



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

Fiftieth session

SUMMARY RECORD OF THE 1397th MEETING*

Held at the Palais Wilson, Geneva,
on Thursday, 30 January 2009, at 3 p.m.

Chairperson: Ms. LEE

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* No summary records were issued for the 1393rd, 1394th, 1395th and 1396th meetings.

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The meeting was called to order at 3.15 p.m.

DAYS OF GENERAL DISCUSSION

1. The CHAIRPERSON, welcoming the participants to the fifth informal meeting with States parties, said that there were a number of matters which the Committee wished to discuss. To begin with, she was pleased to note that the General Assembly had approved the Committee's request to hold its 2010 sessions in two parallel chambers to help absorb its three-year backlog. The pre-sessional working group of September 2009 would do likewise. In the past, parallel chambers had proved very effective in reducing the Committee's backlog and in shortening the waiting time for consideration of State reports.
2. The Committee was currently working to finalize its harmonized guidelines pursuant to the new working methods of the Office of the High Commissioner for Human Rights, following the decision taken at an inter-committee meeting that all treaty-specific guidelines were to be completed by the end of 2009.
3. The twentieth anniversary of the adoption of the Convention on the Rights of the Child would be celebrated on 8 and 9 October 2009; the Committee's day of discussion, usually scheduled for that period, would not be held. She urged all States parties to participate actively in the ceremony; it would be most useful if a small group of "friends of the Convention" could agree to help ensure its success.
4. Another point which needed to be raised concerned individual complaints. At a meeting - the third of its kind - which Slovenia had convened the past week at the Palais des Nations in order to discuss an optional protocol on the question, a consensus had emerged that an interregional group of friends would be the best approach. It was to be hoped that in the course of the twentieth-anniversary celebration, States parties would be able to announce that a working group had been set up to consider such an instrument.
5. In a general discussion held in 2005, the Committee had concluded that it would be preferable to produce guidelines rather than a general comment on alternative parental care. Brazil had launched an initiative along those lines. The title, which had been slightly altered, now reads: "United Nations draft guidelines for the appropriate use and conditions of alternative care for children", pursuant to resolution A/HRC/9/L.26 adopted at the ninth Human Rights Council session in September 2008. It was to be hoped that the guidelines could be adopted in time for the ceremony marking the twentieth anniversary of the Convention.
6. The Committee had noted a number of errors in the translation from English into Spanish of the general comments. For example, the word "child" had not been systematically rendered in Spanish by "niños", but sometimes also by "menores". That needed to be corrected. Translation errors in other languages had also come to light. It would be useful to review all translations across all treaty bodies. For the Committee on the Rights of the Child, all back translations should be looked at again and corrected, where necessary.
7. Mr. KOMNISKI (Brazil) hoped that action could be taken on the draft guidelines at the tenth session of the Human Rights Council in March 2009. With that in mind, Brazil, as coordinator of the group of friends, had undertaken to hold public consultations in February 2009

and to circulate the draft guidelines to all relevant Missions and stakeholders in Geneva. In October 2008, it had circulated a note verbale inviting States and relevant stakeholders to submit comments on the draft guidelines to the Mission of Brazil by 20 January 2009, but given the importance of the issue, that deadline was not strict, and all further comments were welcome. He had provided the secretariat of the Committee with a preliminary electronic version of comments received up to the previous day. The public consultations on the draft guidelines would begin on the afternoon of 12 February and would continue on 18, 19, 24 and 26 February, the intention being to avoid overlap with meetings of the Working Group of Experts on People of African Descent and the next session of the Universal Periodic Review.

8. His Government invited the Chairperson and members of the Committee to attend the public consultations, or if that was not possible, at least to come to the opening meeting on 12 February. The presence of members of the secretariat of the Committee would also be most useful, especially on the first day. A representative of UNICEF was expected, and the consultations were open to stakeholders and interested representatives of civil society.

9. Ms. LAURESON (New Zealand) welcomed the exchange of views between the Committee and States parties, which was a very valuable practice.

10. She had three questions. Firstly, regarding the celebration of the twentieth anniversary of the adoption of the Convention, she wondered whether the Committee could elaborate on what kind of themes and format it had in mind, particularly in light of the comment that it would like to see a group of States function as friends of the Convention. How would it include civil society and national human rights institutions in the celebration?

11. Secondly, she asked whether the Committee could make suggestions on areas, including thematic ones, in which the Human Rights Council might add value to the Committee's work, for example through debates in plenary, resolutions or requests for studies or analysis. New Zealand saw the Council's efforts as being complementary to those of the Committee and would welcome ideas and initiatives in that regard.

12. Thirdly, she noted that the Human Rights Committee had considered ways of heightening awareness of its proceedings, for example through webcasting and more public sessions, and that the attendance at the review of reports of States parties was not very high for some treaty bodies. What had been the Committee's experience in promoting awareness of both its thematic and country work?

13. Ms. KOHLI (Switzerland), thanking the Committee for the opportunity to hold an exchange of views, said that, together with New Zealand, Norway and Liechtenstein, her country had been very active in New York in the submission of the resolution on parallel sessions of the Committee and was pleased that feedback had been good.

14. Given the backlog on consideration of reports under the Convention and the two Optional Protocols, she wondered whether the Committee had given any thought to how it would deal with individual complaints.

15. The tenth session of the Human Rights Council had set aside time for a discussion of the rights of the child and there was also a yearly thematic resolution, which would be submitted by the European Union and the Group of Latin American and Caribbean Countries (GRULAC). She asked whether the Committee had any suggestions for issues which could be raised at the Council.

16. She welcomed the idea of celebrating the twentieth anniversary of the Convention. Switzerland was prepared to participate in the preparation of that event.

17. Mr. LAST (United Kingdom) expressed gratitude for the excellent dialogue which his country had had with the Committee since the previous meeting with States parties in September 2008.

18. The United Kingdom had always been quite cautious about the two-chambers model due to the burden that it placed on the Committee and the secretariat and also because of more fundamental questions regarding consistency, since two chambers were working in two different compositions - even though the concluding observations were of course adopted by the entire Committee. Another fundamental issue had to do with who actually served on the Committee, since members were elected for the whole Committee, and not half of a Committee. The United Kingdom regarded the two-chamber arrangement as an exceptional short-term measure, rather than a long-term solution to the ongoing backlog problem. He wondered whether, apart from the two-chambers model, the Committee had any ideas for other practical solutions which might be more suitable in the longer term.

19. The United Kingdom had already begun work on following up the Committee's recommendations, and Mr. Filali, one of the Country Rapporteurs, had visited the United Kingdom as part of the follow-up process. He wondered whether that valuable initiative had been used with other countries.

20. He was unable to give an opinion on the question of individual complaints. To date, the United Kingdom had not taken part in any such process. Reference had been made to a number of meetings convened by Slovenia; he could only assume that they had been private, since his delegation had not been involved in them. The United Kingdom was hesitant about individual complaint mechanisms. Since the Committee was open to an additional mechanism despite being overstretched, he expected that a careful analysis would first be undertaken to ascertain what value such a mechanism would add. It would be helpful if the Committee could cite concrete cases in which individual children had not been able to bring complaints under existing mechanisms to which a State was a party. He also enquired what measures the Committee envisaged in order to avoid some of the problems that other complaints mechanisms had faced.

21. The United Kingdom looked forward to taking part in further discussions on the draft guidelines on alternative care. He wanted to put on record the United Kingdom's gratitude for the work of the outstanding members who were leaving the Committee and who would no longer be present when it met the next time in May.

22. Mr. TINAJERO (Mexico) stressed the importance of the current meeting for his country. Such interaction with the Committee was very useful.

23. With regard to the issue of two parallel chambers, he would like to know what the reporting schedule was for 2009 and thereafter and whether Mexico would need to prepare for consideration of its periodic reports on implementation of the two Optional Protocols earlier than initially planned. The financial implications of parallel chambers also needed to be discussed.
24. As one of the group of friends of the draft guidelines on alternative care, Mexico welcomed discussion on the process that had begun and was convinced that the inputs from the Committee would be most valuable.
25. Mexico, a non-permanent member of the Security Council, would chair its Working Group on Children and Armed Conflict, and any communication which the Working Group might have with the Committee would be very useful.
26. Mexico would be willing to provide comments to help resolve any translation problems.
27. The CHAIRPERSON, referring first to the question on the visibility of the Committee's work, said that the Committee was always open to webcasting. The question was being analysed by the Office of the United Nations High Commissioner for Human Rights. The Committee had no say on how the arrangement would work. She agreed with New Zealand that, in a country in which there was little interest in the Committee's work, it would be useful to be able to view the public meetings. As for the Committee on the Rights of the Child, she pointed out that many representatives of civil society and non-governmental organizations (NGOs) regularly attended its public meetings. The question was one which the secretariat might wish to pursue.
28. As to visits to States parties, she said that Country Rapporteurs had been invited on a number of occasions in connection with follow-up to the concluding observations; that had been very beneficial both for the Committee and for civil society in the countries concerned. She noted that it was customary for the Committee to group regional follow-up on implementation of the concluding observations, the most recent one having been in 2007 in Burkina Faso with francophone West African countries. The Committee could not undertake such visits on its own and did not have the mandate to raise funds for such initiatives. The many regional implementation workshops which countries in Latin America, South East Asia and West Africa had hosted had been very useful, and it was hoped that others would follow, but it must occur at the invitation of a Government.
29. With regard to the backlog and parallel chambers, she said that the United Kingdom was correct in stressing that States parties had elected a full Committee, and not half of one. Long-term solutions were needed, but it should be pointed out that States parties whose country reports had been considered in parallel chambers in the past had had a positive assessment of the experience, and thus the Committee did not foresee any problem in pursuing the arrangement in 2010.
30. In order for the Committee, which still had to pare down its backlog of periodic reports, to meet such new challenges as the establishment of an individual complaints mechanism and a dual chamber procedure, an increase in secretariat support would be essential. The States parties should play a key role in ensuring that the Committee was given such support.

31. Mr. ZERMATTEN said that in view of the twentieth anniversary of the adoption of the Convention, the Committee had decided to replace the day of general discussion originally scheduled for October 2009 with a special two-day celebration, to be held on 8 and 9 October 2009. It would be necessary to hold the event at a venue other than the Palais Wilson, which had limited space, as a large number of invitations would be sent out to representatives of States parties, United Nations specialized agencies and civil society and to academic figures specializing in the rights of the child. The programme would consist of a review of the progress made on the implementation of the Convention, festivities and a cultural event. To the extent possible, children would be involved in all parts of the two-day event. Three themes were to be highlighted: dignity, development and dialogue, and each would be the subject of a half-day session. At the end of the last day, recommendations would be issued, and there was a possibility that they would subsequently be published. In the light of the scale of the event, support would be required not only from the Office of the United Nations High Commissioner for Human Rights, but also from States.

32. Ms. VUCKOVIC-SAHOVIC, noting that there was already a great deal of experience with individual complaints mechanisms in other treaty bodies, pointed out that it was extremely rare for complainants to bring their cases without some form of assistance from non-governmental organizations or counsel. In the case of children filing complaints, the age of the child would determine the extent of involvement of lawyers, organizations or family members. The Committee was aware of the possibility that children could be exploited by opportunistic adults through the complaints mechanism. It would be especially vigilant in that regard when considering whether cases were admissible.

33. Over the past two decades the Committee had been quite effective in changing the legislation in the States parties. The major problem in ensuring effective observance of the rights of the child remained implementation. An individual complaints mechanism would provide a powerful mechanism for the defence of children's rights throughout the world.

34. The CHAIRPERSON said that, since its inception, the Committee had noted that the Convention tended to be viewed by States parties as something less than a legal instrument, and more as a set of guidelines for action. The current financial crisis and the problem of global warming would have direct and serious impacts upon children, and first and foremost the most vulnerable among them - those living in poverty. More attention should thus be paid to mainstreaming the rights of the child throughout human rights activities.

35. Mr. FILALI said that, despite some initial misgivings about the work of the Human Rights Council and the possibility that it would be competing with the Committee's mechanisms, the Committee members had now seen that the two bodies were complementary. The fact that States were subject to the universal periodic review mechanism made them more attentive to the need to submit their reports to the Committee, which led to better and more timely reporting. The Committee also benefited from the documentation submitted in the framework of the universal periodic review. The Human Rights Council, for its part, should encourage ratification of the Optional Protocols to the Convention, and also the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The Human Rights Council

should emphasize to States parties their responsibility to give effect to the recommendations issued by the Committee, should encourage dissemination of the Convention and should emphasize the role of the child as a subject of law.

36. In following up on the implementation of the Convention, the Committee differed from other treaty bodies in that it did not specifically designate members as focal points to monitor the situations in the various States. Instead, the Committee had found that it was most helpful to hold regional meetings and to send specific Committee members as experts to explain the meaning of its concluding observations, for example at conferences and other events.

37. The CHAIRPERSON said that it was her understanding that all member States had been invited to the meetings convened by the Permanent Mission of Slovenia to discuss the possibility of adopting an optional protocol establishing an individual complaints mechanism.

38. The Committee cooperated closely with the office of the Special Representative of the Secretary-General for Children and Armed Conflict. It regretted the fact that it had not been closely associated with the work of the Security Council Working Group on Children and Armed Conflict, and hoped that the situation would improve in the future.

39. Ms. SARAYONLU ETENSEL (Turkey) said that Turkey welcomed the commemoration in October 2009 of the twentieth anniversary of the Convention, and stood ready to take part in the event. Regarding the possible establishment of a complaints mechanism, while Turkey had not taken a firm position, the Turkish Government would be interested in further discussions on the subject. The Committee at its thirty-ninth session had adopted a written procedure for the consideration of the reports submitted under the Optional Protocol on the involvement of children in armed conflict, also known as a technical review procedure. Was it still in use?

40. The CHAIRPERSON said that after a trial period, it had been decided that the technical review procedure was not of particular benefit to the States parties or to the Optional Protocol. The procedure was no longer in use.

41. Mr. FILALI pointed out that after the initial report had been submitted by a State party on the implementation of the Optional Protocol on the involvement of children in armed conflict, subsequent information concerning the Protocol was submitted along with the periodic report on the implementation of the Convention, in a single report.

42. Ms. ORTIZ said that the Committee followed up on its recommendations and concluding observations in various ways, depending on the specific invitations it received from Governments and civil society organizations and the ability of its members to respond to such invitations. She herself had spent some 400 days visiting about 20 countries, mainly in Latin America, but also in Africa. During such visits she had met with the authorities and members of parliament to review the legislation under consideration, and had held interviews with the police and the media. When the Committee received an invitation for such a mission, it insisted that the programme of the visit be drawn up by the Government in cooperation with civil society and the local office of the United Nations Children's Fund (UNICEF). So far the feedback had been very positive. Often, a visit by a Committee member provided a decisive incentive for cooperation to take hold between such stakeholders.

43. When the second reports on implementation of the Optional Protocols began to arrive, the number of reports considered by the Committee would hopefully decline, as such reports would be integrated into the periodic reports on implementation of the Convention.

44. The Committee had, after years of complicated work, adopted a general comment on the rights of indigenous children at the current session. She hoped that the instrument would prove useful for the defence of indigenous children's rights.

The meeting rose at 4.40 p.m.