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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-seventh session

SUMMARY RECORD OF THE 973rd MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 14 September 2004, at 10 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

Initial reports of Brazil (CRC/C/3/Add.65; CRC/C/Q/BRA/1; CRC/C/RESP/65 and Corr.1; HRI/CORE/1/Add.53/Rev.1)

1. At the invitation of the Chairperson, Mr. Baesso, Ms. Campos Neta, Ms. Gonçalves de Melo, Mr. Miranda, Mr. Moreno Sampaio, Ms. Munguba Cardoso, Mr. do Nascimento Pedro, Ms. Paiva, Ms. Rocha Andrade e Silva, Mr. da Rocha Paranhos, Ms. Saboya Gomes, Mr. de Seixas Corrêa, Mr. Sávio Barros Figueirôa and Ms. Viotti (Brazil) took seats at the Committee table.
2. The CHAIRMAN announced that Ms. Taylor had resigned from the Committee on the grounds of ill health. The Government of Jamaica had proposed that Ms. Anderson should take Ms. Taylor's place until the end of her term of office in 2007. He took it that the Committee wished to adopt that proposal.
3. It was so decided.
4. Mr. MIRANDA (Brazil) said that Brazil welcomed the opportunity to present its initial, first and second periodic reports (CRC/C/3/Add.65), which had been prepared with assistance from representatives of civil society. Brazil was open to international cooperation and dialogue, as was evident from its permanent invitation to the special procedures of the Commission on Human Rights, its active participation in the inter-American human rights system and its ratification of the Optional Protocols to the Convention on the Rights of the Child. While much progress had been made towards implementing the provisions of the Convention, many challenges remained.
5. Several legislative measures had been taken to incorporate the provisions of the Convention into domestic legislation; in particular, amendments had been made to article 227 of the Constitution and the Statute of the Child and Adolescent. While the rights of children and adolescents were currently a priority in Brazilian legislation, the Government recognized the need to develop a more effective public policy and an institutional framework to guarantee full enjoyment of those rights.
6. The Special Secretariat for Human Rights was responsible for coordinating public policy for children and adolescents. The National Council for the Rights of Children and Adolescents played a key role in developing and implementing public policy through the system of state and municipal councils and guardianship councils. A target had been set to establish guardianship councils in 80 per cent of all municipalities by 2006.
7. Brazil's administrative complexity had impeded progress in data collection and the adoption system, since coordinating the efforts of federal, state and municipal bodies had proved difficult. The Government had taken measures to streamline budget allocations and had invested in systems to monitor and evaluate public policy implementation. In accordance with the commitment made during the special session of the General Assembly devoted to children, a

national plan of action for children had been launched, which included some 200 measures to promote and protect children's and adolescents' rights. Moreover, US\$ 17.5 billion had been allocated to the programme for the period 2004-2007.

8. Children's health had significantly improved in Brazil. Poliomyelitis and measles had been eradicated, and there had been a marked reduction in infant mortality, particularly deaths from diarrhoea and pneumonia. Immunization coverage had been extended and would be further increased. HIV/AIDS had also been targeted; in particular, efforts were being made to reduce the incidence of mother-to-child transmission and improve the quality of life of children living with the disease.

9. Efforts to increase the number of children enrolled in schools had been successful, with only 3.1 per cent of 7- to 14-year-olds not enrolled in 2002. However, there were not enough schools or teachers, and the quality of education needed to be improved. The Government intended to create a fund for the development of basic education in order to increase overall investment in education. Measures would be taken to combat inequalities between primary and secondary education, increase the accessibility of education in rural areas, and address the requirements of indigenous children and students with special educational needs. Many children were provided with school meals and textbooks.

10. Various income transfer programmes launched by the federal Government had been merged into the Family Grant (Bolsa Família) programme in 2003, which aimed to reach 11.2 million families by 2006. The programme had improved the health and education of many children and had reduced poverty in general. Young people from disadvantaged families, particularly those who had suffered discrimination on the grounds of gender, race and special needs, as well as those who had been in conflict with the law, had received assistance in finding jobs. The National Commission on the Eradication of Child Labour had allocated grants to families in order to ensure that children remained in school.

11. Measures had been taken to combat the sexual abuse and exploitation of children; legislation had been improved, assistance had been provided to victims, and violators had been punished. The Sentinel Programme had helped 18,000 children in 2003. A parliamentary commission had conducted investigations into sexual violence against children and adolescents and had made several recommendations on improving the Criminal Code in that regard. Measures had also been taken to ensure respect for the rights of children and adolescents in conflict with the law, particularly those who had been deprived of their liberty.

12. There were no up-to-date statistics on the number of street children in Brazil; a census of such children was being prepared. Research indicated that 86 per cent of children living in government-funded shelters had families, and had left them because of poverty. The Government intended to restructure the shelters in order to encourage family reunification.

13. The recently established programme to protect children and adolescents threatened with death had opened centres in Minas Gerais, Espírito Santo and São Paulo. Four more centres would be opened by 2006.

14. A national plan to increase birth registration had been launched in 2003; the objective of the plan was to register all births by 2006. Campaigns had been conducted to raise awareness of the issue, and measures had been taken to simplify the registration process and ensure that all families had an opportunity to register births.

15. Mr. CITARELLA asked whether civil society and non-governmental organizations (NGOs) had participated in the preparation of the report. Additional information should be provided on the general problems faced by the reporting State, particularly regarding poverty and inequality.

16. He was concerned at the increase in the number of adolescents who had been murdered. Despite Brazil's efforts to eradicate child labour, reports suggested that some 3 million children were currently working in Brazil.

17. The reporting State should provide disaggregated data on malnutrition. He asked whether there were plans to continue the work of the Sentinel Programme in 2004 and beyond.

18. In future, periodic reports should adopt common criteria for data collection, and efforts should be made to improve the quality of the data provided. The data on expenditure in the report did not cover the years 2002, 2003 and 2004, as had been requested. Statistics for government spending had been provided only for the federal level; in future, regional government spending should also be included.

19. He enquired whether the Convention took precedence over domestic legislation and whether it could be directly invoked. If so, the delegation should give examples of judicial decisions based on the Convention. Further information should be provided on the implementation of the Constitution, particularly the provisions on children's rights, in different parts of the reporting State. It would be useful to have examples of how federal legislation had been enforced at the local level. He asked whether there was any coordinating body that worked to prevent inequalities.

20. He wished to know what financial and human resources were available to the National Council for the Rights of Children and Adolescents and whether the Council had regional offices. While the Committee welcomed the creation of the guardianship councils, it was necessary to ensure that they were established in all municipalities. The delegation should provide additional statistics on funding for children's rights programmes. Regarding the definition of the child, he requested more detailed information on the legal distinction between "relative" majority, attained at the age of 18, and "absolute" majority, attained at 21. He asked if there was a legal age of sexual consent in Brazil, and whether there was an age restriction for the purchase of alcohol.

21. Out of the 60 countries that had been investigated by the United Nations Educational, Scientific and Cultural Organization (UNESCO), Brazil had the second highest child murder rate and he wished to know what measures were being taken to address that problem. Although the Brazilian Constitution condemned all forms of discrimination and racism, the Committee had been informed of the frequent occurrence of unequal treatment on the basis of social class, race,

gender and geographic location. In some tribes, the level of education was so low that children could not even count. Efforts must be made to ensure that a minimum standard of education was made equally available to all children, irrespective of their social or ethnic background.

22. Mr. LIWSKI, Alternate Rapporteur, said that the legislative measures taken by the Brazilian Government to ensure greater protection of the rights and guarantees provided for by the Convention were a positive step. Brazil should continue to ensure progress in reducing the number of cases of violence against adolescents.

23. In the light of the decentralization process, he wondered how the Statute of the Child and Adolescent would be implemented and monitored at the municipal level. Since a very small percentage of Brazil's gross domestic product (GDP) had been allocated to the protection of children's rights, he wished to know whether the Government intended to increase such contributions. The delegation should explain why there was such a great disparity between the budgetary allocations authorized for policies relating to children and the actual allocations that were granted and effectively distributed. He asked what effect that had had on the implementation of such policies, and whether the Government would take measures to rectify the problem. He would welcome further information on the relationship between the budgetary allocations for children's policies and the percentage of the budget used to service external debt. He also wished to know why there was regional disparity in the provision of funding for such policies, and whether the Government planned to take measures to increase equity in that regard.

24. He asked whether the Government had been able to obtain information on and investigate violence against adolescents, and whether preventive measures were being taken in that regard. Although article 17 of the Statute of the Child and Adolescent provided for the recognition of children's opinions, there had been reports that many children were concerned that too little attention was paid to their views, and he asked whether measures were being taken to encourage respect for children's opinions and child participation.

25. Although Brazil had made progress in the protection of identity, particularly with the introduction of digital identification systems, the requirement that a lawyer must be present made it difficult to register and certify births; he wondered whether the Government intended to review that requirement. The delegation should provide further information on measures taken to implement the recommendations made by the Special Rapporteur on the question of torture. He wished to know whether Brazil had established, or planned to establish, a national plan for the prevention and eradication of institutional violence, and whether existing anti-violence programmes included measures to support victims.

26. Mr. AL-SHEDDI requested further information on how policies and programmes for the protection of children's rights were coordinated throughout Brazil, and how the implementation and progress of such policies and programmes were evaluated. He asked what progress had been made since a national plan of action had been established. Although in recent years the Government's budget allocations for social affairs and children's rights had decreased, substantial funding was being provided for the implementation of the national plan of action, and he wished to know whether that funding was part of the government budget. The Government should take measures to gather statistics disaggregated by gender, race and ethnicity; in that connection, he wondered whether the national plan of action provided for the collection of such data.

27. Ms. AL-THANI said that the Committee had been informed that corporal punishment was still permitted in the Brazilian penal system. “Reasonable” physical punishment was also permitted in schools, and statistics showed that 30 per cent of children were beaten at home. She wished to know what progress had been made in drafting new legislation on corporal punishment in the home, and whether any efforts were being made to educate parents about non-violent forms of discipline and to raise awareness of domestic violence against children.

28. Ms. KHATTAB said that, although positive steps had been taken to modernize legislation on children’s rights, Brazil’s culture of impunity posed an obstacle to the effective implementation of both the Convention and domestic legislation, and measures should be taken to change that situation. The delegation should provide additional information on measures that had been taken to combat violence, particularly sexual exploitation, against children and adolescents, and to punish perpetrators of such offences.

29. She wondered how the work of the various councils for children’s issues was coordinated, and what criteria were used for establishing the budgets for such councils. She asked what steps the Government was taking to follow up the outcome of national conferences on children’s rights. She wished to know what measures had been taken to implement the recommendations made by the Special Rapporteur on the sale of children, child prostitution and child pornography. According to statistics, Afro-Brazilian children suffered the most discrimination, and she asked whether specific measures were being taken to prevent such inequality.

30. Ms. OUEDRAOGO asked what was being done to raise awareness of the work of the guardianship councils. She wondered whether such councils were able to receive complaints about individual cases of violations of children’s rights. She wished to know whether the municipalities that had not yet established a fund for children and adolescents were being encouraged to do so. She asked whether the Government intended to incorporate the teaching of children’s rights issues and the dissemination of the text of the Convention into school curricula nationwide, and whether continuous human rights training programmes had been developed for public service professionals. The delegation should provide further information on local and federal Government cooperation with NGOs to ensure the effective implementation of the provisions of the Convention.

31. The Committee had been informed that the registration of births was particularly difficult in rural areas, areas peripheral to large towns and areas inhabited by indigenous peoples. She wondered whether any efforts had been made to obtain information from local populations on specific problems that they encountered when registering births, and whether all municipalities were being encouraged to facilitate birth registration and certification processes in maternity clinics.

32. She asked how the Government ensured the implementation of legislation to protect children from coming into contact with inappropriate information through the media and the Internet. The delegation should provide information on the impact of the national campaign against torture, and on any follow-up activities, particularly in light of the prevalence of domestic violence in Brazil. The delegation should also provide information on the outcome of the visit of the Special Rapporteur on the question of torture.

33. Ms. SMITH said that the Government should consider appointing one minister to deal with children's issues. In view of Brazil's current economic situation, she wished to know whether the Government intended to allocate additional funds to children's issues.
34. Mr. FILALI said that Brazil had not succeeded in resolving the problem of violence among children and adolescents. He wondered whether the Government had considered involving local communities and youth organizations in work with children and adolescents who refused to accept help from child protection authorities.
35. Ms. ROCHA ANDRADE E SILVA (Brazil) said that, when the current Government had come to power, it had been forced to take steps to counter inflation and reduce the budget deficit. However, the economic situation in which the budget for 2005 would be prepared was much more favourable than in previous years. Inflation had fallen from 14 to 9.5 per cent and the economy was growing at a rate of 4 per cent.
36. The Government did not have a unified method for preparing the budget for children and adolescents. In general, the budget methodology was complicated, and the Government had to be careful not to duplicate budget transfers to states and municipalities. Steps were being taken to resolve those problems.
37. Total expenditure on education accounted for 4.5 per cent of GDP. Under the Constitution, expenditure on children and adolescents was to be divided among the different levels of the federal State. The federal State, states and municipalities financed higher, secondary and primary education, respectively. The delegation would provide data on the three levels of education in the near future.
38. The CHAIRPERSON said that, according to the information received by the Committee, the President of Brazil had vetoed various articles of the national plan of action for children, including an article that called for an increase in the budget for education to 7 per cent of GDP. He wondered whether the President's veto was still in force. According to the Minister of Education, in order for the Government to reach its education objectives, the budget for education, which currently accounted for 4.2 per cent of GDP, would need to be increased to 7.95 per cent by 2011. It seemed unlikely that Brazil's education objectives would be reached. He enquired whether the Government intended to increase budgetary allocations to education and other areas.
39. Mr. CITARELLA enquired whether each State had its own budget. He asked whether revenues for individual states came from the federal budget.
40. Mr. BAESSO (Brazil) said that states and municipalities had their own budgets, which accounted for a significant percentage of Brazil's public expenditure. By law, municipalities and states had to earmark 25 per cent of their budget for education and 15 per cent for health. Most of those resources were spent on children.
41. Over the past two years, considerable efforts had been made to improve the quality of public management and expenditure. For example, the national plan of action for children covered activities at the federal level for children and adolescents. The Government was taking steps to ensure that all states and municipalities could benefit from the plan.

42. National, state and municipal funds for children and adolescents received voluntary contributions from individuals and enterprises. Those who made donations could deduct an equivalent sum from their income tax. Such contributions had not been very large but were gradually increasing. Steps were being taken to raise awareness of children's issues in companies and encourage companies to make donations. Although most of the resources were used for special protection programmes, some resources were earmarked for other activities. Decisions concerning the distribution of those funds were taken by special councils composed of members of the Government and civil society.

43. Ms. KHATTAB asked why the National Fund for Children and Adolescents was not receiving donations.

44. Ms. ORTIZ asked whether there was a law according to which the budget for education must account for at least 18 per cent of GDP. If that was the case, she wondered why reference had been made to 4.25 per cent. The delegation had referred only to donations made to the National Council for the Rights of Children and Adolescents in 2002 and 2003. The Council had not received any financial support from the Government. The federal budget should include guaranteed funds for the implementation of the Council's programmes.

45. Ms. ROCHA ANDRADE E SILVA said that there was a law according to which 18 per cent of expenditure for education should come from the federal State and 25 per cent from municipalities. The figure of 4.25 referred to government expenditure on education as a percentage of GDP.

46. According to a study conducted by the Institute of Applied Economic Research, many administrative problems prevented companies and individuals from making donations to the National Fund for Children and Adolescents. Moreover, donor companies wished to participate in decisions relating to the allocation of their donations. The Government's efforts to involve companies in the decision-making process had accounted for the increase in donations over the past few years.

47. Mr. BAESSO (Brazil) said that one reason for the low number of donations to the National Fund for Children and Adolescents was that companies considering making a donation had not had a say in how the resources of the Fund would be spent. Since 2003, the Government had taken steps to involve potential donors in discussions on resource allocation with government agencies and the National Council for the Rights of Children and Adolescents, which had led to an increase in donations over the past few years.

48. Mr. MIRANDA (Brazil) said that the National Council for the Rights of Children and Adolescents was composed of representatives of various ministries who were elected by representatives of civil society. The National Council did not have its own budget and maintained federal and municipal - but not regional - offices. Municipal councils for children's and adolescents' rights and guardianship councils had been set up in 80 per cent of municipalities.

49. It was not advisable for Brazil to have a single minister to deal with children's issues since the children and adolescent population in Brazil was very large and culturally diverse. Furthermore, decentralization allowed for greater participation at the grass-roots level.

50. The Statute of the Child incorporated all of the rights set forth in the Convention. Efforts were currently under way to disseminate the Convention among the general population. The Convention would be distributed to teachers along with instructions for classroom application. The national human rights plan called for the inclusion of human rights modules in school curricula.

51. Violent acts committed by adolescents had increased over the past few years, primarily in large urban areas. That phenomenon was related to social inequality, drug abuse and weapons possession. The Government was addressing that problem through plans to stimulate economic growth and through the implementation of a national youth policy to prevent school dropouts. It had also enacted legislation to punish the illegal possession of weapons and was conducting a disarmament campaign with the objective of collecting some 300,000 weapons before the end of 2004.

52. The vast majority of crimes in Brazil, including the killing of adolescents by death squads, fell within the jurisdiction of the states; there was no machinery at the national level for government intervention. Human rights violations were widespread among the police at the state level, and a joint project had been implemented with the European Union to monitor police activity with a view to preventing torture and extrajudicial killings.

53. Mr. CITARELLA said that, although the initial reports indicated that criminal responsibility began at age 18, many common practices, such as placing children in conflict with the law in internment centres, suggested that criminal responsibility began at age 12. According to information that he had received, children placed in internment centres were often subjected to overcrowded conditions, ill-treatment and, in some cases, torture. The decentralization of responsibility for administering juvenile justice had led to inequalities and discrimination in dealing with minors in conflict with the law.

54. Mr. LIWSKI said that he wished to know what posts were held by the ministry representatives elected to the National Council for the Rights of Children and Adolescents. He was concerned that, without a budget, the National Council did not have the staff needed to discharge its functions properly. He requested additional information on malnutrition and the lack of housing in Brazil. He enquired whether the Government had formulated a plan of action for combating sexual exploitation of children. With regard to child victims of violence, he asked what steps had been taken to deal with increasing domestic and institutional violence in Brazil.

55. Ms. KHATTAB asked what was being done to improve coordination among government bodies in order to prevent child labour, since the number of child workers in the 10 to 14 age bracket was increasing. She enquired what steps had been taken to protect child domestic workers, 45 per cent of whom were under the age of 16. She wished to know how the Government was dealing with the alarming prevalence of trafficking in children, including for sexual purposes. She asked whether any measures had been taken to prevent drug abuse among children. It was the federal Government's responsibility to determine the number of street children in Brazil by means of a national survey.

56. Ms. AL-THANI said that measures to protect the rights of disabled children, including the establishment of institutions and programmes, had not yet had a tangible effect. She asked what was being done to integrate disabled children into mainstream schools and to address the many inequalities, often related to racial origin, in the level of service provided to disabled children. She wondered to what extent federal laws to facilitate disabled persons' access to public buildings and transport were implemented in Brazilian cities. There was a wide disparity in health indicators and in the level of services provided throughout the country. A coordinated system was necessary to ensure that everyone had equal access to, at the very least, basic health care.

57. Given the high maternal mortality rate, she enquired whether any programmes had been set up to train midwives. She asked what steps were being taken in the area of child and adolescent mental health. She wondered how it was possible that the indigenous population suffered from both malnutrition and obesity.

58. Mr. KRAPPMANN asked what was being done to improve the low quality of education in many schools and to reduce the tremendous disparities in education that existed throughout Brazil. He enquired whether Brazilian schools had revised their curricula and whether nationwide standards for curricula had been set. He wished to know whether modern teaching methods were used in schools, whether in-service training was organized for teachers and whether children played an active role in the learning process. He asked how adolescents who did not attend secondary school gained access to vocational training. The delegation should provide data on youth unemployment.

59. Ms. ORTIZ enquired whether the Government planned to conduct a national survey to determine the number of children placed in temporary institutional care. She requested information on plans to establish a new policy on the family, institutional reform and adoption. It was worrying that children living in temporary shelters claimed poverty as the reason for being there, even though the vast majority of such children had families. There was a need to strengthen coordination and monitoring of the policies for which the National Council for the Rights of Children and Adolescents and the Special Secretariat for Human Rights were responsible, such as those relating to foster homes and shelters. It did not appear that the many good practices established in Brazil were being applied uniformly throughout the country.

60. The practice of trafficking in children for adoption took advantage of weaknesses in Brazil's birth registration system and adoption procedures. Before a child was declared available for adoption, steps should be taken to ensure that his or her rights had been respected. There was a need to strengthen the ministry dealing with intercountry adoptions, since one expert could not deal with the large number of problems that Brazil faced in that area. She asked how the subsidiarity of intercountry adoptions was guaranteed in Brazil, and requested additional information on national and intercountry adoptions.

61. Ms. SMITH requested information on the legal procedure that was followed before children in conflict with the law were taken into custody.

The meeting rose at 1.10 p.m.