Child Rights References in the Universal Periodic Review

Summary:

A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Barbados – 3rd Session – 2008
DATE OF REVIEW: 3 December 2008 - 9.00 a.m. to 12.00 p.m.

National Report


13. Barbados is currently a member of the Governing Body of the International Labour Organization (ILO) and is party to 36 ILO Conventions concerning the rights and privileges of workers. Among these are the International Labour Organization Employment Policy Convention; ILO Discrimination (Employment and Occupation) Convention, 1958; ILO Freedom of Association and Protection of the Rights to Organize Convention, 1948 and ILO Right to Organize and Collective Bargaining Convention, 1978 and Worst Forms of Child Labour Convention, 1999.

23. The new Government has instituted a free bus service for all school children with effect from the commencement of the new school year in September, 2008. Plans have been announced for a new National Summer Camp Programme designed to create a cadre of community leaders, and provide an opportunity for training youth in counseling and activities management while developing in them a sense of duty towards their juniors. The camps will be staffed by youth volunteers drawn from the Sixth Forms of the Secondary schools (ages 16-18 years), the Barbados Community College and the Cave Hill Campus of the University of the West Indies.

24. Since independence in November 1966, successive governments of Barbados have subscribed to the philosophy that education is the primary catalyst for social transformation and accordingly have adopted a policy of free education for all children. Barbados is MDG Plus with respect to education as there is universal primary education; equal access to secondary education, which is compulsory up to age 16 years; and tuition free tertiary education. The remaining goal is to offer universal education at the nursery level and the Government has partnered with the private sector in a joint effort to secure this objective.

30. To ensure quality education for all students and recognizing that children with disabilities must benefit from full participation in the school system, the Ministry of Education has recently attached Special Needs Annexes for children with disabilities to some public schools. There are some institutions that are dedicated to the education of children with disabilities including the Challenger School and the Learning Centre. In recent years students with visual and hearing disabilities who attend the Irving Wilson School, which is a specialised school for students with disabilities, have been able to write the Barbados Secondary Schools’ Entrance Examination an earn places in secondary schools. To facilitate the adjustment into secondary school, students are provided with specialised equipment to cater to their specific needs. Additionally, all recently constructed schools and those repaired under the Education Sector Enhancement Programme have been equipped with facilities, ramps and toilet facilities, to accommodate students in wheel chairs, as there is a focus to accommodate these students in the normal class room setting. However, more facilities, specialized staff and better teacher-training are needed for educating children with disabilities. It should be noted that there is a proposal for a comprehensive Special Needs Policy that is now under active consideration by the Ministry of Education.

35. The National Organization of Women expressed concern about the lack of a Sexual Harassment Act since at present, complaints are dealt with as assaults rather than as an industrial relations issue. The psychological and physical impact which domestic violence has on children is another area of concern. The president of NOW further expressed frustration at the lack of support systems at the
administrative level for women and the issue of collection of child maintenance.

44. As part of this strategy, the NFTCP will establish Crime Prevention Clubs in secondary schools. The aim of this club is to give club members the opportunity to plan and execute crime and violence prevention programmes in their schools and surrounding communities. This will contribute to a safe learning environmental for children.

57. Barbados ratified ILO Convention 182 (concerning the worst forms of child labour) in 2000. The Ministry of Labour has established a tripartite committee that has formulated programmes aimed at raising national awareness on the scourge of child labour and eliminating the worst forms of child labour in Barbados. To date, the Ministry has produced and distributed promotional materials on child labour and on June 12th 2008, launched a mass media programme to bring attention to the issue. This mass media programme included television programmes highlighting the various formats that child labour could take. Moreover, Barbados has amended the Employment (Miscellaneous Provisions) Act. This legislation controls the types of work that children can perform and limits the hours of work that children can be employed for.

62. Barbados possesses a vibrant social partnership which comprises Government, the Private Sector and the Trade Union Body. This partnership is essentially an instrument in which all parties endeavour to formulate coordinated responses to the country’s economic and social challenges. It has resulted in a much less disruptive industrial environment over the past five years and has been lauded by the ILO as a model to be followed. The partnership, through a series of protocols, has formulated a number of positions on a series of critical human rights issues. Under the latest protocol, the parties have pledged, inter alia, to (a) eliminate marginalization and discrimination targeted at persons with disabilities (b) protect the nation’s children from the scourge of child labour and (c) promote values such as acceptance, tolerance and respect for the religious and cultural diversity of migrant workers.

64. Although a relatively new phenomenon to the Caribbean, the issue of human trafficking presents one of the greatest challenges to the preservation of human rights in these modern times. In September of 2001, Barbados signed the United Nations Convention against Transnational Organized Crime and the annex to its protocol to punish, suppress and punish Trafficking in Persons, especially women and children. The Bureau of Gender Affairs was given the mandate to lead the process to combat trafficking in persons to Barbados in 2002, at a Meeting of the Principle Delegates of the Inter-American Commission of Women (CIM). The Bureau of Gender Affairs has collaborated with the Business and Professional Women’s Club of Barbados to create an awareness of this activity through a series of initiatives which included public awareness campaigns and training to sensitize organizations likely to interact with the practice. These initiatives have had the financial support of the International Organization for Migration under the Caribbean Counter Trafficking Initiative.

UN Compilations

1. In 1999, the Committee on Rights of the Child (CRC) welcomed Barbados’ commitment to give prompt consideration to the possibility of ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In 2002 the Committee on the Elimination of Discrimination against Women (CEDAW) encouraged Barbados to continue its procedures towards ratification of OP-CEDAW and acceptance of the amendment to article 20, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, relating to the Committee’s meeting time. In 2005 the Committee on the Elimination of Racial Discrimination (CERD) strongly recommended that it ratify ICRMW and the 1951 Convention.

25. CRC was seriously concerned about the high proportion of children who appear to be victims of physical abuse, in most instances accompanied by psychological and emotional abuse. It was highly concerned about the subjective element involved in legislation that permits a “reasonable degree” of physical chastisement as a disciplinary method. It was also concerned that the tolerance of corporal punishment in schools will make it extremely difficult to educate parents about alternative forms of discipline. In 2007, the HR Committee was concerned that corporal punishment was still available as part of judicial sentences and was permitted within the penal and education systems. Barbados should take immediate measures to eliminate corporal punishment as a legitimate sanction in its law and to discourage its use in schools. It should also take all necessary measures towards the eventual total abolition of corporal punishment. In 1999, CRC was concerned about legislation and policies that allow the use of flogging of children as a disciplinary measure in prisons and its use as a judicial sentence.

28. A 2003 ILO report noted that four laws cover protection of children from sexual exploitation: the Offences Against the Person Act; Chapter 141 (Part 1V) of the Sexual Offenses Act 1992-3; the Protection of Children’s Act; and Chapter 146A of the Punishment of Incest Act 148. The ILO report further noted that main gaps identified are due to the absence of specific laws or regulations that specifically define the “worst forms of child labour” or “hazardous work.”

32. A 2003 ILO report noted that Barbados’ strong economy and extensive institutional mechanisms for education, health and social services reduce the risk of child labour, but some children ‘fall through the cracks’. It noted that the highest incidents of child labour-related activities were in poor communities in Bridgetown and working children were more likely to belong to poor, large families, headed by a single mother, who was in either a low-skilled, low-income job or was unemployed.

37. CEDAW commended Barbados for viewing health care as a fundamental right and for providing a range of family health services in the polyclinic setting, including free ante- and post-natal care for all citizens and residents of the country. It also commended the State for the services that target women and girls, for example the Maternal and Child Health Programme, which monitors progress throughout pregnancy.

38. While noting the State’s adolescent health programme, which covered a wide range of issues, including human sexuality and HIV/AIDS, and other policies and activities with respect to AIDS education and sensitization, CEDAW was concerned in 2002 that the number of women infected with HIV/AIDS had been increasing more rapidly than that of men. A 2007 UNDG report also noted
39. CEDAW was also concerned about the increasing number of teenage pregnancies and its consequences for girls’ enjoyment of the rights guaranteed by the Convention, particularly in the spheres of education and health.76 CEDAW recommended that Barbados increase efforts to include age-appropriate sex education in school curricula and to conduct awareness campaigns so as to prevent teenage pregnancy.

40. In 2002 CEDAW commended Barbados for providing free education, cash grants, school uniforms and grant assistance for textbooks for those in need in order to facilitate school attendance and to ensure that children, in particular girl children, up to the age of 16 years receive education. 78 A 2005 UNDP document noted that Barbados had a combined gross enrolment ratio for primary, secondary and tertiary schools of 88 per cent.79 According to the UNESCO Institute for Statistics, the rate of primary school age children out of school decreased from 6 per cent in 2005 to 4 per cent in 2006. The female rate of primary school age children out of school decreased from 6 per cent in 2005 to 4 per cent in 2006, whereas the male rate of primary school age children out of school decreased from 6 per cent in 2005 to 3 per cent in 2006.80

52. A 2007 UNDG report noted that the United Nations System is committed to supporting a framework which seeks to achieve greater policy and programme effectiveness across five priority thematic areas which include: (i) Integration of the MDGs in the Policy and Planning Framework; (ii) HIV/AIDS: Advocacy and Capacity-Building; (iii) Risk Reduction and Disaster Management; (iv) Child, Adolescent and Youth Development and Human Security; and (v) Food Security.98

**Stakeholder Compilations**

2. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) indicated that corporal punishment in Barbados is lawful in the home. The Prevention of Cruelty to Children Act (amended 1996) punishes assault, neglect and “unnecessary suffering” of children under 16 years, but states that “nothing in this Act shall be construed to take away or affect the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child” (section 4). 3 Corporal punishment is lawful in schools under the Education Act (1981, amended 2002). The Education Regulations (1982) state that it should be carried out by the headteacher or other authorised teacher. Under examination by the Human Rights Committee in March 2007, the government delegation stated that “the Government and people of Barbados did not view corporal punishment as torture, or inhumane or degrading in itself” and that there were no plans to review its legality.

3. GIEACPC further highlighted that in the penal system, corporal punishment is lawful as a sentence for crime under the Juvenile Offenders Act (1932, amended 1998) and the Corporal Punishment Act (1967), which provides for up to 12 strokes for a person under 16 years of age and up to 24 strokes for a person over that age. The Magistrate’s Court Act (2001) allows for boys between the ages of 7 and 16 to be whipped at a police station, with the parent present if desired. Corporal punishment is lawful as a disciplinary measure in penal institutions under the Prisons Act (1964, amended 2002) and the Reformatory and Industrial Schools Act (1926, amended 1998). In alternative care settings, corporal punishment is prohibited in state-arranged foster care and in pre-school settings, and in day care centres and residential children’s homes run by the Child Care Board (Child Care Board Regulations 1985), but it is lawful in private foster care. 6

**Final Report**

15. It was noted that there had been advance questions relating to the physical and psychological abuse of children, but he stressed that it was not the view of the Government that its legislation on corporal punishment provides for a high degree of punishment of children at home and at school. National laws criminalize the abuse of children; in the event that corporal punishment is administered, it is done so in compliance with the Code of Discipline promulgated under the Education Act. The Code of Discipline, produced by the Ministry of Education in 2004, identifies the due process to be followed in the event that disciplinary action is to be considered, the types and levels of violations and the disciplinary options that might apply. There are a number of ongoing activities and initiatives that the Government has developed to address the needs of children, such as the counselling efforts of the Child Care Board, the programmes under PAREDOS (Parent Education for Development in Barbados) and the placement of guidance counsellors in all schools.

16. With regard to the rights of the child, and in particular on what policies and practices the Government has in place to ensure that abused children are not placed in harmful circumstances, the Minister stressed that the Government regards all kinds of abuse against children as an extremely serious matter. Certain State agencies are charged with the responsibility of providing any abused child, and, in some cases other members of the family, with an alternative home setting. Counselling is also provided to the child, the perpetrator and other family members at appropriate intervention points. Such matters are also referred to the police for investigation and necessary action. Some Government agencies also engage in public education campaigns to raise social awareness of the problem by recognizing the signs of abuse. It was noted that Barbados has been working extensively with UNICEF in this area.

20. Regarding the question of specific measures to protect the rights of children of detainees / prisoners, the Head of Delegation recalled that, in line with article 9.3 of the Convention on the Rights of the Child, the Government respects the right of children to maintain personal relationships and direct contact with parents while in detention on a regular basis, except if this is contrary to the best interests of the child. Children are allowed to visit parents in prison, and prisoners are encouraged to make contributions to the welfare of their children while in prison if so desire. This is done through their attorneys, probation officers and other support systems.

25. Barbados is well seized of its obligations to provide an optimal social and economic environment for its citizens, taking into account their economic and social rights. In January 2008, the newly elected Government created a ministry which has the family as one of its
major responsibilities. The Government is convinced that there will be a consolidation of policies aimed at strengthening the family unit and promoting the rights of the child.

26. Among the social services offered to the people of Barbados, education has always been paramount and serves as a vehicle for social mobility. This has been a major area of emphasis for successive Governments in Barbados. They have all subscribed to the policy that education is a primary catalyst for social change. Barbados is Millennium Development Goal Plus with respect to education, as there is universal primary education, equal access to secondary education, which is compulsory up to age 16, and free tertiary education. The Government has also instituted the Community Technology Programme to introduce people to computer applications.

32. Germany noted both the call for assistance made by Barbados and its reluctance to invite special procedures. It advised, if assistance is available, to extend the invitation to special procedures. With regard to corporal punishment, Germany pointed out the difficult line between disciplinary action and abuse, especially when the impact on children can be disastrous. Germany recommended abolishing corporal punishment for children.

35. Turkey appreciated the Government’s efforts to eradicate violence against women, especially awareness-raising activities organized by the Bureau of Gender Affairs. It requested more information about the project on domestic violence data, which was launched in August 2008. Turkey also requested further information on the content of the proposal for a comprehensive “special needs policy” for children with disabilities. It called on the State to address concerns raised regarding the issue of corporal punishment by the Committee on the Rights of the Child. It encouraged Barbados to consider the possibility of abolition of capital punishment.

41. India commended Barbados for viewing health care as a fundamental right and for providing a range of family health services. It further complimented Barbados for having achieved a high female literacy rate and its commitment to provide free education. India further noted the establishment of the Governance Advisory Unit and the adoption of the Community Empowerment Programme.

49. The issue of corporal punishment has triggered a national debate. The Minister for Education publicly advocated for the abolition of corporal punishment in schools. This is not the official position of the Government, but it may move in that direction in future.

50. The Government has invested tremendous amounts of resources in the treatment of abused children and has requested social agencies to intervene not only at the point of abuse but as a preventative measure. The Child Care Board has been given the power to remove children from psychologically, sexually or physically abusive environments and to provide counselling for parents. The Government believes that violence against children is not only a criminal issue but a cultural one, requiring investigation into the economic and social pressures faced by parents.

55. Japan noted the Government’s commitment to improving the human rights situation and urged it to expeditiously ratify the Convention against Torture and the Optional Protocol to the Convention on the Rights of the Child. It also requested further explanation of what is being done on a legal as well as societal level to eliminate it, including how the High Court can serve each individual to seek redress in respect of such violation of human rights. Japan noted the large proportion of children who are victims of physical, psychological and emotional abuse and of corporal punishment. It noted that laws do not provide for granting refugee status and do not codify the principle of non-refoulement. Japan also noted the absence of an integrated national plan to address discrimination against women and on the grounds of sex, enquiring about the measures taken to improve the human rights situation. Regarding the issue of human trafficking, it noted the efforts to address the issue and requested information on additional measures that will be taken in future to improve the situation.

56. Italy acknowledged with satisfaction a long de facto moratorium on executions and recommended that the establishment of a de jure moratorium on the use of death penalty be considered, with a view to abolishing capital punishment in national legislation. It also recommended that discrimination against women be properly addressed, also by sensitizing civil society. Italy recommended taking appropriate legislative and administrative measures to fight domestic violence and physical abuse of children and to engage in an exchange of information with those countries that are developing best practices in these fields.

60. The Republic of Korea noted with delight that Barbados had adopted the Penal System Reform Act, which puts greater emphasis on rehabilitation, and the Evidence Act with its provisions for audio- and video-taping police interviews. It welcomed the implementation of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials by the police. It attached great importance to the efforts of Barbados to adopt a policy of free education for all children and to ensure equal access to secondary education up to the age of 16 years. It recommended that the Government strengthen its cooperation with human rights mechanisms in order to overcome challenges that are frankly presented in the national report.

Conclusions and Recommendations

13. Take appropriate legislative and administrative measures to fight against domestic violence and physical abuse of children, and engage in an exchange of information with those countries that are developing best practices in these fields (Italy); work towards taking measures in relation to the psychological and physical impact of domestic violence on children (Brazil);

14. Eliminate all forms of corporal punishment from its legislation (Chile); abolish corporal punishment for children (Germany); address the concerns raised by the Human Rights Committee and the Committee on the Rights of the Child on corporal punishment (Turkey); take measures to eliminate corporal punishment as a legitimate sanction in the law and to discourage its use in schools with a view to its eventual and total abolition; conduct public awareness initiatives to change peoples’ attitudes to corporal punishment (Slovenia);

20. Continue with the positive efforts made in the field of education and share its experience in this area with other countries (Malaysia);