



Convention on the Rights of the Child

Distr.
GENERAL

CRC/C/SR.977
21 September 2004

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-seventh session

SUMMARY RECORD OF THE 977th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 16 September 2004, at 10.05 a.m.

Chairperson: Mr. DOEK

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Botswana (CRC/C/51/Add.9; CRC/C/Q/BOT/1; CRC/C/RESP/66; CRC/C/51/9)

1. At the invitation of the Chairperson, Mr. Lekuni, Ms. Mogami, Mr. Mogotsi, Ms. Nkwe, Mr. Ntwaagae, Mr. Pitso, Mr. Pule, Mr. Rathedi and Mr. Tshipinare took places at the Committee table.
2. Mr. TSHIPINARE (Botswana) said that, although every effort had been made to provide the statistics requested by the Committee, data on a number of issues had not been available. The Government was aware of the gaps in its data collection system and would take steps to rectify that situation.
3. A number of positive developments had taken place in Botswana since the preparation of its initial report. For example, the Department of Social Services had been strengthened and a division of child welfare had been created to help coordinate the implementation of programmes for children. The Masiela Trust Fund had been established with a view to funding projects for orphans and vulnerable children and a database had been set up to monitor the number of orphans registered and the assistance provided. Under the Orphan Care Programme, day-care centres had been opened for orphans of pre-school and primary school age. Boarding schools had been established for children whose parents lived in remote areas, and supplementary feeding programmes had been introduced to avert malnutrition and improve school attendance. Schools of industry had been opened for the rehabilitation and reintegration of juvenile offenders, and juvenile justice forums had been held to improve coordination between child protection bodies. Efforts had also been made to train police officers and raise their awareness of child protection issues. Lastly, District Multi-Sectoral AIDS Committees had been reinforced and HIV/AIDS issues had been mainstreamed into district development planning processes.
4. The Government planned to accede to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict by the end of September 2004.
5. Ms. AL-THANI asked why the Government had not acceded to any of the Hague Conventions on the protection of children. She expressed concern about Botswana's reservation to article 1 of the Convention, which indicated that the Government had not identified the group of individuals to whom protection would be accorded. She was also concerned that the public was not aware of the authority of the Ombudsman and that children did not know how to file a complaint.
6. She would be interested in knowing who had participated in the preparation of Botswana's initial report. She asked what the Government was doing to address the problem of social discrimination against children with disabilities and what steps it was taking to change social and cultural attitudes towards such children.

7. She asked whether a life sentence could be handed down to a person under the age of 18. The extensive use of corporal punishment, in particular in educational establishments, was a matter of great concern. There were no indications that the Government was planning to review its legislation on the issue.

8. Ms. VUCKOVIC-SAHOVIC said that no data on birth registration had been provided in the report. According to other sources of information, 40 to 50 per cent of children in Botswana had not been registered. She wondered whether the delegation could provide its own estimate of the number of unregistered children. She asked what the Government was doing to raise awareness of the need to register births.

9. She acknowledged the difficulties involved in ensuring that individuals enjoyed an adequate level of privacy in a traditional society. In that regard, it would be useful to know whether there were any regulations on the right to privacy in children's and juvenile institutions.

10. Mr. AL-SHEDDI wished to know more about how various child protection bodies were coordinated. Additional information on the Multi-Sectoral National Child Welfare Committee would be useful. He enquired whether the Government had evaluated the National Programme of Action for the Children of Botswana for the period 1993-2003. If so, he would be interested in knowing the results of that evaluation. The delegation should provide information about the new programme of action that was currently being drawn up.

11. Mr. KRAPPMANN said that, although children were not restricted from exercising their constitutional right to communicate ideas and information, in reality children's views were often ignored. He wished to know whether efforts to change cultural attitudes to children had been successful and how adults had reacted to those efforts. He asked how the Government planned to make Botswana's institutions and society more child-friendly.

12. Ms. LEE asked whether there was a national budget for services for children. Referring to table 2 on page 6 of the written replies (CRC/C/RESP/66), she noted that funds allocated to some areas, including secondary education and juvenile justice, had decreased, and the delegation should explain why. She wished to know how much money was being spent on services for disabled children.

13. The CHAIRPERSON, referring to the same table, asked why there had also been a significant decrease in the funds allocated to the prevention of mother-to-child transmission of HIV.

14. Ms. OUEDRAOGO wished to know whether the Government would provide the Office of the Ombudsman with additional resources in order to ensure the efficiency of its services. She encouraged the establishment of village youth councils and enquired whether such councils were currently in operation.

15. She asked whether Botswana's initial report had been published. She welcomed the fact that the Convention had been translated into Setswana, and wondered whether it had also been translated into Ikalanga. She wished to know whether the Government was cooperating with

traditional leaders in the distribution and implementation of the Convention. Further efforts were needed to train teachers, police officers, health workers and judges. The issue of children's rights should be incorporated into school curricula.

16. She welcomed the Day of the African Child as an opportunity for children to express their concerns in a memorandum presented to the Child Welfare Commissioner. She asked what was being done to address those concerns, and whether they were taken into account when programmes for children were prepared.

17. She wished to know whether the Government planned to provide birth registration free of charge, and whether there were any campaigns to raise awareness of the importance of birth and death registration.

18. Ms. SMITH wished to know what impact general budget allocations for HIV/AIDS had had on other allocations to children's programmes. Greater efforts should be made to incorporate the provisions of the Convention on the Rights of the Child into Botswana's domestic legislation, particularly the concept of the best interests of the child. Children should be given the right to choose whether customary law or written law would be applied in matters concerning them. She wished to know how the right of children to express their opinion was being implemented in schools.

19. Mr. CITARELLA said that the delegation should provide a detailed general budget statement for the last three years, particularly with respect to items affecting the implementation of children's rights. He urged the Government to consider withdrawing its reservation to article 1 of the Convention. He was concerned that customary law did not have a consistent definition of childhood. He wished to know why the Public Health Act defined the child as a person under the age of 16. The fact that Botswana's legislation protected sexually abused children only if they were girls was a major lacuna that should be corrected.

20. Mr. LIWSKI said that there were two problems concerning the implementation in Botswana of article 37 of the Convention: First, Botswana had entered a reservation to article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which weakened the application of that Convention in Botswana; Secondly, a child who wished to lodge a complaint against a police officer who had subjected him or her to torture was required to do so with the commander of the police station where the officer was based, which jeopardized the proper investigation of the complaint. He requested concrete examples of cases in which action had been taken against police officers who committed acts of torture. The delegation should provide examples of the results obtained from the National Police's implementation of new policies to improve police practices.

21. Mr. FILALI asked whether Botswana intended to give priority attention to withdrawing its reservation to article 1 of the Convention. He wished to know whether the Vision 2016 document was legally binding and how it would be applied. In particular, he wondered what impact Vision 2016 would have on judges in the juvenile justice system.

22. He requested specific examples of cases in which chiefs practising customary law took into account the provisions of the Convention. He enquired whether there were any plans to increase the representation of the Ombudsman at the regional, district or local levels. He asked

whether the Chieftaincy Act had been amended and, if not, whether the Government intended to do so. He enquired whether the Basarwa tribe enjoyed the same privileges accorded to other tribes in Botswana.

23. Ms. SARDENBERG suggested that Botswana's level of development was conducive to placing greater emphasis on the Convention as a political tool and on promoting the child as a subject of rights. Such efforts should focus on institutional capacity-building, development plans and improving the situation of girls.

24. She wished to know how efforts to implement children's rights were coordinated under the current policy of decentralization. She asked what results had been obtained following the evaluation of the National Programme of Action for Children. She enquired how the body responsible for implementing the National Programme of Action coordinated its activities with the Ministry of Local Government, which was responsible for overseeing implementation of the Convention in Botswana. She asked what the current status was of the National Child Welfare Committee.

25. She asked whether any measures had been taken to bring the Constitution into conformity with the Convention in order to prohibit discrimination against girls. She wished to know how the educational system dealt with girls who became pregnant and what steps were being taken to protect their rights.

26. The CHAIRPERSON asked what legislation needed to be adopted before Botswana's reservation to article 1 of the Convention could be withdrawn. The delegation should inform the Committee of the progress that had been made in reviewing the Children's Act. He enquired whether any steps had been taken to address the issue of discrimination against children born out of wedlock.

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

27. Mr. TSHIPINARE (Botswana) said that, once Botswana had adopted the relevant legislation that defined the child in accordance with the definition contained in the Convention, Botswana would withdraw its reservation to article 1 of the Convention. In preparing its initial report, the Government had relied on the broad-based cooperation of many national and international non-governmental organizations (NGOs).

28. Because of financial and human resources constraints, the Office of the Ombudsman had not yet been decentralized. Nevertheless, people were aware that they could lodge complaints with local courts, where traditional leaders settled disputes, as well as with the Department of Social Services or with Childline Botswana, which would transmit their complaints to the Ombudsman, if necessary.

29. The Department of Social Services was conducting workshops throughout the country to teach people about modern ways of raising children. Parents in Botswana were beginning to relinquish authoritarian styles of parenting, and corporal punishment was no longer as prevalent as it had once been. Furthermore, many children had access to television and could learn about how other children in the world lived.

30. Ms. AL-THANI asked whether the Ombudsman was independent, and what measures had been taken to raise awareness at the local level about the Ombudsman, his mandate and powers.

31. Mr. TSHIPINARE (Botswana) said that, although it had to work with the Government, including the executive, the judiciary and Parliament, the Office of the Ombudsman was an independent body. Awareness about the Ombudsman was being raised at local level through workshops in villages around the country, at which social workers and other people with responsibility for children's welfare were learning how to convey children's concerns to the Ombudsman.

32. Responding to concerns about juvenile offenders, he said that the schools of industry had solved a significant number of problems that had existed in the boys' prison. The current intake of juvenile offenders into schools of industry was low. The situation would improve as more young people in conflict with the law were sent to those institutions, which had appropriate rehabilitation programmes. There was no record in the history of Botswana of any person under the age of 18 having been executed for committing a crime.

33. The CHAIRMAN asked whether, under the law of Botswana, a young person could be sentenced to life imprisonment.

34. Mr. TSHIPINARE (Botswana) said that no one under the legal age of majority could be sentenced to life imprisonment. The incidence of corporal punishment in schools had declined significantly. While corporal punishment had previously been used indiscriminately by teachers, it currently had to be approved by head teachers. Boys were caned by the headmaster, and girls were caned by a female staff member; no such punishments were carried out in public. Teachers were being trained to use other methods to deal with disciplinary problems and some parents had expressed the wish that their children should not be subjected to corporal punishment.

35. Religious education was taught in schools, from lower primary to secondary level.

36. About 50 per cent of all births were not registered in Botswana. The birth registration system had been decentralized, and births could be registered in local clinics where babies were born. While there was a small fee to register a birth, the amount charged covered only the cost of the registration certificate.

37. Since extended family households were less common in Botswana than they had been in the past, there was little risk that a child's right to privacy would be compromised. The social welfare department had been alerted to the potential risk of child abuse, and social workers had been trained to take appropriate action in such cases.

38. In partnership with the United Nations Children's Fund (UNICEF), the Government was developing coordinating mechanisms in order to harmonize all action designed to protect and improve children's lives. It was expected that the necessary funding would be provided by United Nations agencies in Botswana.

39. Ms. SARDENBERG asked what role district commissioners played in coordination, and whether the National Assembly had been involved in implementing the Convention.

40. Mr. TSHIPINARE (Botswana) said that district commissioners provided the link between the central Government and the local authorities. Development activities were coordinated by the chief executives who ran the local councils. Most social welfare officers and community development workers were employed by district councils, and their work was coordinated by the central Government. The district commissioners and council chief executives managed development plans.
41. While there was currently no parliamentary body responsible for children and young people, after the general election a new ministry would be set up to deal with all matters relating to children.
42. Most of the budget for children went through the Ministry of Education and the Ministry of Health. Children in the most impoverished families had access to welfare assistance, and a proportion of the national budget was spent on the Orphan Care Programme, which currently supported 43,000 orphans. The 2004-2005 allocation to that Programme had increased over the previous year because of the growing number of HIV/AIDS orphans. The funds allocated to the schools of industry had declined in 2004-2005 because the initial building and equipment costs had been covered in the 2002-2003 budget.
43. Government spending on the prevention of mother-to-child transmission of HIV/AIDS had proved effective, since the number of children infected with HIV/AIDS had decreased from 59 million to 31 million. There had been a 36 per cent uptake in the prevention programme up to 2003; some women had been reluctant to take part in the programme because of the stigma attached to HIV/AIDS. Measures were being taken to encourage women to participate, and the programme would continue. In 2004, the Government had spent 450 million pula on AIDS programmes, which were coordinated by the National AIDS Coordinating Agency.
44. Ms. SMITH asked what proportion of the national budget had been allocated to dealing with the consequences of HIV/AIDS.
45. Mr. LIWSKI asked whether Botswana had been free to choose which antiretroviral drugs it bought on the international market.
46. Ms. LEE asked what percentage of the national budget had been spent on services for children affected by HIV/AIDS. The delegation should clarify what proportion of the national budget was spent on all the key children's sections and programmes detailed in table 2 of the written replies.
47. Mr. TSHIPINARE (Botswana) said that, although Botswana's economic stability had suffered as a result of HIV/AIDS, the Government had not reduced its budget allocations for HIV/AIDS prevention and treatment. Botswana had been obliged to pay the high market prices for antiretroviral drugs. While a laboratory in Botswana was conducting research on the AIDS virus that was prevalent in Botswana, that was a long-term project and no domestic antiretroviral drugs had yet been produced.
48. His delegation would provide written data on the proportion of the national budget spent on services for children at a later date.

49. The CHAIRMAN asked whether Botswana had considered using generic drugs instead of paying high prices for antiretroviral drugs.

50. Mr. TSHIPINARE (Botswana) said that, although research was currently being conducted on a drug that could be domestically produced at a low cost, it was not possible to predict when such a drug would be found.

51. While the Convention had not been translated into Ikalanga, it was available in Setswana. The majority of the population spoke either English or Setswana, except for those living in the remotest parts of the country. Many people in the Kalahari area spoke Afrikaans, and north-eastern Botswana was mostly inhabited by Kalanga. Although there was no provision in the school system for teaching minority languages, teachers who spoke a minority language were posted to areas in which that language was predominant.

52. Ms. NKWE (Botswana) said that children with disabilities were integrated into the mainstream education system. Only children with particularly acute difficulties attended special schools. The district health structure had a department that provided rehabilitation for people with disabilities. Through village health teams, children with disabilities could be identified, registered and provided with special assistance and educational opportunities, and their parents could receive counselling and advice.

53. Schoolgirls who became pregnant were allowed to continue their education prior to giving birth. They were readmitted to school 84 days after giving birth if a school had a place for them. Efforts were being made to minimize the length of time that such girls were absent from school, particularly girls in their last year who had to take final examinations.

54. The Minister of Education had developed a framework document to ensure that teaching materials were gender-neutral. Guidance and counselling units had been set up in all primary and secondary schools, and provided a way of identifying children with difficult home backgrounds. School and community social workers thus had an opportunity to provide assistance to such children.

55. The Government of Botswana was committed to increasing the involvement of women in the decision-making process. Efforts were being made to reduce the gender imbalance in the Government through training and awareness-raising measures.

56. Botswana's National Programme of Action for children had ended in 2003, and a successor programme was currently being developed. Logistical problems had prevented the new programme from becoming operational immediately after the expiry of the original Programme. The National Programme of Action had resulted in considerable progress in providing access to education, clean water and health care. The evaluation had shown that there had been problems in coordinating the activities of the regional bodies implementing the Programme, and efforts would be made to rectify that situation before the next programme. Thematic groups on policy and legislation, child protection, health and nutrition, education, HIV/AIDS, and environment and safety were each drafting a chapter of the new programme. The first complete draft of the programme would be completed in October 2004, and the final

version would be issued in December 2004. An action plan would be developed in order to establish how and when each aspect of the programme should be implemented, which government ministries would be responsible, and what measures should be taken at the district level.

57. The reform of the Children's Act had been particularly time-consuming since the Government had realized that only legal aspects of the Act had been amended, and that the reform had not been considered from a human rights perspective. A consultant from UNICEF had been engaged to assist with that aspect of the reform. A children's reference group with child participants had also been involved in reviewing the Act, and it was hoped that the amended bill would come before Parliament in March 2005.

58. Mr. TSHIPINARE (Botswana), responding to the question why Botswana's legislation did not protect boys who had been sexually abused, said that, traditionally, women had been considered physically weaker than men, and it had been widely believed that males were not subject to abuse. Opinions in that regard were beginning to change.

59. A youth parliament, consisting of a group of children who met in Parliament to discuss the issues that affected them, had been established. He hoped that the youth parliament would continue its activities during the next parliamentary session.

60. The CHAIRPERSON said that he wished to know why such a large percentage of disabled children in Botswana did not attend school.

61. Ms. AL-THANI asked whether children with severe disabilities were generally cared for at home or in institutions, and what support, if any, was provided to their families by the State. She requested further information on the child-specific aspects of the National Policy on the Care of People with Disabilities. She would be interested in knowing what measures had been or were being taken to ensure that people, particularly children, with disabilities had access to public buildings and public transport. She wished to know how the Government was encouraging a change in public attitudes towards disabled children.

62. The delegation should provide statistics on the causes of mortality. Perhaps the maternal mortality rate was exceptionally high in Botswana because many women gave birth at home without the assistance of doctors or midwives. She wished to know whether the Government intended to take measures to ensure that medical personnel or midwives were present at home births. She also wished to know why there was such a high level of malnutrition in Botswana.

63. She asked whether mothers in Botswana breastfed their babies exclusively for the first six months of life as recommended, and whether there was a national policy for breastfeeding. Since HIV-positive mothers were encouraged not to breastfeed, she wondered whether the breast-milk substitutes sold in the country met international quality standards.

64. The delegation should provide additional information on the working relationship between the National AIDS Coordinating Council and the National AIDS Council, and describe the measures taken to protect children. Botswana's programme for the prevention of mother-to-child HIV transmission should be expanded to include all pregnant women. Moreover, since the programme focused only on providing assistance, including antiretroviral

therapy, to mothers during pregnancy and the perinatal period, measures should be taken to provide long-term treatment for HIV-positive mothers, irrespective of the HIV status of their children. Measures should be taken to ensure that treatment for HIV/AIDS was available to everyone free of charge. The delegation should provide information on the specific amendments to the recently revised National Policy on HIV/AIDS. She wished to know what was being done to discourage the stigmatization of people living with HIV/AIDS. The policy of discouraging HIV-positive mothers from breastfeeding could increase stigmatization and should be stopped, particularly since the risk that breastfeeding mothers on antiretroviral therapy would transmit the virus to their babies was extremely low.

65. She asked whether reproductive health was taught in schools. She requested statistics on sexually transmitted diseases and data on mental health issues such as suicide and substance abuse.

66. Ms. LEE asked what measures were being taken to integrate children with learning difficulties into mainstream schools, and whether there was a specific budget allocation for funding special learning methods. She wished to know whether efforts were being made to promote school attendance among disabled children. She asked whether non-Batswana were obliged to pay for education, and whether refugee children had free access to education and health care.

67. Ms. ORTIZ said that she was concerned that common law and traditional law in Botswana did not provide effective child protection. The high levels of migration to cities meant that grandparents were often unable to play a role in caring for orphaned children. Statistics on foster care should be provided, with information on how and by whom such care was regulated, and which bodies were responsible for dealing with issues relating to the inheritance of children. Botswana's lack of a policy to encourage children to live at home facilitated trafficking in children, and she wished to know how the Government planned to remedy that situation.

68. There were a large number of child heads of household in Botswana; often, girl orphans cared for their younger siblings. She wished to know whether the Government intended to establish a system of financial and social support in such cases, since currently many girl heads of household received no assistance and were forced to turn to prostitution. The State should become more involved in providing support for families with grandparent heads of household.

69. Since, traditionally, the best interests of the child were not taken into consideration during adoption processes in Botswana, she asked what positive impacts could be expected from the entry into force of the new Adoption Act. Botswana's accession to the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption would enable the country to receive technical assistance for the development of new national legislation.

70. Mr. KRAPPMAN enquired whether the Government planned to make primary and secondary education compulsory, since many parents preferred to keep their children at home. He asked what measures were being taken to reduce the high dropout rates from primary and secondary education, and what the prospects were for school dropouts. He wondered if efforts

would be made to discourage corporal punishment in schools. He requested further information on teacher training. He would be interested in knowing whether Botswana had vocational training and informal education systems, and what measures the Government was taking to reduce youth unemployment.

71. Ms. SMITH requested additional information on how the Government was working to incorporate the Convention into domestic legislation. She would also appreciate details on the content of the revised Children's Act, particularly on measures relating to juvenile justice.

72. Ms. OUEDRAOGO asked what steps were being taken to care for the physical and emotional well-being of victims of sexual violence. She wished to know whether the planned national needs assessment of street children had been carried out and what measures were being taken to care for such children. She asked what progress had been made through programmes for minority and indigenous peoples.

73. Mr. LIWSKI enquired whether there was a policy to counteract the recent exodus of medical staff from hospitals in Botswana. He wondered whether the waiving of tax payments for people with certificates of indigence posed an obstacle to access to health care.

74. He asked whether care outside the family for children living with HIV/AIDS and AIDS orphans, for example in children's villages, was encouraged, and what implications that had for the social integration of such children. He asked the delegation to consider how the Committee could assist Botswana in acquiring costly HIV/AIDS drugs.

The meeting rose at 1.05 p.m.