



**Meeting of the States Parties
to the Convention on the
Rights of the Child**

Distr.: General
20 January 2006
English
Original: French

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-first session

SUMMARY RECORD OF THE 1096th MEETING (Room B)

Held at the Palais Wilson, Geneva,
Monday, 16 January 2006, at 10 a.m.

Chairperson: Ms. KHATTAB

SUMMARY

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES

(*continued*)

Second periodic report of Trinidad and Tobago

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

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES (agenda item 4) (*continued*)

Second periodic report of Trinidad and Tobago ((CRC/C/83/Add.12); list of issues to be taken up during the examination of the second periodic report of Trinidad and Tobago (CRC/C/TTO/Q/2); written replies of the Government of Trinidad and Tobago to the list of issues to be taken up (CRC/C/TTO/C/Q/2/Add.1))

1. *At the invitation of the Chairperson, the delegation of Trinidad and Tobago took places at the Committee table.*

2. Ms. MOREAN PHILIP (Trinidad and Tobago) said that progress had been made in the implementation of the Convention, in particular with the creation, under a pilot project launched in May 2004, of a family court to deal with family matters by an approach aimed at avoiding confrontation, in particular through the use of mediation and other social services. The parties also had a bigger role to play in the procedure.

3. The Government was conscious of the need to strengthen mechanisms for coordination with nongovernmental and community organizations working to promote the rights of the child, some of which had contributed to the development of the second periodic report.

4. As a result of the enactment, in 2000, of five laws relating to children and the promotion of children's rights, a number of institutions had been created, including the family court; the Committee that had recommended it be set up, composed of representatives of the judiciary, government, bar and NGOs, also highlighted certain difficulties related to actual enforcement of the new laws on childhood. Further, the subcommittee set up to ascertain what changes should be made to these texts had made recommendations that were now under review by the Ministry of the Attorney General.

5. Mr. FILALI was pleased with the new laws enacted in various areas related to the rights of the child, including the creation of the Children's Authority Act, the Children's Community Residences, Foster Homes and Nurseries Act, the Adoption of Children Act, and the Domestic Violence Act. The State party had also ratified several significant conventions, including the Convention relating to the Status of Refugees and two ILO conventions relating to child labour.

6. Conversely, it was worrisome to note that certain earlier recommendations of the Committee had not really been followed up, in particular those bearing on the problems of coordination, data acquisition, budgeting, violence, health and the administration of youth justice. Of the five new Acts mentioned, only No. 66 had been promulgated by the President and entered into force. The Committee pointed to a delay of more than five years in promulgating the other Acts and wondered whether it would not be desirable to update them before promulgating them.

7. As the provisions had to be incorporated into the State party's domestic law before a judge of that State could enforce them, it would be useful to know whether, in the event of a conflict between national legislation and a Convention provision, lawyers and associations would be able to successfully invoke the Convention. In that connection, he wondered whether the delay in incorporating the provisions of international conventions into the national legal corpus, and in particular those of

the Convention on the Rights of the Child, had become a way of preventing introduction of those standards in domestic law. Any delay affected implementation of the Convention and hence the status of children in the country. The States should make international instruments, and in particular the Convention on the Rights of the Child, enforceable as of the date of their ratification.

8. Having learned that adoption of the revised National Plan of Action had been deferred to the first half of 2006, the Committee would like to know what was behind the delay, whether the Plan of Action had been improved, and who was currently responsible for it. The National Committee to Monitor Implementation of the National Plan of Action for Children appeared to be lacking financial and human resources; more details on this matter would be welcome.

9. The delegation might also indicate whether the person holding the Ombudsman position was receiving all the resources he or she required, what that person's professional qualifications were, and whether the country was affiliated with the international committee with responsibility for coordinating national institutions and verifying whether the Paris Principles were being applied.

10. NGOs had made a written contribution to the report, something that was obviously welcome, but there was also a need to know the nature of their interaction with the body responsible for drafting the report.

11. The definition of "child" was not harmonized or in conformity with the Convention. Indeed, the age of marriage varied from one ethnic community to another, children were allowed to work as of 12 years of age, and the age of criminal responsibility was set at 7 years.

12. The Equal Opportunity Act did not give the same definition of nondiscrimination as the Convention, since it mentioned neither age, language, disability nor birth. The same problem arose with regard to sexual abuse, because the perpetrator of sexual abuse on a child did not receive the same punishment whether it was a man or a woman. There was also a discrimination with regard to children living with AIDS, who were apparently refused schooling.

13. A problem also subsisted in the area of corporal punishment, as its prohibition did not extend to parents' behaviour in the family nor to schools.

14. As poverty had a very harmful effect on children, it would be useful to know how the poverty line was defined in the State party and what was being done to alleviate poverty.

15. The delegation might indicate whether the family court ruled on the basis of the principle of the child's best interests, what assessment could be made of that role, and when it was planned to extend this type of court to the whole country.

16. Ms. VUCKOVIC-SAHOVIC asked how the national law defined corporal punishment, as it appeared legal as a disciplinary measure at institutions in the penal system, and to what extent it was authorized.

17. Mr. ZERMATTEN, noting the insufficiency of the activities undertaken to publicize the Convention, in particular in school curricula, asked whether, apart from Universal Children's Day, any other initiatives were being taken to make the public aware of children's rights.

18. He wanted to know what measures were taken to guarantee or make compulsory children's participation in the proceedings of the family court, which would also deal with criminal cases, and whether the children were prepared, by Youth Parliaments for example, to take a part in social life in general and were consulted on projects of concern to them.

19. Moreover, the Committee would like to know whether the five laws adopted in 2000 took into account the concept of the child's best interests and whether that concept had been made the criterion to be met in all decisions, including administrative ones.

20. According to the report, most protective institutions were charitable ones, particularly Christian religious organizations, and religious freedom might not be guaranteed within such organizations; more details on that point would be useful.

21. Mr. LIWSKI asked whether the budget reflected the country's decentralization into four administrative areas, and in particular whether budget appropriations were higher for sensitive areas, given that there were disparities between these areas in terms of health, education and social development. As the decentralization process was generating increased complexity, a central control and follow-up mechanism for budget appropriations was essential, and the delegation might indicate, accordingly, whether any such mechanism existed or was planned.

22. The amount of the appropriations allocated to the purchase of vaccines in Trinidad and Tobago had declined, and explanations for that were essential.

23. Trinidad and Tobago maintained relationships with regional funding organizations such as the Inter-American Development Bank and international ones such as the World Bank. Hence, it would be good to know to what extent those organizations heeded the Committee's recommendations in developing their economic assistance programmes and establishing the amount of appropriations and grants. Similarly, the delegation might indicate whether the participation of UNICEF and the Inter-American Children's Institute contributed to the development of an international process for implementation of the Convention on the Rights of the Child.

24. As the right to freedom of association was protected by the Constitution and the Children Act, the delegation might describe the influence of students' associations on decisions relating to schools and their role in the decision-making process.

25. Mr. PARFITT asked whether the State party planned to appoint an independent ombudsman for children, as recommended by many NGOs and organizations, or an associate ombudsman for children reporting to the Ombudsman, who reported to Parliament. The Committee moreover wished to obtain details on the role played by the Children's Authority in promotion of the Convention and to know whether the Ombudsman could play a role in that respect.

26. The delegation might give information on the report of the National Committee to Monitor Implementation of the National Plan of Action for Children and the Convention and give details of NGOs' role in the development of legislation and programmes relating to children.

27. Ms. SMITH welcomed the many positive measures taken by Trinidad and Tobago but found that much remained to be done in terms of resource allocation and

policy development, to integrate children's rights into legislation. The necessary reform of the legislation was slow and left much to be desired. These issues were seemingly suffering from a lack of political will or cooperation between ministries or other problems that were being ignored.

28. Ms. ALUOCH asked whether the Miscellaneous Provisions (Children) Act, amending a number of other Acts, had entered into force and contributed to the integration of the Convention into national legislation.

29. Under the Adoption of Children Act, information relating to any adopted child must be entered in a register, but the report said nothing about birth certificates; that was a point that needed to be cleared up.

30. The CHAIRPERSON would like to know whether the country's impressive economic results had resulted in an increase in the volume of resources devoted to children and whether the political community, in particular Members of Parliament, were aware of the issue of the rights of the child.

31. Details on the adoption procedure under the National Plan of Action would be welcome. The Interdepartmental Committee was associated with the Ministry of Social Development, but there was a need to indicate who it reported to, since it was an interdisciplinary body that was called upon to consider issues that went beyond the sphere of activity of that one ministry.

32. The Committee would like to know whether the Ombudsman's office had a children's affairs unit, what procedure children must follow if they wished to file a complaint with the Ombudsman, and whether the Ombudsman was empowered to take legal action when such a complaint was filed.

33. The absence of legislation prohibiting all forms of discrimination, contrary to what was called for in the Convention, was regrettable, as was the absence of legislation on refugees and asylum seekers even though Trinidad and Tobago had ratified the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

34. The delegation might moreover specify what measures were being taken for children not declared at birth, for the purpose of guaranteeing the right to identity when a father refused to recognize his child, and the family court's role in that regard. It would be appropriate to describe the pilot project, and projects aimed at modifying the system, in greater detail.

35. It would be useful to know what the assessment had been of the regional consultation organized under the United Nations Study on Violence against Children, and what steps had been taken to give effect to its recommendations.

36. Ms. MOREAN PHILIP (Trinidad and Tobago) explained that in the event of a conflict between a provision of the Convention and national legislation, the latter would prevail—which did not mean that that provision of the Convention would be ignored, because it could subsequently be embodied in a new law, integrated later on in a new legislative text, but advisedly. The Constitution, which was the supreme legal standard, provided all citizens, including children, with very broad protection. Certain disputed laws had been amended, in particular the Freedom of Information Act of 2002, which had been ruled unconstitutional.

37. The delay in implementing the whole body of law on children was due, not to a lack of political will, but to unforeseen events. The Acts in question had indeed been adopted in 2000, but the following year had been one of considerable agitation in Trinidad and Tobago, as the government changed and there was a hung parliament—for want of a majority—that persisted until 2002. The situation had been worsened by two cabinet shuffles.

38. The Committee on a family court set up in 2002 had, among other duties, that of reviewing the said body of law. It had produced a report for the review of the Minister of Justice. It had been impossible to set up the Children's Authority, for various reasons that would be tedious to relate. Part of the legislation in force in Trinidad and Tobago would be replaced in the course of the year. Among the Committee's recommendations was the appointment of an Ombudsman for children, and the Government was looking at it very attentively.

39. Great progress had recently been accomplished with the computerization of the birth certificate system. In addition to the name of the adoptive parents, adopted children's birth certificates now bore the indication "adopted". Any person could obtain a birth certificate free of charge.

40. Neither HIV-positive children nor those with AIDS were subject to discrimination, and none was excluded from school but, if such a thing nevertheless occurred, it could be challenged in court.

41. Corporal punishment was prohibited at school, but not in the family. Before legislation on that subject could be introduced, public awareness-raising would have to be done to bring about a change in mentalities.

42. Ms. GITTENS (Trinidad and Tobago), pointing out that it would take time to overcome traditional cultural mindsets, said that NGOs were playing a big role in educating families, making them aware of the harmful effects of corporal punishment and encouraging them to use other types of punishment.

43. Ms. MOREAN PHILIP (Trinidad and Tobago) said that the age at which a child could be heard in court was not definitely fixed. The courts strove as far as possible to have the persons concerned participate without imposing overly rigid formalities. The principle that prevailed was the child's best interests. Children were heard if it was considered desirable given their degree of maturity. It would seem difficult to legislate on this point.

44. All juvenile court judges received training in family law, and training courses on this matter were organized both within the country and abroad, with the assistance of foreign specialists. Today, there was a core of judges that had expressed an interest in that field and worked regularly in juvenile courts.

45. Mr. SABGA (Trinidad and Tobago) said that the second periodic report had been drawn up by the Human Rights Unit of the Ministry of Justice. One of its members chaired the Human Rights Consultative Committee, a standing interdepartmental structure whose members provided the Unit with the requisite data for the preparation of precise, detailed reports. For reporting purposes, the Unit also consulted NGOs. The National Plan of Action Committee had the responsibility, inter alia, of supervising implementation of the Convention.

46. NGOs could participate in two different ways in the development of reports to the treaty bodies: they could be invited to sit on the Consultative Committee or the

Human Rights Unit could provide them with a draft report for comments and takes those comments into account in the final report. For the development of the report under consideration the second option had been chosen.

47. The age of criminal responsibility, 7 years, was set not by national legislation but by a common law rule. Because of the people's cultural and religious diversity, the work of the committee that was to standardize marriageable age had not yet been completed and consultations were ongoing with the various religious communities.

48. The conditions of children's employment and the minimum age for admission to employment were governed essentially by the Children Act, but several other laws or ordinances related to child labour in one branch of activity or another. The provisions also varied depending whether the child worked in a family enterprise or a public or private company. The authorities would be striving to harmonize these various provisions.

49. An international treaty could be enforced by the national courts only after having been embodied in national law by an act of Parliament, or if its provisions constituted imperative rules of customary international law.

50. Trinidad and Tobago had acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol on 1 November 2000; since then, through the Human Rights Unit, the Government had been cooperating with the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration. Particular attention was paid to vulnerable persons, especially children. A law on refugee determination was contemplated, but in view of the time taken by the legislative process and the urgency of the refugee problem, it had been decided to develop an ad hoc procedure for asylum seekers. NGOs' assistance to refugees was an invaluable help to the Government.

51. Mr. FILALI asked whether that ad hoc procedure, while it had the advantage of allowing the immediate problems to be dealt with, guaranteed respect for children's procedural rights.

52. Mr. SAGBA (Trinidad and Tobago) replied that that ad hoc procedure was consistent with the Convention relating to the Status of Refugees. On their arrival, asylum seekers were heard by government officials and their requests examined with the assistance of UNHCR. Trinidad and Tobago also had the benefit of the advice and cooperation of the other countries in the region.

53. Ms. GITTENS (Trinidad and Tobago) said that the National Committee to Monitor Implementation of the National Plan of Action for Children and the Convention had been set up in 1992 and, in 1993, had finalized the first National Plan of Action, whose implementation had begun in 1995. At the time, as the main focus of that interdepartmental structure was to coordinate governmental and nongovernmental actions to assist children, it had no representatives of civil society. Its membership was renewed every two years; it was during its incarnations of 1997 and, especially, 2001, that it became representative of nongovernmental organizations and young people's organizations. The Committee had re-examined all of its plans in 2003 and, in the light of its conclusions, had in 2004 drawn up a new plan, which gave rise to broad public consultations. It would be submitting a report on its activities to the Ministry of Social Development in 2006. Though much still remained to be done, there had been great strides in coordination between State

actions and those of civil society since the inclusion of representatives of NGOs and young people's organizations in the Committee.

54. Popularization of the Convention was continuing, with NGOs' cooperation, and indeed being stepped up. Whereas in the beginning awareness initiatives had been mainly focused on Universal Children's Day, they were now conducted throughout the year. The emphasis was on information for the parents of young children, those most vulnerable to ill-treatment. Conferences and workshops on the rights of the child were being organized in schools and booklets containing the full text of the Convention, or a simplified version, were being distributed. Training sessions on the rights of the child were given to the persons in charge of child welfare establishments and other social workers. Some radio programmes interviewed children, who were also invited to contribute to certain newspapers.

55. As a member of the Inter-American Children's Institute, Trinidad and Tobago had in 2005 taken part in a training session in Jamaica on the topic of data acquisition and a census of at-risk children. Also in 2005, it had hosted the first international consultation on violence against children in the presence of representatives of the region's 16 countries and many experts from the United Nations system, including Mr. Paulo Sérgio Pinheiro, an independent expert whose responsibility it had been to conduct the thorough United Nations Study on Violence against Children. Moreover, research had been undertaken on violence against children in the countries of the Caribbean and would be presented at UNICEF in September 2006.

56. Over the past five years, social budgets had greatly increased. The Ministry of Education and the Ministry of Health had seen their appropriations double over that period. Social security benefits had been increased and were now going to more households, while more subsidies had been granted to nongovernmental organizations. Lastly, Trinidad and Tobago was in receipt of a European Union subsidy that had enabled it to create, within the Ministry of Social Development, a unit in charge of the elimination of poverty, as well as 14 regional councils on human and social development.

57. Mr. FILALI regretted that families facing difficult situations because their children were hard to handle should ask a judge to place them in an institution, where in general they experienced poor conditions and were liable to be victims of physical or sexual ill-treatment.

58. The creation of the Domestic Violence Unit and the introduction of a toll-free number accessible 24 hours a day were initiatives to be welcomed, but violence still seemed equally present in the State party. Some reports held that police officers lacked the proper training to take action in this type of situation and did not react quickly enough when calls for help were received. Many cases of rape and incest continued to be reported, and there was a need to know what measures were recommended by the State party to deal with victims, as the solution currently adopted—institutionalization—tended to cause more problems than it solved.

59. It would be useful for the delegation to specify the role and procedures methods of intervention of the National Coordinating Committee on Disability. The State's actions would become more effective if a new study were to produce up-to-date figures on the percentage of children born with a disability, inasmuch as the latest study available, whose estimate was 16%, was from 1983. It would be useful

to know whether there were reception centres for persons with disabilities and, if so, whether they were adequately funded.

60. Many children without any real disability were nevertheless born stunted, suggesting a need for a study of Trinidadians' nutritional situation and preventive measures during pregnancy. Access to drinking water remained a problem in that several water treatment plants were out of commission.

61. While the decrease in the number of cases of mother-to-child HIV/AIDS transmission was welcome news, as was the provision of free antiretroviral therapy, the fact remained that according to UNAIDS the State party was in the throes of an HIV/AIDS pandemic and was among the countries of the hemisphere most affected by the disease. Hence, it was all the more regrettable that adolescents should not have access to the screening test without their parents' permission and that the official figures did not reflect the real incidence of HIV/AIDS because they tallied only reported cases. Other concerns were the absence of sex education in schools and the legal prohibition of abortion, which paved the way for illegal abortions performed under unsanitary conditions by unqualified persons.

62. Drug use was widespread, but the Committee had not been told anything about how drug addicts were treated; it would be appreciated if the delegation could tell us that, and indicate whether addicts were usually sent to detox centres.

63. The State party's ratification of ILO Conventions Nos. 29 and 182 was welcome, but oversight mechanisms still needed to be put in place to see that they were correctly applied. Thus, the fact that adolescents aged 16 to 18 worked nights in the sugar industry was contrary to the provisions of those conventions; the minimum age for admission to employment (12 years) should be increased. Information was lacking on child labour in the parallel economy.

64. Nor were any figures given on the victims of sexual tourism or the problem of the sale or trafficking of children. The State party had issued a general ban on the possession of any pornographic material, but had not specifically outlawed child pornography.

65. The delegation should say whether a juvenile could be sentenced to life imprisonment or detained with adults. The age of criminal responsibility was set at 7 years, which was unreasonably young. It would be useful if the delegation could provide us with its observations on that head and with information on any restorative justice and diversion programmes available to juveniles instead of imprisonment.

66. Ms. VUCKOVIC-SAHOVIC would like to know what action the State party intended to take on violence against children, not only in school but also at placement institutions, on which any additional information would also be welcome. In particular, were children in such institutions ever placed in isolation? To what extent did they enter the school system? Was the report's observation, that such institutions lacked adequate monitoring mechanisms, still valid? The delegation might also indicate whether the National Plan of Action for Children provided for financial and psychosocial support measures for families to eliminate the need for institutionalization. Lastly, could children be quarantined in those institutions on account of disease, or did the term "quarantine" apply to children already placed for different reasons?

67. Mr. PARFITT asked whether rights of the child awareness initiatives in the school environment were limited to specific conferences and workshops or whether they were an integral part of the curriculum. He would like to have up-to-date data on the pilot project on official placement of children mentioned in paragraph 742 of the report. As he understood it, certain establishments brought together children in need of protection and juvenile offenders under the same roof—cause for great concern. Details on the concrete application of the family services reunification policy would be helpful.

68. Ms. SMITH had the impression that in spite of the amendments to family law it remained difficult to obtain alimony payments, so that an additional form of discrimination against women could exist. She asked whether the amount of a divorced woman's alimony could be advanced to her by the State.

69. She was concerned at the increasing number of street children and asked what policies were in effect in that regard and whether vocational training was available to all. Another point in need of clarification was whether there were children's clubs, libraries and sporting facilities. Finally, she asked what became of adolescents that could not be placed in a place of detention provided under the Children Act because of their "uncontrollable" or "depraved" personality.

70. Mr. LIWSKI asked whether the care of children with special educational needs in the education system had improved since the report was written and whether the reform of the health system, focusing on decentralization and to some extent privatization, did not pose difficulties in terms of guaranteeing the right to health for all. Primary care had been enhanced, but there was no sign of any improvement in infant mortality indices, so some explanation was called for. The delegation might also provide information on programmes relating to adolescents' mental health and training for health personnel.

71. Mr. ZERMATTEN asked for further information on teachers' level of training and on how apt pregnant girls were to stay in school. He was worried by the frequent recourse to isolation in institutions, by the absence of specialized penal establishments for girls—which led to juveniles cohabiting with adults—, and by the abusive consumption of alcohol, which called for specific policies.

72. Ms. ALUOCH wanted to know how long a juvenile could be held at a police station and whether the assertion that "no special unit has been created in Trinidad and Tobago to deal with the abduction, sale and trafficking of children, as the prevalence of such cases is minimal" still held true. Perhaps the delegation could clearly indicate whether progress had been made in terms of accession to the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography. Lastly, it would be helpful to know why a number of homes, counselling centres and mediation centres had closed.

The meeting rose at 1:05 p.m.