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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirteenth session

SUMMARY RECORD OF THE 330th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 2 October 1996, at 3 p.m.

Chairperson : Mrs. BELEMBAOGO

later: Mrs. EUFEMIO

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of United Kingdom Dependent Territories: Hong Kong
(CRC/C/11/Add.9 and Corr.1 (English only); CRC/C/Q/UK(HK).1; HRI/CORE/1/Add.62
(English only)) (continued)

1. At the invitation of the Chairperson, the members of the United Kingdom
delegation resumed their places at the Committee table .

2. The CHAIRPERSON invited the members of the Committee to put their questions on the exercise of civil rights and liberties in Hong Kong to the members of the United Kingdom delegation.

3. Mrs. KARP expressed concern about the general situation of human rights legislation in Hong Kong, given that the rights of the child derived from human rights in the broader sense. It was her understanding that the Bill of Rights Ordinance had not been incorporated in the Constitution, with the result that the Ordinance, which was a key element in the system intended to ensure the exercise of human rights in Hong Kong, did not override other provisions of domestic law. She considered it regrettable that the Privy Council should have confirmed that fact, in a ruling of 1993, by deciding not to uphold the findings of a Hong Kong court which had based its decision on the Bill of Rights Ordinance. She was also concerned by China's supposed intention to repeal the Bill of Rights Ordinance when Hong Kong reverted to Chinese sovereignty. She was worried by the absence of direct remedies open to private individuals in the event of violation by public institutions of provisions of the Bill of Rights which was, consequently, not on an equal legal footing with other legislative provisions of domestic law, even when they were not in strict conformity with principles relating to human rights. In practice, that situation did not facilitate the task of the authorities in cases where it was desirable strictly to apply the provisions of the Bill of Rights.

4. She asked what measures had been taken by the authorities to provide teaching of human rights in schools. Was such teaching part of the curriculum of both State and private schools? She also inquired whether teaching fostered an independent attitude among pupils, enabling them to take informed decisions concerning the exercise of their rights.

5. Regarding the rights of the child, and particularly the child's right to an identity, she asked whether the fact that a child could be registered at birth without a name, and that a child's name could be changed up to the age of 11, was consistent with the principle of the best interests of the child, and whether such a practice was not detrimental to one of the fundamental rights of the child. She further wished to know at what age a child could request a change of name, and from what age the parents were required to obtain the child's consent to such a change.

6. Regarding citizenship, she wondered whether ethnic minorities, such as persons of Indian, Portuguese or Thai origin, would be entitled to Chinese citizenship after transfer to Chinese sovereignty and, if so, whether any

guarantees existed in that connection. She also asked whether the provision that referred to the granting of British Nationals (Overseas) status to Hong Kong citizens was embodied in any piece of legislation, or whether it was merely a declaration of intent. Would the deadline set for submission of applications for British Overseas citizenship be strictly applied or would extensions be allowed for possible late applicants? She also wondered whether the nature of the citizenship granted would involve de facto restrictions on the right to freedom of movement, since it would not permit travel to all countries.

7. She was surprised by the high proportion of child deaths by accident or suicide. Was the Government studying means to remedy that situation? She also wished to know whether legal penalties existed for parents whose children had suffered accidents while left at home alone. She further asked whether parents were prohibited from administering corporal punishment at home for educational purposes, and whether a study had been conducted to evaluate maltreatment of children in connection with corporal punishment.

8. She suggested that it would be useful for the Committee to know whether disabled children and children with other special needs were subject to de facto discrimination as a result of omissions in legislation and, also, whether the right to privacy was specifically guaranteed during criminal proceedings and whether provisions protecting the identity of the child were applied in practice. She asked, in addition, whether the right to privacy was protected in the case of the Vietnamese refugee children (boat people) living in detention centres. Finally, she requested information on the status of the proposal to create a body responsible for examining complaints by private individuals regarding police conduct.

9. Mr. WINGFIELD (United Kingdom) said that the Bill of Rights had not been incorporated in Hong Kong legislation by the United Kingdom and that it was therefore not an organic law. He explained that the purpose of the Bill was to bring current legislation into line with applicable international provisions. The Letters Patent, which were Hong Kong's Constitution, precluded promulgation of any legislation that was incompatible with the International Covenant on Civil and Political Rights. In the matter of the Privy Council's decision raised by Mrs. Karp, he stated that any interpretation of current legislation was admissible in court, provided it was compatible with the Bill of Rights.

10. Regarding China's supposed intention to repeal the Bill of Rights, he said that only three provisions of the Ordinance were involved, and not the provisions of the Bill of Rights itself. No part of the Ordinance reproducing terms of the International Covenant on Civil and Political Rights would be repealed.

11. Regarding remedies, he stated that private individuals could institute proceedings directly against the Government or against public bodies, thus ruling out the need for remedies specifically for that purpose. Concerning human rights education, he referred the Committee to paragraph 21 of the report (CRC/C/11/Add.9) containing detailed information on the subject. The report also indicated that teachers received training on the terms of the Convention and of the Covenant.

12. He explained that children were not registered immediately after being born in deference to an ancient Chinese custom to which some communities were particularly attached. Children could change their names when they came of age, but not before. China had indicated that ethnic minorities would be entitled to Chinese nationality.

13. In connection with protection of children's right to life, he said that the authorities conducted awareness-raising and information campaigns to discourage parents from leaving their children at home unattended. The authorities were also endeavouring to establish crèches and nurseries intended primarily for parents who could not afford to obtain assistance from other people. No penalties existed for parents whose child suffered an accident, unless they had deliberately maltreated the child or they were guilty of gross negligence, in order to avoid double jeopardy.

14. On the subject of discrimination against disabled children, he said that the Government did not discriminate against any group of children, and endeavoured to ensure that disabled children enjoyed the same rights and received the same services as all other children. To that end, the Government had enacted the Disability Discrimination Ordinance, which sought to protect disabled children from discrimination. However, the Ordinance had come into force only recently and it was not yet possible to assess its concrete effects.

15. He added that criminal cases tried by juvenile courts were conducted in camera and that children's names were not divulged. Regarding respect for privacy, he regretted that it was not possible fully to apply the provisions of the Convention to Vietnamese children in detention. Finally, he was happy to announce that a bill to create an independent police force was expected to be passed shortly.

16. Mr. FIFOOT (United Kingdom) drew attention to the fact that, in December 1984, China had informed the British Government that all Hong Kong Chinese, whether or not they possessed a British passport, would acquire Chinese nationality upon transfer of sovereignty. Under a bill carried by the British Parliament in 1986, all inhabitants of dependent territories could apply for British Nationals (Overseas) status, which had been recognized by the Chinese authorities, entitling them to a British passport and to the protection of the British authorities in third countries. Similarly, any person rendered stateless by the transfer of sovereignty could request British Nationals (Overseas) status. The deadline of 31 March 1996 set for registration as a British citizen of the Dependent Territory of Hong Kong applied to children and persons who were not citizens of the territory by birth or by descent.

17. Mr. HAMMARBERG asked, in connection with article 17 of the Convention regarding relations between the media and children, whether Hong Kong had a monitoring body responsible for receiving complaints and ensuring that programmes with a harmful effect on children were not broadcast. Did any agreements exist, or had discussions taken place, between the media and the authorities in that connection? What regulations were applicable to films recorded on video cassette, and were they observed?

18. Mrs. KARP wondered whether further measures, including punitive measures, should not be taken to discourage parents from committing acts of negligence, and whether human rights teaching should not be made a compulsory and permanent part of school education. It was her understanding that proceedings instigated for violation of human rights were not always successful and did not necessarily lead to compensation.

19. Mr. WINGFIELD (United Kingdom) stated that the Broadcasting Authority was responsible for monitoring the media, including cable and satellite television channels. It could receive complaints, draw up standards governing the broadcasting of programmes for children and make recommendations on programmes for adults. It could also impose penalties, including suspension and withdrawal of licences. Video recordings were also subject to the classification system for films.

20. The British authorities did not consider it desirable for children that criminal penalties should be imposed on parents who left them unattended. As stated in paragraphs 349 and 350 of the report (CRC/C/11/Add.9), all aspects of human rights were taught in schools. He stated that it was possible directly to obtain compensation for violation of human rights by instigating proceedings under the Hong Kong Bill of Rights.

21. The CHAIRPERSON invited the members of the Committee to ask questions regarding the sections dealing with the family environment and alternative care, together with health and welfare.

22. Mr. MOMBESHORA remarked that there had been no decline in domestic violence since 1987 when the corresponding Ordinance had been adopted, and asked whether measures had been taken to ensure compliance with the Ordinance, and whether there was a social service responsible for visiting the homes involved and providing counselling. He also requested further information on problems in enforcing maintenance orders.

23. In connection with health care, he asked whether the situation was satisfactory for all regions and all social brackets, and whether vaccination figures, for instance, reflected an overall average or whether disparities existed between regions and social brackets. He also inquired about the role of traditional Chinese medicine, whether studies had been conducted to identify the reasons underlying suicides by school pupils, whether working mothers were given the necessary time to breast-feed their infants, and how long breast-feeding generally lasted. He also asked how many children had lung cancer as a result of pollution, and requested information on the general level of atmospheric pollution in Hong Kong.

24. Mrs. EUFEMIO asked whether social programmes provided genuine assistance for all disadvantaged parents and children. She also wished to know whether the Family Life Education Programme, intended for married couples or couples about to marry, sought to change attitudes, and included monitoring, and whether it contributed to preventing maltreatment and negligence. Did any indicators exist and, if not, were any planned? She further inquired why there were so many cases of incest in Hong Kong. What was the exact figure, and what measures could be taken to prevent sexual abuse?

25. She inquired as to the usual age of marriage, the proportion of young marriages and the reasons for which parents might withhold consent to their child's marriage. She asked, in addition, what measures had been taken to prevent the breakdown of the tradition of the extended family, and whether newly constructed housing contributed to a change in such customs.

26. On the subject of social services for families, she requested information on requisite qualifications for persons responsible for monitoring families experiencing difficulties. Given that objectivity was the prime factor in the quality of their intervention, she asked what measures were taken to ensure impartiality towards the persons involved. She also asked whether any community services offering psychological assistance were available to complement the social services which could not, after all, deal with everything. Noting from the report that the number of single-parent families was increasing, she suggested that lone parents were more likely to take out their distress on their children. Thus, she welcomed the fact that home-help services were offered to unmarried fathers, and asked whether any measures were being planned to provide a mother figure, which was particularly important for girl children. She further inquired as to the nature of such home-help services - housekeeping, child care, etc. - and whether the Government monitored the performance of social workers. She also asked whether the child-care services catered for children's social development, in particular making them aware of their rights.

27. On the subject of family reunification, she noted that the Government did not necessarily take action when a family left Hong Kong to go abroad, preferring to leave to the host State the responsibility for measures to help children adapt to their new environment. She considered, however, that collaboration should exist between the two countries, as in the case of adoption.

28. Mr. WINGFIELD (United Kingdom) stated that cases of domestic violence were the province of the 65 family assistance centres administered by the Social Welfare Department, and of non-governmental organizations (NGOs), together with the social services of hospitals and clinics. Such assistance ranged from counselling services to financial support, and included housing assistance, child care and also legal aid, thus ensuring that all aspects of the situation were taken into consideration. In April 1995, the Social Welfare Department had strengthened coordination of its multidisciplinary approach by establishing an interdepartmental working group composed of representatives of Governments and NGOs, responsible for matters relating to public awareness-raising and formulation of measures to assist battered women and their children. Such activities had led to publication in March 1996 of detailed directives which were circulated to professionals and organizations with responsibilities in that area. Such measures were necessary, since the number of cases of violence to be dealt with was increasing - up from 196 in 1993 to 250 in 1995. With regard to maintenance orders, the Government was to submit a Bill in 1997 seeking to facilitate enforcement of such orders and to provide, in particular, for the possibility of effecting attachment of earnings.

29. In reply to Mrs. Eufemio's questions, he said that family life education was an important aspect of life in Hong Kong. The system had been introduced

in 1979, and had subsequently been evaluated in 1994 by the Social Welfare Department, in collaboration with NGOs. Several recommendations had emerged from that exercise, seeking in particular to broaden the target groups to include married couples and to strengthen educational programmes intended for couples expecting a child, and for young couples. The Government was planning a further evaluation to monitor implementation of those recommendations, which might be undertaken in collaboration with the Committee. He considered it might be difficult to ascertain the reasons for which parents withheld consent to a child's marriage, since they were generally personal, unless a case was brought before a court. He stated that the Government was well aware of the question of the impact of urban development on the extended family. It was for that reason that the Government was making every effort to offer all the mentioned assistance services to nuclear families living in the urban environment. On the question of social education imparted in nurseries, he suggested that the children involved were too young to understand such ideas. Finally, he maintained that it was the responsibility of parents, and not of the Government, to ensure that children adapted successfully to their new environment when they settled abroad.

30. Mr. HAMMARBERG asked whether the rules governing visits could be made more flexible for children who wished to spend time with their parents under detention. He requested more detailed information on methods used to assess the effectiveness of the home-help services. Regarding prevention of maltreatment of children, he drew attention to the exemplary nature of certain aspects of measures applied in Hong Kong. He did, however, consider that the corresponding data could be improved, particularly in order to ascertain the real influence of the working group that had been set up to study the matter, and also to identify the profile of perpetrators of such violence. He wished to know whether the seriousness of psychological maltreatment was given due weight, and whether the Government's efforts were sufficient to ensure respect for the child's inviolability. He further considered that training of professionals working with children could doubtless be improved. None the less, he welcomed the Government's steps to train teachers and medical staff to identify and report cases of maltreatment. The code of ethics in force in some countries forbade doctors to divulge such information. However, in the spirit of the Convention, the doctor should, on the contrary, be required to speak out. Returning to the matter of the influence of the media on children, he said the monitoring system applied in Hong Kong appeared satisfactory, but he wondered whether an assessment had been made to ascertain its effectiveness in practice.

31. Mr. MOMBESHORA requested more specific information on the results of the Ordinance to facilitate access of disabled children to education and training to allow them to become integrated in society. In connection with breast-feeding, he asked how many baby-friendly hospitals there were in Hong Kong and why the Government continued to authorize private companies to distribute milk products free of charge in maternity hospitals.

32. Mrs. KARP, returning to the matter of domestic violence, asked whether research had been conducted to establish the relationship between corporal punishment and its possible physical and psychological repercussions for children. She was particularly interested to know to what extent the Government's action was accepted in a society which considered the family to

be a strictly private matter. Were private individuals, and particularly neighbours, prepared spontaneously to help the authorities to combat the problem, or did they prefer to remain aloof? Might it be feasible to introduce an obligation to report such cases of abuse?

The meeting was suspended at 4.50 p.m. and resumed at 5.15 p.m.

33. Mrs. Eufemio took the Chair .

34. Mr. WINGFIELD (United Kingdom) stated that the prison regulations authorized one visit per week, but provided also for waivers. He saw no reason why a child should not be able to spend additional time with a parent in detention. He explained that home-help services were regularly evaluated, most recently in 1994.

35. He said that measures to assist children suffering maltreatment were the province of the Working Group created for that purpose in 1983. The Working Group was made up of members of the Attorney-General's services, the police, the Social Welfare Department and several NGOs. It had gathered extensive statistics, on the basis of which a classification of different types of maltreatment had been drawn up. The statistics related specifically to gender, age and family relationship of perpetrators and victims, together with the profession of the former. Such information was gathered on a regular basis and demonstrated that cases of psychological violence were not the most frequent (24 cases out of 604). One third of such cases were reported by social workers, 20 per cent by teachers and 6 per cent by doctors.

36. In 1994, the Working Group had established a Sub-Committee with the task of drawing up strategies to promote education. A number of information campaigns had been launched in 1995 to teach children how to protect themselves, and to sensitize parents to the risks to which their children were exposed. The activities of the Children's Protection Service operated by the Social Welfare Department were directed towards that end. In addition, the number of social workers had increased between 1994 and 1996, with the result that each professional now dealt with an average of 30, instead of 44, cases. Twenty-five additional psychologists had recently been added to the staff of the Psychological and Clinical Evaluation Service which assisted children experiencing difficulties.

37. Every two or three years, the competent authorities assessed television programmes through public opinion surveys which had, to date, revealed that the population was on the whole satisfied with programmes and did not consider that they were offensive for children.

38. The Department of Health and Health Services encouraged breast-feeding, particularly in public hospitals, with positive results over the last two years. However, the Government did not consider that it could ban free distribution of powdered milk, because it is up to parents to opt for that form of feeding if they saw fit.

39. Hong Kong had 68 schools for disabled children, but the public authorities made every effort to integrate such children in the ordinary school system.

40. Mr. HAMMARBERG said that statistics could not accurately reflect the frequency of cases of psychological maltreatment. Moreover, he was of the opinion that, although the workload of social workers had decreased over the last two years, it continued to be very heavy. He would welcome information on the results achieved by the mutual help groups and on the public initiatives to establish creches, with a view to assisting parents to discharge their family and professional obligations.

41. Miss MASON asked whether studies had been conducted on adolescent health and on the reasons why so many adolescents committed suicide. To what extent did the excessively demanding secondary education programmes contribute to that phenomenon? Finally, had the public authorities been able to ascertain why adolescent girls were the most prone to commit suicide?

42. She also requested clarification on the position of vocational training in the educational system, bearing in mind that Hong Kong was essentially business-oriented. Was vocational training considered to be a last resort for children who did not have the ability to pursue traditional studies and were sufficient resources allocated to such training under the education budget?

43. Lastly, she wished to know more about the status of teachers in Hong Kong, and asked whether the prospect of the political transition in July 1997 was affecting the profession.

44. Mr. KOLOSOV inquired whether children in Hong Kong were informed about the way of life and current affairs in China, through television or the press. Children should be psychologically prepared for the fact that, in under a year, Hong Kong would be part of China.

45. Mrs. KARP asked whether teaching of human rights and of the rights embodied in the Convention was part of the curriculum, in State and private schools, or whether that was undertaken as a result of specific initiatives by the Government. Were steps taken to ensure that disabled children were placed in schools able to cater for their needs, in endeavours to integrate them in the ordinary school system?

46. Mr. HAMMARBERG stressed that it was difficult to reconcile quality and quantity in education. A specific education appeared to be necessary for children, particularly disabled children, who had special needs. In contemporary society, the educational system should be sufficiently flexible to respond to such special needs. It was inadvisable to place excessive emphasis on a type of teaching that focused primarily on accumulation of knowledge, prompting fierce competition and leading to an excessive burden of work on children, with the result that failure to pass school examinations became a tragedy. What measures were taken to foster a more human atmosphere in the school system and to allow children to develop at their own pace? In addition, what policies were pursued to allow children to exercise their right to play in a large city where space was limited?

47. Mr. WINGFIELD (United Kingdom) agreed with Mr. Hammarberg that the nature of psychological maltreatment made evaluation by surveys difficult. He

did not have any statistical data on mutual help groups, but said that every effort was made to establish such groups and that care was taken to ensure that they were appropriately monitored, with the result that in the future it would be possible to gather more data regarding their activities.

48. Although several organizations had established creches in Hong Kong, lack of space was clearly an obstacle and the public authorities needed to step up their endeavours in that direction. He would provide further information on the causes of adolescent suicide at a subsequent meeting. He added that he had no information on the phenomenon of incest in Hong Kong.

The meeting rose at 5.55 p.m.