



## Convention on the Rights of the Child

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### COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-first session

#### SUMMARY RECORD OF THE 807th MEETING\*

Held at the Palais Wilson, Geneva,  
on Tuesday, 17 September 2002, at 10 a.m.

Chairperson: Mr. DOEK

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\* No summary record was issued for the 806th meeting.

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

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4)

Second periodic report of Argentina (CRC/C/70/Add.10; CRC/C/15/Add.35; CRC/C/Q/ARG/2; written replies of the Government of Argentina to the questions in the list of issues [document without a symbol distributed in the meeting room in Spanish only]; HRI/CORE/1/Add.74)

1. At the invitation of the Chairperson, the members of the delegation of Argentina took places at the Committee table.
2. The CHAIRPERSON welcomed the delegation and invited it to introduce Argentina's second periodic report.
3. Mr. CHIARADIA (Argentina) said that Argentina was keen to fulfil its international human rights commitments and that the presence of Mr. Liwsky, the country's highest authority on matters relating to the rights of the child, reflected the importance Argentina attached to the subject.
4. Two broad observations would be useful to the Committee in considering Argentina's second periodic report. Firstly, since the end of the military dictatorship in 1983 Argentina remained a nation committed to the rule of law and the protection of human rights. It continued to uphold all the United Nations and American human rights instruments to which it was a State party, many of which had been accorded constitutional status. With regard to the Convention, it had recently ratified the Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. Secondly, the crisis besetting the country was the root cause of all current problems relating to the situation of children and young persons. Crises, however, always provided valuable lessons, and Argentina had learned a great deal from the current situation. It had also benefited from the contributions of outside observers, which were valuable for preventing problems not only from worsening in the country concerned but from spreading to other countries.
5. The Committee would see from the details presented about the current economic situation, which had persisted for some four years, that features such as a drop in per capita income from roughly US\$ 8,000 to US\$ 2-3,000, a fall of 10 to 15 per cent in GDP, a rationing of bank withdrawals to prevent the banking system's collapse and the resultant loss of confidence in the authorities inevitably had far-reaching effects on social conditions and on the young in particular. Those symptoms were not peculiar to Argentina; a similar plight was faced by a number of medium-income countries in which perceived market risks had converted previous capital inflows to capital flight.
6. Mr. LIWSKY (Argentina) said that the current opportunity for dialogue with the Committee was most significant for him, a paediatrician most of whose career had been involved in the work of non-governmental organizations, especially for the protection of children. The

grave economic crisis already mentioned had led to the setting up of a transitional Government and a number of institutions with the task of improving the country's situation; one of those bodies was the National Council for Children and the Family, which he currently chaired. It would be unthinkable to consider the development of the situation reported in 1999 without taking into account the most difficult period Argentina had faced. Less than six months previously, social and political tensions had been at their most extreme, threatening dissolution of the national community, and the young had suffered most from the violence and loss of life. Children and young persons continued to suffer the worst effects of social exclusion and the breaking of family ties.

7. Argentina appreciated the help of non-governmental organizations in preparing the second period report (CRC/C/70/Add.10), as well as the separate documents submitted by human rights NGOs in the country, whose views, while at times reflecting a different approach from that of the State report, provided a useful guide for policy making. His Government repudiated all acts of violence committed against children in Argentina and reiterated its commitment to continue its efforts to combat that scourge; those efforts would include measures to eliminate all forms of impunity from sanctions.

8. With reference to the Committee's list of issues, two aspects were of vital importance. One was the persistence of situations which threatened the physical and psychological integrity of children and young persons, especially those deprived of their freedom or in other situations which exposed them to institutional violence. Such violence called for an overhaul of legislative and other measures to stamp out cruel, inhuman and degrading treatment. Some progress had been made in that regard, but not enough. Argentina also endorsed the concern expressed about the lack of legal measures to align domestic legislation with international human rights instruments.

9. Another aspect was that, although the Convention had been in force in Argentina for some 11 years, a number of contradictions prevailed. On the one hand, its adoption into domestic legislation through the Act of 23 August 1949, which had been accompanied by a number of observations and one specific reservation relating to international adoption, had led to the Convention's inclusion in the National Constitution in 1994. However, the adoption of the Act, which would complete the entry into force of a former law on guardianship of minors, had not been completed because of two derogations stemming from the fact that the latter law, enacted in 1919, was too outdated to form the basis of legislation effective in today's world.

10. Two relevant measures approved by the Chamber of Deputies in the past four years had not become law because they had been delayed in the Senate. It was recognized that the contradiction between constitutional recognition of the Convention on the one hand, and the failure to adopt enabling legislation on the other, called for the earliest possible rectification; nevertheless, the country's highest constitutional authorities maintained that the Act of 23 August 1949 did provide a legislative means of implementing the Convention. The result had been a significant number of rulings upholding its application; examples ranged from rulings by courts of first instance through Supreme Court decisions, including the legislatures of various provinces. But there was no disguising the need for further measures, including action by the Senate, to enhance protection of the human rights of children and adolescents.

11. Concerning Argentina's reservation in respect of article 21, he said its purpose was to strengthen the defence of Argentine children against abusive international adoptions involving the sale and trafficking of children and against selectivity in the adoption process. With some 4,500 Argentine families registered on waiting lists to adopt children, the reservation would clearly not affect Argentine children's chances for adoption. The Committee should take such aspects into consideration when issuing its next concluding observations.

12. Despite the fact that many policies affecting children's rights fell under the competence of the provinces rather than the federal Government, practical measures had recently been taken to ensure that national monitoring produced an effective overview of achievements and shortcomings in implementing the Convention throughout the country. The plenary of the National Council for Children and the Family, which met every six weeks, was unique in that it included representatives from various Government ministries, NGOs, including the Service, Peace and Justice in Latin America Foundation chaired by Nobel Laureate Adolfo Pérez Esquivel, the Argentine Society of Paediatrics, judges, persons involved in the application of family law and church leaders.

13. In the past seven months, a social observatory had been established with a view to ensuring continuous monitoring of the implementation of children's rights, thanks in part to support from the Inter-American Development Bank. Thirty-seven community centres for the protection of children and their families had been set up throughout the country. Each had a multidisciplinary team which worked with civil society to ensure that basic rights such as food and education were respected.

14. In the past two years, the estimated number of adolescents at risk of social exclusion had risen dramatically, from 450,000 nationwide to over 1.6 million in the major cities alone. Some 2 million pesos had recently been reallocated by the federal Government for specific programmes to address their needs in a preventive manner, for example by promoting a sense of good citizenship. In the first three months of the programme, some 10,000 youths would be covered.

15. Ms. SARDENBERG, noting that Argentina had a good record of ratification of the basic human rights treaties and of reporting to the treaty bodies, emphasized that the Government should follow the Committee's guidelines when drafting its reports. While the very detailed oral introduction had provided much information, the written replies to the list of issues contained only the statistical information requested under part I. It would be preferable for the State party to issue updated information on the period since the drafting of the report in written form, as part of the replies, rather than provide such an extensive review as part of the oral presentation.

16. The report did not provide complete information on follow-up to programmes, evaluation methods, critical assessments, budget levels for various programmes and measures taken to disseminate the State party's reports and the Committee's concluding observations. Nor did it contain a description of how the report itself had been drawn up. Furthermore, no reference was made to the concluding observations previously issued by the Committee. It would be difficult for the Committee to evaluate the child rights situation in Argentina if more attention was not paid to ensuring a useful exchange of views.

17. She commended Argentina for signing both Optional Protocols to the Convention and for ratifying the Optional Protocol on the involvement of children in armed conflict. The State party had also adopted a law on domestic violence, and had taken measures to assist victims of such violence. It had signed a memorandum of understanding with the International Programme on the Elimination of Child Labour (IPEC), and had adopted a national plan against the commercial exploitation of children. The Government had maintained a constructive relationship with NGOs. However, it had not referred to their work and participation in the report. Were there any plans to establish a mechanism to ensure closer cooperation in the future?

18. Because of the transitional nature of the Government, it was of special importance to consolidate human rights structures. What were the terms of reference of the National Council, the social observatory and the federal social integration programmes to which the delegation had referred? She asked how their activities were coordinated, whether they used multi-sectoral approaches and how policy decisions were made. As an autonomous city, Buenos Aires enjoyed a degree of independence in enacting legislation, but it did not have autonomy in judicial matters. What impact did that have on the implementation of children's rights?

19. It was somewhat paradoxical that a country with a good ratification record for human rights instruments should still have a law relating to the wardship of minors dating back to 1919. A number of drafts had been drawn up to replace the law in question, but none of those initiatives had succeeded. What obstacles did the Government face in replacing that law? Would the Congress be able to take action soon, or would it have to wait for the new Government to come to power in May 2003?

20. The concluding observations issued by the Committee in 1995 referred to discrimination against poor children, children from indigenous and minority groups and girls and women. Had the situation changed? Did the national strategy for the rights of the child address the needs of such vulnerable groups?

21. Ms. AL-THANI said that the constitutional definition of a child as a person under the age of 18 was in conformity with the Convention. However, article 55 of the Civil Code mentioned the legal capacity of a group called adult minors. What specifically was their legal capacity, and what was recognized as the age of criminal responsibility? Why was there a discrepancy in the legal age of marriage, which had been set at 16 for girls and 18 for boys? Was the State party considering raising the legal age for girls so as to eliminate the discriminatory treatment?

22. The State party had taken the positive step of incorporating human rights training in the core curriculum for teachers. Was the story book "I'm counting on you" directed at children, or was it intended for adults? Had the Government undertaken any work to ensure training in the rights of the child of professionals, such as social workers, lawyers, judges, police officers and medical personnel? Had it taken steps to disseminate its report and the Convention itself?

23. Ms. KHATTAB said she welcomed the efforts made to increase the involvement of civil society in the National Council for Children and the Family through the participation of Nobel Laureates and leading paediatricians. The statement made by the Argentine delegation at the General Assembly special session on children in May 2002 had outlined in a very transparent

way the challenges faced by Argentina in implementing the rights of the child and had reflected the country's positive attitude. She was confident that the current transitional Government would provide a solid foundation for the new Government with regard to the implementation of children's rights.

24. Although she welcomed the fact that the reports of NGOs complemented Argentina's report, she urged the State party to encourage the direct participation of NGOs in the preparation of its third periodic report. It should provide further information about the impact of Argentina's recent economic crisis on children and adolescents. It would be interesting to know whether the Government had taken any steps to assess the impact on vulnerable groups of the downturn of the economy, which had led to increased poverty, violence and infant and adolescent mortality. The State party should indicate whether it intended to introduce a comprehensive, multidisciplinary plan of action with a time frame to address the problems outlined in the report - including the illicit use of drugs by young people and child labour - and whether adequate funds had been earmarked for its implementation. It would be interesting to learn whether monitoring and evaluation would take place at the federal level with certain mechanisms at the provincial level in order to harmonize implementation. She failed to understand why the provinces were responsible for basic education while higher education was the competence of the federal authorities. Basic education was a priority and should be addressed at the national level.

25. Argentina had a strong ally in the media when it came to implementing the Convention and she urged the State party to use it as a tool for raising awareness and educating the population about the rights of the child. She expressed concern that the legislation in force regarding implementation of the Convention was outdated and needed to be revised to take evolving conditions into account.

26. Further information should be provided about the role of the Ombudsman with regard to children. For example, it would be interesting to learn whether the Ombudsman had the power to receive and address complaints from children. It would also be useful to know whether the National Council for Children and the Family had that capacity.

27. Ms. TIGERSTEDT-TÄHTELÄ said that some important promises had been made in the State party's introductory statement to the Committee, in particular with regard to the improvement, amendment and correction of existing policies. She commended the State party for the commitment it had made to the rule of law, human rights and democracy. However, further efforts needed to be made to strengthen the institutions in Argentina that dealt with the rights of the child.

28. The State party should provide additional information on the percentage of the national budget devoted to children in the period 2000-2002, so that the Committee could gauge whether any real progress had been made. The report revealed that Argentina had undergone a period of economic reform with the promotion of privatization and deregulation; however, it was clear that economic growth had not been accompanied by a more equitable distribution of income. In fact, unemployment and poverty had increased and the privatization of public services had led to the introduction of user fees and a decline in the quality and availability of public services. The

reporting State should indicate whether any new universal social policies had been introduced, based on legislation, to promote a more equitable distribution of income and to reduce social injustice and the marginalization of families with children.

29. The system of taxation seemed to be ineffective, which was unfortunate as an effective taxation system was key to providing adequate resources for the implementation of the rights of the child. Revenue sharing between the central and provincial governments was a particular problem. It would be useful to know whether the central Government had taken any steps to review Argentina's economic and social policies, with a view to providing better economic, social and cultural rights for children and their families. She drew attention to the fact that a lack of financial resources did not justify a failure to provide social security for children and that poverty and social exclusion could be considered a violation of the right to non-discrimination. With regard to the best interests of the child, she said that it was in the best interests of all children to implement the Convention as a whole.

30. Ms. KARP said she had been following with great concern the impact of the economic crisis on the population of Argentina. It was understandable that the Government had no choice but to take strict measures in order to restore an economic balance. However, before implementing any economic measures, the Government should prepare an impact statement to assess the potential impact on children. She would like to know whether the Government intended to implement new legislation to protect children and whether new laws adopted to protect victims would apply during the economic crisis.

31. While she welcomed the fact that a court decision had determined the direct applicability of the Convention in the legal framework of Argentina, she said that such a decision did not constitute an alternative to legislation. Laws specifically incorporating the Convention into Argentina's legal framework were also needed, to provide a legal basis for the development of awareness-raising activities and training in the field of children's rights. She welcomed the fact that legislation complying with the provisions of the Convention had been introduced in the provinces of Mendoza, Chubut and Buenos Aires; further details should be provided about how those provinces overcame any irregularities and whether it was possible to learn from their experiences in order to devise a nationwide model.

32. Mr. AL-SHEDDI said that further information should be provided about the important issue of coordination. He failed to understand why the report made reference to only 5 or 6 of the country's 23 provinces. He would like to know how the National Council for Children and the Family, which was based in Buenos Aires, communicated with the other provinces. Did the Council have branches, or was some other body responsible for monitoring the situation of children in the other provinces? Had a database been created in each province to facilitate the exchange of information about children? He would be interested to know whether the Council held regular meetings and whether it comprised representatives from all the provinces. The reporting State should indicate how recommendations made by the Council were transmitted to the provinces and how such recommendations were implemented. It should also explain why the Convention applied only in certain provinces (for example, Mendoza, which had adopted a Children's Act in 1995). On the issue of the budget, he said he would like to know whether the budgetary allocations for children were the same in each province.

33. He welcomed the creation of the office of the Ombudsman for the Rights of the Child; however, further information was needed about plans to enhance its services and in particular about how it coordinated its work with that of other bodies. It would be interesting to know how the Ombudsman provided services in all 23 provinces.

34. The CHAIRPERSON said he would appreciate further information about combating discrimination against immigrant children, especially with regard to health and education. Additional information should also be provided about the right of children to be heard in civil, administrative and other procedures. It was unclear whether the right to be heard was determined on the basis of age or maturity. If maturity was the basis, who was responsible for deciding whether it was sufficient for the child to be heard? The right to be heard evidently needed some protection. For example, in the province of Chaco, efforts had been made to ensure that children had the right to voice concerns and complaints about abuse; however, various sources revealed that it was risky to voice complaints about abuse by the police.

35. Ms. SARDENBERG said that further information should be provided about Argentina's data collection system. It would be interesting to learn whether the data was taken into account when formulating public policies. The situation of the Mapuche population should be clarified, in particular with regard to the contamination of their water supply and the inadequate response of the Government. Although paragraphs 17 to 27 of the State party's second periodic report outlined the functions and duties of the Ombudsman for the Rights of the Child, it was unclear whether the post had ever been filled. Further information should be provided.

The meeting was suspended at 11.55 a.m. and resumed at 12.15 p.m.

36. Mr. LIWSKY (Argentina) said he regretted the late submission of the written replies to the questions in the second part of the list of issues. The delay could be attributed to administrative complications arising from the economic crisis.

37. Several questions had been raised about the federal system and the relations of the 23 provinces with the national authorities. He acknowledged that certain policies relating to the rights of the child were fragmented and that there were some disparities in the methods used to collect information for the preparation and adjustment of programmes. He shared the concerns of the Committee members with regard to the poor coordination between the federal States and the national authorities.

38. However, the fact that no mechanism currently existed to integrate and evaluate policies and data was not attributable to the economic difficulties currently being faced by Argentina; in fact, the situation could be improved in a relatively short period of time and did not require a greater budget allocation. With only two or three practical measures, it would be possible to create a better system to evaluate the implementation of policies at national level. For example, three national bodies, namely the National Statistics and Census Institute (INDEC), the Social Programme Information, Monitoring and Evaluation System (SIEMPRO) and the National Council for Children and the Family, had joined forces to create a combined database and to coordinate social policies. Efforts were under way to assess the impact of the crisis in each province in terms of poverty and marginalization. Particular attention was being paid to

discrimination against poor and indigenous groups, and efforts were being made to assess the impact of the crisis on programmes that were already under way. The secondary effects of the crisis, such as its impact on education, health and nutrition, were also being addressed. Further information would be provided to the Committee about the activities being conducted in each province.

39. The National Council for Children and the Family employed three main monitoring mechanisms. First, officials from the Council made personal visits to a different province each week, in order to seek information from local universities, NGOs and other bodies. Second, units responsible for monitoring programmes had been set up in 17 of the 23 provinces. They remained in close contact with the National Council over the Internet, and acted essentially as an early-warning mechanism. Third, the Council met regularly with representatives from the various State departments and judicial authorities dealing with children's affairs, in order to coordinate application of the relevant legislation.

40. Buenos Aires had the status of an autonomous district, although in many cases the national justice system maintained jurisdiction over the district. Similarly, the National Council carried out numerous child protection activities in the district of Buenos Aires, which meant that more resources were allocated to the capital than to other provinces. That inequality was being addressed by meetings of the Council, and a decisive step in that regard would be implementation of the Act on the comprehensive protection of children and the family. A new model was required for coordination between federal and provincial authorities.

41. Ms. KARP said she would be interested to learn whether the fact that rights were implemented with regard for the particular socio-economic situation of each province meant that there were differences in the importance accorded to rights from one province to another. She asked for confirmation that a comprehensive system of data collection had been developed to cover the whole of the national territory.

42. Ms. SARDENBERG said she would like to hear whether final responsibility for the coordination of protection mechanisms rested with the National Council.

43. Mr. LIWSKY (Argentina) said that there was no question of rights being applied differently from one province to another. Within the federal system, no province had the right to derogate from the provisions of a Convention signed by the national Government. However, differences had to be recognized. Thus, in provinces with a high proportion of indigenous populations, children enjoyed the option of a bilingual education; that in no way detracted from the right to receive basic education. The harmonization of data collection methods had facilitated the comparison of statistics from one province to another, particularly in the case of human development indicators.

44. The CHAIRPERSON invited members of the Committee to put questions to the delegation concerning civil rights and freedoms, family environment and alternative care, and basic health and welfare.

45. Ms. SARDENBERG said she had received reports of institutional violence, extended periods of pre-trial detention, police brutality, impunity, disappearances, torture and other forms of ill-treatment. Alarming figures had been supplied by some NGOs relating to executions perpetrated by agents of the State. The delegation should explain whether those allegations were true and, if so, what the Government was doing to improve the situation. She would be interested to learn whether corporal punishment was prohibited within the family, and whether publicity campaigns existed to raise awareness of alternative forms of punishment. She asked for further details on the status of the Office for Comprehensive Assistance for Victims of Crime.

46. Ms. AL-THANI said that only limited data had reached the Committee concerning disabled and institutionalized children. The delegation should explain whether disaggregated data was available, and whether the stated policy of integrating disabled children into society was applied successfully in practice. She would be interested to learn whether families with disabled children were provided with the support needed to look after them in the family home.

47. Many problems seemed to have arisen over the past 10 years owing to the decentralization of the health-care system. According to figures supplied by UNICEF and national and regional paediatric associations, the high infant mortality rate had fallen only slightly, and an estimated 60 per cent of infant deaths were preventable. She asked the delegation to describe what measures the Government was taking to address that problem. Figures showed that high numbers of children were dying as a result of violence. She would be interested to learn more about the precise nature of violent acts committed against children. The maternal mortality rate also remained high, which pointed to a failure to deliver effective health care to mothers, particularly in rural areas. She asked for the delegation to account for the large number of deaths occurring through Caesarean sections. She also enquired whether the Government had a specific action plan for dealing with the high incidence of malnutrition, iodine and iron deficiencies and low weight among children.

48. The spread of HIV/AIDS, associated with an increasing number of tuberculosis cases, was as high in Argentina as anywhere else in Latin America, particularly among 13 to 20 year olds. It would be useful to hear whether the Government had devised an action plan to curb the scourge of HIV/AIDS and whether it had developed a specific policy for preventing mother-to-child transmission. Also in relation to adolescent health, she asked whether sex education was an integral part of all school curricula, and whether young girls experienced problems seeking reproductive health care.

49. Ms. KHATTAB asked whether it was true that a judge could decide to remove children from poor families, without right to appeal. In the light of reports of ill-treatment in institutions, she would like to hear what the Government intended to do to ensure successful monitoring of child welfare institutions. She expressed concern that children did not have the right to be heard within the current welfare system, and that the best interests of the child was considered to be a relative notion. It would be interesting to learn whether there was a correlation between the high number of teenage pregnancies and the twin phenomena of violence towards adolescents and a rise in HIV/AIDS.

50. Ms. KARP said she had received frightening reports concerning torture and ill-treatment perpetrated by high-ranking members of the juvenile justice system. She wanted to know what was being done to investigate those allegations, and whether the police were cooperative in the context of such investigations. She asked whether the Government had considered introducing independent medical examinations of children in detention, training programmes for police officers or compensation schemes for the victims of ill-treatment. It would be useful if the delegation could provide statistics on the numbers of child sex offenders and perpetrators of domestic violence brought to justice. She wondered whether studies had been carried out into the reasons for sexual abuse and exploitation of children.

51. The CHAIRPERSON said that one way to promote foster care, thereby reducing recourse to institutions, was to introduce financial incentives for foster parents. He asked whether the Government had a national policy for promoting foster care.

The meeting rose at 1.05 p.m.