



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Fifty-fifth session

13 September-1 October 2010

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

### Concluding observations: Nicaragua

1. The Committee considered the fourth periodic report of Nicaragua (CRC/C/NIC/4) at its 1568th and 1570th meetings (see CRC/C/SR.1568 and CRC/C/SR.1570), held on 23 September 2010, and adopted at its 1583rd meeting, held on 1 October 2010, the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the fourth periodic report as well as the written replies to its list of issues (CRC/C/NIC/Q/4/Add.1). The Committee appreciates the presence of a high-level delegation and the open and positive dialogue, which enabled a better understanding of the situation of children in the State party.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with the concluding observations adopted on 1 October 2010 on the State party's initial reports to the Optional Protocols on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict contained in CRC/C/OPSC/NIC/CO/1 and CRC/C/OPAC/NIC/CO/1, respectively.

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

4. The Committee welcomes a number of positive developments in the reporting period, including the adoption of legislative measures taken with a view to implementing the Convention, such as:

- (a) Framework Law on the Right to Food (2009);
- (b) Special Law for the Promotion of Housing Construction and Access to Social Housing (2009);
- (c) Law of Equal Rights and Opportunities (2008);

- (d) Law on Protection of Human Rights of People with Mental Illness (2008);
  - (e) Penal Code (2008);
  - (f) Responsible Paternity and Maternity Law (2007); and
  - (g) General Education Law (2006).
5. The Committee further welcomes the ratification by Nicaragua of the following:
- (a) Convention on the Rights of Persons with Disabilities and its Optional Protocol;
  - (b) Optional Protocol to the Convention against Torture;
  - (c) Second Optional Protocol to the International Covenant on Civil and Political Rights;
  - (d) Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and
  - (e) International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

## 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

6. The Committee notes with concern that various concerns and recommendations made upon consideration of the State party's third periodic report (CRC/C/15/Add.265) of 21 September 2005 have been insufficiently addressed. The Committee notes that those concerns and recommendations are reiterated in the present document.

7. **The Committee urges the State party to take all necessary measures to address the recommendations contained in the concluding observations on the third periodic report that have not been sufficiently implemented, including those related to the implementation of legislation, the National Plan of Action and coordination, data collection, age for marriage, birth registration, corporal punishment, child abuse and neglect, and teenage pregnancies, and to provide adequate follow-up to the recommendations contained in the present concluding observations on the fourth periodic report.**

#### Legislation

8. The Committee notes the efforts made by the State party towards strengthening the constitutional, legal and normative framework related to the implementation of the Convention, but it is concerned at the under-implementation of legislation. It is particularly concerned that 12 years after entering into force, the Children and Adolescents Code (*Código de la Niñez y la Adolescencia*, 1998) has not been afforded the priority required and lacks the necessary institutional, human, technical and financial resources for full implementation.

9. **The Committee recommends that the State party ensure that the Children and Adolescents Code continues to be the overall legal framework, complemented by new and specific legislation, including the new, yet-to-be-adopted Family Code, and assign**

appropriate human, technical and financial resources for the full implementation of the Children and Adolescents Code and all related laws protecting and promoting the rights of children.

#### Coordination

10. The Committee regrets that the National Council for the Comprehensive Care and Protection of Children and Adolescents (CONAPINA), established by the Children and Adolescents Code at the presidential level, with civil society participation, which was previously in charge of coordinating child policies, has lost its authority by virtue of Law 290 (2008) and is now under the Ministry of Family, Adolescence and Childhood (MIFAN), thereby affecting overall coordination, including with civil society. It is further concerned that a new National Social Welfare System (*Sistema Nacional de Bienestar Social*) has taken over the overall coordination of social policy, including that related to children, and consequently, the promotion and protection of children's rights in general, not only those at risk, have lost specificity and transparency.

11. **The Committee recommends that the State party consider strengthening the leadership and coordinating functions of CONAPINA as set out in the Children and Adolescents Code, and, in that respect, streamline the roles and activities of both**

**MIFAN and the National Social Welfare System to ensure a comprehensive and well articulated system of promotion and protection of children's rights.**

12. The Committee notes with satisfaction that more than 100 of the 153 municipalities have set up Municipal Commissions on Children and Adolescents (*Comisiones Municipales de la Niñez y la Adolescencia*), with the participation of civil society and children, in order to provide leadership and coordination for programmes related to children's rights at the local level. However, it remains concerned that their actual functioning is restricted by the lack of clarity in the overall system and the inadequacy of resources.

13. **The Committee urges the State party to ensure that a Municipal Commission on Children and Adolescents is established in all municipalities and that they are provided with the necessary human, technical and financial resources to ensure clear leadership and coordination of programmes for children at the local level.**

#### National Plan of Action

14. The Committee notes that the State party has recently launched a National Plan for Human Development, but it is concerned that there is no information as to whether and how child rights goals and objectives are included therein, in consonance with the Children and Adolescents Code and the approved National Plan of Action for Children and Adolescents (2002-2011). The Committee also notes with concern that the Amor Programme (*Programa Amor*) and the Amor Early Childhood Education Strategy (*Estrategia Educativa Amor para los más Chiquitos*), created in parallel by the state party and coordinated by MIFAN, seem to have replaced the National Plan of Action, despite their limited focus on special protection. The Committee is concerned that these developments are a regression in terms of the integral promotion and protection of child rights, as established in the Children and Adolescents Code.

15. **The Committee strongly recommends that the State party ensure that the National Plan of Action for Children and Adolescents (2002-2011) forms, in an explicit and clearly identifiable way, part of its overall planning efforts, including the National Plan for Human Development. The Committee recommends that the current ongoing evaluation of the National Plan of Action for Children and Adolescents is used to elaborate a new comprehensive plan of action for children that is fully integrated into the national development planning framework. It further recommends that this be**

done in cooperation with civil society and taking into account all the provisions of the Convention and its two Optional Protocols.

#### **Independent Monitoring**

16. While welcoming the active involvement of the Office of the Ombudsperson for Human Rights (*Procuraduría Nacional de Derechos Humanos*) and the Office of the Special Ombudsperson for the Protection of Children and Adolescents (*Procuraduría Especial de la Niñez y la Adolescencia*) in the promotion, protection and investigation of violations of children's rights, the Committee is concerned at the inadequacy of human, technical and financial resources available for this important work. It is also concerned about undue delays in the designation of the respective Ombudspersons.

17. **The Committee recommends that the State party assign greater human, technical and financial resources to the Office of the Special Ombudsperson for the Protection of Children and Adolescents to ensure full exercise of its function to oversee and defend the rights of children and adolescents. It further recommends that independence in the designation and operation of the Ombudsperson for Human Rights be guaranteed. The Committee recommends that the State party take into account the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child.**

#### **Allocation of resources**

18. While welcoming the increase in spending on health and education over the past years, especially from national resources, the Committee is concerned at the insufficient level of resources available overall for social policies and specific plans and programmes for children. The Committee is further concerned that due to the financial crisis and the low public revenue base, financial resources, including contributions for budget support and specific programmes from international cooperation, may decrease further.

19. **The Committee recommends that the State party conduct an overall budget exercise in line with the preparation of a comprehensive national plan of action for children, as recommended in paragraph 15 above, that takes full account of existing health, education, nutrition and social welfare policies, special protection and other programmes and their budget needs. It further recommends that the State party satisfy the criteria of transparency and balance in budget allocations, including with regard to international cooperation.**

20. **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" (2007), the Committee encourages the State party to:**

(a) **Increase the level of social investment for the promotion and protection of child rights, including to MIFAN, ensure the expansion and equitable allocation to disadvantaged regions and groups, and address gender and ethnic disparities, among others;**

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

(c) **When possible, follow United Nations recommendation to implement budgeting-by-results to monitor and assess the effectiveness of resource allocation and, if necessary, seek international cooperation to that effect;**

(d) **Protect children and social budgets from external and internal instability, such as economic crisis, natural disasters or other emergencies, in order to maintain the sustainability of investments;**

(e) **Define strategic budgetary lines for situations that may require affirmative social measures, such as birth registration – especially in the Caribbean Coast autonomous regions (RAAN and RAAS), chronic malnutrition, violence against children and women, children without parental care, indigenous and migrant children, among others;**

(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 included in the Alliance Group for Investment, as appropriate.**

#### **Data collection**

21. The Committee welcomes the five-year plan for the modernization of the National Development Information Institute (INIDE) and the National Statistical System (SEN). It particularly commends the process to design and implement the statistical information system on children and adolescents (SIENA) and establish a system of child rights indicators in close cooperation with all concerned institutions. The Committee is however concerned that SIENA falls under MIFAN and is not part of SEN. Furthermore the Committee is concerned that data on children at risk is still not available and that sufficient financial and human resources are not allocated for the full functioning of the system.

22. **The Committee recommends that the State party strengthen the implementation of the National Statistical System (SEN) and its adjustment to the National Information System on Child and Adolescent Rights (SIENA), and allocate appropriate human, technical and financial resources, as well as ensure that the systems produce comprehensive statistical information and analysis on the implementation of children's rights, with particular attention to children at risk at the national and municipal levels.**

#### **Dissemination and awareness raising**

23. While noting the efforts undertaken to provide child rights education to children and teachers through the inclusion of human rights of the child in the primary education curriculum, the Committee is concerned at the low level of awareness of the Convention among children themselves and the general public.

24. **The Committee recommends that the State party increase efforts, together with civil society, to broaden the knowledge of the general population, children and adolescents about the Convention and national laws formulated and approved on the basis of the Convention and other international instruments. Special emphasis should be placed on the Caribbean Coast autonomous regions (RAAN and RAAS).**

25. **The Committee further recommends that the State party ensure that both the private and public media respect child rights, especially the dignity of the child, support dissemination of the Convention and its Optional Protocols, and include the points of view and voices of children in their programmes. The Committee further recommends that the State party encourage the media sector to establish professional codes of ethics regarding, in particular, the rights of the child.**

**Training**

26. The Committee is concerned at the low level of awareness of the Convention among professionals working with and for children.

27. **The Committee recommends reinforcement of adequate and systematic training of all professional groups working for and with children, in particular, law enforcement officials, teachers (including those in indigenous and Afro-descendant communities, rural and remote areas), health workers, social workers and personnel working in all forms of alternative care.**

**Cooperation with civil society**

28. The Committee is concerned that the long-standing tradition of collaboration between the State party and an extensive network of national and international non-governmental organisations (NGOs) has recently become more limited due, inter alia, to the weakening of CONAPINA.

29. **The Committee urges the State party to take all necessary measures to reinstate the climate of trust and cooperation with civil society and systematically involve communities, including indigenous and Afro-descendant communities, civil society and children's organisations in the planning, implementation, monitoring and evaluation of policies, plans and programmes related to child rights.**

**Child rights and the business sector**

30. The Committee takes note of the State party's collaboration with the business sector to finance specific public projects, as explained during the dialogue. The Committee is concerned that there are no policies or regulations in place related to the impact of the activities of mining, agro-industry and other large scale operations on children's safety, standard of living and exercise of rights.

31. **The Committee recommends that the State party ensure that appropriate policies and regulations are adopted with regard to the need for the corporate business sector (whether private or state-owned) to protect and respect the rights of children, and to operate in a socially and environmentally responsible manner. In that respect, the Committee encourages the State party to ensure coordination between state departments dealing with children's issues and agencies related to investment and trade, labour, innovation, technology and the environment, among others. Furthermore, the Committee encourages the State party to study the adoption of clauses on the rights of the child when negotiating investment treaties and other foreign investment agreements with multinational corporations and foreign governments.**

**International cooperation**

32. The Committee notes with concern that international cooperation for both budget and programme support may be on the decrease, and that since the State party depends considerably on international cooperation, this may not be in the best interests of the child.

33. **The Committee encourages the State party to strive for balance and transparency in its budgetary allocations from both domestic and international sources, while aiming to increase financial and technical resources to implement the Convention from both domestic revenues and international cooperation.**

## 2. Definition of the child (art. 1 of the Convention)

34. The Committee remains concerned that the State party establishes a low and unequal minimum age for marriage (15 years for boys and 14 years for girls, with parental consent).

35. **The Committee reiterates its recommendation that the State party adopt the draft Family Code, and ensure that the minimum age for marriage for girls and boys is 18 years.**

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

### Non-discrimination

36. The Committee welcomes the legislative action taken by the State party to guarantee equal rights of people, especially those with disabilities, living with HIV/AIDS and indigenous and Afro-descendants. It also welcomes the establishment of the Office of the Special Ombudsperson for the Rights of Indigenous People and Ethnic Communities, and its local office in the Caribbean Coast autonomous region, as well as the Office of the Special Ombudsperson for Sexual Diversity. Notwithstanding, the Committee shares the concerns of the Committee on the Elimination of Racial Discrimination (CERD/C/NIC/CO/14, paragraph 12) and the Committee on the Elimination of Discrimination against Women (CEDAW/C/NIC/CO/6, paragraph 31) respectively, that indigenous peoples and peoples of African descent, as well as women, girls and children in rural and remote areas continue to suffer de facto discrimination.

37. **The Committee urges the State party to strengthen efforts to combat racist and gender-biased attitudes and behaviour, including against children and adolescents of indigenous and Afro-descendant origins, from rural or remote areas and those who have disabilities. It further recommends that the State party place high priority in the public agenda on preventing and eradicating discrimination, inter alia, through the media and education system. The Committee also draws the State Party's attention to the principles of 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

38. The Committee notes that, according to article 9 of the Children and Adolescents Code, the best interests of the child should be taken into account as a fundamental principle. However, the Committee is concerned that the principle of the best interests of the child is not well understood in the family or by State judicial and administrative authorities, and that it is not consistently applied in practice.

39. **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 into all legal provisions, judicial and administrative decisions, as well as programmes and projects that have an impact on children.**

### The right to life, survival and development

40. The Committee welcomes the State party's decision to participate in the Regional Project on Child Development Indicators, conducted by the Inter-American Development Bank, which intends to explore the extent and dimension of the problem of young children in deteriorated social and economic environments, in particular in rural areas, and

recommends that the State party develop targeted policies which support the holistic development of young children, in particular children in disadvantaged social environments, with a view to increasing their development opportunities.

#### **The right of the child to be heard**

41. The Committee commends the achievements made with regard to children and adolescents' right to be heard through school and municipal councils, for example, but notes that the efforts are not deep enough and that the new forms of "direct democracy" (such as the *Gabinetes de Participación Popular*) seem to be adult-centred and authoritarian. The Committee is also concerned that children's views are not always duly taken into account in the family and in judicial and administrative proceedings.

42. **The Committee recommends that the State party strengthen its efforts to ensure that children's views are given due consideration in the family, schools and community settings, without undue adult influence, and that they are duly heard in the family and in judicial and administrative proceedings affecting them. In this regard, the Committee draws the State party's attention to its general comment No. 12 (CRC/C/GC/12) on the right of the child to be heard.**

43. While commending the Constitutional measure to allow children between 16 and 18 years of age to vote, the Committee encourages the State party to ensure that it is supported by civic and human rights education in order to ensure early awareness in children that rights are to be exercised as part of citizenship, with autonomy and responsibility, and that the measure does not lend itself to undue influence. It recommends that the State party evaluate the results in an independent manner.

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

#### **Birth registration and the right to identity**

44. The Committee notes with interest the National Plan and considerable efforts, including by NGOs, to reduce the number of unregistered children (*Plan Nacional para la Reducción del Subregistro de la Niñez Nicaragüense*), which has resulted in a 20 per cent decrease to date. It also notes other efforts, such as the Law on Responsible Paternity and Maternity, which allows for DNA testing. However, the Committee is concerned at the large number of children who are still not registered and who do not have birth certificates (around 40 per cent), particularly those of indigenous and Afro-descendant origins.

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

(a) **Approve without delay the new Civil Registry Law and assign the resources needed for its application so as to enable modernisation of the current registry apparatus at both the municipal and central levels;**

(b) **Prioritize training of civil registrars and health and education officials to rapidly close the gap, particularly in the Caribbean Coast autonomous regions (RAAN and RAAS); and**

(c) **Conduct communication programmes and campaigns to massively disseminate the contents of the new law and encourage birth registration as a routine practice.**

#### **Torture and cruel, inhuman or degrading treatment or punishment**

46. While noting that both the Constitution and the Children and Adolescents Code establish that children should not be subjected to torture or other cruel, inhuman or



degrading treatment or punishment, the Committee is concerned at reports of degrading police treatment of children and the lack of investigation or charges.

47. **The Committee recommends that the State party adopt appropriate measures to combat torture and cruel, inhuman or degrading treatment, including the development of systematic training programmes addressed to all professionals working with and for children, especially the police force, on prevention of and protection against torture and other forms of ill-treatment. The Committee further recommends that the State party investigate the allegations of torture and ill-treatment of children, and take all necessary measures to bring the alleged perpetrators to justice.**

#### **Corporal punishment**

48. The Committee is very concerned that while article 155 of the Penal Code prohibits corporal punishment it makes an exception for “disciplinary correction.” It is also concerned at the inadequate application of MINED administrative regulations that prohibit physical punishment in school.

49. **The Committee strongly recommends that the State party amend article 155 of the Penal Code to explicitly state that all corporal punishment – in the family, alternative care settings, school, public administration and judicial settings – constitutes an offence. Furthermore, the Committee urges the State party to ensure that the Education Law and the administrative regulations concerning alternative methods of positive and participatory discipline are enforced, and that abusers are severely punished. Regarding the police and the judiciary, the Committee recommends that appropriate standards be set and enforced to prevent and severely sanction corporal punishment of children and adolescents while in police custody and during judicial proceedings.**

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

50. With reference to the United Nations study on violence against children (A/61/299), the Committee recommends that the State party take all necessary measures to implement the recommendations contained in the report of the independent expert, while taking into account the outcome and recommendations of the regional consultation on violence against children, held in Buenos Aires from 30 May to 1 June 2005. In particular, the Committee urges the State Party to pay particular attention to the following recommendations:

- (a) **Prohibit all forms of violence against children in all settings, including all corporal punishment;**
- (b) **Prioritize prevention by addressing the underlying causes and allocating adequate resources to address risk factors and prevent violence before it occurs;**
- (c) **Enhance the capacity of all who work with and for children by investing in systematic education and training programmes;**
- (d) **Address the gender dimension of violence against children; and**
- (e) **Provide accessible, child-sensitive and universal recovery and social reintegration services.**

51. **The Committee urges the State party to use these recommendations as a tool for action, in partnership with civil society and, in particular, with the involvement of children, to ensure that every child is protected from all forms of physical, sexual and psychological violence and to gain momentum for concrete and, where appropriate,**

time-bound actions to prevent and respond to such violence and abuse. It also suggests that the State party seek technical cooperation in this respect from the Special Representative of the Secretary-General on violence against children, UNICEF, the World Health Organization (WHO) and other relevant agencies, as well as NGO partners.

**5. 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**

52. The Committee is concerned that the support provided to families with children, especially families in a crisis situation due to poverty, families caring for children with disabilities and single-parent households, remains insufficient and sporadic. In that regard the Committee is also concerned at the insufficient availability of family counselling services and parent education programmes, as well as professional staff trained to identify and address family problems. The Committee welcomes the establishment of Family Courts, but remains concerned that the system is not yet endowed with appropriate knowledge or financial and technical resources, especially in regions outside of Managua. The Committee is concerned that due to the insufficient number of Family Courts and specialized judges, registrars are empowered to initiate procedures and civil judges, who often lack the specific competences, are in charge.

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

- (a) **Urgently pass the Family Code in full consultation with civil society, and evaluate and seek support to expand and strengthening the Family Court system throughout the national territory, as appropriate;**
- (b) **Strengthen social services providing family counselling and parent education, and train all professionals working with children, including judges and social workers, and ensure continuous and gender sensitive training;**
- (c) **Develop and financially support community-based, and family-focused services, and ensure that the Municipal Commissions on Children and Adolescents are at the centre of this activity, in coordination with MIFAN and the Amor Programme; and**
- (d) **Provide economic and social-assistance programmes for families most at risk, such as families caring for children with disabilities and single-parent families.**

**Children deprived of a family environment**

54. The Committee welcomes the process initiated by the State party in 2007 to reintegrate institutionalized children in their families, but it is concerned that many children are still in institutions. It is also concerned that the Ministry of Family Adolescence and Childhood (MIFAN), which is in charge of the process, lacks adequate technical, financial and human resources to exercise its functions in an optimal manner.

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

- (a) **Continue its policy to prevent the placement of children in institutions, reduce the number of children in institutions in a planned and monitored way, and prepare children to leave institutionalized care;**

(b) Further prioritize family-type care settings, including foster families, over institutionalized placement by, inter alia, raising public awareness about the negative impact of institutionalization on the child's development;

(c) Provide MIFAN with the necessary resources to exercise its functions properly;

(d) Ensure a comprehensive periodic review mechanism of children placed in alternative care, in light of article 25 of the Convention and the Guidelines for the Alternative Care of Children, adopted by the General Assembly (A/RES/64/142); and

(e) Expand and equip children's facilities to file complaints about maltreatment in institutions and enforce prosecution of offences.

### **Adoption**

56. While noting the 2007 reform of the Adoption Law giving preference to domestic adoptions, the Committee is concerned that children who may be declared adoptable are left in institutions for long periods.

57. The Committee recommends that the State party establish rules, time frames and monitoring mechanisms, and allocate resources to streamline adoption procedures, ensuring the best interests of the child. It also recommends that the transition period be as short as possible and that during that time, children be cared for preferably in well prepared foster families, not institutions or prospective adoptive parents. The Committee also recommends that the State party ratify the Hague Convention No. 33 of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption.

### **Abuse and neglect**

58. The Committee is deeply concerned at the high level of child abuse and neglect, including sexual abuse, and domestic and gender-based violence in the State party, as reported to the Police Stations for Women, Children and Adolescents (*Comisaría de la Mujer, Niños y Adolescentes*). It is particularly concerned at the high number of girls who are raped and sexually abused by family members, and that the Penal Code has eliminated the possibility of abortion, including for pregnant children victims of rape and incest. While welcoming the definition of sexual abuse in the Penal Code and the procedures established to protect child victims and prosecute parents or guardians who abuse their children, the Committee notes with concern reports that the system is not yet in place and that mediation is being used in cases of physical and sexual abuse.

59. The Committee strongly recommends that the State party take measures to prevent domestic and gender-based violence and child abuse and build the capacities of professionals and staff working in health and welfare services, schools and the judiciary to ensure early detection, protection of victims and appropriate prosecution of perpetrators, including:

(a) Continue and strengthen public-awareness programmes and campaigns and provide information, parental guidance and counselling with a view to preventing child abuse, with special attention to sexual abuse;

(b) Repeal the articles of the Penal Code that criminalize abortion and ensure that girls are not subject to criminal sanctions for seeking or obtaining an abortion under any circumstances;

(c) **Develop a nationwide education and awareness-raising programme for children on their rights and the steps to take if they experience abuse, including sexual abuse;**

(d) **Provide child victims with protection from the threat of further abuse, including the availability of shelters, and ensure that the existing Helpline is available to all children in the territory, for all complaints;**

(e) **Ensure that child victims have access to justice, including support to cover the costs of seeking justice and reparation, and obtain an effective remedy, and that the criminal justice system does not re-victimise them;**

(f) **Prosecute and punish perpetrators appropriately in accordance with the gravity of the crime, without recourse to mediation;**

(g) **Provide training to teachers, law enforcement officials, social workers, prosecutors and other professionals concerned on receiving, investigating and prosecuting complaints about abuse, including sexual abuse, in a child-sensitive manner; and**

(h) **Consider the formulation of a National Plan for the Prevention, Care and Reparation of Violence against Children (including corporal punishment and sexual abuse) and the appointment of a focal point with overall leadership and coordination functions.**

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

### **Children with disabilities**

60. While welcoming the appointment of a Special Ombudsperson for Persons with Disabilities and the principle of inclusive education contained in the Education Law, which has resulted in doubling school enrolment of children with disabilities, the Committee is concerned at the deficiencies of the education system, including the training of teachers to address this challenge, weakness of early intervention and rehabilitation services, and the fact that a high proportion of children with disabilities does not have access to public health services.

61. **In light of art. 23 of the Convention, the Committee's general comment No. 9 (2006) on the rights of children with disabilities (CRC/C/GC/9) and the Convention on the Rights of Persons with Disabilities, the Committee recommends that the State party:**

(a) **Develop family support mechanisms and awareness-raising activities for families and communities to enable them to help children with disabilities exercise their rights;**

(b) **Ensure that the education system is fully equipped to implement the policy of inclusive education, by providing the appropriate financial and technical resources, and ensure that all children with disabilities have access to education; and**

(c) **Build the capacity of health and social services to prevent, detect and provide care to children with disabilities and thereby support families and communities.**

### Health and health services

62. The Committee welcomes and acknowledges the progress made in reducing child, infant and maternal mortality rates, but notes that they remain high. The Committee is concerned at the limited access to health-care services, especially in the Caribbean Coast autonomous regions (RAAN and RAAS) and rural areas of the Pacific. It is further concerned at recent decreases to health allocations from public resources and international donors, mainly due to the economic crisis.

**63. The Committee recommends that the State party increase its efforts to sustain and increase achievements in infant, child and maternal mortality by ensuring access to high-quality, culturally-sensitive health care for all children and women, including in rural and indigenous areas, targeting especially the prenatal and neonatal period. It further recommends that the State party:**

- (a) Promote exclusive breastfeeding and enforcement of the Breastfeeding Marketing Code, and develop a feeding strategy for small children;**
- (b) Implement the comprehensive care programmes for Prevailing Childhood Illnesses (AIEPI) and Maternal Illnesses (AIEPM), as well as the Women and Child-Friendly Units Initiative (IUAMN);**
- (c) Strengthen the Family and Community Health Model, and support public and private service providers in implementing the maternal houses network; and**
- (d) Sustain and increase budgetary allocations to primary health care, and facilitate appropriate increases in international cooperation.**

### Adolescent health

64. The Committee is deeply concerned that despite the reduction in maternal mortality, the percentage of adolescent maternal deaths in relation to total maternal deaths has increased, especially in rural municipalities. It is further concerned that the Penal Code has criminalized abortion, even when the mother's life is at risk and when the pregnancy is the result of rape or incest, and in this regard it shares the concerns expressed previously by the Committee against Torture (CAT/C/NIC/CO/1, paragraph 16, 2009), the Human Rights Committee (CCPR/C/NIC/CO/3, paragraph 13, 2008), the Committee on Economic, Social and Cultural Rights (E/C.12/NIC/CO/4, paragraph 26, 2008) and the Committee on the Elimination of Discrimination against Women (CEDAW/C/NIC/CO/6, paragraph 17, 2007). The Committee is also concerned that health and community services do not pay sufficient attention to the overall physical and mental well-being of adolescents and their sense of belonging to their families and communities, as well as issues related to sexual and reproductive health and substance abuse.

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

- (a) Ensure that adolescents have access to safe, legal and confidential sexual and reproductive health services, including information, counseling and termination of pregnancy, and that contraception is widely available;**
- (b) Strengthen adolescent-friendly health and community services with a view to preventing teenage pregnancies and substance abuse, supported by information and education in schools and the media; and**
- (c) Give strong priority to the development of a strategy to promote healthy lifestyles for adolescents, including leisure and sports activities, and re-activate the National Commission for the Fight against Drugs to provide inter-institutional and inter-sectoral support to prevention and care.**

**HIV/AIDS**

66. The Committee is concerned at the rapid increase of HIV/AIDS in the State party (from 2.52 per 100,000 in 2003 to 11.8 per 100,000 in 2007), and the high degree of under-registration, insufficient prevention and discrimination.

67. **While acknowledging the ongoing efforts to deal with the spread of HIV/AIDS, especially with regard to treatment and care, the Committee recommends that the State party take all the necessary measures to:**

- (a) **Ensure that children, adolescents and pregnant women have universal access to HIV-related prevention, treatment, care and support, with the aim of meeting the target of eliminating vertical transmission and congenital syphilis by 2015, and with special focus on prevention among adolescents;**
- (b) **Make every effort to reach children and adolescents at risk and HIV/AIDS orphans; and**
- (c) **Expand efforts to inform and educate the population at large so as to avoid stigmatization and discrimination.**

**Standard of living**

68. The Committee notes that the National Social Welfare System (*Sistema Nacional de Bienestar Social*) is responsible for addressing poverty and families at risk, in particular ensuring coordination with the Amor programme under MIFAN, Zero Hunger (*Hambre Cero*), Zero Usury (*Usura Cero*), among others. The Committee is nevertheless concerned at the pervasive and high level of poverty and extreme poverty affecting children, as well as the wide income inequality among families countrywide, which creates enormous disparities in access to employment, assets and basic services and impacts the standard of living and development of children. The situation calls for a comprehensive approach.

69. **The Committee recommends that the State party undertake all necessary efforts to raise the standard of living, by improving, inter alia, access to employment, housing, food, potable water, sanitary services and electricity, especially for the extremely poor, female-headed households and other populations at risk and with children. The Committee also reiterates the recommendation of the Special Rapporteur on the right to food (A/HRC/13/33/Add.5, para 83(f)) that the State party integrate the human rights principles of non-discrimination, transparency, participation and accountability in the implementation of the Zero Hunger programme, and suggests that these criteria be applied universally to all programmes aimed at children and women.**

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

**Education, including vocational training and guidance**

70. While welcoming the Intercultural Bilingual Education policy, the fact that illiteracy has been remarkably reduced (from 22 per cent in 2006 to 3.6 per cent in 2009), more children attend school (the number of children out of school has been reduced from one million to 500,000 since 2006), and primary and middle school education fees have been waived, the Committee is concerned that:

- (a) About half a million children still do not attend school, and regional disparities are very broad;

- (b) Dropout rates are high and budget allocation is insufficient to cover the reconstruction of a well-equipped school infrastructure and the expansion needed to bring all children to school and ensure they stay longer;
- (c) Quality of the curricula is low and teacher training is inadequate;
- (d) Violence and discrimination is ongoing in schools;
- (e) Facilities for early childhood education and vocational education and training are not provided to the necessary extent; and
- (f) Almost half of all adolescents are not in the school system.

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

- (a) **Increase budget allocations in order to rehabilitate and expand the education system at all levels, so as to ensure that all children have access to well-equipped schools, and that teachers are adequately trained and paid;**
- (b) **Take measures to reduce and eliminate the dropout rate and encourage more children to stay in the education system beyond compulsory schooling;**
- (c) **Implement the Intercultural Bilingual Education policy;**
- (d) **Continue and enforce the revision of curricula, improve teacher training, introduce interactive forms of learning, and provide a child-friendly environment in schools;**
- (e) **Expand early childhood development programmes and facilities and, in particular, ensure access by disadvantaged and poor children in need of developmental and educational incentives;**
- (f) **Close the gap between the end of compulsory schooling and the minimum age for employment by extending compulsory education and establishing vocational training to prepare adolescents for skilled work;**
- (g) **Extend human and child rights education to all levels of the education system; and**
- (h) **Take into account the Committee's general comment No. 1 (2001) on the aims of education.**

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

**Economic exploitation including child labour**

72. The Committee is concerned at the high number of children who are working, which is likely to increase given the effects of the financial crisis, and the fact that a high proportion of them work in the informal sector, including activities defined as the worst forms of child labour.

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

- (a) **Provide the required financial and technical support to implement its new Strategic Plan for the Eradication of Child Labour 2007-2012, including sensitizing the general population, employers and parents about the harmful effects of child labour, and addressing the reasons behind this practice, including poverty;**
- (b) **Apply the new regulations of the Labour Code regarding domestic labour, and enhance inspection in this regard; and**

(c) **Earmark resources for the Ministry of Labour to monitor and enforce labour laws and regulations, particularly in the informal sector.**

#### **Children in street situations**

74. While noting information from the State party that a study to evaluate the causes, extent and character of street children and youth gangs is ongoing, the Committee is concerned at the high number of children living in the streets, due to multiple factors such as abandonment, maltreatment, domestic and sexual violence.

75. **The Committee encourages the State party to increase preventive and protection action in the family and society, based on the understanding and knowledge of cultural, social and economic determinants that push children to the streets. In particular, the Committee recommends that the State party:**

(a) **Develop and implement, with the active involvement of street children themselves, a comprehensive strategy for the reduction of their numbers, and allocate the necessary resources and developing guidelines for public services and NGOs to implement and monitor such strategy;**

(b) **Support, with the active involvement of children, family reunification programmes or other foster care, ensuring the best interests of the child and providing psychosocial and economic support to the family;**

(c) **Ensure that children in street situations attend and stay in school and provide them with adequate shelter, food and health services, bearing in mind the different needs of boys and girls; and**

(d) **Raise public awareness on the plight of children in street situations and combat misconceptions and prejudices through targeted measures to prevent, investigate and punish discrimination and violence.**

#### **Sexual exploitation and trafficking**

76. The Committee is concerned at the high number of children, particularly girls, who fall victims to trafficking, and the insufficient priority given to combating this crime. The Committee notes that the Penal Code establishes urgent protection measures for victims of sexual violence and exploitation, but is concerned at the lack of effective strategies and institutional developments to ensure rapid detection, protection and support for the victims.

77. **The Committee recommends that the State party allocate adequate resources and enhance government action and coordination in order to combat sexual exploitation and trafficking of children and women, and in particular:**

(a) **Renew, through a participatory process, the National Plan against Commercial Sexual Exploitation of Children and Adolescents, which expired in 2008;**

(b) **Intensify training of police officers, prosecutors, judges and other public officials to identify, investigate and sanction sexual exploitation and trafficking of children and women;**

(c) **Implement appropriate policies and programmes for the prevention, recovery and reintegration of child victims, in accordance with the outcome documents adopted at the World Congress against Sexual Exploitation of Children held in Stockholm (1996), Yokohama (2001) and Rio de Janeiro (2008); and**

(d) **Refer to the concluding observations on the State party's initial report adopted by the Committee on the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography (CRC/C/OPSC/NIC/CO/1).**



### Children in migration situations

78. The Committee notes with concern that migration for economic and employment reasons has steadily increased in the State party, and that a high proportion (25 per cent) corresponds to children, of which 17.3 per cent are adolescents aged 13 to 17, while women account for 49 per cent of the total. The Committee also notes that the State party is actively participating in regional agreements and seeking specific agreements and programmes with recipient countries to protect migrants, including those who transit through the territory. Nonetheless, the Committee is concerned that the State party lacks a specific focus on children in migration situations, including migrant children, children who emigrate with their families and children who are left behind by migrating parents.

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

(a) **Ensure that the draft General Migration and Aliens Law, currently at the consultation stage in the National Assembly, deals specifically with the effects on children of the different situations relating to migration, and take appropriate policy and programme measures to prevent negative effects and protect children and women;**

(b) **Enter into bilateral and regional agreements focusing specifically on the promotion and protection of the rights of children and women in migration situations, including family reunification; and**

(c) **Develop awareness-raising programmes and campaigns to educate the public, parents and children about the effects of migration on children and the need to guarantee their rights, and coordinate with civil society, religious, labour and other organizations in order to monitor the situation of children and women.**

### Administration of juvenile justice

80. The Committee welcomes the implementation of the Children and Adolescents Code with regard to the specialized juvenile justice system, including the establishment of specialized juvenile courts, the development of draft procedural manuals and protocols on alternatives to privation of liberty, implementation and monitoring of sanctions, and interdisciplinary teams for psychosocial care, which are pending approval. The Committee remains concerned at the lack of special detention centres for children, which means that children are detained with adults. It is deeply concerned at reports of abuse, mistreatment and unsatisfactory material conditions in detention centres.

81. **The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37(b), 39 and 40 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules). The Committee urges the State party to take into account the Committee's general comment No. 10 (2007) on the Administration of Juvenile Justice (CRC/C/GC/10), and supports the 2009 recommendations of the Committee against Torture (CAT/C/NIC/CO/1, paragraph 24) in this regard. In particular, the Committee urges the State party to:**

(a) **Allocate sufficient resources to appropriately implement the Children and Adolescents Code with regard to the specialized system of justice for children and adolescents, throughout the territory;**

(b) **Ensure the application of due process and non-custodial measures, and prioritize training of justice professionals;**

(c) Establish separate detention centres for persons below the age of 18 and improve detention conditions, including ensuring the full exercise of the rights of the child while in police custody;

(d) Investigate and prosecute all cases of ill-treatment committed by law enforcement officers, particularly prison guards, and establish an independent, accessible mechanism for receiving and dealing with complaints from children, which takes account of children's sensibilities; and

(e) Ensure prompt approval by the Supreme Court of the draft procedural manuals and protocols on alternatives to privation of liberty, implementation and monitoring of sanctions and interdisciplinary teams for psychosocial care.

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

82. The Committee recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims (e.g. of abuse, domestic violence, sexual and economic exploitation, abduction and trafficking) and/or witnesses of such crimes are provided with protection as required by the Convention, and take full account of the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, annexed to the Economic and Social Council resolution 2005/20 of 22 July 2005.

#### **Children belonging to indigenous and minority groups**

83. The Committee notes that the rights of indigenous peoples and ethnic communities of African descent are formally recognized in the Constitution and in the Autonomy Law. However, the Committee is concerned that indigenous and Afro-descendant children face significant challenges in exercising their substantive rights under the Convention, more specifically the right to enjoyment of their culture and language.

84. **The Committee recommends that the State Party:**

(a) Promote the right to be heard with regard to indigenous and Afro-descendant children in decision-making and cultural life;

(b) Monitor and evaluate the integration of indigenous and Afro-descendant children's rights in national plans and programmes;

(c) Ensure that the rights of indigenous and Afro-descendant children are specifically protected with regard to their culture and language, particularly in the provision of access to basic services, and by promoting culturally- and linguistically-sensitive education and health policies and programmes; and

(d) Take into account the Committee's general comment No. 11 (2009) on indigenous children and their rights under the Convention (CRC/C/GC/11).

### **9. Ratification of international human rights instruments**

85. The Committee recommends that the State party ratify the core United Nations human rights instruments to which it is not yet a party, namely the Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention on the Elimination of all forms of Discrimination against Women and the Optional Protocol to the Covenant on Economic, Social and Cultural Rights.

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

### **Follow-up**

86. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, *inter alia*, by transmitting them to the Head of State, Supreme Court, National Assembly, relevant ministries and municipal authorities for appropriate consideration and further action.

### **Dissemination**

87. The Committee further recommends that the fourth periodic report and written replies submitted by the State party and the related recommendations (concluding observations) adopted 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, youth groups, professional groups and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.

## **11. Next report**

88. The Committee invites the State party to submit its next combined fifth and sixth periodic report by 1 October 2015. The Committee draws attention to its harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2) 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 guidelines. In the event that a report exceeding the page limitation is submitted, the State party will be asked to review and resubmit the report in accordance with the above-mentioned guidelines. The Committee reminds the State party that if it is unable to review and resubmit the report, translation of the report for purposes of examination by the treaty body cannot be guaranteed.

89. 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 fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3). The treaty-specific report and the common core document together constitute the harmonized reporting obligation under the Convention on the Rights of the Child.

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