



Convention on the Rights of the Child

Distr.: General
16 December 2011
English
Original: French

Committee on the Rights of the Child Thirty-fifth session

Summary record of the 929th meeting

Held at the Palais Wilson, Geneva, on Monday, 19 January 2004, at 3 p.m.

Chairperson: Ms. Aluoch (Vice-Chairperson)

Contents

Consideration of reports of States parties (*continued*)

Second periodic report of the Netherlands (continued)

Initial report of the Netherlands (Aruba) (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.05 p.m.

Consideration of reports of States parties (*continued*)

Second periodic report of the Netherlands (CRC/C/117/Add.1; CRC/C/Q/NLD/2; CRC/C/RESP/48; HRI/CORE/1/Add.66)

Initial report of the Netherlands (Aruba) (CRC/C/117/Add.2; CRC/C/Q/NLD/2; CRC/C/RESP/48; HRI/CORE/1/Add.68/Rev.1)

1. *At the invitation of the Chairperson, the delegation of the Netherlands took places at the Committee table.*
2. **Mr. Citarella**, speaking in reference to changes in family structures, asked why there were still inconsistencies in certain aspects of Dutch and Aruban adoption and education legislation. While homosexual couples could adopt in the Netherlands, the new Aruban Civil Code authorized adoption only by heterosexual couples. Also, Aruban domestic legislation contained no provisions on compulsory education.
3. **Ms. Smith** asked why the incidence of child abuse, domestic violence, sexual exploitation of children and child prostitution was so high, given that the Netherlands had a National Action Plan against Sexual Abuse of Children and centres that provided counselling and received complaints of child abuse and neglect. She wished to know whether the performance of the centres had ever been evaluated. It would also be useful to receive information on the waiting lists and waiting times for child victims of sexual abuse in need of treatment and the programmes implemented to combat violations of article 19 of the Convention.
4. She asked what measures had been taken by the Dutch authorities to address the problem of children who ran away from centres for asylum-seekers and ended up in prostitution.
5. She expressed concern about the lack of day-care facilities and the status of women in the Netherlands and asked what measures the Government was taking to empower women.
6. She also wished to know to what extent existing social policies provided for poor children and requested information on the current situation and achievements in the fight against poverty.
7. She enquired about the links between Aruba and the Netherlands and about the degree of Aruba's governmental and budgetary autonomy. She would also appreciate precise statistics on police brutality and on the prison population and detailed information on the alleged discrimination against domestic workers who apparently could change employers, but not their profession.
8. **Mr. Krappmann** asked to what extent the children of ethnic minorities and poor children benefited from the Dutch Government's early childhood education policies and what measures the Aruban Government had taken to prevent school dropout and keep children without a residence permit from joining the ranks of the unemployed without having received an education?
9. **Ms. Lee** said that she was surprised that in the Netherlands private- and public-sector professionals working with children were not legally bound to report cases of child abuse and neglect and that Parliament had not yet completed its examination of the national plan of action against sexual exploitation. To curb domestic violence, it would be advisable to draft legislation prohibiting corporal punishment.

10. It would be useful to obtain statistics on the number of persons with disabilities placed in institutions, the length of the waiting lists and the amounts specifically budgeted for services provided for disabled children and to receive information on how far children with disabilities were integrated into the Dutch education system.
11. She asked whether the Convention had been translated into Papiamentu and whether the fact that teachers in Aruba had a better command of Papiamentu than Dutch might be an impediment to pupils' freedom of opinion and expression.
12. Given the lack of day-care facilities, she would welcome additional information on the number of children who were dropped off at school before opening hours by parents on their way to work.
13. **The Chairperson**, speaking in her capacity as an expert, enquired about the legal provisions applicable to unaccompanied minor asylum-seekers and refugee children.
14. **Ms. Peterson** (Aruba) said that the Netherlands Antilles, to which the Island of Aruba had belonged until 1986, and Aruba were two autonomous countries within the Kingdom of the Netherlands. Each had their own Government and the so-called "Kingdom affairs", namely defence and foreign relations, were administered by the Kingdom of the Netherlands.
15. In order to ensure the implementation of the Convention, which fell under the purview of the Government of Aruba, in 2001 the authorities had appointed a national committee made up of representatives of a number of government departments and NGOs. The committee met at least once a month and had recently published a brochure on the rights of the child in Papiamentu for primary school pupils.
16. The Ministry of Education and Social Affairs conducted awareness campaigns on the rights of the child in cooperation with NGOs. A Youth Council and a Youth Parliament had been established recently and met approximately 20 times per year. The two bodies were funded by the Government.
17. The population of Aruba had changed considerably over the past decade, mainly on account of the country's strong economic growth. The massive influx of immigrants had had repercussions; a study on integration problems and the effects of migration on education was currently under way.
18. Education in Aruba was free of charge; consequently, enrolment rates were very high. The draft National Ordinance on Compulsory Education, which was currently before Parliament, was expected to be adopted by the end of 2004. The text provided for the enrolment in education of children without a residence permit.
19. In accordance with legislation governing primary education, both Papiamentu, which was the main language in Aruba, and Dutch were used as languages of instruction in nursery school and the first two years of primary school. The language of instruction in secondary schools was Dutch, since many secondary school graduates left for the Netherlands to continue their studies. The education system was modelled on the Dutch education system.
20. **Ms. de Cuba** (Aruba) said that the National Ordinance on Childcare imposed strict quality criteria on childcare facilities, the services provided and the training of staff before and during their employment. A new statutory licensing system had been introduced. At present, the Government was undertaking a study on implementation costs of the Ordinance, with emphasis placed on support for single parent families. Furthermore, the reduction of school fees was expected to help reduce dropout rates.
21. **Ms. Chutikul** asked whether Aruba had the financial and material resources, especially in terms of staff numbers and the publication of new textbooks and teaching

materials, to extend the use of Papiamentu as the language of instruction to the entire primary education cycle.

22. **Ms. de Cuba** (Aruba) said that the situation had been hotly debated and both the educational reforms of recent years and the current restructuring of nursery, primary and secondary education had fanned the flames of dispute concerning the language of instruction. It had therefore been proposed to introduce Papiamentu as language of instruction in primary education, while retaining Dutch as the second language and language of instruction in secondary education, and to ensure that primary school textbooks and teaching materials reflected the real sociolinguistic situation in Aruba.

23. In the field of health, the few children suffering from sexually-transmitted infections, including HIV/AIDS, were treated by paediatricians or family doctors; a special awareness campaign on high-risk behaviour had been launched in all secondary education schools with NGO support.

24. A study on birth registration rates carried out in 2000 had revealed that the difference between the annual number of births declared in hospitals and the annual number of births registered at the civil registry office was smaller than expected. More precise data would be provided in the next report.

25. A range of counselling and guidance services were now provided by the Foundation for our children for parents encountering difficulties in the parent-child relationship; the Foundation received government funding. Parents could also seek assistance from the Ministry of Health, Social Affairs, Culture and Sport, which organized communication workshops and trained professionals who worked with adolescents.

26. The Aruban Constitution prohibited all discrimination based on race, gender, colour, language, religion or disability. Although there were unfortunately no care institutions for children with grave disabilities, the Foundation for the Visually Impaired, the Foundation for the Mentally Disabled and the Foundation for the Hearing Impaired provided support for families with children with those types of disabilities. Two primary schools were open to children with learning difficulties; another primary school offered teaching for children with hearing disabilities. Visually-impaired children were enrolled in regular primary schools or assisted by specialized teachers.

27. **Mr. Ter Kuile** (Netherlands) said that in February 2002 an administrative court had ruled that children whose parents did not have a residence permit for the Netherlands were not eligible for the same benefits as Dutch children although, pursuant to the provisions of the Convention on the Rights of the Child, the Dutch authorities were obliged to ensure the protection and education of those children. Since asylum applications by families with children were treated as a whole, the children's fate depended on the decision of the judge. If the application was rejected, the children must leave the country or file for asylum under the Convention on the Rights of the Child. Unaccompanied minor asylum-seekers whose application was rejected were guaranteed State protection. If there was no one to care for the minor in their country of origin, they were given a temporary residence permit until they reached the age of 18. Each unaccompanied minor was assigned a guardian to ensure that they did not fall into the hands of traffickers.

28. **Mr. Wekenborg** (Netherlands) said that corporal punishment was classified as a criminal offence. The Education Inspectorate followed up all reported cases and there were telephone hotlines for schoolchildren.

29. The Ministry of Education attached great importance to providing adequate guidance for all pupils, irrespective of their level. In accordance with the goals set by the European Union in Lisbon in 1999, the State party was committed to reducing the school dropout rate by 30 per cent by 2006 and by 50 per cent by 2010. Each year, some 12,000

children left secondary school without a diploma. Recording and monitoring dropout was an essential part of combating the phenomenon; since 2001 schools were thus obliged to report all cases to the competent authorities.

30. Measures were being taken at the municipal level to ensure that linguistic barriers did not hamper progress among pupils whose parents were not Dutch. When they entered primary school, those children's language skills lagged on average two years behind those of native speakers. Efforts were therefore being made to intervene as early as possible and special tutoring was provided over the course of two years to give the children the opportunity to catch up. By 2006, all children belonging to minorities were expected to benefit from the programme, compared with 50 per cent in 2003.

31. Gifted children also had the right to suitable teaching. Extensive research had been carried out to improve teaching methods for gifted children and the results of several pilot projects would be available shortly. A national network of experts and information centres had been created for the parents concerned.

32. Efforts were currently being made to implement the principle whereby disabled children received financial allowances wherever they were enrolled — whether in specialized or regular establishments — on the basis of their capacities and their parents' wishes.

33. Since the end of the 1990s, each school was required to establish a commission to examine complaints of ill-treatment. While the previous system had exclusively dealt with reports of sexual abuse, the current procedure addressed all cases of physical or psychological violence. Parents received comprehensive information on steps to be taken and persons to be contacted.

34. **Mr. Werbeek** (Netherlands) said that professionals working with children were henceforth obliged to report all cases of suspected sexual or other abuse to their management. The need to safeguard the best interest of the child was given priority over professional confidentiality.

35. Between 15 and 20 per cent of young persons suffered from mental or behavioural disorders at some point in their lives. Over the past years, considerable resources and additional funds had been allocated to support those children and to keep them in the regular education system wherever possible.

36. **Ms. Sardenberg** requested clarification on the programmes for low-income families.

37. **Mr. Weekenborg** (Netherlands) said that the two relevant programmes launched in the 1990s would be complemented shortly by a third programme, which was currently in the drafting stages; special funds had been set aside.

38. **Mr. Zoomers** (Netherlands) said that the number of teenage pregnancies was relatively low, but on the rise. In 2000, 1,400 young pregnant girls had belonged to ethnic minorities. Special preventive measures were aimed at that group.

39. Since 1993, annual campaigns had been organized to promote responsible, safe sexual behaviour among young people. At present, the campaigns focused in particular on the consequences of sexually-transmitted infections, especially female sterility caused by Chlamydia infection. In April 2003, there had been 225 children infected with HIV in the Netherlands. Although the number of persons infected with HIV/AIDS was relatively small, a growing number of heterosexuals was affected, especially women belonging to ethnic minorities. As of January 2004, pregnant women were therefore systematically encouraged to undergo screening.

40. **Ms. Al-Thani** enquired about the reasons for the increase in sexually-transmitted infections and asked what was being done to prevent mother-to-child transmission of HIV.

41. **Mr. Zoomers** (Netherlands) said that the increase in sexually-transmitted infections among young people was probably due to frequent change of sexual partners, which was more common at that age.

42. In order to protect young persons against alcohol and drug abuse, it was prohibited to serve alcohol to children under the age of 16. Furthermore, all drugs were prohibited, although consumption was not considered an offence; possession of up to 5 grams of cannabis for personal use was permitted. The percentage of young persons having used cannabis in 2003 had remained stable, in the region of 18 per cent.

43. When the religious beliefs of the parents endangered the health of the child, for example in the case of certain groups opposing vaccination, parental custody could be withdrawn. There had been an increase in the number of children born into groups opposing vaccination who had been paralysed by poliomyelitis.

44. **Ms. Khattab** asked whether the State party's liberal drug policy attracted many young persons from abroad.

45. It was regrettable that, although the rate of breastfeeding was high, the producers of breast-milk substitutes continued to promote their products nationally. She asked whether the State party intended to extend maternity leave beyond its current duration of 16 weeks.

46. **Mr. Zoomers** (Netherlands), speaking with reference to cannabis consumption and opportunities for young foreigners to purchase cannabis in the Netherlands, said that the Government ensured that coffee houses did not sell more than 5 grams to any one customer.

47. New labour legislation to be promulgated shortly provided for breastfeeding breaks during the first nine months of a child's life. Relevant information was also available through centres for nutrition and a specialized website.

48. **Ms. Scholte** (Netherlands) said that all children, including children with disabilities and children belonging to ethnic minorities, were treated equally and their right to freedom of expression was respected. The ethnic composition of public sector staff, in the areas of both education and health, reflected the multicultural make-up of the Netherlands.

49. There was broad health-care coverage. The country had a total of 1,400 clinics, which offered advice to 95 per cent of parents and provided services such as check-ups, screening and vaccinations for children.

50. **Mr. Meurs** (Netherlands) said that his country was currently in the process of ratifying the European Convention on the Exercise of Children's Rights. As to the draft bill establishing a children's ombudsman tabled by the House of Representatives, he could not say what provisions had been made for handling individual complaints. To his knowledge, the courts had received no complaints of abuse of authority; should the situation arise, the complaint would be duly investigated.

51. The Youth Services and Youth Protection Inspectorate had drawn up plans for monitoring the bodies that put prospective adoptive parents in touch with children given up for adoption, and the Dutch central authority maintained regular contact with its foreign counterparts to ensure the legality of adoption procedures in the country of origin of adoptive children. Intercountry adoption was only permitted for heterosexual couples to prevent certain countries from suspending the adoption of their citizens by the Netherlands; homosexual couples were only eligible to adopt Dutch children.

52. Measures had been taken in the framework of the action plan created to combat domestic violence and sexual abuse. The results were currently being evaluated with a view to identifying the root causes of such conduct and establishing relevant indicators.

53. **Ms. Bloom** (Netherlands) said that there were specific laws and regulations on quality childcare, the training of childcare personnel and data management. The Netherlands had adopted a national action plan to combat poverty and social exclusion that focused on social reinsertion through employment, which was considered the best remedy for exclusion.

54. **Mr. Werbeek** (Netherlands) said that, in order to expedite treatment of child victims of sexual abuse and shorten the very long waiting lists for care institutions, the provinces were required to prepare annual situation reports. Provisions had also been made to improve the registration of cases to get a clear picture of the situation and identify administrative barriers.

55. **Mr. Kotrane** noted with regret that the definition of an “asylum-seeker” in Dutch legislation was not in conformity with article 22 of the Convention and other relevant international norms and that the State party adopted stricter policies on unaccompanied minor asylum-seekers that promoted the minors’ return to their countries of origin.

56. It was worrying that minors between 16 and 18 years of age could be sentenced to life imprisonment, that judges appeared more likely to impose prison sentences than socio-educational measures on juvenile offenders, and that child labour was permitted under certain circumstances even though the State party had ratified ILO Convention No. 138.

57. As soon as the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict entered into force, the Netherlands should raise the minimum age for recruitment into the armed forces.

58. In cases involving the sexual exploitation of children, the judge should not wait until a complaint was made before instituting criminal proceedings, nor should double jeopardy prevent the institution of proceedings against the perpetrators of such crimes.

59. **Mr. Liwski** asked whether the Government intended to pass legislation on corporal punishment.

60. He asked for information about the results of the policy on unaccompanied minor asylum-seekers and enquired whether associations of young refugees had been consulted about the impact of the policy. He asked for details of the daily life in centres for unaccompanied minors awaiting deportation and asked, in particular, whether they had access to education while in the centres.

61. He asked where young offenders who had been sentenced to prison were detained while awaiting a place in a closed institution and more particularly whether the environment there did not aggravate their psychosocial state. It would be useful to know whether young offenders were imprisoned alongside adults and whether there were special social rehabilitation programmes for juveniles.

62. **Ms. Khattab** said that the planned database on migrants should include information on child victims of sexual exploitation.

63. It was regrettable that current Aruban legislation contained no provisions on asylum-seekers and that it was thus impossible to obtain a residence permit on humanitarian grounds or to suspend deportation. It would be interesting to know to what extent the Office of the United Nations High Commissioner for Refugees (UNHCR) had assisted Aruba in bringing domestic legislation into line with international instruments.

64. **Mr. Filali** enquired about the average duration of asylum procedures, which appeared to be fast-tracked with the emphasis on promoting asylum-seekers' return to their countries of origin. It was deplorable that certain asylum-seekers were expelled from Aruba without regard for the risks they faced in their country of origin, and that Dutch legislation did not expressly prohibit life imprisonment for minors.

65. It would be interesting to learn whether 17-year-old members of the armed forces had a civil or military status and what coercive measures were applicable to alleged offenders who were under 12 years of age.

66. **Ms. Ouedraogo** asked whether sex tourism was a problem in Aruba and, if so, whether measures were being taken to combat that scourge.

67. **Ms. Ortiz** asked whether Aruba had any programmes to assist school dropouts and enquired about the meaning of the term "sugar daddies".

68. **Ms. Lee** asked to what extent native Arubans were represented in decision-making posts, in particular within the Government.

The meeting was suspended at 5.05 p.m. and resumed at 5.15 p.m.

69. **Mr. ter Kuile** (Netherlands) said that the definition of refugees in the Aliens Act 2000 was consistent with that contained in the Convention relating to the Status of Refugees, qualified by a number of conditions based on the European Convention for the Protection of Human Rights and Fundamental Freedoms. In recent years, the number of unaccompanied minors seeking asylum in the Netherlands had effectively dropped and minors currently accounted for an estimated 10 per cent of the total number of asylum-seekers. All minor asylum-seekers were heard while their application was being processed which, since 2001, took a maximum of 48 hours. After that period, the applicant was informed of the admissibility or rejection of his application, against which an appeal could be made. As a result of the expedited procedures, human trafficking had shifted to other countries.

70. Unaccompanied minors whose application had been rejected could be granted temporary refugee status on the grounds of their age. They were then placed in institutions and, pursuant to the Compulsory Education Act, received education of the same content and quality as that provided in regular schools, but in English, with the aim of enabling those who wished to do so to return eventually to their countries of origin. Holding centres for unaccompanied minors could in no way be considered as closed institutions. The minors were free to come and go and the sole purpose of the enclosure was to protect residents from outside dangers, such as traffickers seeking to take advantage of their suffering. A range of sporting and other activities were offered to ensure the children's well-being. There was ongoing dialogue with refugee organizations, which had met with members of Parliament to exchange views.

71. **Mr. Meurs** (Netherlands) said that the possibility to sentence a minor over 16 years of age to life imprisonment only existed in theory and the provision had never been applied. It was rare for judges to apply to juvenile offenders criminal provisions applicable to adults. However, the possibility could not be ruled out, since it was desirable to make available to judges the widest possible range of measures in order to ensure that the punishment was commensurate with the circumstances, the personality of the accused and the gravity of the crime. Custodial sentences were used as a last resort and emphasis was placed on education and social rehabilitation. In that spirit, some minors were given conditional prison sentences and were detained in the evening and at night, while pursuing their education or working during the day.

72. The issue of corporal punishment had been widely discussed. For the time being, the authorities considered that the obligation of parents to ensure the well-being of their

children enshrined in the Civil Code and existing provisions on ill-treatment were sufficient. However, that position was not carved in stone and could change.

73. Although the capacity of young offenders' institution had been increased, it was still insufficient and the Government was continuing its efforts to address the problem of waiting lists. Only persons accused of very minor offences, such as causing a disturbance at night or riding a bicycle without lights, could appear in court without being represented by counsel; in all other cases, the presence of a lawyer was mandatory.

74. The debate on legislative improvements was ongoing. One of the issues currently in the public eye was the question of whether a resident who took his or her child abroad to have genital mutilation performed in a country where such practices were legal should be liable to prosecution upon return to the Netherlands.

75. **Ms. Bloom** (Netherlands) said that child labour within the meaning of ILO Convention No. 138 was prohibited in principle; however, under that Convention, the employment of children aged 13 to 16 might be authorized on condition that their safety was guaranteed and the activity in question did not impair their physical or moral development. A website had been created to inform children of their labour rights in simple and understandable terms and to give them the opportunity to address questions to the Ministry of Labour.

76. **Mr. Weekenborg** (Netherlands) reminded the Committee that Dutch nationals could currently join the armed forces at the age of 17 and that the Netherlands intended to ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in the near future. Domestic legislation needed to be amended to bring it into line with the Optional Protocol; the provisions must specify that 17-year-old members of the armed forces had cadet status, that cadets were not authorized to participate directly in hostilities and that young people could only be recruited into the armed forces with the consent of their parents or legal guardians.

77. **Ms. Peterson** (Aruba) said that in Aruba the number of asylum-seekers in the past had been so small that the authorities had only recently started introducing asylum procedures. Previously, applications had been examined on a case-by-case basis, which did not imply that the examination had been taken lightly. In their search for personalized solutions, the authorities had generally called on the expertise of UNHCR and the Ministry of Foreign Affairs in the Hague. UNHCR would also be consulted in the process of creating asylum procedures.

78. There was no indication that organized or impromptu sex tourism or sexual exploitation of minors was a problem in Aruba. However, as a preventive measure new legislation on sexual offences provided for more severe punishment for persons prostituting or trafficking children. The term "sugar daddies" referred to men who offered presents to children in exchange for sexual favours. The phenomenon was not considered to be widespread, although no data were available and no study had been carried out. The same applied to the phenomenon of gangs.

79. The programme introduced to prevent school dropout covered both Aruban nationals and other school-age children residing in Aruba. Its basic aim was to enhance children's knowledge of the Dutch language, which was a prerequisite for children's integration in the education system.

80. The Council of Ministers and the Aruban Parliament were exclusively composed of native Arubans.

81. **Mr. Kotrane** noted with satisfaction that many of the recommendations made in the Committee's concluding observations on the State party's previous report had been implemented. Persisting concerns arose from the liberal nature of the State party; it was

important to bear in mind, as had been asserted at the World Conference on Human Rights, that freedoms must never be exercised to the detriment of human rights. Given its approach to issues such as euthanasia, drug consumption, teenage pregnancies and the freedom of religion and belief, the State party must now contemplate measures to be taken to uphold those values. Liberal thinking should not undermine prevention or impede coordination and monitoring.

82. **Ms. Scholte** (Netherlands) said that she looked forward to the Committee's concluding observations; the recommendations contained in them would be discussed in consultation with national institutions and used as a basis for the formulation of an action plan in the spring of 2004.

The meeting rose at 5.55 p.m.