



Convention on the Rights of the Child

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Committee on the Rights of the Child

Fifty-seventh session

30 May – 17 June 2011

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

Concluding observations: Costa Rica

1. The Committee considered the fourth periodic report of Costa Rica (CRC/C/CRI/4) at its 1630th and 1631st meetings (see CRC/C/SR.1630 and CRC/C/SR.1631) held on 10 June 2011, and adopted, at its 1639th meeting, held on 17 June 2011, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the fourth periodic report of the State party (CRC/C/CRI/4) in line with the Committee's reporting guidelines, and the written replies to its list of issues (CRC/C/CRI/Q/4/Add.1), which allowed for a better understanding of the situation in the State party. The Committee expresses appreciation for the constructive and open dialogue held with the delegation of the State party. However, the Committee regrets that the delegation of the State party did not include representation from line ministries of relevance for the implementation of the Convention, which would have further enriched the constructive and fruitful dialogue held with the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations adopted on the State party's initial report under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/CRI/CO/1) and under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/CRI/CO/1).

II. Follow-up measures undertaken and progress achieved by the State party

4. The Committee welcomes as positive steps the adoption of the following legislative measures:

(a) Legislative reform of article 78 of the Political Constitution, increasing the percentage of gross domestic product (GDP) to be allocated to education to 8 per cent, in 2010;

(b) Act No. 8922 on the prohibition of dangerous and unhealthy work for adolescent workers and Act No. 8842 amending the Children and Adolescents Code to protect the rights of adolescent domestic workers, both in 2010;

(c) Act No. 8654 on the rights of children and adolescents to be disciplined without physical punishment or degrading treatment, in 2008;

(d) Act No. 8590 on Strengthening of measures to combat sexual exploitation of minors, in 2007; and

(e) Act No. 8649 on the application of juvenile criminal penalties which reaffirms the rule of law, legality of enforcement, deprivation of liberty as an exceptional measure, proportionality and the best interests of the child, in 2005.

5. The Committee welcomes the following institutional and policy measures:

(a) National Policy for Children and Adolescents (PNNA) 2009–2021.

(b) National Plan against Commercial Sexual Exploitation (2008–2010); and

(c) Second National Plan for the Prevention and Elimination of Child Labour and Protection of Adolescent Workers (2005–2010);

6. The Committee also notes with appreciation the ratification of or accession to:

(a) Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, in October 2008; and

(b) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in December 2005.

III. Main areas of concern and recommendations

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

The Committee's previous recommendations

7. The Committee, while welcoming the State party's efforts to implement the concluding observations on its third periodic report (CRC/C/15/Add.266) and on its initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/CRI/CO/1) and under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/CRI/CO/1), notes with regret that some of the recommendations contained therein have not been fully addressed.

8. **The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations on its third periodic report under the Convention and on its initial reports under the two Optional Protocols to the Convention that have not been implemented or insufficiently implemented, particularly those related to coordination, data collection, dissemination of the Convention, discrimination against indigenous children and children belonging to other minorities, freedom of association, child abuse and sexual exploitation of children.**

Legislation

9. The Committee notes the efforts made by the State party towards strengthening the legal and normative framework related to the implementation of the Convention. However, it regrets the slow implementation of existing legislation due to lack of regulatory by-laws, mechanisms and policies.

10. **The Committee recommends that the State party continue to take the necessary measures to fully harmonize its legislation and public policies with the Convention and other international human rights standards for the protection and promotion of child rights, in particular regarding children affected by migration. It urges the State party to adopt appropriate mechanisms to ensure the effective implementation of existing laws and norms at the national, regional, municipal and community levels.**

Coordination

12. While recognizing the efforts made by the State party to institutionalize the National System for Children and Adolescents, the Committee continues to be concerned that local comprehensive protection systems for children are either non-existent or not effectively functioning and that, as a result, programmes to protect child rights, especially regarding violence, commercial sexual exploitation and child labour, are often not implemented at the local level and fail to reach the communities with more vulnerabilities.

13. **The Committee reiterates its recommendation that the State party take effective measures to ensure well-regulated and stronger coordination between all entities dealing with issues relating to children both at the national and local levels. In doing so, it recommends that the State party:**

(a) **Provide the National Council on Children and Adolescents and its chair, the National Child Welfare Agency (PANI), with the technical and financial resources required to ensure coordination and monitoring of the National Policy on Children and Adolescents (PNNA) and to adopt related policies, coordination mechanisms and programmes;**

(b) **Strengthen the Protection Boards and Tutelary Committees by reviewing, if necessary, the Children and Adolescents Code and clarifying the Law on the Transfer of Competencies to the Municipalities in order to provide said bodies with the authority and the resources required; and**

(c) **Ensure the participation of children in the coordination mechanisms at all levels.**

National plan of action

14. The Committee welcomes the adoption of the National Policy for Children and Adolescents (PNNA, 2009–2021). In this regard, it recommends that the State party ensure that the national plan of action being drafted for the implementation of PNNA:

(a) Forms part of the National Development Plan;

(b) Provides the guidelines and resources required for the local child protection systems to evaluate, implement and monitor PNNA and the Plan of Action; and

(c) Includes a national action plan for children belonging to minorities, including indigenous, Afro-descendant and migrant children, and ensures their participation in its development.

Independent monitoring

15. While taking note of the long tradition of the Ombudsman Office (*Defensoría de los Habitantes*) working in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), which to date has received and dealt with complaints from or on behalf of children, the Committee recommends that the State party create a specialized unit for the promotion and protection of child rights and provide it with the necessary human, technical and financial resources. In that regard, the Committee draws the State party's attention to its general comment No. 2 (2002) on the role of independent human rights institutions in the promotion and protection of the rights of the child.

Allocation of resources

16. While welcoming the constitutional increase of financial resources for education, the Executive Decree to coordinate all resources allocated to the social sectors under the Joint Institute on Social Aid and the fact that the National Child Welfare Agency (PANI) was exempt from recent budget cuts affecting all public institutions, the Committee remains concerned that the continued lack of an adequate and stable budget for all public institutions dealing with the comprehensive promotion and protection of child rights, both at the national and local levels, may undermine their effectiveness.

17. **The Committee recommends that the State party ensure a stable and sufficient budget for the National Policy on Children and Adolescents, its Action Plan and the coordination system chaired by PANI, thus enabling those mechanisms to meet their goals and targets. In line with the recommendations resulting from its day of general discussion on "Resources for the rights of the child - Responsibility of States" (2007), the Committee encourages the State party to:**

(a) **Increase the level of social investment for the promotion and protection of child rights, ensuring expansion and equitable allocation to disadvantaged regions and groups and addressing gender and ethnic disparities;**

(b) **Utilize a child rights' approach in the elaboration of the State budget by implementing a tracking system for the allocation and the use of resources for children throughout the budget, thus providing visibility on investment on children and enabling monitoring and evaluation;**

(c) **When possible, implement the United Nations recommendation to start budgeting-by-results to monitor and assess the effectiveness of resource allocation;**

(d) **Continue protecting 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;**

(e) **Define strategic budgetary lines for those situations that may require affirmative social measures, such as birth registration, especially with regard to indigenous and migrant children;**

(f) **Ensure proper accountability by municipal and national authorities in an open and transparent way that enables participation by communities and children in budget formulation and monitoring, as appropriate; and**

(g) **Seek technical assistance from the United Nations Children's Fund (UNICEF) and other international organizations, as appropriate.**

Data collection

18. The Committee takes note of the current efforts by the State party to strengthen its Statistical Information System on the Rights of Children and Adolescents, with a view to obtaining disaggregated statistical data on all areas covered by the Convention, and the establishment of an Observatory for analysis, in cooperation with civil society. However, it regrets the lack in the State party's report of disaggregated data on the implementation of children's rights with particular attention to children at risk, such as children with disabilities, indigenous children and children affected by migration.

19. **The Committee encourages the State party, with the support of its partners, to strengthen the National System for the Comprehensive Protection of the Rights of Children and Adolescents and related activities in order to track and assess progress achieved in the realization of child rights, in collaboration with the National Institute of Statistics and Census, and to design policies and programmes to implement the Convention. The State party should ensure that data is disaggregated by age, sex, geographical location, nationality, education and socio-economic background to facilitate analysis of the situation of all children.**

Dissemination and awareness-raising

20. The Committee remains concerned about the low level of awareness of the Convention among children and adolescents.

21. **The Committee recommends that the State party, in close cooperation with civil society and public and private media, design and implement programmes specifically targeting children and adolescents, including children with disabilities, Afro-descendant children and indigenous and migrant children, to disseminate knowledge about their rights under the Convention and relevant national legislation. It also recommends that the State party increase its efforts to raise awareness among the general public about the rights provided for in the Convention.**

Training

22. **The Committee recommends that the State party provide adequate and systematic training on children's rights to all professional groups working for and with children, in particular law enforcement officials, teachers, health workers, social workers and personnel working in all forms of alternative care, among others.**

Cooperation with civil society

23. The Committee welcomes the general cooperation with civil society organizations but takes note of the State party's observation that coordination between the public and private sectors needs to be improved, including in the report preparation process.

24. **The Committee recommends that the State party intensify its efforts to systematically involve and cooperate with civil society, including children's and indigenous organizations, in the planning, implementation, monitoring and evaluation of policies, plans and programmes for the promotion and protection of the rights of children and adolescents, and in the report preparation process.**

Child rights and the business sector

25. The Committee notes with interest the information provided by the delegation that the State party has enacted a law to promote corporate social responsibility in tourism (*Ley sobre Incentivo de la Responsabilidad Social Corporativa Turística*) in order to eradicate sexual exploitation of children in this sector. The Committee is concerned about the impact on child rights of other industries, such as mining and services, given the high foreign

investment in these sectors, which is likely to affect the quality of the environment (e.g. quality of water and soil), property rights and family life.

26. **The Committee urges the State party to extend to other sectors beyond tourism a regulatory framework to ensure that activities of the corporate sector, both national and foreign, do not impact negatively on children and to give due consideration to experiences from around the world in the application of, inter alia, the Business and Human Rights Framework adopted by the Human Rights Council to the operations of private and public corporations, particularly in relation to child rights.**

B. Definition of the child (art. 1 of the Convention)

27. While noting the adoption by the State party in 2007 of Act No. 8571 amending the Family Code and the Civil Code that prohibits marriage under 15 years of age, the Committee is concerned that children aged 15–18 may get married with their parents' consent. It also notes with concern that the very low minimum age of sexual consent of 13 years increases children's risk of sexual abuse and early pregnancy.

28. **The Committee recommends that the State party raise the minimum age of marriage to 18 and review the age of sexual consent, with a view to ensuring the healthy development of children, preventing forced marriage, early pregnancies and sexual abuse.**

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

Non-discrimination

29. The Committee remains concerned about continued discriminatory attitudes and prejudices against indigenous children, children of African descent, Nicaraguan and other migrant children. The Committee also remains concerned about growing disparities affecting indigenous children with regard to access to health care (child mortality being twice as high as the national average) and education (illiteracy being six times higher than the national average), especially in rural and coastal areas. While welcoming the new Migration Act, the Committee regrets that the State party has decided not to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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

(a) **Strengthen its efforts to eliminate societal discrimination and prejudice against indigenous, Afro-descendant, migrant children and children with disabilities through legislative measures, awareness-raising programmes, the media and the educational system, as well as in-service training for public officials;**

(b) **Adopt a comprehensive action plan for indigenous children, including targeted programmes and investment in services and infrastructure in indigenous territories and rural and deprived urban areas in order to improve the socio-economic situation of indigenous and other minority children, taking into account the Committee's general comment No. 11 (2009) on indigenous children and their rights under the Convention; and**

(c) **Inform children who are affected by societal discrimination and prejudice about their rights under the Convention.**

31. **The Committee requests the State party to include information in its next periodic report on measures and programmes relevant to the Convention on the**

Rights of the Child undertaken by the State party in follow-up to the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the outcome document adopted at the 2009 Durban Review Conference.

Best interests of the child

32. The Committee urges the State party to strengthen its efforts to ensure that the principle of the best interests of the child is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects relevant to and with an impact on children. The legal reasoning of all judicial and administrative judgments and decisions should also be based on this principle.

Respect for the views of the child

33. The Committee notes with concern that the views and special linguistic requirements of children and adolescents are not adequately taken into account in judicial and administrative decision-making processes, including at the municipal level and within the local Protection Boards established by the Children and Adolescents Code.

34. In light of its general comment No. 12 (2009) on the right of the child to be heard, the Committee reiterates its recommendation that the State party:

(a) Strengthen the opportunities for children and adolescents, including girls, to freely express their views in all matters affecting them, especially at the local government level;

(b) Ensure that their views are taken into account in any judicial and administrative decisions affecting them; and

(c) Take into consideration the special requirements and linguistic needs of children with disabilities, indigenous and migrant children and other children in situations of vulnerability.

D. Civil rights and freedoms (arts. 7, 8, 13–17, 19 and 37 (a) of the Convention)

Birth registration

35. While acknowledging the efforts undertaken by the State party to implement a comprehensive birth registration system, through visits by mobile units of the civil registry to indigenous and remote areas and through a system of assistant registrars at hospitals and health centres, the Committee notes with concern that indigenous children and children of seasonal workers from Nicaragua and from the Ngöbe-Bugle indigenous group from Panama are in some cases not registered, especially when they are born on farms or plantations or when their parents are unaware of the need to register them for obtaining personal documents.

36. The Committee recommends that the State party intensify its efforts to ensure that all indigenous and migrant children are registered at birth and provided with personal documents enabling them to access social services, by ensuring that pregnant indigenous as well as migrant women, including those who are undocumented or in an irregular situation, have adequate access to hospitals and health centres, and by educating parents on the need to register their children. The Committee also

recommends that the State party consider concluding bilateral agreements with neighbouring States, with a view to granting dual citizenship to migrant children.

Freedom of association

37. While noting that adolescents may establish community development associations, in which children between 12 and 18 have the right to speak and to vote and, with certain limitations, to be members of the directing bodies, the Committee remains concerned that article 18 of the Children and Adolescents Code precludes children and adolescents from the right to form and join political associations.

38. The Committee reiterates its recommendation that the State party take appropriate measures to ensure the coherence of article 18 of the Children and Adolescents Code with the right of persons below the age of 18 to be involved in political activities, taking into account the views expressed by public institutions promoting rights-based alternative ways to encourage institutional participation by children and adolescents.

Protection of privacy

39. The Committee welcomes the announcement by the delegation that the Constitutional Chamber reversed its earlier decision to allow partial depiction of children's images and reveal personal information, which was openly contrary to the Convention. However, it remains concerned about the use by the media of child images and personal information, which is in contradiction with their right to privacy.

40. While taking into account the need to ensure respect for freedom of expression, the Committee urges the State party to:

(a) Continue its efforts to ensure that the media are aware of and respect the rights of the child;

(b) Develop, in consultation with the media, appropriate guidelines for the protection of children from information and material injurious to their well-being and encourage voluntary codes of conduct by the media; and

(c) In cooperation with the media, take the necessary measures to ensure respect for the privacy of children in the media by strengthening the implementation of existing legislation as well as awareness-raising and educational programmes.

Access to appropriate information

41. The Committee remains concerned about the potentially negative role of the media and mass communications in shaping public opinion and disseminating knowledge on child rights regarding such key aspects as public security and crime, sexual and reproductive rights, food, alcohol and other consumption patterns.

42. The Committee urges the State party to:

(a) Ensure that children have access to information and material from a diversity of national and international sources, especially those aimed at the promotion of their physical, psychological and moral well-being; and

(b) Encourage mass media to give special consideration to the linguistic needs of children who belong to indigenous group.

Torture or other cruel, inhuman or degrading treatment or punishment

43. The Committee notes that the National Plan for the Prevention of Violence and the Promotion of Peace (2007) is being evaluated and that a new plan is being drafted to include drug trafficking and consumption. It also welcomes the programme Windows of Peace 2010-2014 including the proclamation of “child-friendly” cantons. However, the Committee notes with concern:

(a) Tendencies in the media and in the legislature promoting zero tolerance or *mano dura* policies to prevent delinquency among children and adolescents in vulnerable situations, in particular children in street situations; and

(b) Continued allegations of ill-treatment of juveniles in detention and in penal institutions, despite the fact that Act No. 8654 (2008) on the rights of children and adolescents to be disciplined without physical punishment or degrading treatment and Act No. 8649 (2008) on the application of juvenile criminal penalties prohibit the use of corporal punishment and degrading treatment by the staff of juvenile detention centres and penal institutions.

44. **The Committee urges the State party to ensure that plans to prevent violence and promote peace are adequately implemented and evaluated so that they discourage repressive and retrogressive actions against children and adolescents, in particular those in vulnerable situations. It also urges the State party to investigate and prosecute all cases of ill-treatment of children by police officers and prison guards, and bring perpetrators to justice.**

Corporal punishment

45. The Committee welcomes the adoption of Act No. 8654 (2008) on the rights of children and adolescents to be disciplined without physical punishment or degrading treatment, prohibiting corporal punishment and degrading treatment of children or adolescents by parents, guardians, alternative caregivers and the staff of educational, health and day-care centres and juvenile detention centres. However, it remains concerned that: corporal punishment is still perceived as sometimes necessary by a large percentage of the population; the Office of the Ombudsman has received a high number of complaints and queries from children and adolescents regarding mistreatment by teachers; and perpetrators are only being held criminally responsible when the corporal punishment has resulted in physical injuries.

46. **In light of article 28, paragraph 2, of the Convention and General Comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee recommends that the State party:**

(a) **Ensure the full implementation of Act No. 8654 prohibiting corporal punishment and ensure that all cases of corporal punishment are effectively investigated and prosecuted and that perpetrators, including teachers, are being held criminally responsible, irrespective of whether or not such punishment has resulted in physical injuries of the child;**

(b) **Continue to take appropriate measures to raise the awareness of the general public, including children, on the unlawfulness and the negative consequences of corporal punishment and other forms of violence in the upbringing of children; and**

(c) **Sensitize parents, teachers and others working with and for children about alternative, non-violent forms of discipline.**

Follow-up to the United Nations study on violence against children

47. The Committee encourages the State party to:

(a) Prioritize the elimination of all forms of violence against children, including by ensuring the implementation of the recommendations of the United Nations study on violence against children (A/61/299), taking account the outcome and recommendations of the regional consultations for Latin America, paying particular attention to gender;

(b) Provide information concerning the implementation by the State party of the recommendations of the above-mentioned study in its next periodic report, particularly those highlighted by the Special Representative of the Secretary-General on violence against children, namely:

(i) The development of a national comprehensive strategy to prevent and address all forms of violence against children;

(ii) The introduction of an explicit national legal ban on all forms of violence against children in all settings; and

(iii) The consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence against children;

(c) Cooperate with the Special Representative of the Secretary-General on violence against children and seek technical assistance, inter alia, from UNICEF, the Office of the High Commissioner for Human Rights, the World Health Organization, the International Labour Office (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office on Drugs and Crime, as well as NGO partners.

E. 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

48. The Committee recommends that the State party ratify the Convention on the Recognition and Enforcement of Decisions relating to Maintenance Obligations (1973), the Convention on the Law Applicable to Maintenance Obligations (1973), and the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996).

Children deprived of a family environment

49. The Committee recognizes the State party's efforts to ensure the availability of alternative care services through the establishment by PANI of a system of alternative protection measures. However, it is concerned that many children are placed in institutions rather than in family-type care settings, in particular children in situations of greater vulnerability.

50. The Committee recommends that the State party:

(a) Reinforce its efforts to enable more children to live in a permanent family environment by periodically reviewing the situation of children placed in institutions, reducing the duration of interim placement of children and taking

decisions on the placement of children within reasonable time and in accordance with the best interests of the child;

(b) Consider the placement of children in institutions as a measure of last resort for the shortest period possible, and take all necessary measures to allow children in alternative care settings to return to their families, whenever possible;

(c) Give preference to family-type care over institutions for children who cannot live with their families;

(d) Undertake a study to assess the situation of children placed in institutions, including their living conditions and the services provided, establish clear standards for existing institutions, and ensure a comprehensive mechanism of periodic review of placement in light of article 25 of the Convention, taking into account the Guidelines for the Alternative Care of Children.

Adoption

51. While noting information provided by the State party delegation that the Constitutional Chamber declared direct adoptions unconstitutional, as well as the State party's efforts to regulate adoptions through the approval by PANI in 2008 of new regulations for national and international adoption processes, the Committee remains concerned that direct adoptions are still being performed. It is also concerned that insufficient regulation of private adoption services combined with weak control and monitoring mechanisms may result in cases of child trafficking.

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

(a) Enact and effectively implement legislation prohibiting direct adoptions by agreement between the biological and the adoptive parents without intervention by PANI, include PANI in all adoption procedures and harmonize domestic legislation with international legal standards on adoption, in particular the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (1993);

(b) Effectively ban direct adoptions and revise existing administrative procedures of adoption processes of PANI to minimize the incentives for such adoptions;

(c) Improve coordination between the judicial and administrative bodies in order to ensure the harmonization of adoption procedures, regulate private adoption services and monitor and restrict international adoptions, in accordance with article 21 (b) of the Convention; and

(d) Investigate all cases of irregularities in adoption procedures, prosecute and adequately punish perpetrators of unlawful adoptions and child trafficking, and establish adequate control mechanisms to prevent violations of relevant laws and regulations on adoption.

Abuse and neglect

53. The Committee acknowledges the State party's efforts to combat child abuse and neglect, such as the National Plan to Combat Violence (2006) and the establishment of Child Abuse Research Committees, the adoption of a Domestic Violence Programme, as well as the provision of psychological counselling to children who are victims of domestic violence. However, the Committee is concerned about the fact that domestic violence is on the rise, the high incidence of intra-family and sexual violence against children and adolescents, in particular girls, as well as the increase in the number of cases of abduction of persons without full legal capacity. It is also concerned about the lack of information on

the number of convictions and the sanctions imposed in such cases. It further notes with concern that there is only one National Integrated Care Centre in the State party providing evaluation and follow-up services, intensive consultation and shelter for children and adolescents who are victims of violence. In that regard, the Committee takes note of the extensive recommendations on domestic violence addressed to the State party during the universal periodic review of Costa Rica in 2009.

54. **The Committee, drawing the State party's attention to its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, as well as the recommendations made by the Committee on Economic, Social and Cultural Rights in 2007 and the Committee against Torture in 2008, recommends that the State party:**

(a) **Review and amend existing legislation in line with article 19 and its implementation within the holistic framework of the Convention to ensure the absolute prohibition of all forms of violence against children in all settings and provide for appropriate sanctions against perpetrators without resorting to mediation;**

(b) **Consider amending the Domestic Violence Act (1996) in order to define domestic violence as a crime to provide for criminal sanctions;**

(c) **Allocate adequate funds for the implementation of legislative and other measures to end abuse, neglect and violence against children and women;**

(d) **Adopt a data-collection system that compiles disaggregated information on and monitors cases of abuse and neglect of children;**

(e) **Promote abuse and neglect prevention programmes with a particular focus on domestic violence against girls and female adolescents;**

(f) **Strengthen public awareness-raising programmes and provide information, parental guidance and counselling to prevent domestic violence against children, including sexual violence, and encourage children and women who are victims of violence, as well as teachers, doctors, social workers and other caretakers, to report incidents of such violence to the police;**

(g) **Provide systematic training to judges, prosecutors, police and other law enforcement officers on how to prevent and monitor domestic violence and receive, investigate and prosecute complaints about such violence in a child- and gender-sensitive manner; and**

(h) **Ensure that children are represented by an officially designated guardian during domestic violence proceedings against their parents.**

F. Basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1–3) of the Convention)

Children with disabilities

55. While welcoming the State party's ratification of the Convention on the Rights of Persons with Disabilities, the Committee notes with concern that it has not adopted any implementing legislation or an integrated policy to protect the rights of children with disabilities. It is also concerned that, owing to excessive centralization of health services in urban areas, the coverage and quality of health-care services for children and adolescents with disabilities is inadequate in rural areas, and that there is a lack of specialized rehabilitation services in the State party. The Committee is concerned about the lack of screening programmes for early detection of disabilities. The Committee is seriously

concerned that there is still no inclusive education programme for children with disabilities in the State party.

56. **In light of article 23 of the Convention and the Committee's general comment No. 9 (2006) on the rights of children with disabilities, the Committee recommends that the State party:**

(a) **Adopt a comprehensive policy for the integration and participation of children with disabilities in public, social and community life, including the provision of inclusive education;**

(b) **Improve the coverage and response of the public support network aimed at children and adolescents with disabilities to ensure that they have adequate access, including in rural areas, to specialized equipment, financial subsidies, medical care, transportation, social services, and spaces for rehabilitation as part of the National Health System;**

(c) **Progressively develop screening services for prevention and early detection of disabilities; and**

(d) **Ensure that all health services provided to children and adolescents with disabilities, including mental health services and, in particular, the administration of psychotropic substances, are based on the free and informed consent of the children concerned, according to their evolving capacities.**

Health and health services

57. While welcoming the continuing decrease in infant and child mortality as well as malnutrition rates, the Committee is concerned about the persistence of disparities resulting in high infant mortality among indigenous and other minority children due to, inter alia, preventable diseases. It notes with satisfaction the State party's plan to expand the network of Care and Integral Development (*Red de Cuido y Desarrollo Integral*) to all cantons. However, the Committee is concerned about the low coverage of primary health-care services for young children and mothers in rural and coastal areas and about reports that medical attention is sometimes effectively denied to indigenous and migrant children owing to excessive charges and lack of personal identity documents.

58. **The Committee recommends that the State:**

(a) **Review its centralized system of health care and ensure affordable access to basic health care for all children, particularly indigenous and migrant children, including those without personal identity documents, while giving priority to regions and communities with the lowest coverage, with a view to redressing the existing sharp inequalities;**

(b) **Allocate adequate technical and financial resources to the Red de Cuido y Desarrollo Integral in order to reach universal coverage of health-care services, as planned; and**

(c) **Harmonize the methodology for calculating the infant mortality rate in accordance with international standards;**

Breastfeeding

59. While noting the State party's creation of the Breast-Milk Bank, the Committee is concerned that the goal of exclusive maternal breastfeeding for infants below 6 months of age has still not been achieved primarily due to a stark decline in breastfeeding after three months, that the International Code of Marketing of Breast-milk Substitutes is frequently

violated by private companies, and that only 10 out of 24 hospitals have been designated as baby-friendly.

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

(a) **Strengthen the promotion of exclusive breastfeeding up to the age of 6 months, consider extending maternity leave accordingly while ensuring the rights of working mothers to a secure employment and salary and social security, and impose appropriate penalties on companies violating the International Code of Marketing of Breast-milk Substitutes and monitor compliance with the Code;**

(b) **Train health professionals on the importance of initiating breastfeeding within the first hour following childbirth and on the importance of avoiding bottle-feeding or feeding with breast-milk substitutes, to the extent possible; and**

(c) **Initiate a process of re-certification and certification of all hospitals and clinics as baby-friendly.**

Mental health

61. The Committee notes with concern that the State party has not provided any information and data on mental health issues related to children, adolescents and their parents, the extent of the problem, studies, research, if any, preventive measures taken, or the accessibility of relevant services.

62. **The Committee urges the State party to undertake a comprehensive study on mental health of children, adolescents and their families, and to use the findings of the study as a basis for developing a national child and adolescent mental health policy and programme.**

Adolescent health

63. While welcoming the Health Plan for Adolescents 2010–2015, the Committee is concerned about:

(a) The high rate of early pregnancies (one out of five births by mothers under 19);

(b) The risk of adolescent maternal death (four times higher than among the adult population);

(c) The lack of access to legal abortions, the absence of guidelines informing doctors when they can legally perform an abortion, the high rate of unsafe abortions, and the lack of adequate post-abortion care;

(d) The unavailability of emergency contraception in the formal health system even for rape victims despite the high incidence of rape and intra-family sexual violence;

(e) The very low condom use rate, the lack of sexual education programmes, and the limited access to sexual and reproductive health services and information for adolescents; and

(f) The increase in drug and substance abuse by children and adolescents and the use of children and adolescents for the sale of drugs.

64. **Referring to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee recommends that the State party:**

(a) **Reinforce strategies for the prevention of early pregnancies as well as the support provided to child and adolescent mothers;**

(b) Design and implement an intersectoral public policy for health, sexual and reproductive rights aimed at adolescents within and outside the educational system and taking into account sexual and reproductive rights, healthy sexuality, prevention of unplanned pregnancies, sexually transmitted diseases, HIV/AIDS, and the accessibility and use of condoms and other contraceptives;

(c) Adopt guidelines informing doctors when they can legally perform abortions in cases of risk to the life and health of mothers and clarifying that the health exception in article 121 of the Penal Code applies, *inter alia*, to pregnancies resulting from sexual violence and to those pregnancies involving a severely malformed fetus, and ensure the right of pregnant women and adolescents to appeal decisions of doctors;

(d) Expand legal abortion in cases of rape and intra-family sexual violence and improve the availability and quality of post-abortion care in public hospitals;

(e) Ensure that girls and adolescents have free and timely access to emergency contraception and raise awareness among women and girls about their right to emergency contraception, particularly in cases of rape;

(f) Include systematic, comprehensive and scientific-based education on sexual and reproductive health, including on HIV/AIDS and other sexually transmitted diseases as well as on contraception, in regular school curricula and ensure that adequate resources are allocated for such education; and

(g) Ensure that the Institute for Alcoholism and Pharmacological Dependency extends its plans to care for child victims of drug and substance abuse, including the use of appropriate diagnostic tools and rehabilitation services, beyond the recently created specialized centre for children who consume drugs.

Standard of living

65. The Committee is concerned that the State party has been affected by the global economic situation and that poverty and inequalities have increased (with one out of three children living in poverty). It notes that efforts are being made to protect social investment and to extend the coverage of basic services for children to all cantons, but remains concerned that structural measures to stimulate economic development and raise the standard of living, particularly in rural areas, with a view to reducing poverty and improving children's access to basic services such as adequate housing, food, water, sanitation, electricity and education, need to be put in place.

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

(a) Continue to implement programmes for targeted and universal social and economic benefits for children and their families, in particular in relation to services that are not accessible to them because of poverty, vulnerability and social exclusion, including the "Avancemos" Programme and the "Red de Cuido y Desarrollo Integral";

(b) Ensure that benefits in the social services are equitable, thus requiring territorially differentiated policies, as well as the promotion of gender-sensitive and child-friendly employment and support to working parents; and

(c) Accelerate its efforts to develop a single register of social security benefits granted to individuals, including children and/or their parents, and collect disaggregated information on social investment destined to childhood and adolescence, as well as on the efficiency of the executing agencies, their financing and the effectiveness and appropriateness of investments made.

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

Education, including vocational training and guidance

67. The Committee welcomes that article 78 of the Political Constitution increases the budget for education to 8 per cent of the State party's gross domestic product and takes note of the efforts made by the State party to provide financial subsidies, transportation and school meals to promote school attendance by children from poor families, facilitate the transition from primary to secondary school, and reduce the dropout rate at the secondary level. However, it remains concerned about the inadequate quality of education, low school attendance and completion rates, in particular among indigenous and migrant children, especially at the secondary level, and the poor school infrastructure in rural areas.

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

(a) **Undertake studies and develop effective programmes to improve the quality of education and reduce school drop out, especially at the secondary level, and monitor the impact of such programmes;**

(b) **Implement the directives regarding curricular adaptation at the primary and secondary levels to prevent that students drop out from or are left behind at school;**

(c) **Consider increasing investment in teacher training and in the maintenance and renovation of the educational infrastructure, in particular in rural and coastal areas, to ensure that adequate facilities are available for quality education;**

(d) **Promote more effective educational programmes to address low school attendance by indigenous and migrant children; and**

(e) **Take into account the Committee's general comment No. 1 (2001) on the aims of education.**

69. The Committee notes with concern that native language and intercultural education for indigenous children is scarcely offered in primary schools and only in the indigenous territories, that the number of lessons is insufficient, and that there are no education materials in indigenous languages.

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

(a) **Reinforce bilingual and intercultural education models for indigenous children by, among others, increasing the number of school teachers in the indigenous territories;**

(b) **Expand the coverage and number of lessons on indigenous language and culture, including at the preschool and secondary levels;**

(c) **Develop specific training programmes and improve the conditions for teachers of such classes in and outside the sub-systems for indigenous education, in cooperation with public universities and in accordance with the specific cultural needs of indigenous children;**

(d) **Make available textbooks and child-friendly education materials in indigenous languages; and**

(e) **Include education on indigenous cultures in the national school curriculum, with a view to promoting respect for diversity and eliminating prejudice against indigenous children.**

71. While taking note of the measures taken by the State party to train special education teachers, adjust curricula in the regular school system and improve the school infrastructure for children with disabilities, the Committee is nevertheless concerned about the limited accessibility of both public and private educational institutions for children and adolescents with disabilities.

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

(a) **Ensure that schools and classrooms are physically (and buildings-wise) accessible for children with disabilities;**

(b) **Give priority to the progressive implementation of inclusive education for children with disabilities rather than education in specialized institutions, including through teacher training and special classroom support for teachers;**

(c) **Develop individual education plans for all students with disabilities and ensure the availability of assistive devices and support in classrooms;**

(d) **Ensure that education on sexual and reproductive health and rights is provided in age-appropriate and accessible formats and respectful of the dignity of students with disabilities.**

H. Special protection measures (arts. 22, 30, 38, 39, 40, 37 (b)–(d), 32–36 of the Convention)

Economic exploitation, including child labour

73. While welcoming the recent legislation adopted by the State party to protect children from the worst forms of child labour (Act No. 8922), in accordance with ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, and from exploitation in domestic work (Act No. 8842), the Committee remains concerned about the absence of a coordinated strategy and of a dedicated budget for combating the worst forms of child labour, and takes note of the recommendations addressed to the State party during its 2009 universal periodic review. It is further concerned about the reportedly high number of children engaged in child labour, including its worst forms, in several sectors including agriculture, fishing, construction and service sectors, and particularly in the informal economy. The Committee is also concerned about the absence of updated statistical data on the number of child and adolescent workers.

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

(a) **Adopt a coordinated strategy and a dedicated budget for combating the worst forms of child labour, especially in the informal economy;**

(b) **Strengthen the human, technical and financial resources of the Ministry of Labour, in particular the Labour Inspectorate, to undertake inspections, monitoring, mediation and conciliation;**

(c) **Collect updated statistical data and improve records related to child labor; and**

(d) **Seek technical assistance from the ILO International Programme on the Elimination of Child Labour (ILO-IPEC) in this regard.**

Sexual exploitation and abuse

75. The Committee notes the efforts made by the State party to protect children from sexual exploitation, including by adopting Act No. 8590 (2007) on strengthening of

measures to combat sexual exploitation of minors, amending several provisions of the Criminal Code and the Code of Criminal Procedure, incorporating the Second National Plan against Commercial Sexual Exploitation of Children (2008–2010) as one of the priorities in the National Development Plan 2006–2010, and promoting a code of conduct to combat sexual exploitation in the tourism sector. However, it remains concerned about the limited impact of those measures, the high number of children, including children in street situations, who are victims of sexual exploitation, and the lack of coordination among institutions with regard to victim support, rehabilitation and reintegration.

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

(a) **Ensure effective inter-institutional coordination and allocate adequate resources for the prevention of sexual exploitation of children, including at the local level and by appropriately organizing the different sectors forming the National Child Protection System;**

(b) **Revise and effectively implement support, rehabilitation and reintegration programmes for child victims of sexual exploitation;**

(c) **Ensure that programmes and policies for the prevention, recovery and reintegration of child victims are in accordance with the outcome documents adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children held in Stockholm and Yokohama, respectively, and the 2008 Third World Congress against Sexual Exploitation of Children and Adolescents held in Rio de Janeiro; and**

(d) **Improve data collection and disaggregation concerning the number of child victims of sexual exploitation and abuse, the number of perpetrators convicted, and the types of assistance provided to victims.**

Trafficking

77. The Committee notes the State party's efforts to combat trafficking in persons and assist victims of this crime, including children, by raising awareness and training public officials on trafficking offences; establishing the National Coalition against Illegal Smuggling of Migrants and Trafficking in Persons, which prepared a national action plan on trafficking that was incorporated in the National Development Plan (2006–2010); creating an immediate response team to provide rapid responses for trafficking victims within 24 hours; and amending the Migration Act to allow for temporary residence status of migrants who are victims of trafficking. However, in line with its 2007 recommendations on the State party report under the Optional Protocol on the sale of children, child prostitution and pornography, the Committee notes with concern:

(a) That trafficking in children for purposes of forced labour and sexual exploitation, particularly in the sex tourism industry, continues to be a serious problem in the State party;

(b) The absence of criminal law provisions specifically criminalizing trafficking in children;

(c) The insufficient access to the asylum procedure for victims of trafficking, the low conviction rate and lenient sentencing policy;

(d) The limited impact of training for law enforcement officers on the identification of trafficking cases and the application of criminal law provisions;

(e) The State party's reliance on NGOs to provide specialized assistance to and the lack of shelters for child victims of trafficking;

(f) The lack of public awareness about the unlawful nature of trafficking in women and children; and

(g) The lack of proactive efforts by the State party to reduce the demand for sexual exploitation and forced labour of children or to identify trafficking victims among children in vulnerable situations.

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

(a) **Criminalize all forms of trafficking in children, including cases not involving movement, in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;**

(b) **Ensure that cases of trafficking in children, including internal trafficking, are effectively investigated and prosecuted and that sentences commensurate with the seriousness of those acts are imposed on perpetrators;**

(c) **Strengthen efforts to train law enforcement officers on the identification of trafficking cases and on the strict application of relevant criminal law provisions;**

(d) **Facilitate access to justice and provide compensation for child victims of trafficking, and ensure their referral to the asylum procedure;**

(e) **Enhance victim protection and assistance, by establishing shelters specifically designed for trafficking victims, including children, funding for NGOs providing specialized care to child victims of trafficking, and assistance to reintegrate victims into their communities;**

(f) **Raise public awareness about the causes and consequences, the unlawful nature, and the need to report acts of child trafficking and sex acts with children, including through the Internet; and**

(g) **Establish a comprehensive and reliable national data-collection system to ensure systematic monitoring and evaluation of systems, services, programmes and outcomes based on indicators aligned with universal standards and adjusted for and guided by locally established goals and objectives, and maintain a registry on cases of trafficking in children.**

Sale of children and child pornography

79. In line with its concluding observations on the State party's initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/CRI/CO/1), the Committee reiterates its concern that possession of child pornography is not fully covered by the State party's Penal Code, although a draft law (No. 14568) has been submitted to the Legislative Assembly to that effect. The Committee also regrets that draft law No. 14204, which was submitted to the Legislative Assembly for the introduction of extraterritorial jurisdiction for sexual crimes against children committed outside the State party's territory, has not yet been approved and that, consequently, the State party has not yet established jurisdiction for the prosecution of offences covered by the Optional Protocol where such an offence has been committed outside its territory.

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

(a) **Take the necessary measures, e.g. by adopting draft law No. 14568, to ensure that possession of child pornography is fully covered by its Penal Code, in accordance with article 3, paragraph 1 (c), of the Optional Protocol on the sale of children, child prostitution and child pornography. Such crimes should include the**

possession of child pornography in a computer system or on a data storage medium;
and

(b) Take the necessary legislative measures to enable prosecution of crimes related to sex tourism, e.g. by adopting draft law No. 14204 in order to ensure, *inter alia*, that the State party's courts have jurisdiction in cases where nationals of the State party commit offences covered by the Optional Protocol outside its territory.

Asylum-seeking and refugee children

81. The Committee notes that the State party hosts the second largest refugee population in Latin America. It is concerned that, owing to delays in the adoption of regulations to implement the new Migration Act, the waiting period for the refugee status determination is too long, gender as grounds for persecution is not fully taken into account in the determination of refugee status in accordance with the new Migration Law and relevant UNHCR guidelines, and that there are obstacles to the family reunification process, including with regard to the issuance of visas. The Committee is also concerned that refugees are no longer exempt from the high fees for processing identification documents (refugee cards) and that unaccompanied children are not provided with such documents.

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

(a) **Expediently adopt and implement regulations relating to the refugee status determination;**

(b) **Ensure that gender as a ground of persecution is taken into account in the refugee status determination;**

(c) **Benefit from UNHCR training for its Commission of Visa and Refugees, and make proper use of the UNHCR Guidelines on International Protection: child asylum claims under articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees; and**

(d) **Consider exempting refugees from fees for identification documents or reducing such fees, and provide unaccompanied children with identity documents.**

Administration of juvenile justice

83. The Committee is concerned that:

(a) Deprivation of liberty seems to be the general rule rather than the exception in criminal trials against juvenile offenders, as reflected by the high number of children and adolescents, especially those in street situations, in juvenile detention centres and penal institutions;

(b) The principle of presumption of innocence is not being applied sufficiently in juvenile criminal cases; and

(c) The identity of juveniles facing criminal charges is reportedly often revealed in the media, in violation of their personality rights.

84. **Taking into account the Committee's general comment No. 10 (2007) on the administration of juvenile justice, as well as juvenile justice standards, in particular articles 37 (b), 40 and 39 of the Convention, 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), the Committee recommends that the State party:**

(a) Train judges in the administration of the juvenile justice system, including on the application of non-custodial measures, in accordance with Act No. 8649 on the application of juvenile criminal penalties;

(b) Improve detention conditions for persons below the age of 18, notably in police detention centres, in accordance with international standards; and

(c) Ensure that private and public media refrain from publishing any information on the identity of children facing criminal charges, including pictures, names and references to their places of residence.

Child victims and witnesses of crimes

85. The Committee recommends that the State party ensure the protection of child victims and witnesses, as well as their effective access to redress and reparation, that legal and judicial procedures are enforced in a child-friendly manner, including remedies available to children when their rights are violated, and that relevant laws and practices take fully into account the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.

I. Ratification of international human rights instruments

86. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core United Nations human rights treaties and their Optional Protocols to which it is not yet a party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

J. Cooperation with regional and international bodies

87. The Committee recommends that the State party cooperate with the Organization of American States (OAS) for the implementation of the Convention and other human rights instruments, both in the State party and other OAS member States.

K. Follow-up and dissemination

Follow-up

88. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented by, *inter alia*, transmitting them to the President, the Legislative Assembly, relevant ministries, PANI, the Supreme Court, and to local authorities for appropriate consideration and further action.

Dissemination

89. The Committee further recommends that the fourth periodic report and the written replies of the State party and the related recommendations (concluding observations) be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, media, youth groups, professional groups and children, in order to generate debate

and awareness of the Convention and its Optional Protocols and of their implementation and monitoring.

L. Next report

90. The Committee invites the State party to submit its combined fifth and sixth periodic reports by 19 March 2016 and to include in it information on the implementation of the present concluding observations. The Committee draws attention to its harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr. 1) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit its report in accordance with the reporting guidelines. In the event a report exceeding the page limitations is submitted, the State party will be asked to review and eventually resubmit the report in accordance with the above-mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, then translation of the report for purposes of examination of the treaty body cannot be guaranteed.

91. 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 at by the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).
