



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Fifty-fourth session

25 May - 11 June 2010

## Consideration of reports submitted by States parties under article 44 of the Convention

### Concluding observations: Argentina

1. The Committee considered the combined third and fourth periodic reports of Argentina (CRC/C/ARG/3-4) at its 1522nd and 1524th meetings (see CRC/C/SR.1522 and 1524), held on 2 June 2010, and adopted, at its 1541st meeting, held on 11 June 2010 (see CRC/C/SR.1541), the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the combined third and fourth periodic report and commends the inclusive approach used in their preparation, including the participation of children. The Committee also welcomes the written replies to its list of issues (CRC/C/ARG/Q/3-4/Add.1) and appreciates the constructive dialogue with the multisectoral delegation, which allowed the Committee to gain a better understanding of the situation of children in the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the initial reports of the State party under the two Optional Protocols to the Convention (CRC/C/OPSC/ARG/CO/1 and CRC/C/OPAC/ARG/CO/1), adopted on 11 June 2010.

#### B. Follow-up measures and progress achieved by the State party

4. The Committee notes with appreciation the adoption of the following legal measures and creation of institutions and programmes, notably:

(a) Act No. 26061 of 2005, which creates a system for the comprehensive protection of children and adolescents and establishes the National Secretariat for Children, Adolescents and the Family (SENAF), the Federal Council for Children, Adolescents and the Family and the Ombudsperson for Children and Adolescents (2005);

(b) Act No. 26290 of 7 November 2007, for the inclusion of child rights in all training of security forces;

(c) Act No. 25974 of 1 December 2004, which created the Historical Reparation Fund for the Tracing and Restitution of Kidnapped Children and Children Born in Captivity;

(d) Act No. 26522 of 10 October 2009 on Audiovisual Communication Services and the creation of the Advisory Council on Audiovisual Communication and Children, as well as the Observatory on Audiovisual Media Relations with Children.

5. The Committee also notes the following institutional and policy measures:

(a) The creation of the National Commission on Refugees (2006);

(b) The establishment of the Commission for Oversight of the Institutional Treatment of Children and Adolescents (2006);

(c) The establishment, through Act No. 25724 of 27 December 2002, of the programme on food and nutrition for children until the age of 14, pregnant women, persons with disabilities and persons over 70 years in situations of poverty.

6. The Committee welcomes the ratification by the State party of the following international human rights treaties:

(a) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (in 2002);

(b) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (in 2003);

(c) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in 2004);

(d) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (in 2006);

(e) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (in 2006);

(f) International Convention for the Protection of All Persons from Enforced Disappearance (in 2007).

## **C. Main areas of concern and recommendations**

### **1. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)**

#### **The Committee's previous recommendations**

7. The Committee welcomes efforts by the State party to implement the concluding observations on the second periodic report of the State party (CRC/C/70/Add.10). Nevertheless, it notes with regret that several of the recommendations in the concluding observations have not been significantly addressed.

**8. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations on its second periodic report that have not yet been implemented or sufficiently implemented. These include such issues as the implementation of new laws at the national and provincial levels (CRC/C/70/Add.10, para. 16), children deprived of a family environment and failure of distinction between children in need of care and protection and those in conflict with the law (paras. 41 and 43), adolescent health and well-being (para. 51),**

multicultural education (para. 57), the sale and economic and sexual exploitation of children (para. 61), and juvenile justice (para. 63). The Committee also urges the State party to provide adequate follow-up to the recommendations contained in the present concluding observations on the combined third and fourth reports.

#### **Reservations and declarations**

9. The Committee notes the analysis on the State party reservations and declarations to the Convention carried out by the National Secretariat for Children, Adolescents and the Family. Regarding the reservation to article 21, subparagraphs (b) to (e) on intercountry adoptions, the Committee, while appreciating that the State party wishes to adopt “a rigorous arrangement... for the legal protection of children in order to prevent the phenomenon of the sale of children and child trafficking” (CRC/C/ARG/3-4, para. 38) remains concerned that the system has not yet been fully addressed.

**10. In the light of the long waiting lists for adoptions, the Committee urges the State party to establish a strong legal protection system against sale and trafficking of children in line with the Optional Protocol on the sale of children, child prostitution and child pornography in order to, inter alia, establish a secure system of adoption that respects the best interests of the child and with a view to eventually withdrawing its reservation.**

11. The Committee welcomes the fact that the interpretative declaration of the State party on article 24, subparagraph (f) regarding the concept of family planning has been rendered obsolete in 18 of 24 provinces.

**12. The Committee further encourages the State party to ensure that its interpretative declaration to article 24, subparagraph (f) is rendered obsolete in all remaining provinces, with a view its withdrawal.**

#### **Legislation**

13. The Committee welcomes the legal reforms of the State party to bring its legislation into line with the provisions of the Convention, and in particular Act No. 26061 (2005) on Comprehensive Protection of the Rights of Children and Adolescents. It notes that these reforms have progressively expanded to most provinces, given the federal structure of the State party. The Committee notes the difficulties of fully implementing the paradigm shift from guardianship (“*patronato*”) to the integral protection of the child and that such a shift has not yet fully materialized, nor has it been translated into a new specifically designed and appropriately resourced institutional set-up at the provincial level.

**14. The Committee encourages full implementation of the legal reforms of the State party in all remaining provinces and urges the State party to take all necessary measures for the application of the Convention and its Optional Protocols in the entirety of its territory. It also recommends that the State party take all necessary measures to ensure that the appropriate institutional and administrative framework for the implementation of Act No. 26061 is set up at the national and provincial levels.**

#### **Coordination**

15. The Committee welcomes the establishment in 2006 of the Federal Council for Children, Adolescents and the Family (COFENAF), a multisectoral and multiprovincial body headed by the new National Secretariat for Children, Adolescents and the Family, as the national coordinating mechanism for the Comprehensive Protection System. The Committee is, however, concerned about the insufficient coordination at the provincial and municipal levels.

16. **The Committee recommends that the State party improve coordination at the provincial and municipal levels and that careful consideration be given by the provincial governments to the need for specificity of child policy, programmes and human and financial resources, avoiding duplication or gaps.**

#### **National Plan of Action**

17. The Committee notes that a National Plan of Action for the rights of children and adolescents was adopted in 2009, covering the period 2008-2011 and containing 36 goals with their respective indicators. The Committee regrets that the plan does not have any operational provisions attached to it, nor a monitoring mechanism to track indicators, nor specific budgetary allocations.

18. **The Committee recommends that the National Action Plan become an integral part of national development planning and the formulation of social policy, and be used to enhance the implementation of Act No. 26061. It further recommends that the National Action Plan be clearly articulated with the national and provincial budgets, and that it be extended for a new period. The Committee also recommends that the State party ensure that an evaluation and monitoring mechanism be developed to regularly assess progress achieved and to identify possible deficiencies. It encourages the State party to further ensure that the National Plan of Action is fully implemented at the national, provincial and municipal levels in a coordinated manner.**

#### **Independent monitoring**

19. The Committee notes that monitoring of children's rights is included in the mandate of the National Ombudsperson (Defensoría del Pueblo de la Nación Argentina). The Committee welcomes the introduction, by Act No. 26061 (2005), of an Ombudsperson for Children and Adolescents; however, it shares the concern of the State party at the delays in the appointment of the mandate holder by Parliament.

20. **The Committee recommends that the State party take all necessary measures to expedite the appointment by Parliament of the Ombudsperson for Children and Adolescents, in order to monitor the implementation of the Convention on the Rights of the Child and its Optional Protocols. The Committee recommends that the Ombudsperson be able to receive and investigate complaints from, or on behalf of, children on violations of their rights and be provided with the necessary human, technical and financial resources.**

#### **Allocation of resources**

21. The Committee welcomes the sustained increase since 2002 in social investment. In particular it welcomes the introduction in 2009 of the Universal Family Allowance per Child for Social Protection of 180 Argentine pesos (about US\$ 48) per month (for up to a maximum of five children) for families of those employed in the informal market and the unemployed, who do not otherwise have social security, and notes that the initiative currently covers some 3.5 million children. The Committee welcomes the preliminary results of the application of the subsidy; for example, enrolment in preschool, primary schools and secondary schools has increased by 15 per cent, 10 per cent and 20 per cent, respectively, in one year, and the enrolment in the mother-child health programme (*Programa Nacer*) has increased by 30 per cent since 2008, both in line with the requirements for the Universal Family Allowance (presentation of school certificate and vaccination card). The Committee also welcomes the work that is being done by the Ministry of Economy and Finance and the United Nations Children's Fund (UNICEF) to identify investment in children (calculated at 2.5 per cent of gross domestic product) and to focus on poverty areas. It however notes with serious concern that disparities between

provinces remain, and are as extreme as 500 per cent between the poorest and richest provinces.

22. The Committee recommends that the State party, in the light of articles 3 and 4 of the Convention, take all appropriate measures, to the maximum extent of available resources, to ensure that sufficient budgetary allocation is provided for services for children and that particular attention is paid to the protection of the rights of children from disadvantaged provinces and groups, including indigenous children and children living in poverty. In particular and in line with the Committee's recommendations resulting from its day of general discussion on "Resources for the rights of the child - responsibility of States", the Committee encourages the State party:

(a) To continue increasing the level of social investment while maintaining its sustainability;

(b) To protect children's and social budgets from any external or internal instability, such as situations of economic crisis, natural disasters or other emergencies, in order to maintain the sustainability of investments;

(c) To ensure the expansion of and equitable allocation to disadvantaged provinces and groups in order to address disparities and, in particular, consider migrant children and children in alternative care (both in foster care and in other alternative care) as recipients of the Universal Family Allowance per Child;

(d) To define strategic budgetary lines for those situations that may require affirmative social measures (such as birth registration, chronic malnutrition, violence against children, children without parental care, indigenous and migrant children, etc.);

(e) To ensure proper accountability by local authorities in an open and transparent way that enables participation by communities and children, harmonized allocation and monitoring of resources;

(f) To continue seeking technical assistance from UNICEF and other international organizations, as appropriate.

#### **Data collection**

23. The Committee welcomes the establishment of the National Registry on Comprehensive Protection of Children and Adolescents (Decree 2044/2009), as well as the Directorate for Institutional Management and Development, which is in charge of the monitoring and evaluation of programmes for children, adolescents and the family. It also notes the commitment (*Acta de Compromiso*) with the provinces to build an integrated system of information on policies for children and adolescents. The Committee, however, remains concerned that the absence of a systematic approach to data collection and analysis in coordination with the National Institute of Statistics and Censuses continues to impede the availability of transparent and reliable data, disaggregated by provinces and municipalities as well as by other relevant variables such as gender, age, children with disabilities and indigenous children.

24. The Committee urges the State party to take the necessary steps to ensure that plans for the integral system of information on policies for children and adolescents are implemented and coordinated with the National Institute of Statistics and Censuses, covering all aspects of the Convention. The State party should ensure that information collected through this integral system contains transparent, reliable and comparable data on all rights, disaggregated by provincial and municipal location, gender, age and income, in order to enable policy and programme decision-making and to ensure public knowledge of progress made and gaps in its implementation.

Furthermore, attention should be paid to generating and monitoring data and information on children in need of special protection: children with disabilities, children in the juvenile justice system, children of single-parent families, sexually abused children, children in alternative care, or children without parental care, and others as relevant. The Committee also recommends that the State party seek technical assistance from, *inter alia*, UNICEF.

#### **Dissemination, training and awareness-raising**

25. While noting the efforts of the State party to disseminate the Convention, the Committee is concerned at the low level of awareness in many provinces of the Convention and its Optional Protocols. The Committee is further concerned that the Convention and its Optional Protocols have not yet been translated into the languages of the indigenous populations. It also regrets the lack of knowledge of the Convention among technical and professional cadres working with children, but notes that many universities have begun to incorporate children's rights into their programmes.

26. **The Committee recommends that the State party increase its efforts to raise awareness of the Convention, the Optional Protocols and its national legislation on comprehensive protection of the child, including by translating them into the languages of the indigenous populations. It also recommends the reinforcement of adequate and systematic training of all professional groups working for and with children, including teachers, health workers, social workers, staff at childcare institutions and law enforcement officials. In this regard, the Committee recommends that human rights education be included in the official curriculum at all levels of education, and in training activities.**

#### **Cooperation with civil society**

27. The Committee welcomes the consultations by the State party with civil society in the preparation of the report of the State party and the responses to the list of issues, though it regrets that such consultations did not take place in the provinces. It welcomes in particular the participatory process - including business, labour unions and children - followed in the Province of San Juan to establish a Pact for Children and Adolescents in order to reform the law, formulate policy and allocate resources for children.

28. **The Committee recommends that the State party encourage and support civil society organizations dealing with children to work in all provinces. It also urges provincial governments to advance children's rights with the cooperation of broad coalitions of civil society, business, labour unions and children's organizations.**

#### **Child rights and the business sector**

29. The Committee is concerned at the lack of clear guidelines and regulations for business corporations, both national and international, on the protection of and respect for children's rights. It has taken note of the study carried out by the National Ombudsperson (2009) on the adverse effects on children's health and the environment of agro-toxics and other harmful substances used in agriculture, industry and the home. It further notes with concern reports that the production of tobacco, *mate* herbs and soya may have harmful effects on children.

30. **The Committee urges the State party to develop clear guidelines and regulations for the business sector with regard to protecting and respecting children's rights as enshrined in the Convention, Act No. 26061 and the Constitution, and to advance in the area of social and environmental responsibility from a human rights perspective.**

The State party should further ensure that the study by the Ombudsperson is followed up on and extended.

## **2. General principles (arts. 2, 3, 6 and 12 of the Convention)**

### **Non-discrimination**

31. The Committee notes Decree No. 1086/2005 establishing a national plan against discrimination. While welcoming the efforts of the State party to attend to the needs of disadvantaged children, as well as to establish programmes to promote bilingual and intercultural education for indigenous children and health programmes focusing on the needs of indigenous children, the Committee is nevertheless concerned at persistent reports of discrimination, social exclusion and physical, sexual and psychological abuse of indigenous children, who represent about 3 to 5 per cent of the total population in the country. The Committee notes with concern that disparities affecting the north-eastern and north-western provinces may lead to discrimination; for example, the risk of children dying in their first year of life is 60 per cent higher in those provinces than in the rest of the country, and the illiteracy rate, almost zero elsewhere in the country, is 11 per cent in that area. The Committee is further concerned at the stigmatization and discrimination faced by adolescents living in poverty in urban centres or in street situations in the country and by children from a migrant background.

32. The Committee urges the State party to increase its efforts:

(a) To fight against discrimination, social exclusion, and physical, sexual and psychological abuse of groups of children in vulnerable situations, in particular indigenous children;

(b) To fight against the stigmatization and discrimination faced by adolescents living in poverty in urban areas or in street situations and by children from a migrant background.

33. The Committee further requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Durban Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the Committee's general comment No.1 (2001) on the aims of education.

### **Best interests of the child**

34. The Committee notes with concern that the principle of the best interests of the child may be used to evaluate if a child should be deprived of his/her liberty for reasons of protection under Act No. 22278 of 1980 on Juvenile Justice, which has not yet been reformed to conform to the Convention. It is further concerned that this principle may not be taken into account in all decisions, administrative and judicial procedures and programmes concerning children.

35. While strongly urging the State party to reform the juvenile justice system to conform to the Convention, the Committee recommends that the State party continue and strengthen its efforts to ensure that the general principle of the best interests of the child is appropriately integrated in all legal provisions as well as in judicial and administrative decisions and in all policies, programmes and services that have an impact on children. The Committee also urges the State party to refrain from using the principle of the best interests of the child when deciding on deprivation of liberty as a

means to allegedly “protect” children, instead of increasing guarantees for child rights.

#### **Respect for the views of the child**

36. The Committee welcomes the introduction in Act No. 26061 of the right of the child to be heard and the obligation of the authorities to guarantee that right in all proceedings that concern a child. Nevertheless, the Committee expresses concern that making the hearing subject to the child’s own request may give rise to discrimination and inconsistencies in practice. It further expresses concern at the absence of formal procedures to ensure the participation of children in issues that affect them and at the perception by children that their voices are not adequately heard.

**37. The Committee recommends that the State party, in accordance with article 12 of the Convention and taking into account general comment No. 12 (2009) on the right of the child to be heard, ensure that the right to a hearing in all proceedings concerning a child is respected, even without previous request by the child. It further recommends that information on the right of the child to be heard be widely disseminated to parents, teachers, public officials, judges, lawyers, journalists and children themselves, with a view to increasing opportunities for children’s meaningful participation.**

#### **Right to life, survival and development**

38. The Committee welcomes that the State party has ratified, in 2008, the Second Optional Protocol to the International Covenant on Civil and Political Rights. The Committee is concerned at the occurrence of suicides and self-inflicted injuries of children in detention, notably in the province of Buenos Aires. Moreover, the Committee, while noting the 2005 Supreme Court decision overturning a life sentence of an adolescent, is deeply concerned that, of the 12 children given life sentences during the period 1997 to 2002, three still face life imprisonment, and notes that their cases have been brought to the attention of the Inter-American Commission on Human Rights.

**39. The Committee urges the State party to take effective measures to prevent child suicides in detention. It should furthermore carry out an extensive study on the causes of self-inflicted injuries and suicides. While welcoming the fact that no life sentences have been handed down since 2002, the Committee urges the State party to refrain from sentencing children to life imprisonment or to terms that may amount to life imprisonment.**

### **3. Civil rights and freedoms (arts. 7, 8, 13-17, 19 and 37(a) of the Convention)**

#### **Birth registration**

40. The Committee welcomes the new legislation that guarantees free, universal and ex officio birth registration. However, it expresses concern at the insufficient implementation at the provincial level, which leaves many children without adequate access to birth registration. The Committee is further concerned that children who are born outside of health-care facilities, including indigenous children or children from disadvantaged families, such as those living in remote areas or in social exclusion, do not have access to birth registration.

**41. The Committee recommends that the State party continue to take all necessary measures, including retroactively, to ensure the access by all children, including**



children born outside of health-care facilities, indigenous children, and children from disadvantaged families, such as those living in remote areas or in social exclusion, to free birth registration, and that it take steps to identify all children who have not been registered or have not obtained an identity document. The Committee also encourages the State party to adopt flexible measures of birth registration, including mobile units, to reach all children. It further recommends that the State party implement a specific birth registration strategy for indigenous communities based on respect for their cultures and taking into account the Committee's general comment No. 11 (2009) on indigenous children and their rights under the Convention.

#### **Torture, inhuman and degrading treatment**

42. While appreciating the policy of zero tolerance of torture as part of the democratic recovery process in the country, as highlighted by the official delegation during the dialogue, the Committee shares the concern of the State party at the absence of reliable data, at the national level, on allegations of inhuman and degrading treatment. It further expresses great concern at the high number of allegations in the province of Buenos Aires (120 registered between 2007 and 2009) of acts committed by police and other law enforcement officers, involving in particular juvenile offenders and street children. The Committee is also concerned at a case of enforced disappearance of a child (L.A.) in the province of Buenos Aires during police detention in January 2009, and that the investigation into the allegations was not launched promptly. Moreover, the Committee is concerned at the absence of any information on prompt investigations into these allegations, their results, including sentencing of those responsible, and on putting an end to the practice.

43. **The Committee urges the State party to take concrete measures to implement its zero tolerance policy on torture. It further urges the State party to promptly establish at the national and provincial levels a mechanism for the registration and follow-up of allegations, including a national register for allegations of inhuman and degrading treatment. It further urges the State party to launch prompt, thorough and independent investigations into such allegations, to bring those responsible to justice and provide reparations to the victims and to take all necessary measures to prevent such acts, including making public the investigation, the disciplinary measures taken and the sentences issued against the authors of the crimes. The State party should further study the causes of such grave violations, especially in the province of Buenos Aires, and take urgent measures of prevention, including comprehensive training of police and law enforcement officials on child rights. The Committee urges the State party to complete a thorough and impartial investigation into the allegations of the enforced disappearance of the child L.A., in accordance with the International Convention for the Protection of All Persons from Enforced Disappearance.**

44. The Committee expresses concern at reports of human rights violations having occurred in mental health institutions and at the fact that children with mental disorders sometimes remain in mental institutions/hospitals for prolonged periods of time without proper medical justification.

45. **The State party should take appropriate measures to avoid hospitalization and use it only if it is strictly necessary and for a minimum period of time. The Committee further recommends that the State party provide and monitor access to therapeutic assistance and appropriate housing for children released from hospitals and other institutions, taking into account the best interests of the child.**

**Corporal punishment**

46. While noting the general principle in Act No. 26061 that children are not to be subjected to violent, discriminatory, humiliating or intimidating treatment, the Committee expresses concern at the inclusion in article 278 of the Civil Code of a right of parents to proper correction, which may lead to abuse and corporal punishment. It is further concerned that corporal punishment is not explicitly prohibited outside the home, including in schools, centres of detention and alternative care settings.

47. **The Committee recommends that the State party explicitly prohibit by law in all provinces corporal punishment and all forms of violence against children in all settings, including in the family, in schools, in alternative childcare and in places of detention for juvenile offenders, and that it implement those laws effectively. The Committee also recommends that the State party intensify its awareness-raising campaigns with a view to changing perceptions of corporal punishment and in order to promote the use of alternative and non-violent forms of discipline in a manner consistent with the child's human dignity and in accordance with the Convention, especially article 28, paragraph 2. In this regard, the Committee encourages the State party to take into account the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.**

**Follow-up to the United Nations Study on Violence against Children**

48. With reference to the United Nations Study on Violence against Children (A/61/299), the Committee recommends that the State party:

(a) Take all necessary measures to implement the recommendations contained in the report of the independent expert for the United Nations Study on Violence against children, while taking into account the outcome and recommendations of the regional consultations for Latin America, held in Buenos Aires from 30 May to 1 June 2005. In particular, the Committee recommends that the State party pay particular attention to the following recommendations:

- Prohibit by law all violence against children, including corporal punishment in all settings
- Prioritize prevention and promote non-violent values and awareness-raising
- Ensure accountability and end impunity
- Address the gender dimension of violence against children
- Develop and implement systematic national data collection and research on violence against women, children and adolescents;

(b) Use these recommendations as a tool for action in partnership with civil society and, in particular, with the involvement of children to ensure that all children are protected from all forms of physical, sexual and psychological violence and to gain momentum for practical and, where appropriate, time-bound actions to prevent and respond to such violence and abuse;

(c) Seek technical cooperation in this respect from the Special Representative of the Secretary-General on violence against children, the Office of the High Commissioner for Human Rights (OHCHR), UNICEF and other relevant agencies, as well as NGO partners.

### **Access to appropriate information**

49. The Committee welcomes the measures taken by the State party to guarantee the right of the child to information, including from different sources and taking into account cultural diversity. The Committee also welcomes the creation, by Act No. 26522 of 2009, of the Advisory Council on Audiovisual Communication and Children, as well as the Observatory on Audiovisual Media Relations with Children. The Committee is however concerned that children, in particular adolescents, continue to be portrayed inappropriately by the media, which may contribute to their stigmatization. The Committee is further concerned at the effects the media may have on children's behaviour with regard to patterns of consumption and consumerism, unhealthy nutrition and risky lifestyles.

50. **The Committee urges the State party to continue its efforts to guarantee the right of the child to appropriate information, as well as to promote legislative measures to protect children from harmful information and ensure respectful treatment in the media of the image, privacy and dignity of children. It should further stimulate self-regulation through, for example, a code of conduct for media personnel and the training of journalists to promote and guarantee respect for the rights of children and adolescents. The Committee further encourages the State party to promote programmes for children that will enable them to have a critical reading of the media and to enhance their participation in media activities.**

## **4. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)**

### **Family environment**

51. **The Committee encourages the State party to continue its efforts to support families to fight effectively against poverty, as well as to ensure that families are prepared in their parenting roles, in particular families with one parent and those that may have more difficulties in accessing the services of the State party, such as families from remote areas, indigenous families, migrants and families with children with disabilities. The Committee further encourages the State party to ensure that psychological, social and legal services offered at the local and community levels are accessible to all families, assist them to strengthen family relations, and allow children access to day care and that other measures are taken to effectively prevent placement of children in institutions.**

### **Alternative care**

52. The Committee welcomes the institutional changes introduced by Act No. 26061 with regard to assistance for and protection of children, the guidelines issued by the Federal Council for Children, Adolescents and the Family on children deprived of their family environment, in particular the recommendation to avoid placement at institutions, the elimination of "mega institutes", as well as the study undertaken by the National Secretariat for Children, Adolescence and the Family. The Committee notes with concern:

(a) The inadequate data and information provided on children in alternative care, especially the lack of a clear differentiation between correctional institutions for offending children and residential homes for children who were placed out of their families for protection, as well as between the different modalities of alternative care;

(b) The absence of a common definition of the different modalities of alternative care and a harmonized methodology of data collection on institutions and foster care, as well as the absence of information on monitoring and evaluation mechanisms;

(c) The absence of supervision and preparation of caregivers and that the State party does not have uniform regulations on different modalities of alternative care, including foster care and extended family care;

(d) The absence of dedicated budgetary allocations to strengthen family links and promote alternatives to institutional care.

**53. The Committee recommends that the State party:**

(a) **Ensure that uniform regulations on foster care and extended family care be adopted and used in the entirety of its territory and that it further harmonize the methodology of data collection in all provinces;**

(b) **Conduct a study on the conditions of foster care in order to take corrective actions and monitor conditions through regular visitation;**

(c) **Finalize its study to assess the situation of children placed in institutions and include in its objectives the assessment of their living conditions, the services provided and the duration of their stay as well as the actions taken to find an appropriate family environment, duly resourced and monitored, and take appropriate measures to implement the findings;**

(d) **Continue taking all necessary measures, including at the provincial level, for children placed in institutions to return to their families whenever possible or to be placed in family-type care, and consider the placement of children in institutions as a measure of last resort and for the shortest period possible;**

(e) **Ensure that dedicated budget allocations are identified for strengthening family links and promoting alternatives to institutional care, including assistance for children and their psychological and social support;**

(f) **Set clear standards for alternative care, provide support for existing institutions to meet the standards, ensure a comprehensive complaints mechanism for children placed in institutions and conduct a periodic review of measures for children placed in institutions, in the light of article 25 of the Convention and the Guidelines for the Alternative Care of Children, annexed to General Assembly resolution 64/142;**

(g) **Ensure that the right of the child to be heard is fully respected when deciding on matters related to alternative care.**

**Abuse and neglect**

54. The Committee notes Act No. 26485 on violence against women, but regrets the absence of an implementation decree. It notes with grave concern continuing reports of a high incidence of domestic violence, including femicide and violence against children, while noting the creation of mobile teams to respond to victims of domestic violence, the installation of telephone help lines in almost all provinces, and specialized magistrates trained in family matters. The Committee further expresses concern at the absence of comprehensive and nationwide studies or statistics on these incidents, as recognized by the State party. It further expresses concern at insufficient access to justice for victims of abuse and neglect, as well as the absence of reparation, rehabilitation and reintegration programmes for victims of violence.

**55. The Committee recommends that the State party continue to take all necessary legislative, policy and other measures to address and prevent violence, abuse or exploitation of children and to care for and reintegrate child victims of abuse. It further recommends that the State party increase the number of magistrates specialized in family matters and provide them with the necessary training on violence, abuse and neglect of children and women. The State party should also**

conduct public awareness campaigns and provide information about parental guidance and counselling with a view, inter alia, to preventing child abuse and neglect. It further recommends providing training for teachers, law enforcement officials, health and social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints about violence and neglect of children in a child- and gender-sensitive manner.

## **5. Basic health and welfare (arts. 6, 18 (para.3), 23, 24, 26, 27 (paras.1-3) of the Convention)**

### **Children with disabilities**

56. The Committee welcomes the efforts of the State party to implement the rights of children with disabilities to education, by improving the standards of special education as a part of the educational system. It notes with concern that only 42 per cent of children with disabilities under the age of 14 years have health insurance. The Committee further notes with concern that children with disabilities are often victims of discrimination, including economic discrimination due to, inter alia, unresolved pension issues and difficulties with access to housing. The Committee is also concerned at insufficient efforts to ensure, through training programmes, that all professionals working with children with disabilities have the necessary knowledge and skills, in particular with regard to inclusive education.

**57. In the light of the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) and the Committee's general comment No. 9 (2006) on the rights of children with disabilities, the Committee recommends that the State party:**

**(a) Ensure that children with disabilities are included in the education system and in health insurance plans;**

**(b) Take all necessary measures to ensure the implementation of legislation providing services for children with disabilities and consider adopting specific legislation on the issue;**

**(c) Continue and further strengthen its programmes and services for all children with disabilities, including through the development of early identification programmes, and ensure coverage of all children in need of its services, as well as the inclusion of special education as part of the school curriculum. In this regard, the State party should ensure that such services receive adequate human and financial resources;**

**(d) Enhance and broaden training for professionals working with children, such as medical, paramedical and related personnel.**

### **Health and access to health services**

58. The Committee welcomes the efforts of the State party to reduce child mortality as well as the adoption of a comprehensive Health Action Plan, including the Childbirth Plan (Plan Nacer) and the programme for universal provision of essential drugs (Programa Remediar). While noting the establishment of commissions to analyse maternal and child mortality and the State party acknowledgment of areas in need of improvement, in particular prevention and the promotion of health during pregnancy and birth, the Committee expresses concern at the consistently high rate of maternal and neonatal mortality, in particular in certain provinces. The Committee notes with concern disparities in chronic malnutrition between the national average (8 per cent) and the average of north-western Argentina (15.5 per cent). The Committee further expresses concern at the high percentage of maternal deaths,

especially of adolescent girls, related to abortions (28.31 per cent in 2005) and at the lengthy procedures for legal interruption of pregnancies resulting from rape, including due to article 86 of the Penal Code.

**59. The Committee recommends that the State party:**

**(a) Increase its efforts for the promotion of maternal and child health, including during pregnancy and birth;**

**(b) Take urgent measures to address inequalities of access and quality of health services among the provinces, with a particular focus on primary health care, as well as to address the causes of chronic malnutrition in the north-western provinces;**

**(c) Undertake a study into the determinants of the high percentage and stagnant rates of maternal and neonatal mortality, and urgently address them;**

**(d) Take urgent measures to reduce maternal deaths related to abortions, in particular ensuring that the provision on non-punishable abortion, especially for girls and women victims of rape, is known and enforced by the medical profession without intervention by the courts and at their own request;**

**(e) Review article 86 of the Penal Code on a national level to prevent disparities in new and existing provincial legislation with regard to legal abortion;**

**(f) Seek technical assistance from UNICEF and the World Health Organization, among others.**

#### **Breastfeeding**

60. The Committee notes the efforts made by the State party to encourage breastfeeding. It however regrets the absence of systematic data collection on breastfeeding practices and the absence of a national breastfeeding committee. It is further concerned at the low rates of exclusive breastfeeding of children under six months of age.

**61. The Committee recommends that the State party establish a national breastfeeding committee and systematically collect data on breastfeeding practices, ensuring at the same time the enforcement of the International Code of Marketing of Breast-milk Substitutes. The State party should also promote baby-friendly hospitals and encourage the inclusion of breastfeeding in nursery training.**

#### **Adolescent health**

62. While noting the adoption of the Programme for the Integral Care of Adolescents, the objectives of which, among others, are to reduce maternal mortality among adolescent girls, suicide and the abuse of alcohol and other drugs, the Committee remains concerned at the high incidence of substance use and abuse by adolescents. It further notes the establishment of the National Sexual Health and Responsible Parenthood Programme under the auspices of Act No. 26150 on Comprehensive Sex Education, as well as Act No. 26206 on National Education, which includes an objective on the promotion of education on responsible sexuality. The Committee is however concerned at the increase of sexually transmitted infections, including HIV, among adolescents. The Committee welcomes the universal and free distribution of contraceptives. It continues however to be concerned at the high percentage of child pregnancies (15 per cent of children born alive in 2005 and 2008 were born to mothers under the age of 20).

**63. The Committee recommends that the State party, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, increase its efforts to develop and implement programmes and services, including child-friendly care, rehabilitation**

and counselling, in the area of adolescent health, including in particular early pregnancies, drug and alcohol abuse and other risky life styles. It also recommends that the State party obtain reliable data and information on adolescent health concerns through, inter alia, studies on this issue. The Committee especially recommends that the State party address the prevention of issues related to adolescent health and lifestyles, in consultation with the adolescents.

#### **Right to an adequate standard of living**

64. The Committee welcomes the efforts of the State party to overcome poverty and extreme poverty, noting that, following its peak at 54.3 per cent in 2002, the poverty rate decreased irregularly until 2008. The Committee also welcomes the sustained increase in social investment, in particular in housing and social infrastructure, and the Universal Family Allowance per Child introduced in 2009. It regrets however that it is not yet possible to establish with certainty the actual effects of this investment on poverty, and that there are different calculations of the poverty rate (ranging from 13 to 47 per cent, depending on the source). The Committee is concerned that the existing databases and statistics make it difficult for the State party to continue expanding social investment in a more focused way and especially with regard to targeting investment to children and adolescents, in particular children in disadvantaged provinces and groups.

65. **The Committee urges the State party to continue strong and systematic efforts to reduce pervasive poverty and to focus on children and adolescents, in particular the most disadvantaged, as part of a comprehensive social equity strategy that goes beyond financial measures and that is based on reliable statistics and evidence.**

### **6. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)**

#### **Education, including vocational training and guidance**

66. The Committee notes with appreciation the adoption of Act No. 26206 on National Education, which was preceded by ample national debate, as well as the target of allocating 6 per cent of gross domestic product for education. The Committee welcomes in particular that compulsory secondary and pre-school education has been introduced, and that the State party has expressly acknowledged that “education is a personal and social right to be guaranteed by the State”. The Committee also notes the scholarship programme to facilitate the inclusion of adolescents, as well as the construction of new schools and the distribution of computers in secondary schools.

67. The Committee, nevertheless, observes that a significant number of adolescents continue to drop out and that there are insufficient measures to ensure a child’s transition from school to employment. This affects in particular indigenous adolescents living in extreme poverty. Furthermore, the Committee notes that the proportion of children with disabilities receiving special education is growing (78 per cent of those between the ages of 3 and 17 years); nevertheless, it regrets that only 53 per cent are integrated into regular educational facilities. The Committee further regrets the absence of reliable information regarding the number and reasons for dropout, especially of pregnant girls.

68. **The Committee recommends that the State party, taking into account the Committee’s general comment No. 1 (2001) on the aims of education:**

(a) **Reduce disparities across the provinces, in particular those related to children with disabilities, indigenous children and pregnant girls, in access to education and full enjoyment of the right to education;**

**(b) Invest additional resources in order to ensure the right of all children to a truly inclusive education;**

**(c) Take all measures to ensure that children complete their schooling, taking concrete action to address the reasons behind non-completion of schooling, and take measures to ensure children's transition from school to employment;**

**(d) Expand and improve the quality of vocational education and training for children, including for those who have left school without certificates, enabling them to acquire competencies and skills in order to enhance their work opportunities;**

**(e) Enhance human rights education and include child rights in the curricula of schools.**

69. The Committee notes the study carried out in the State party on incidents of violence in schools and associated institutions. It expresses concern at the high number of children who have been exposed to incidents of violence or physical and other kinds of aggression, including bullying among children.

**70. The State party should take urgent measures to protect children from exposure to violence or physical and other aggression, including bullying among children in educational facilities.**

## **7. Special protection measures (arts. 22, 38, 39, 40, 37(b) and (d), 30, and 32-36 of the Convention)**

### **Unaccompanied, refugee or asylum-seeking children**

71. The Committee welcomes the enactment of Act No. 26165 in November 2006 and the creation of the National Refugee Commission (CONARE). Nevertheless, the Committee is concerned that the State party has not adopted any legal procedures to deal with unaccompanied asylum-seeking children. It is further concerned that in the determination of the asylum request, the principle of the best interests of the child is not always applied. It is further concerned that appropriate care, social and material assistance for unaccompanied refugee or asylum-seeking children is not always provided.

**72. The Committee urges the State party to adopt legal procedures dealing with unaccompanied asylum-seeking children, taking into account the Committee's general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin. The State party should also develop formal procedures for the best interests determination, which must always be considered. The State party should also ensure that all unaccompanied refugee or asylum-seeking children are provided with the necessary social and material assistance, bearing in mind gender and cultural sensitivities.**

### **Economic exploitation, including child labour**

73. While welcoming the National Plan for the Prevention and Eradication of Child Labour and the Network of Companies against Child Labour, the Committee notes with concern the absence of effective coordination mechanisms, as well as insufficient structures for enforcement at the provincial level. The Committee further remains concerned at the high percentage of adolescents who are the object of economic exploitation, in particular in rural areas, which is also associated with schooling problems such as high repetition rates, frequent absences and late arrivals.



**74. The Committee recommends that the State party:**

- (a) Ensure that children are enrolled in school and are protected from the harmful effects of child labour;
- (b) Continue and strengthen efforts and structures to eliminate child labour and its worst forms by, inter alia, enforcing the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) of the International Labour Organization (ILO), ensuring effective monitoring and imposing penalties in case of violations of the provisions related to child labour;
- (c) Collect updated and reliable data on working children disaggregated by, inter alia, age, sex, ethnic, socio-economic background and province, including those who work in the informal sector, inter alia, as domestic workers, and in sectors of high risk, such as tobacco and “*mate*” herb plantations, and systematically monitor their conditions;
- (d) Respect the right of the child to be heard while measures are being developed and applied to eliminate child labour in all its forms;
- (e) Seek technical assistance from the ILO/International Programme on the Elimination of Child Labour in this regard.

**Trafficking, sexual exploitation and abuse**

75. The Committee welcomes the initiative of the State party for collaboration with the neighbouring countries of Paraguay and Brazil to fight against trafficking and sexual exploitation of children and adolescents in the border region of the three countries. The Committee notes the Programme for the Prevention of Trafficking in Persons and Assistance for its Victims, as well as the creation in 2005 of a unit within the Human Rights Secretariat to promote the eradication of sexual exploitation of children. It regrets however the absence of coordination between different governmental and non-governmental bodies, as acknowledged by the State party. The Committee further is concerned about the lenient sentences for perpetrators of trafficking, which could lead to impunity.

**76. The Committee recommends that the State party:**

- (a) Implement the National Plan of Action with regard to trafficking, sexual exploitation and abuse;
- (b) Strengthen legislative measures to address the issues of sexual abuse and sexual exploitation;
- (c) Take appropriate measures to ensure the prompt prosecution of perpetrators of sexual offences against children;
- (d) Ensure that child victims of sexual exploitation or abuse are not criminalized or penalized;
- (e) Continue to implement appropriate policies and programmes for prevention and the recovery and social reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996, 2001 and 2008 World Congresses against Commercial Sexual Exploitation of Children, as well as the outcomes of other international conferences on this issue.

**Administration of juvenile justice**

77. While noting that a reform process has been undertaken with regard to juvenile justice at the national and provincial levels, the Committee is seriously concerned at the continued application of Act No. 22278 of 1980, in particular with regard to the possibility to detain children. It is furthermore concerned that the right of the child to be heard and to be assisted by an independent legal professional in criminal proceedings is not always respected.

78. The Committee is further concerned that one third of the places of deprivation of liberty for children are not specialized and that children are at times detained with adults. It further expresses concern at the insufficient implementation of alternatives to deprivation of liberty at the provincial level.

79. The Committee is also concerned at the fact that the majority of juvenile offenders are deprived of their liberty pending trial. It is further concerned that some juvenile offenders are held in detention for longer than one year. The Committee is also concerned at the frequent use of disciplinary measures in detention, including isolation (*engome*), as well as the absence of sufficient educational, recreational and learning activities and insufficient access to fresh air. The Committee is particularly concerned at the number of reported suicides in detention, as well as patterns of self-inflicted injuries.

**80. The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular the Committee recommends that the State party, while taking into account the Committee's general comment No. 10 (2007) on children's rights in juvenile justice:**

**(a) Abrogate Act No. 22278 on juvenile justice and adopt a new law consistent with the Convention and international standards on juvenile justice;**

**(b) Ensure that children in conflict with the law have access to free and independent legal aid as well as to an independent and effective complaints mechanism;**

**(c) Ensure that the right of the child to be heard in criminal proceedings is always respected;**

**(d) Take all necessary measures, including strengthening the policy of alternative sanctions and reintegration measures for juvenile offenders, to ensure that children are held in detention only as a last resort and for as short a time as possible;**

**(e) Take all necessary measures to ensure that when detention is carried out, it is done in compliance with the law and respects the rights of the child as set out under the Convention, and that children are held separately from adults in both pre-trial detention and after being sentenced;**

**(f) Take all necessary measures to ensure that conditions in detention facilities are not contrary to the child's development and meet international minimum standards, and that cases involving juveniles are brought to trial as quickly as possible;**

**(g) Ensure that children deprived of their liberty have access to education, including vocational training, recreational and learning activities;**

**(h) Investigate promptly, thoroughly and independently all cases of suicide and attempted suicides;**

(i) Take steps to improve the system of juvenile justice, including through the enhancement of specialized juvenile courts, and ensure that the system has adequate human and financial resources to allow it to function properly;

(j) Take the necessary steps to ensure that persons working with children in the justice system, juvenile judges, etc. receive appropriate and regular training;

(k) Seek technical assistance and other cooperation from the United Nations Interagency Panel on Juvenile Justice, which includes the United Nations Office on Drugs and Crime, UNICEF, OHCHR and NGOs.

#### **Protection of witnesses and victims of crimes**

81. The Committee also recommends that the State party ensure, through adequate legal provisions and regulations, that all child victims and/or witnesses of crimes, for example, child victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking and witnesses to such crimes, are provided with the protection required by the Convention and that the State Party take fully into account the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20).

### **9. Follow-up and dissemination**

#### **Follow-up**

82. The Committee recommends that the State party take all appropriate measures to ensure that the present observations and recommendations are fully implemented, inter alia by transmitting them to the Head of State, heads and members of national and provincial parliaments, and the judiciary as well as to the heads of provincial governments and the city of Buenos Aires, for appropriate consideration and further action.

#### **Dissemination**

83. The Committee further recommends that the combined third and fourth periodic report and written replies submitted by the State party and the related recommendations (concluding observations) adopted by the Committee (including those relating to the two Optional Protocols) be made widely available in the languages of the country, including (but not exclusively) through the Internet to the general public at large, civil society organizations, youth groups, professional groups, children and the media, in order to generate debate and awareness of the Convention, its implementation and monitoring. It further recommends that the Convention and its two Optional Protocols be translated into the languages of the indigenous populations.

### **10. Next report**

84. The Committee invites the State party to submit its consolidated fifth and sixth periodic report by 2 July 2016. This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Committee.

85. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the Common Core Document in the Harmonized

**Guidelines on Reporting, approved by the 5th Inter-Committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).**

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