group. It appeared that human rights education had not been incorporated into the curricula of Dutch schools, and that no measures had been taken to train professionals who worked with young people.

24. She requested updated information on euthanasia and assisted suicide for minors and handicapped newborns. She was concerned at reports of de facto school segregation in a number of localities. The delegation should explain the relationship between the central Government, the provinces and the municipalities, and how funding was allocated.

25. Mr. AL-SHEDDI said that, while he welcomed the publication of a "shadow report" by NGOs, he believed that NGOs should have been directly involved in the preparation of the State party's report. He was surprised that the Netherlands did not have a central authority for the care of children, and emphasized the importance of follow-up and coordination in all areas affecting children. Further information was required with regard to the organizations that performed some of the activities of an ombudsman. He requested information on the procedure by which children could submit complaints. In the absence of a budget allocation for children, he asked whether a mechanism existed to ensure that children's needs were adequately covered by budget allocations for other areas, such as health and welfare. He wished to know whether there was a special mechanism for gathering data on migrant children and, if so, which ministry was responsible for that information. He was concerned at reports of widespread de facto discrimination.

26. Mr. KRAPPMAN wished to know more about the plight of the "invisible" children of illegal immigrants in Aruba and whether children and young people in both the Netherlands and Aruba participated in the settlement of conflicts among young people in schools and in community life.

The meeting was suspended at 11.20 a.m. and resumed at 11.35 a.m.

27. Ms. ROSS-VAN DORP (Netherlands) said that her delegation did not believe that the Netherlands' reservations to the Convention should be withdrawn. With regard to the reservation to article 26, she explained that, while children under 18 received adequate social security, the Government did not wish to assume the responsibility of parents.

28. Mr. MEURS (Netherlands) said that the Netherlands had made a reservation to article 37 of the Convention in order to allow adult criminal law to be applied in certain cases involving 16- to 18-year-olds. In some cases, 18- to 20-year-olds could also be subject to juvenile criminal law. The Netherlands had made a reservation to article 40 in order to allow minor offences to be judged without the presence of a lawyer.

29. Ms. BLOM (Netherlands) said that the Netherlands had made a reservation to article 26 in order to enable parents to receive social security for their children. A minimum basic amount of social security was available to all, and subsidies were increased depending on individual family circumstances.

30. The Government was doing everything possible to prevent discrimination, particularly in the education system. In November 2003, a government decision had been taken to increase the penalty for structural discrimination. Efforts were being made to encourage tolerance towards and among ethnic minority groups.

31. The Government was endeavouring to improve integration and cohesion in schools in areas where ethnic minorities constituted most of the population. Measures were being taken to ensure that classes were small, and to organize extracurricular activities and hold parents' meetings. Such activities helped to ensure the safety of the pupils. On the whole, the level of academic performance within such schools was high.

32. Ms. ROSS-VAN DORP (Netherlands) said that regular meetings were held to coordinate efforts to implement the provisions of the Convention. The Government held two annual meetings with NGOs. NGOs were also encouraged to engage in a dialogue with the Government.

33. Government subsidies had not always been used appropriately. A new performance-based subsidy system was therefore being introduced to enable the Government to monitor how funds were being spent.

34. Youth care targets had been set for municipalities, and a framework for systematic coordination between municipalities and the central Government had been established. A commissioner had been elected to inform the Government of any areas of its policy on youth that required improvement.

35. NGOs had been involved in the preparation of the report. In spite of the recent economic downturn in the Netherlands, the Government continued to subsidize NGOs, and additional funding had been allocated to several voluntary youth groups.

36. The Netherlands had not established a children's ombudsman because the activities that such an institution would perform were already being carried out by existing organizations. Such organizations included a complaints commission for youth care and advice, the National Youth Council, a council for societal development, and a national telephone hotline. Nevertheless, a bill on the creation of a children's ombudsman was currently being discussed in the lower house of Parliament.

37. Mr. AL-SHEDDI wished to know whether the ombudsman would serve children in general or would deal only with children in difficult family situations.
38. Mr. KOTRANE said that the two main functions of the ombudsman should be to carry out investigations and receive complaints. The ombudsman should be completely independent.
39. According to the Convention, every child had the right to be the direct recipient of social security. The Netherlands should take measures to bring its legislation into line with the Convention.
40. He wished to know whether it was possible for minors accused of a criminal offence to be tried without a defence counsel.
41. Mr. MEURS (Netherlands) said that, if a judge decided to try an 18- to 20-year-old according to juvenile criminal law, all the provisions of that law were applicable. The aim of the regulation was to avoid the application of adult criminal law if the situation did not require it. A judge could decide not to hear a child's defence only in cases where a minor offence had been committed.
42. Mr. LIWSKI wished to know whether the bill on youth care that was currently under discussion was based on the Convention.
43. Ms. THUIS (Netherlands) said that the Convention had served as the basis for the bill on youth care.
44. Ms. ROSS-VAN DORP (Netherlands) said that the Government wished to be able to include the Committee's recommendations in the plan of action. NGOs and youth groups were contributing to the preparation of the plan of action.
45. There had been no cutbacks in funding for education. Funding policies had, however, become more targeted in order to ensure appropriate spending. In 2002, an additional €16 million had been allocated to youth care. Basic youth care standards had been set for children 13 years old and younger; all municipalities were required to adhere to those standards.
46. Euthanasia was permissible in certain cases to relieve unbearable suffering, provided that all medical alternatives had been explored. It could be used only at the patient's request or, if the patient was incapable of making such a request, with the consent of his or her relatives. Its application was subject to strict controls, particularly when children were involved. Severe disability alone was never sufficient justification for euthanasia.
47. Children between the ages of 16 and 18 were considered to be sufficiently responsible to decide, in consultation with their parents, on matters concerning their own medical treatment. Even children under that age were frequently involved in such decision-making.
48. It was important to ensure that every school attracted children from a range of ethnic backgrounds in order to avoid the creation of ghettos. A minister for the integration of minorities had been appointed to the Cabinet.

49. Mr. FILALI wished to know on what basis the decision had been taken to legalize euthanasia. In the case of Diane Pretty v. the United Kingdom of Great Britain and Northern Ireland, of April 2002, the European Court of Human Rights had ruled that the right to die could not be derived from the right to life. He expressed concern at the potentially traumatic consequences of discussing serious medical treatment with young children.

50. Ms. AL-THANI said that, while the absence of taboos regarding medical matters was laudable, she was concerned at the laxity of controls applicable to euthanasia. She requested details on measures to protect an infant's right to life in circumstances where his or her parents requested euthanasia. The delegation should explain the legal situation of doctors who withheld treatment necessary for a patient's survival.

51. Ms. SARDENBERG said that she had been surprised to learn that more than 2,000 cases of euthanasia and assisted suicide had been reported to the review committee in the year 2000, and that only 3 of those cases had led to a negative assessment. She asked whether the Government was considering a reform of the review procedures.

52. Ms. ROSS-VAN DORP (Netherlands) said that euthanasia was not considered as a normal way to die, and was regulated by criminal law. It had been introduced to deal with extreme situations. Doctors were required to seek a second opinion from a qualified physician and to report all cases to the review committee. Since a minority of doctors failed to report all cases, Parliament was considering legislation to establish stricter regulations. Children under 16 could not request euthanasia.

53. Mr. KOTRANE said that, in its concluding observations concerning the initial report of the Netherlands, the Committee had emphasized the need to increase the number of places available in residential childcare facilities. He wished to know whether the Government had complied with that recommendation. He asked whether the Netherlands had considered following the example of Canada, where medical practitioners were required by law to report all cases of child abuse and neglect to the authorities.

54. Mr. LIWSKI asked whether children from ethnic minorities enjoyed the same freedom of expression as other children. He requested details on any abuses of the wide-ranging powers given to warders under the Young Offenders' Institutions Framework Act. He wished to know whether there was a register for complaints concerning police brutality.

55. He asked whether rigorous vetting procedures were applicable to adoption agencies based in the Netherlands, particularly those operating in countries where illegal activities were known to occur.

56. He wished to know to what extent efforts to promote greater awareness of cultural diversity in the context of health-care provision had been successful. The delegation should explain whether current health-care services for children with behavioural difficulties were sufficient.

57. Ms. OUEDRAOGO apologized for her late arrival at the session, which had been caused by problems in obtaining a visa from the Swiss authorities. Greater efforts should be made to ensure that Committee members, particularly those from developing countries, were granted visas before the beginning of each session.

58. She asked whether corporal punishment was prohibited in schools in Aruba. Given that the situation regarding domestic violence in the Netherlands had barely changed since the Committee's consideration of its initial report, she wished to know whether the Government was encouraging debate on that issue.

59. She asked whether there were any special programmes to address the health problems of immigrants and families affected by poverty. In view of the rising teenage pregnancy rate, she requested information on measures to control sexually transmitted diseases or to ensure the availability of contraceptive devices.

60. She asked why the programme to curb the number of school dropouts appeared to have had little success. It would be useful to learn whether the draft National Ordinance on Compulsory Education had been adopted in Aruba.

61. Ms. CHUTIKUL asked whether the draft National Childcare Facilities Ordinance contained provisions relating to the training of care workers, indicators for child development, care methodologies and so on, or whether it related only to childcare facilities.

62. She requested information on educational programmes for gifted children. She asked why the Government had failed to adopt new legislation concerning Papiamentu as the language of instruction in Aruba.

63. Ms. VUCKOVIC-SAHOVIC welcomed the fact that the Netherlands already allocated more than 0.7 per cent of its gross national product to international development assistance. She urged the Government to maintain or even increase that amount.

64. The broad definition of the family in Dutch law was a model for other countries. She asked whether the Government had conducted any research concerning the impact of same-sex marriages on children. Since couples were having fewer children than before, she asked whether the delegation had any views on the impact of smaller families on children's development.

65. The delegation should explain why 14 per cent of children in Aruba failed to be registered at birth. She requested further information concerning the right of children to refuse life-saving medical treatment for religious or personal reasons.

66. The CHAIRPERSON asked how the authorities assessed children in order to identify those who were falling behind.

67. Ms. AL-THANI asked why the teenage pregnancy rate was rising faster among ethnic minorities, and what steps the Government was taking to curb that trend. Noting the high rates of drug and alcohol consumption among adolescents, she asked whether the figures represented an upward trend and whether they referred to both regular and occasional users. She asked for an assessment of the programme to prevent mother-to-child transmission of HIV/AIDS.

68. Although infant mortality rates were, on the whole, low, she wondered why they had almost doubled in Aruba between 2000 and 2001. The delegation should also provide an overview of the services provided for disabled children in Aruba.

69. Mr. FILALI asked whether there were any additional regulations concerning adoption by same-sex couples, or any special safeguards to protect the child if his or her same-sex adoptive parents filed for divorce. Bilateral agreements were a useful way of ensuring that divorced parents living abroad were equally liable to pay child maintenance, especially since a number of countries had failed to sign international treaties in that regard. He asked whether the ban on abortion in Aruba also applied to rape victims.

The meeting rose at 1 p.m.