



Convention on the Rights of the Child

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Committee on the Rights of the Child Thirty-ninth session

Summary record of the 1026th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 17 May 2005, at 10 a.m.

Chairperson: Mr. Doek

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

Opening of the session

1. **The Chairperson** declared open the thirty-ninth session of the Committee on the Rights of the Child.

Adoption of the agenda (provisional agenda item 1 (CRC/C/147))

2. *The agenda was adopted.*

Solemn declaration by the new members of the Committee (agenda item 2)

3. At the invitation of the Chairperson, **Mr. Zermatten, Mr. Siddiqui and Mr. Pollar** made the following solemn declaration, provided for in article 15 of the provisional Rules of Procedure: "I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Rights of the Child honourably, faithfully, impartially and conscientiously."

Organizational matters (agenda item 3)

Election of officers

4. **Ms. Smith** said that the candidates who had been proposed were Mr. Doek for the office of chairperson, Ms. Aluoch, Ms. Khattab, Ms. Lee and Mr. Liwski to act as Vice-Chairpersons, and Ms. Vuckovic-Sahovic to act as rapporteur.
5. *Those officers were duly elected by acclamation.*

Submission of reports by States parties (agenda item 4)

6. **Mr. David** (Secretary of the Committee) said that, since the last session, six reports had been received under the Convention, bringing to 292 the total number of reports submitted to the Committee under the Convention since it had begun its work, 253 of which had been considered to date. Eleven initial reports and 75 periodic reports had still to be submitted.
7. The States parties to the Optional Protocol on the Involvement of Children in Armed Conflict now numbered 97, while there were now 95 States parties to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. Since the last session, reports had been submitted by El Salvador and Belgium under the first Optional Protocol, and by Qatar and China under the second, with the result that 32 reports had still to be submitted in relation to the Optional Protocol on the Involvement of Children in Armed Conflict and 34 in relation to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

Statement by the Deputy High Commissioner for Human Rights

8. **Ms. Khan Williams** (Deputy High Commissioner for Human Rights) extended a warm welcome to the new members of the Committee.
9. At the last meeting of the Commission on Human Rights, the Secretary-General had placed particular emphasis on three aspects of his agenda for reform, namely the creation of a Human Rights Council, enhancing the role of the High Commissioner for Human Rights and harmonizing the work and working methods of the treaty bodies.
10. In his new report, entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005), the Secretary-General called for "harmonized guidelines

on reporting to all treaty bodies ... so that these bodies can function as a unified system". The draft guidelines on the common core document and the treaty-specific reports would be considered between 20 and 24 June 2005 at the fourth inter-committee meeting and the seventeenth meeting of the chairpersons of the human rights treaty bodies.

11. The Secretary-General had asked the High Commissioner to submit, by 20 May 2005, an action plan to strengthen the Office of the High Commissioner, with a statement setting out the corresponding resource requirement. In response to that request, the High Commissioner had set up a study group bringing together experts from a variety of backgrounds, and that group had set in motion an extensive process of internal and external consultation. One of the important elements in the report would be to accentuate the commitment of countries, not just by bolstering field offices but also by improving the ongoing dialogue between the High Commissioner and countries, as the exchange of information needed to be a continuous process and not more or less confined to crisis periods.

12. The Secretary-General had recommended replacing the Commission with a Human Rights Committee — a standing body with a more restricted membership — without calling into question the Commission's achievements in the form of the full participation of the non-governmental organizations (NGOs) and special rapporteurs, among other things. At its sixty-first session, the Commission had responded favourably to the Committee's request that United Nations guidelines on the protection and care of children without parental care should be drawn up.

13. In the light of the success of the subregional workshop on the Convention on the Rights of the Child, held in Bangkok in 2004, the High Commissioner had decided to organize similar workshops in Qatar and Argentina in 2005, and would arrange others over the next two years. The participation of members of the Committee at such events was crucial. Along the same lines, a project funded by the European Union was designed to inform NGOs, national institutions for the defence of human rights and the media about the system of treaty bodies. The workshop which had just taken place in Sri Lanka had enabled the representatives of the authorities and of civil society to study the system of treaty bodies using the example of the concluding observations drawn up in respect of Sri Lanka. In addition, Geneva had just hosted the fourth in a series of workshops on the implementation of the recommendations made by the treaty bodies, in the presence of representatives of Bosnia and Herzegovina, Mauritius, Thailand, Uganda and Zambia.

14. The Secretary-General's study on violence against children was entering a crucial phase. The first of the nine consultations scheduled in the different parts of the world had taken place in Trinidad and Tobago in March 2005, with the Chairperson of the Committee and Ms. Anderson in attendance.

The meeting was suspended at 10.40 a.m. and resumed at 10.55 a.m.

Consideration of reports of States parties (agenda item 5)

Initial report of Saint Lucia (CRC/C/28/Add.23; CRC/C/Q/LCA/1 (list of issues); written replies of Saint Lucia (document without a symbol distributed in the meeting room, in English only))

15. *At the invitation of the Chairperson, the delegation of Saint Lucia took places at the Committee table.*

16. **Mr. Odlum** (Saint Lucia) said that Saint Lucian society had undergone rapid change in recent years and that the authorities sometimes had difficulty in making the necessary adjustments. There had, in particular, been a rise in some problems of youth crime and in the problem of child abuse, as the systems of protection were inadequate. The increase in

the number of single-parent families, often headed by inexperienced young mothers was certainly a factor in the situation. The Government was aware of such problems and had embarked on a series of coordinated measures to set in place a legislative framework that could act as a basis for reform of its policies. In addition, with the support of the United Nations children's Fund (UNICEF), it had undertaken a study of the situation of children in Saint Lucia, the results of which would be used to introduce tailored social services and programmes, designed to improve the quality of life of all of the country's children. The Ministry of Social Services had set up a database of children at risk and of child abuse, and the Government had promised to set up a refuge for children who were the victims of, or at risk of, abuse.

17. There had been substantial developments in family law in the countries of the Caribbean since 2003. The Organization of Eastern Caribbean States had held extensive consultations in 2003 and 2004 in order to flag up the shortcomings in domestic legislation on family law and identify ways of remedying them. Meetings had been held in all municipalities in Saint Lucia to consult with the local communities, as well as with the NGOs, and set in place a dialogue with them with a view to establishing measures that took account of both the needs of the people and the State's international obligations. The consultations had led to the adoption of new legislative provisions on the status and participation of children, as well as their education and upkeep, which were to enter into force by early 2005. Articles 167 to 175 of the Criminal Code, which had come into force in January 2005, had clarified and tightened the penalties applicable in cases of abandonment, neglect, kidnapping and confinement of children.

18. One of the Government's current priorities was universal health cover. The construction of a new psychiatric facility should make it possible, among other things, to improve the quality of mental health care for children and adolescents, increasing numbers of whom were suffering from mental-health and emotional problems. The Government also attached great importance to combating HIV/AIDS, which was currently the subject of a five-year project funded by the World Bank. All children suffering from AIDS, as well as all children whose parents had died of AIDS, currently received an allowance of EC\$200 a month. The Ministry of Health had also finished drawing up draft protocols on the procedures to be applied in cases of child abuse. With the financial assistance of UNICEF and other bodies, a national programme of training in the management of such cases would very soon be implemented.

19. Faced with the increase in rates of truancy and dropping out of school, the Ministry of Education had undertaken a study designed to identify the gravity of the situation and analyse its causes. In 2004, 30 school attendance counsellors had been appointed to take care of children with behavioural problems or suffering from emotional disorders. A new programme designed to provide all children at secondary level with school textbooks would, moreover, be implemented as of 2005–2006.

20. The Government of Saint Lucia wished to take the opportunity to thank UNICEF, the European Union and the other bodies which had been providing it with financial aid for many years.

21. **Ms. Ouedraogo** welcomed the fact that, although submitted several years late, Saint Lucia's initial report had been drawn up in accordance with the Committee's guidelines, but regretted that it did not reflect a more critical approach to the situation and wondered to what degree the NGOs had been involved in drawing up the document. She also regretted the absence of statistics concerning the 15 to 18 year age group and of systematic data relating to the different aspects covered by the Convention and, in that connection, she asked what measures were provided for the acquisition of systematic and disaggregated data, which was essential for the purposes of monitoring the Convention and assessing progress in its implementation..

22. Despite the recent amendments to the Civil Code, the Criminal Code and the legislation on children and young people, Saint Lucia's domestic legislation was still not entirely consistent with the principles and provisions of the Convention, and it would therefore be interesting to know whether the process of revision would continue in order to achieve greater harmonization between domestic law and the Convention. The delegation could also indicate whether the National Plan of Action for the Survival, Protection and Development of Children had been finalized and brought into effect and whether a new plan was being drawn up.

23. The different ministries dealing with child-related issues worked closely together, but that cooperation needed to extend to all of the bodies concerned, including the NGOs, and to be encouraged not only at national but at local level also. There was no national system of coordination, and it would therefore be useful to know what measures were taken to promote an integrated implementation of the Convention. In the absence of independent arrangements for monitoring and assessing the implementation of the Convention, it was also necessary to be apprised of the exact role of the Social Planning and Development Unit and of its effectiveness. The delegation might also indicate whether there was a children's ombudsperson or a national human rights commission and, if there was, the precise nature of its role in terms of promoting and protecting the rights of the child.

24. The Children and Young Persons Act of 1972 permitted parents and any person in charge of or with responsibility for minors to use corporal punishment. Accepted as a disciplinary measure, the practice was apparently commonplace both within the family and in schools and institutions, and it was therefore necessary to establish whether it was currently the subject of national debate; whether the Government was planning to ban it; whether children who had been the victims of that form of violence were able to benefit from rehabilitation measures; and whether prosecutions had already been brought against the perpetrators of such acts.

25. **Ms. Anderson** asked whether measures were envisaged to harmonize the definition of a child and whether a timescale had been set for that. She also wished to know whether studies had been made of the impact of the decline in the banana industry on the situation of Saint Lucian children, their access to resources and their development, as well as of the effects of current trends in migration.

26. She asked whether administrative arrangements had been put in place to register births outside hospitals; whether parental education programmes actually encouraged parents to use methods other than corporal punishment to punish their children; and whether there was an emergency number or freephone helpline for children. Finally, it would be helpful to know whether the parliamentary ombudsperson was able to take direct receipt of complaints from children and, if so, whether children had already made use of that facility and with what outcomes.

27. **Ms. Lee** asked whether changes had already been made to the provisions of the Education Act and the Children and Young Persons Act in relation to the use of corporal punishment.

28. **Mr. Kotrane** asked whether Saint Lucia, which was party to very few international human rights instruments, was planning to ratify the International Covenant on Civil and Political Rights, the Convention against torture and ILO Convention No. 138 concerning the minimum age for admission to employment. The delegation might also indicate whether there was an overall plan to put into effect the results of the General Assembly Special Session on Children, given that implementation of the National Plan of Action did not really seem to have begun. Finally, it would be helpful to have clarification of the age of criminal responsibility and the type of penalties applicable to children.

29. **Mr. Liwski**, concerned at the increase in the number of children in prison, the school drop-out rate and the high incidence of unemployment among young people compared to the average, asked whether the Government was planning to draw up public policies to promote the rights of adolescents and, if so, the extent to which it would be involving young people in that undertaking.

30. The right to freedom of association was laid down in the Constitution, but there were forms of association among adolescents that came about spontaneously and were specific to the culture of individual countries, and it would be interesting to know whether the authorities were aware of the existence of such associations and, if appropriate, whether there was a policy designed to secure the better integration of those groups in society.

31. Lastly, it would be helpful to know whether there were measures in existence to combat policy brutality and to protect children from it.

32. **Mr. Krappmann** wished to know the reaction of the authorities to the fall in the birth rate and the problems that that would inevitably entail.

33. The Convention on the Rights of the Child appeared not to be well known in Saint Lucia, and it was therefore necessary to inquire into the extent to which the authorities were working to publicize it and how many children were aware of its existence. There was also the question of whether those persons responsible in one capacity or another for caring for children knew of its existence. In that regard, it would be interesting to know the precise nature of the activities undertaken within the framework of the Global Movement for Children, to know who was initiating those activities and whether civil society was involved. It would be also interesting to know the actual results produced by the Year of the Child (2003–2004) in relation to the Convention.

34. The report conveyed a very positive picture of the situation in terms of respect for the opinions of children, stating that children had the right to be heard in any legal or administrative procedure; however, it was necessary to clarify the age at which a child was asked for his or her opinion in that regard; whether that was mandatory or optional; and at what point the child's opinion was taken into account in the court's decision. There was also the question of the procedures to be put into effect to secure broader respect for the opinion of children throughout society, and particularly by parents.

35. **Ms. Khattab** noted that the age of criminal responsibility was set at 12 years, but that under the Criminal Code no act committed by a child under the age of 8 could be classified as an offence. It would therefore be helpful to know at exactly what age a child was regarded as criminally responsible.

36. The delegation might indicate whether boys were subject to discrimination as a result of the temporary positive discrimination in favour of girls, and whether the principle of non-discrimination was fully provided for by statute. Clarification was also required in regard to discrimination against children born out of wedlock who were deprived of their family name and a nationality and could bear the father's family name only with the latter's written consent.

37. There were emergency situations in which a child was placed for adoption with parents of a different religion, and further detail on that would therefore be welcome.

38. International cooperation was said to be declining, which required clarification, if indeed that was the case. Finally, it would be interesting to know what was done to support the NGOs which were not, for the most part, particularly dynamic.

39. **Ms. Aluoch** wished to be informed of the main provisions of the very new Criminal Code, which had entered into force in January 2005, and the minimum age of legal capacity.

40. **Mr. Filali** was concerned by the failure of the State party to ratify certain international human rights instruments.

41. He wished to know whether the presiding judges in juvenile courts drew inspiration from the Convention and had received appropriate training to enable them to grasp the terms of the Convention.

42. The report said nothing about the application of the Convention at communal level, and that called for clarification in relation to the budgets allocated to the communes for that purpose.

43. The terms legitimate and illegitimate child, used in the report, which specified that an illegitimate child could bear the father's family name if the latter consented when the birth was registered, ought not in principle to exist under the Convention. It was also necessary to know what happened to the mother's request to have her child recognized and what resources were made available to her to obtain registration.

44. **Ms. Ortiz** asked how the system of entry into the register of births and deaths operated, what proportion of children were registered and whether campaigns were conducted to explain and promote the importance of parents' recognition of their children.

45. **Mr. Siddiqui** wanted to know the reasons for the increase in cases of violence against and neglect of children mentioned in the supplementary report distributed at the session.

46. **Ms. Smith**, noting that the Civil Code was being extensively revised and that one of the aims was to incorporate into it all of the provisions of the Convention, asked whether it was planned to include article 3 of the Convention on the best interests of the child, as a general principle, in order to guarantee its universal validity.

47. As for the right of the child to be heard, given that it generally failed to strike a chord with parents, it was very important for its existence to be recognized in legislation in both the educational and the family context.

48. **Mr. Zermatten** applauded the legislative endeavour evidenced by the revision of the Civil Code and the Criminal Code, and wished to know whether the Children and Young Persons Act of 1972, which predated the Convention, was also the subject of revision. As for the criterion of the best interest of the child, which appeared both in the act and in the 1954 order, he wondered to what extent it had been introduced into the new legislation. Turning to the judicial system of care for young offenders, the report was quite vague, referring to "juvenile courts" and "family courts", without making clear which of the two applied the 1972 Act. The question therefore arose of whether, in each case, that was an administrative or judicial body.

49. **The Chairperson**, pointing out that the complexity of the legal system lent itself to confusion, asked whether it was planned to rationalize it as part of the legislative reforms. According to the available information, 98 per cent of plaintiffs who brought an action before the family court were not represented by counsel able to secure the proper course of proceedings and were thus at risk of finding their complaint declared to be inadmissible if the body seised of it was not competent to hear it.

The session was suspended at 11.50 a.m. and resumed at 12.10 p.m.

50. **Ms. Eugene** (Saint Lucia) said that the increase in the number of reported cases of child abuse was partly down to the fact that many mothers worked and left their children unsupervised at home, alone or in the care of a stepfather. Another factor was the redirection of migration flows to Martinique which did not require a visa for stays of less than, or up to, two weeks, with the result that, in some cases, children were left alone at

home for two weeks. The increase in the number of reported cases was also fuelled by a growing awareness that child abuse was wrong.

51. In the context of secondary education, the introduction of school attendance counsellors, who were able to report instances of abuse which they encountered to the appropriate bodies, now made it possible for children to report abuse without risk. The media also played a significant role in condemning child abuse and promoting the concept of zero tolerance, as well as publicizing the existence of refuges for parents and children.

52. The telephone counselling service set up for reporting cases of child abuse did not yet operate around the clock because of a lack of resources. Despite the requirement to report abuse and the existence of the telephone service, in their present state, the social services were not in any event always in a position to respond appropriately to the cases reported.

53. The issue of corporal punishment was unfortunately relevant throughout the Caribbean. It had to be acknowledged that some domestic legislation, including the Education Act, were entirely out of kilter with the Convention. A revised draft protocol for dealing with child abuse had been drawn up, made up of the protocol itself and a communications strategy setting out the way in which it should be promoted and implemented. The protocol would act as the basis for a dialogue with the ministries and institutions with a view to setting in place a policy of zero tolerance of corporal punishment; that was going to be a very difficult task, even though some teachers and managers in the education system were currently being prosecuted for having ill-treated children. The answer to the question whether the relevant legislative provisions would be abolished was definitely "yes".

54. The increase in the number of adolescents committing offences was connected with a number of factors linked to the country's economic and social development, including child abuse and the impact of television and poverty, without forgetting the accepted fact that adolescence was a turbulent stage in psycho-social development. That was compounded by a lack of parental skills, the fact that children were left to themselves and the inherent difficulty in reaching adulthood, not to mention the existence of a kind of underlying and worrying culture of child exploitation. Mention had also to be made of the limited financial resources available to the competent institutions and the poor level of services provided in the context of social work.

55. The main result of the Year of the Child, which had taken place within the framework of the Global Movement for Children, had been the establishment of an inter-institutional committee tasked with defining policies and drafting legislation. The committee, which included representatives of the Church and of the National Youth Council, was endeavouring, as part of the process of legal reform, to review all draft legislation to ensure that it took proper account of the rights of the child. Tasked also with awareness-raising, it would soon be submitting to the Government a report in which it proposed setting up a body responsible for monitoring respect for the rights of the child.

56. Saint Lucia still lacked a network of dynamic NGOs working for the rights of the child, but it was hoped that the NGO LUSAVE (Saint Lucia Save the Children Fund) would soon determine the tactic to be employed to promote the rights of the child and exert pressure on the public authorities and those responsible for implementing legislation to ensure that those rights were protected. Saint Lucia did not yet have a five-year plan, but would endeavour to establish one as soon as possible.

57. For the time being, there was no national structure for the protection of the rights of the child, but a very proactive committee for the promotion of those rights had been set up shortly after the Convention had been ratified, although it had lost some of its impetus over time and was looking to reinvigorate itself.

58. Data collection was still rather a piecemeal affair because of the range of institutions involved. The Division of Human Services and Family Affairs had set up a centralized database.

59. The Convention on the Rights of the Child was included in school syllabuses and was taught. Increasing numbers of teachers were asking the Division of Human Services and Family Affairs to send someone to talk about the Convention in schools. Here too, in the absence of dynamic NGOs, the Government remained the principal driving force when it came to promoting the rights of the child.

60. There was no specific plan of action targeted towards children and adolescents, and it was necessary to conduct a study into truancy and dropping out of school. The National Youth Council was the umbrella body for all of the authorized organizations working for young people.

61. **Ms. Taylor-Alexander** (Saint Lucia) said that the High Court had jurisdiction in relation to all criminal cases and serious offences punishable by fines of EC\$ 5,000 or above, whereas the family court dealt with minor criminal offences punishable by smaller fines. Juvenile courts had been set up to ensure that children did not have to face the adult legal system and that family cases were not heard by a criminal court.

62. The 1996 Maintenance Act and the Civil Code in force discriminated against children born out of wedlock, but the reform under way was designed to eliminate the blatant disparities that existed between legitimate and illegitimate children. For that purpose, a high court for family matters with jurisdiction to rule on all issues related to divorce, custody of children and maintenance was to be set up in the near future.

63. The age of criminal responsibility, set at 12 years by the 1972 Children and Young People's Act, had been retained in the new Criminal Code, which had entered into force in 2005. When consulted on the issue, the vast majority of the main social stakeholders, including the Church, the police, health-care workers and parents, had said they wanted the age of criminal responsibility lowered to deal with the significant increase in the number of serious offences committed by children under the age of 12.

64. The registration of births was mandatory, and was the responsibility of parents and hospitals when children were born in hospitals in urban areas, but that responsibility fell solely to parents when a child was born in a rural area, and parents had to complete the necessary formalities at the registry office set up in every village, failing which they could be subject to penalties under the criminal law. But there was no mechanism for monitoring registration, except at a later stage when parents seeking medical treatment for their child or wishing to enrol the child in school were asked to produce their child's birth certificate.

65. The reform of family law had been embarked upon by the Government as part of the proposed reform of civil law in an effort to fulfil its obligations under the Convention on the Rights of the Child, including the duty to protect the best interests of the child in all circumstances. Through the reform, it was the Government's intention in particular to ensure that the fathers of illegitimate children could ask for their paternity to be established using DNA testing to enable them to exercise parental authority on the same basis as the mother. The inclusion of the father's family name on the birth certificate depended on the consent of the mother, who was the only person authorized to take the necessary steps. That provision, which discriminated against fathers, was soon to disappear, as the Act amending the 1996 Maintenance Act would in all probability be passed by late 2005.

66. The 1972 Children and Young Persons Act, as revised in 2001, provided that minors in conflict with the law were liable to penalties of up to three years' imprisonment, but could not be held with adults. They were therefore placed in a rehabilitation centre for boys set up for that purpose and, if necessary, transferred to an adult prison on reaching their

majority. In theory, there was no provision of law that prohibited sentencing a minor aged 16 or over to life imprisonment, but there was no judicial precedent for that. Under the new provisions of family law, anyone under the age of 18 would therefore be exempt from such penalties.

67. Contrary to the information provided in paragraph 33 of the report, any marriage in which one or both spouses were under the age of 16 was invalid, and minors between the ages of 16 and 18 could enter into marriage only if they had parental consent. In addition, minors did not have the capacity to enter into contracts.

68. The 1999 Education Act prohibited the use of corporal punishment except “where there is no other punishment [that is] suitable or effective (...)”, and corporal punishment was administered by specially authorized staff and in accordance with the guidelines issued in writing by the head of the particular establishment.

69. Discrimination against boys was a reality in Saint Lucia and was gradually on the rise, which was of concern to the authorities.

70. Turning to adoption, tightening links with the social services would certainly be desirable in order to monitor the placement of children in foster homes. As part of the current reform of family law, a child available for adoption had mandatorily to have resided for at least three months with the family wishing to adopt that child, and many factors, in addition to financial considerations, were taken into account in the decision in order to protect the best interests of the child.

The meeting rose at 1 p.m.