



Convention on the Rights of the Child

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Committee on the Rights of the Child

Forty-sixth session

Summary Record (Partial)* of the 1264th Meeting

Held at the Palais Wilson, Geneva, on Friday, 21 September 2007, at 10 a.m.

Chairperson: Ms. Lee

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10.10 a.m.

Day of general discussion (item 7 of the agenda)

Resources for the Rights of the Child - Responsibility of States

1. **The Chairperson** recalled that at its forty-third session the Committee on the Rights of the Child had decided to devote a day of general discussion to article 4 of the Convention, focusing particularly on the second sentence of that article which related to the implementation of economic, social and cultural rights, and was essential to the effective implementation of the entire Convention, thus explaining the importance attached to that article by the Committee in its dialogue with States parties.
2. **Mr. Siddiqui** noted that the second sentence of article 4 of the Convention expressly recognized that a lack of resources might prejudice the full application of economic, social and cultural rights, and introduced the concept of “progressive realization”.
3. The implementation of article 4 was therefore primarily dependent on the political will of the State party – regardless of its level of development – to promote and respect the rights of the child. Political will was evident inter alia in the adoption of national development plans, poverty reduction strategy papers, laws fostering the rights of the child, the appointment of a children’s ombudsman, affording high priority in the budget to education and child health and media campaigns on the rights of the child. The fact that States parties had limited resources to implement economic, social and cultural rights was attributable to a range of factors which might be external (armed conflict, natural disasters, over-strict conditions on external aid, structural adjustment programmes requiring harmful privatization measures) or internal (economic recession, inadequate resource base, widespread corruption or poor distribution of funds as in countries where military expenditure exceeded expenditure on education and children’s health).
4. States which had the necessary means had to ensure they established independent bodies whose task was to ensure that the resources provided for were actually allocated to children, to provide accountability in that regard and prevent any waste. Good use of budget funds was associated with the quality of public governance. In order to be able to allocate all available resources to the implementation of economic, social and cultural rights, States had to target budget funds effectively so as to favour the most disadvantaged and vulnerable groups. Furthermore there had to be coordination between the service providers and recipients and cooperation had to be established between the democratically elected central and local authorities whose task it was to ensure that the resources were in practice allocated to children.
5. **Mr. Reichenmiller** (World Bank) said that close to half the world population was under age 25, that 9 out of 10 young people were living in developing countries and that 1 billion of them would need a job within the next 10 years. Although significant progress had been made in poverty reduction at world level there was no escaping the fact that the Millennium Development Goals (MDG) for young people were at risk of not being attained unless greater attention was paid to future generations. Experience showed that lack of investment in sectors of relevance to children and young people had enormous political and economic costs. Issues such as school dropout, juvenile delinquency, early pregnancy and HIV/AIDS among young people would cost the Caribbean region alone billions of dollars. However, more effective policies and investment could harness young people’s energy and creativity to drive back poverty and foster economic growth. An excellent education system,

progress in health care and a growth policy based on free trade had meant that the countries of East Asia had managed to take advantage of the sharp increase in numbers of people under age 24.

6. Aware of the major role it had to take to help its Member States to fulfil their obligations in the field of human rights in the areas within its competence, the World Bank had placed children and young people at the heart of its strategies for social and human development. Over the previous 10 years it had made loans totalling more than \$30 billion for education and health, sectors of direct relevance to children. It had also done a great deal in the fields of combating poverty, combating HIV/AIDS, nutrition, social protection and development. Since 2000, it had increased its support for programmes to combat HIV/AIDS, to which it had allocated a total of \$2.5 billion. It now intended to focus more attention on the most vulnerable children who were at particular risk not only of poverty but of violence as well.

7. The World Bank was working with a number of national and international bodies in several fields as well as with non-governmental organizations (NGOs) and Governments. As a result, in December 2000, the World Bank, in cooperation with the International Labour Organization and the United Nations Children's Fund (UNICEF), had implemented a programme to collate data and conduct research to provide a better understanding of child labour and its impact. Together with UNICEF the Bank had launched a campaign to promote social action in favour of young people without parents, persons with disabilities and the elderly.

8. In the Middle East and North Africa, the Bank had stepped up its cooperation with national councils with responsibility for developing and coordinating the implementation of children's policies. It was also working with the Office of the United Nations High Commissioner for Human Rights, exchanging information and sharing experience with several United Nations bodies and working with the Development Assistance Committee of the Organization for Economic Cooperation and Development in the field of human rights.

9. Since 1995, the World Bank had invested over \$8.8 billion in projects for young people between the ages of 12 and 24 in the fields of vocational training, higher education, reproductive health and equal opportunities promotion. The fact that it had dedicated the publication of its World Development Report 2007 to future generations bore witness to the importance it attached to understanding the complex issues facing young people the world over. Nonetheless, investment by the Bank would not by itself be sufficient to resolve all issues and collective action by Governments, international institutions and civil society was therefore required. It was also important for countries to commit to investing in children and young people by allocating human and material resources to them and ensuring that those resources were used effectively. Children and young people had to have a prominent place in national development plans and had to be involved in initiatives aimed at them. The competent Ministries had to mobilize all their capacities and skills. Collective and participatory action was the only means by which countries would succeed in making the most of the resources available to them for children and young people.

10. Children the world over were expecting Governments, civil society and the international community to help them construct a prosperous future that met their expectations. It was the intention of the World Bank not to disappoint them.

11. **Mr. Riedel** (Committee on Economic, Social and Cultural Rights) (CESCR) stated that the Committee on the Rights of the Child had emphasized the complementarity of article 4 of the Convention on the Rights of the Child with article 2, paragraph 1, of the

International Covenant on Economic, Social and Cultural Rights, and with the provisions of the International Covenant on Civil and Political Rights, where States parties undertook to take steps to the maximum of their available resources and, where needed, within the framework of international co-operation, for the implementation of the rights recognized in the instrument concerned. The Committee on the Rights of the Child further emphasized that in all circumstances States had to do their utmost to give effect to the rights of the child while paying special attention to the most disadvantaged groups and, where necessary, seeking international cooperation and technical assistance.

12. Mobilization of resources posed a genuine problem which hindered the implementation of economic, social and cultural rights. The CESCR had recognized that in some cases the human rights situation could be improved only progressively, commensurate with resource availability, while stressing that fundamental rights such as non-discrimination and equal treatment of women and men had to be exercised with immediate effect and without restriction of any kind.

13. That progressive realization went hand in hand with the principle of non-retrogression, preventing any deliberate backtracking except where it could be justified on grounds of grave economic difficulties or force majeure. The States Parties to the International Covenant on Economic, Social and Cultural Rights also had to satisfy a minimum of fundamental obligations without which it was impossible to live in dignity. Pursuant to article 2, paragraph 1, of the Covenant, States were required to take steps, to the maximum of their available resources, with a view to achieving the full realization of those rights, but the allocation of their budget was left to their discretion.

14. The allocation of resources, still a much-debated issue, was at the heart of work to formulate an optional protocol to the Covenant. Fearing being accused of breaches of the provisions on resources in the event of ratification of such a protocol, which provided for an individual or collective complaints procedure, the States had asked the CESCR to provide clarification on that point, and the CESCR had done so in a statement of 10 May 2007 (E/C/12/2007/1).

15. In paragraph 2 of that document, the CESCR stressed that it would examine communications of that nature while fully respecting the authority vested in each State party to adopt what it considered to be the most appropriate policies and to allocate resources accordingly. States were nonetheless required to take deliberate, concrete and targeted steps within a reasonably short time after the Covenant's entry into force. As noted in paragraph 4 of the statement, resource constraints alone did not alter the immediacy of the obligation, nor could they justify inaction. Even where the available resources were demonstrably inadequate, the State parties were required to adopt programmes, however modest, to improve the situation of the most disadvantaged people. Even the least developed countries were able to satisfy obligations to protect fundamental rights. In the event that it was impossible to do so, for example following a natural disaster, the State party had to call for international cooperation and assistance.

16. Although article 2, paragraph 1, of the Covenant did not establish a right to development aid, contrary to the view of some NGOs, it did clearly lay the foundations for a general obligation upon States parties who were able to do so to offer cooperation and technical assistance. The States parties therefore had to report to the Committee the specific, legislative, administrative and other measures they adopted and the strategies they implemented to rectify the problems they had encountered as well as the results obtained.

17. With regard to individual and collective communications, the CESCR would give careful consideration to whether the State party had fulfilled its obligations and would use various criteria, some of which were listed in paragraph 8 of the statement, to assess whether the steps taken had been adequate or reasonable. Inaction would constitute a manifest violation or failure to comply with the Covenant.

18. The statement then addressed the issue of lack of resources as grounds justifying inaction or retrogression, and the CESCR stressed that the burden of proof lay with the State party and that the CESCR would assess the situation in the light of the specific circumstances of the State concerned based on certain objective criteria, several of which were listed in paragraph 10 of the statement.

19. Aware of its role as a treaty body, but also of the responsibility of the States parties to formulate, adopt, fund and implement measures concerning the exercise of economic, social and cultural rights, the CESCR respected the margin of appreciation of States in the choice of measures suited to their specific circumstances. Some NGOs had criticized that means of proceeding on the ground that it was too accommodating, but it was useful to bear in mind the fact that where necessary, the CESCR recommended that the States parties should rectify the situation.

20. Although the States parties were able to assert their considerable margin of appreciation in the choice of means, modalities and also policies with a view to realizing those rights, they were not able to overstep certain limits: at all times the hard core of human rights had to be respected and protected. The fundamental aspects of each right safeguarded in the Covenant and the Convention had to be respected. Furthermore, the protection of human rights constituted a legal obligation derived from accession to the United Nations. Peacekeeping, human rights and social advancement were the three principal objectives and foundations of the organization. It was therefore unacceptable to allow the principles set forth in the Charter of the United Nations to decline in importance because of resources issues.

21. **The Chairperson** said that the participants would divide into two working groups and that each group's rapporteur would present his or her group's conclusions to the plenary at the end of the afternoon.

The discussion covered in the summary record ended at 11.10 a.m.
