



Convention on the Rights of the Child

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Committee on the Rights of the Child

Fifty-eighth session

19 September – 7 October 2011

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

Concluding observations: Panama

1. The Committee considered the consolidated third and fourth periodic reports of Panama (CRC/C/PAN/3-4) at its 1650th and 1651st meetings (see CRC/C/SR.1650 and 1651), held on 26 September 2011, and adopted, at its 1668th meeting, held on 7 October, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the consolidated third and fourth periodic reports of the State party (CRC/C/PAN/3-4) and the written replies to its list of issues (CRC/C/PAN/Q/3-4/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 high-level and cross-sectoral delegation of the State party.

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

3. The Committee welcomes the adoption of Law 61/2008 (General Adoption Act) which establishes safeguards for Panamanian children in international adoptions and is harmonized with the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption.

4. The Committee also welcomes the ratification of:

- (a) The International Convention for the Protection of All Persons from Enforced Disappearance in 2011;
- (b) The Optional Protocol to the Convention against Torture in 2011;
- (c) The 1954 Convention relating to the status of stateless persons and the 1961 Convention on the reduction of statelessness, both ratified in 2011; and

(d) The Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2007.

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

- (a) The Comprehensive Plan of Action for Early Childhood (PAIPI) in 2011;
- (b) The establishment of an independent Child Rights Observatory in 2010;
- (c) The creation of the Advisory Council on Early Childhood in 2009;
- (d) The creation of the National Secretariat for Children, Adolescents and Family (SENNIAF) in 2009;
- (e) The creation of the National Institute for Women in 2008; and
- (f) The creation of the National Secretariat on Disabilities, in 2007.

6. The Committee welcomes the fact that the State party has issued a standing invitation to special procedure mandate holders of the Human Rights Council.

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. While welcoming the State party's efforts to implement the concluding observations on its previous reports (CRC/C/15/Add.233), the Committee regrets that some of the recommendations contained therein have not been implemented or only partially implemented.

8. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations on its second periodic report under the Convention that have not been implemented or sufficiently implemented, particularly those related to a comprehensive law to protect children's rights; a national plan to promote and protect the rights of the child; the minimum age of marriage; universal birth registration; early pregnancies and adolescent health; discrimination against children (especially Afro-Panamanian and indigenous children); illegal arrest, detention and ill-treatment; juvenile justice; and conditions in detention centres.

Legislation

9. The Committee notes that a draft comprehensive law on child rights was submitted to Congress in 2007 but it remains to be approved. It notes that the State party has recently set up an Inter-institutional Commission to elaborate a pre-draft law on the promotion and integral protection of the family.

10. The Committee urges the State party to take the necessary measures to consult with society at large, children and relevant stakeholders with a view to elaborating and adopting a comprehensive law on children's rights, in which children are rights-holders rather than objects of protection, based on the provisions and principles of the Convention and in accordance with the Committee's general comment No. 5 (2003) on general measures of implementation for the Convention on the Rights of the Child.

Coordination

11. The Committee is concerned that the earlier Council for Children and Adolescents has been replaced by the National Secretariat for Children, Adolescents and the Family (SENNIAF), whose mandate and authority to coordinate all entities of the State party devoted to children's rights is unclear. The Committee is also concerned that the Secretariat is challenged in meeting its responsibilities by inadequate human and budgetary resources including the fact that, despite its national mandate, its geographical reach is limited to Panama City. While it welcomes the establishment of the Advisory Council on Early Childhood, signalling the priority conferred to early childhood (0 to 6 years), the Committee is concerned that this could undermine and reduce the focus on all children of all ages throughout their life cycle.

12. The Committee recommends that the State party streamline responsibilities by different entities dealing with children's rights and enhance coordination leading to a holistic implementation of the Convention. This would require the establishment of an authoritative body for coordination, with the participation of all relevant ministries and entities at the highest level, with the Early Childhood Advisory Council being a part of this mechanism, in order to assure the coordination between all different sectors and entities as well as between the central and regional levels. The Committee recommends that the State party take all necessary measures to allocate sufficient human, technical and financial resources to this high-level coordination mechanism.

National Plan of Action

13. The Committee welcomes the elaboration of the Comprehensive Plan of Action for Early Childhood and the priority afforded to this age group. However, it deeply regrets the lack of a comprehensive national plan of action for all children, which is related to the absence of a national policy on child rights, and which renders extremely difficult the effective implementation of all child rights for all children.

14. The Committee strongly reiterates its recommendation that the State party adopt a comprehensive national policy and related plans to promote, protect and fulfil the rights of all children throughout their life cycle, as an integral part of the National Development Plan.

Independent monitoring

15. The Committee notes the establishment of a Specialized Unit for Children and Youth within the Office of the Ombudsman (*Defensoría del Pueblo*) but it remains concerned about the lack of trained staff specialized in children rights, and the dearth of financial resources allocated to such a Unit.

16. Drawing attention to its general comment No. 2 on the role of independent human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2), the Committee reiterates its call to the State party to ensure that the Specialized Unit for Children and Youth of the *Defensoría del Pueblo* be provided with the necessary human, technical and financial resources to effectively monitor, promote and protect children's rights, and to deal with complaints from children in a child-sensitive and expeditious manner.

Allocation of resources

17. The Committee regrets the lack of clarity of data on the extent of the investment on children, whether on aggregate terms or for specific programmes. The lack of a disaggregated budget for children's rights as part of the national budget is itself connected to the absence of a comprehensive law on children's rights and relevant policy and plans for

its implementation. The Committee notes that the State party is in a position to increase resources to the social sectors, especially for children, given the relatively positive economic development in recent years, but it regrets that proper analysis on social investment levels and trends and the impact on child rights is not possible.

18. The Committee recommends, in light of its recommendations during the day of general discussion in 2007 on “Resources for the rights of the child - responsibility of States” that the State party:

(a) Review and increase where necessary the level of financial resources allocated for the implementation of the Convention;

(b) Evaluate financial resource allocations at central and municipal levels from a child-rights perspective to ensure adequate realization of child rights and prevent disparities among children of different municipalities and/or geographic locations. To this end, conduct a comprehensive assessment of budget needs by sectors and municipalities and establish the allocations for those areas that progressively address the disparities in indicators related to children’s rights;

(c) Utilize a child-rights approach in the elaboration of the National budget by implementing a tracking system for the allocation and the use of resources for children throughout the budget, thus providing visibility to the investment on children. The Committee also urges that this tracking system is used for impact assessments on how investments in any sector may serve “the best interests of the child”, ensuring that the differential impact of such investment on girls and boys is measured;

(d) When possible, follow United Nations recommendations to start budgeting-by-results to monitor and assess the effectiveness of resource allocation;

(e) Ensure transparent and participatory budgeting through public dialogue, especially with children; and

(f) Define strategic budgetary lines for children in disadvantaged or vulnerable situations that may require affirmative social measures (for example, pregnant girls, children who are dropouts, children of refugees or migrant workers) and make sure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies.

Data collection

19. The Committee notes the efforts of the State party towards establishing a data collection system, the Childhood, Adolescent and Women Indicators System (SINAMP). However, it remains concerned at the lack of continuity of such effort as evidenced by the fact that data has not been updated. The Committee is concerned that child rights data is not mainstreamed or visible in the statistical system of the State party.

20. The Committee encourages the State party to set up continuous data collection on child rights as part of the national statistical system and to ensure such data are used as a basis for designing child rights policies and plans as well as assessing progress achieved. In this sense, data should be disaggregated by age, sex, geographic location, ethnicity and socio-economic background to facilitate analysis.

Dissemination and awareness-raising

21. The Committee is concerned at the low level of awareness of the Convention among the society in general and at the existence of traditional attitudes and misconceptions that the rights of the child are contrary to the rights of the parents.

22. The Committee reiterates its recommendation that the State party strengthen public awareness of the Convention aimed at society at large, parents and children, including, but not only, through public communication programmes and campaigns. The Committee also recommends that public officials, especially those in higher positions, set the example by speaking out publicly for child rights as an essential part of human rights and of development, and that the media and journalists collaborate to create a well informed and positive climate on children's rights.

Training

23. The Committee notes that some efforts are being made by the State party and others towards training on human right in general and on children rights, but regrets that these are not systematic or widespread.

24. **The Committee strongly recommends that all professionals working for and with children be adequately and systematically trained on children and human rights, in particular law enforcement officials, teachers, health personnel, social workers, professionals and staff working in all forms of alternative care, and journalists.**

Civil society

25. The Committee welcomes the creation of an observatory for the rights of the child with the participation of civil society, academia and children, noting that the Ombudsman Office serves as the Observatory's secretariat. It also welcomes the fact that the State party consulted with civil society in the reporting process. However, it is concerned that collaboration with civil society has been curtailed since the National Council on Children and Adolescents was abolished.

26. **The Committee recommends that the State party ensure that civil society play an active role in the formulation, implementation and monitoring of public policies and programmes, including by occupying a seat in the national coordination body for child rights. It also recommends that the observatory receive appropriate human, technical and financial support from the State party,**

Child rights and the business sector

27. The Committee notes with appreciation that environmental assessments prior to the approval of investment projects in territory inhabited by indigenous population are mandated by national law and that, in the specific case of the hydroelectric project Chan 75, the State party followed the recommendation by the Special Rapporteur on the rights of indigenous peoples to conduct such assessment. Nonetheless, the Committee expresses its concern that prior consultation, including with indigenous children, is not being followed in all cases. The Committee also notes with concern that social impact studies of investment projects likely to affect child rights, such as forced displacement and dispossession, contamination and damage to cultural assets and/or traditions, are neither contemplated by the law nor conducted.

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

(a) **Apply without exception the legal obligation to conduct environmental impact assessments of investment projects;**

(b) **Consider including also in the legal framework regulating business activities (Law 41, 2007) the obligation to conduct social impact assessments, particularly relating to the effects on children's rights;**

(c) **Ensure prior consultation to indigenous people, including children, on investments likely to affect their rights, especially in the cases in which relocation of**

indigenous peoples is considered necessary and other cultural assets and traditions may be affected;

(d) Establish and implement regulations to ensure that the business sector complies with international and domestic standards on corporate social responsibility, particularly with regard to child rights, in line with the United Nations Business and Human Rights Framework which was adopted unanimously in 2008 by the Human Rights Council and which outlines the duty of States to protect against human rights abuses by businesses; corporate responsibilities to respect human rights; and the need for more effective access to remedies when violations occur.

29. The Committee is concerned with the role the media and advertising industries play in reinforcing gender-based prejudice and discrimination against, notably, Afro-Panamanian children, depicting them as a threat to public security, victimizing them and negatively impacting on their development and relations with their peers.

30. The Committee recommends that the State party:

(a) Enact provisions to regulate the media and advertising industries' treatment of children in line with article 17 and with other provisions on fundamental freedoms of the Convention

(b) Bearing in mind the right to freedom of expression, promote the adoption of voluntary codes of conduct, especially regarding the rights of children to privacy, to have access to appropriate information and to express their views; and

(c) Implement mechanisms for monitoring the respect of children' rights by the media.

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

31. The Committee remains concerned at the disparity in the minimum age of marriage, set for boys at 16 and for girls at 14 years of age.

32. The Committee reiterates its recommendation that the State Party review its legislation with a view to raising the minimum legal age for marriage for boys and girls to 18 years, in line with the recommendation made by the Committee on the Elimination of Discrimination against Women in 2010 (CEDAW/CO/PAN/7, paras. 50 and 51) and noted during the universal periodic review in 2010 (A/HRC/16/6, para. 70.17).

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

Non-discrimination

33. The Committee remains concerned at the continued disparities affecting Afro-Panamanian, indigenous children and children with disabilities with regard to access to health care, education and other basic services,, as is made evident by the higher rates of infant mortality, especially due to preventable diseases, malnutrition, maternal mortality and school dropout. It is also concerned at discrimination by police and other security forces against Afro-Panamanian children living in marginalized urban neighbourhoods, who are wrongly perceived as potential delinquents, as a result of such measures as curfew for children and campaigns through mass media linking adolescents to alleged increases in criminality.

34. The Committee recommends that the State party:

(a) Undertake efforts, in collaboration with civil society, to eliminate social discrimination and prejudice against Afro-Panamanian, indigenous children and children with disabilities through, among others, legislative measures, awareness-raising programmes through the mass media, the social networks and the educational system, as well as through in-service training for public officials, including the police and security officers;

(b) In particular, take all measures to combat the negative association of Afro-Panamanian and other adolescents with crime, including negative stereotyping based on age and ethnicity;

(c) Adopt a comprehensive policy and plan of action to positively address the rights of indigenous children, including investment in services and infrastructure in indigenous territories and rural and deprived urban areas in order to improve the socio-economic situation of indigenous people in general, taking into account the Committee's general comment No. 11 (2009) on indigenous children and their rights under the Convention.

Best interests of the child

35. The Committee takes note that articles 2 and 740 of the Family Code mandate the judicial and administrative authorities to afford primacy to the best interests of the child. Nonetheless, the Committee expresses its deep concern at the high number of substantial norms regarding children that follow a guardianship or "children in irregular situation" perspective, which implies that decisions taken based on such norms do not apply the aforementioned principle. The Committee is concerned that the lack of a comprehensive law on children's rights leaves the question of applying this principle at the discretion of the judge.

36. The Committee urges the State party to change the current paradigm of "guardianship" for a paradigm of rights and children as rights-holders, as established by the Convention of the Rights of the Child. The Committee recommends that the comprehensive law on children's rights, mentioned above in paragraphs 11 and 12 of these concluding observations, embodies such paradigm shift and also establishes principles and rules of interpretation in accordance with the Convention of the Rights of the Child. The Committee urges the State party 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, and that legal reasoning of all judicial and administrative judgements and decisions also be based on this principle.

Respect for the views of the child

37. The Committee notes with concern that the views of children and adolescents are not adequately taken into account in judicial and administrative decision-making processes in matters that concern them.

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

(a) Strengthen the opportunities for children and adolescents to freely express their views in all matters affecting them;

(b) Ensure that their views are taken into account in any judicial and administrative decision 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

39. The Committee welcomes the State party's efforts to improve birth registration through national birth registration campaigns, improvements to the birth registration system and legislative reforms in 2006 and 2007. It also appreciates the State party commitment to the universal periodic review in 2010 (A/HRC/16/6, paras. 68.28, 68.28 and 68.29), in this respect. The Committee however notes that in remote parts of the country, indigenous children, children born to refugee parents and children of migrants still are not registered, a concern which was highlighted by the Committee on the Elimination of Racial Discrimination in 2010 (CERD/C/PAN/CO/15-20, para. 12).

40. The Committee recommends that the State party continue to implement special measures, including the provision of information in indigenous languages, greater access to registry services and more sensitization and training on nationality law for registry officials, with the view to ensuring that children born in remote areas, including indigenous children, refugee children and children of migrants parents are duly registered at birth.

Freedom of association and peaceful assembly

41. The Committee is strongly concerned that curfews for children have been put into place in three major Panamanian cities, which in 2010 alone resulted in the detention of 5,148 children, many of whom were simply found in the street during curfew hours. These children may spend the night in detention if their parents or guardian are not informed or pay the established US\$ 50 fine and not retrieve them. The Committee is particularly concerned that this measure is criminalizing children and further aggravates negative public perception about adolescents, especially if Afro-Panamanian or coming from low-income neighbourhoods.

42. The Committee is of the strong view that curfew measures targeted at children go against the provisions set forth in the Convention on the Rights of the Child and recommends that these be immediately lifted.

Torture and other cruel, inhuman or degrading treatment or punishment

43. The Committee expresses its deep concern at the recurrent cases of fires in juvenile detention centres, including two incidents in the Tocumen detention centre, one on 7 November 2009 resulting in the death of one detained child and another on 9 January 2011 which resulted in the death of five juvenile detainees. A later incident in Arco Iris on June 2011, resulted in 15 children being burned. Moreover, the Committee expresses deep concern at the manner in which the police responded during the fires and at reports on the use of tear-gas canisters in detention facilities. The Committee notes that investigations have been opened on the first case mentioned but it is concerned that adolescents are being investigated along with guards and security personnel, thus risking further victimization of children who have been detained in extremely poor conditions.

44. The Committee recommends that the State party:

(a) Complete thorough investigations of all incidents of fire, deaths and injuries in juvenile detention facilities of the incidents in Tocumen and Arco Iris, criminally prosecute and apply the appropriate disciplinary administrative measures, and ensure that all those found responsible directly or indirectly for the fires and ill treatment are sentenced and/or sanctioned, as the case may be;

(b) Ensure that adolescent detainees are not further victimized;

(c) Prohibit the use of tear-gas canisters in detention centres and monitor their implementation, applying disciplinary proceedings on non-compliance;

(d) Reinstate and upgrade rehabilitation and recreational facilities and ensure health care and regular education for all juvenile detainees; and

(e) Set up an independent commission to inspect all facilities periodically and report to the appropriate authority with recommendations for action.

Corporal punishment

45. The Committee is concerned that the law does not expressly prohibit corporal punishment in the home and in schools. Furthermore, the Committee is concerned that the Family Code (1994, art. 319) and the Civil Code (art. 188) confer the right of parents and guardians in alternative care settings to “correct” children “reasonably and moderately” and that the Family Code (art. 443) authorizes guardians to “moderately correct” their wards.

46. The Committee reiterates its recommendations to explicitly prohibit in the State party’s legislation all forms of corporal punishment of children and to promote alternative forms of discipline. In this sense the Committee recommends that articles 319 and 443 of the Family Code and article 188 of the Civil Code be revised taking into account the Committee’s General comment number 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.

Violence against children, including abuse and neglect

47. The Committee encourages the State party:

(a) To prioritize elimination of all forms of violence, including abuse and neglect, against children, also by ensuring, among others, 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 (Buenos Aires, 30 May – June 2005) and paying particular attention to gender;

(b) To 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 in each State 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) To 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 (OHCHR), World Health Organization (WHO), International Labour Office (ILO), 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 (UNODC), 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)

Children deprived of a family environment

48. The Committee takes note of the establishment of a Shelter Supervision and Monitoring Unit within SENNIACF with the view to ensuring that children placed in shelters and other institutions are provided with full support for their welfare and development. However, the Committee is concerned at the high and growing numbers of children placed in alternative-care institutions in the State party, showing a negative trend towards unnecessary institutionalization of children, rather than searching for family-based modalities.

49. The Committee recommends that the State party take all necessary steps to ensure that the number of children institutionalized decreases and that alternatives for family-based modalities are explored and developed further. It recommends that all children in alternative care, whether in families or institutions, have access to basic health and appropriate education. The Committee further recommends that the State party allocate sufficient resources to the Shelter Supervision and Monitoring Unit for it to perform its monitoring and supervisory mandate adequately as well as to provide training to those responsible of executing its mandate on the provisions of the Convention. It further recommends that the State party take into account the Guidelines for the Alternative Care of Children annexed to General Assembly resolution 64/142 of 20 December 2009.

Adoption

50. The Committee welcomes the adoption of Law 61/2008 (General Adoption Act), which provides safeguards for Panamanian children in international adoptions, including the prohibition of private adoptions, and is harmonized with the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption. The Committee is deeply concerned that an envisaged reform to make Law 61/2008 more flexible may hinder, if approved, its achievements within the adoption system of the State party.

51. The Committee reminds the State party that the envisaged revision of Law 61/2008 must comply fully with its international obligations, in particular with the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption and the provisions of the Convention on the Rights of the Child, with any revision expanding rather than diminishing the protection of children.

F. Children with disabilities, basic health and welfare (arts. 6; 18, para. 3; 23; 24; 26; 27, paras. 1-3; and 33 of the Convention)

Children with disabilities

52. The Committee takes note of the State party efforts at realizing the rights of children with disabilities in equal terms as all other children. In this sense, it appreciates the

inclusion of questions related to disability in the 2010 census and the implementation of its cash transfer programme (*Red de Oportunidades*) as well as the recently launched cash-transfer programme for families of people with disabilities (*Angel Guardián*), acknowledging the present need for social assistance policies of this nature. However, it is concerned that the State party is not allocating enough financial and human resources to policies that aim at changing the social structures in order to achieve an inclusive society for children with disabilities or the adoption of a comprehensive policy to provide reasonable accommodation allowing children with disabilities to enjoy their rights.

53. The Committee recommends that the State party allocate sufficient resources to integrate the majority of children with disabilities into a system of inclusive education in regular schools. The Committee further recommends that the State party elaborate a comprehensive policy for people with disabilities, in such a way that all children with disabilities can access reasonable accommodations for the enjoyment of the rights enshrined in the Convention on the Rights of the Child.

Health and health services

54. The Committee notes with concern that children living in remote areas have limited access to basic health services, particularly those living in the traditional territories of the Ngöbe Buglé, Emberá and Kuna, who are also less likely to have access to clean water and sanitation services. The Committee is also concerned that the highest rates of malnutrition (12.4 per cent) and child mortality (varying from 62.3 to 35.2 per 1,000 live births) are recorded amongst indigenous children. The Committee is further concerned that the last available data (1996) show that breastfeeding indicators are generally very low, in particular, exclusive breastfeeding at 6 months of age is 25 per cent, much lower than the regional average of 43 per cent.

55. The Committee reiterates its recommendation to the State party concerning the health-care system and access to basic health care for all children, while giving priority to regions and communities with the lowest coverage with a view to redressing the existing sharp inequalities in health standards. The Committee recommends that the State party review and revise current initiatives, namely the health goals of the 2010-2014 Strategic Plan (Executive Decree 197/2009) and the National Plan to Combat Child Malnutrition (2008-2015), to ensure a special focus on indigenous and Afro-Panamanian children as well as other children in need of special protection. The Committee also recommends that the State party strengthen the promotion of breast-feeding and enforce the International Code of Marketing of Breast-milk Substitutes.

Adolescent health and well-being

56. The Committee continues to be concerned at the high number of teenage pregnancies in the State party, particularly amongst indigenous and Afro-Panamanian girls. The Committee is also concerned at the lack of access to information by children and adolescents regarding sexual and reproductive health and the lack of formal sex and reproductive education in schools. Moreover, the Committee is seriously concerned at proposed changes to existing legislation aimed at separating pregnant girls into special education facilities, which is a serious violation of their rights.

57. The Committee recommends that the State party ensure that children have access to sex and reproductive health education at school and that all communication means are used for the purpose, including by reaching out to parents and the population at large. The Committee further recommends that the State party address the root causes of teenage pregnancies, particularly amongst indigenous and Afro-Panamanian adolescents, with a view to better understanding the issue and drawing

appropriate policy measures. In addition, the Committee strongly recommends against separating pregnant girls into special schools. It recommends that the State party take into consideration the Committee's general comment No. 4 on adolescent health and Committee on the Elimination of Discrimination against Women recommendation of 2010 (CEDAW/CO/PAN/7, paras. 40 and 41).

HIV/AIDS

58. The Committee welcomes some significant advances by the State party with respect to HIV/AIDS, such as increasing access to free testing for pregnant women and decreases in the infection rate among young pregnant mothers. However, the Committee is concerned that there are no programmes for children with HIV/AIDS, that indigenous boys and girls are at greater risk of infection for lack of targeted services and information, and that there is a lack of prevention strategies for adolescents.

59. The Committee recommends that the State undertake steps to reduce the greater risk of HIV/AIDS among indigenous children, including through the provision of culturally sensitive sex education and information on reproductive health, reduce the greater risk of HIV/AIDS among teenagers by providing reproductive health services especially aimed at them and by expanding their access to information on prevention of sexually transmitted diseases, and that it direct programmes at children with HIV/AIDS. The Committee recommends that the State party seek technical assistance from, inter alia, the United Nations Joint Programme on HIV/AIDS (UNAIDS), UNICEF and UNFPA.

Standard of living

60. In a context of sustained economic growth, the Committee is concerned at the persistent high rate of poverty, which affects especially children in most vulnerable situations, such as the Afro-Panamanian in marginalized urban neighbourhoods and indigenous children in remote rural areas. The Committee takes note of the State party's efforts to mitigate the negative consequences of poverty and inequality, such as introducing conditional cash transfers. However, the Committee is concerned that measures addressing the structural causes of poverty and inequality need to be also tackled by the State party.

61. The Committee recommends that the State party study the structural causes of poverty and inequality so that the conclusions therein inform economic and social policies and programmes and that these be reflected in a comprehensive policy on children, in the National Development Plan and in the national budget.

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

Education

62. The Committee welcomes the State party's efforts in reaching universal enrolment in primary education, the increased support for informal pre-school education in indigenous areas and the efforts to revise and modernize the national curricula. The Committee notes that an educational subsidy (*Bono escolar*) was made available to poorer families. The Committee also welcomes legislation introduced in 2010 recognizing the right of indigenous people to bilingual and intercultural education. The Committee remains concerned, however, that:

(a) There are gaps in school retention for the seventh to ninth grades. Vocational education for the large proportion of children who drop out and are outside the education system is scarce or unavailable;

(b) Preschool education coverage is still very limited and the quality of informal pre-schooling in rural and indigenous areas is low;

(c) The education cash subsidy has been made conditional upon academic performance, which impacts negatively on poorer children who tend to perform less well than higher income children;

(d) The review of school curricula did not include human rights and children's rights, nor the history and culture of the different ethnic groups in the State party; and,

(e) Access to multicultural and bilingual education is persistently lacking.

63. The Committee recommends that the State party:

(a) Address the issue of non-completion and children dropping out, and develop second-chance opportunities and vocational education for those children who are left outside the formal educational system, especially but not only indigenous and Afro-Panamanian children;

(b) Improve access to preschool and basic compulsory education in rural areas, including those with concentration of indigenous children, refugees and migrants;

(c) Modify the criteria for receiving the educational cash subsidy to avoid discrimination and include asylum-seekers and refugees as recipients;

(d) Include human rights and child rights as well as the history and culture of the different ethnic groups in the territory in new revisions of the curricula; and,

(e) Allocate sufficient human, technical and financial resources for the roll out of the intercultural and bilingual education programme in all indigenous territories as well as in other areas with indigenous populations.

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

Refugee and asylum-seeking children

64. The Committee is concerned at the lack of an adequate system of identification of refugee and asylum-seeking children in the State party and that as a consequence, children are sometimes repatriated without assessment of their situation. The Committee is also concerned that the refugee determination process is conducted on a "head of household basis", which in reality prevents children under the age of 18 from being interviewed and to be heard on a process that concerns them. The Committee regrets the lack of appropriate mechanisms for refugee and asylum-seeking children to present individual claims as well as the lack of evidence of application of the best interests of the child in decisions that concern them.

65. The Committee recommends that the State party improve the fairness of the refugee determination system, include the concerned children in the refugee determination process and apply the principle of the best interests of the child. By involving the children, besides the head of the household, this process would allow for children under the age of 18 to be heard and to participate in processes that are of their concern. The Committee draws the State party attention to its general comment

No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin. The Committee also encourages the State party to seek technical assistance from the Office of the United Nations High Commissioner for Refugees (UNHCR).

Economic exploitation, including child labour

66. The Committee is concerned that State authorities continue to apply the Constitutional provision of 14 years as the minimum age for admission to employment, despite the existence of Law 17/2000, which establishes a higher standard of 15 years. It is also concerned at the existence of legal provisions that allow the State party to grant permits for children from 12 to 14 years to work in agriculture and domestic service. The Committee reiterates its concern at the high numbers of children aged between 5 and 17 years old who are working, despite the measures taken by the State party to combat child labour, such as the establishment of the Committee for the Eradication of Child Labour and the Protection of Young Workers (CETIPPAT). It is also concerned that the State party has no effective labour inspection system and other mechanisms to protect children who work and do not have identification document or legal identity.

67. **The Committee recommends that the State party take the necessary steps to harmonize its legislative framework with the international standards established in ILO Convention No. 138 related to the minimum age of employment; and, to ensure that authorities respect and implement Law 17/2000. The Committee reiterates its recommendation, in line with Human Rights Committee recommendations of 2008 (CCPR/C/PAN/CO/3, para. 20), that the State party adopt measures to ensure the full application of the law aimed at eradicating child labour, and establish an effective labour inspection system and other monitoring and enforcement mechanisms. The Committee further recommends that the State party strengthen the mechanisms to protect children who work and who have no identification document or legal identity.**

Sexual exploitation

68. The Committee is concerned at the lack of information on the implementation of the National Plan for the Prevention and Elimination of Commercial Sexual Exploitation of Children. The Committee takes note of the US\$ 1 airport tax for programmes to prevent and protect children from sexual exploitation, but remains concerned as to how this fund is allocated.

69. **The Committee recommends that the State party policies and programmes for the prevention, recovery and reintegration of child victims of sexual exploitation and abuse, including the National Plan, are in accordance with the outcome documents adopted at the 1996, 2001 and 2008 World Congress against Commercial Sexual Exploitation of Children held in Stockholm, Yokohama and Rio de Janeiro. The Committee further recommends that the State party allocate sufficient budgetary and administrative resources, using among others the proceeds of the US\$ 1 airport tax, to the National Commission for the Prevention of Sexual Exploitation Offences so that it can fulfil its mandate and implement the National Plan and related programmes.**

Sale and trafficking

70. The Committee takes note of the State party's commitment, under the 2010 universal periodic review process (para. 68.22), to enforce and amend the relevant legislation on trafficking in women and girls, and to adopt appropriate and efficient policies and programmes to address this situation.

71. The Committee recommends that the State party complete its law reform on human trafficking and smuggling and addresses the issue of sale of children as defined in the Optional Protocol on the sale of children, prostitution and pornography. It also recommends that all necessary measures be taken to ensure the enforcement of the law. The Committee recommends that the State party ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (known as the Palermo Protocol).

Helplines

72. The Committee welcomes the establishment in 2009 of an emergency hotline for children (*Tu Línea 147*). However, the Committee is concerned that children's access to this line is limited, as that it does not operate on a 24-hour-a-day basis.

73. The Committee recommends that the State party ensure the 24-hour-a-day availability of line 147 for all children everywhere in the State territory, and that it promote awareness of how children can access it and seek help through it.

Administration of juvenile justice

74. The Committee expresses its concern at the existence of an alarming social perception regarding an increase in juvenile delinquency, which is not grounded on reality or on official data in Panama. The Committee is deeply concerned at the various reforms to Law 40/1999, implemented due to this unjustified alarming perception and resulting in a weakening of the judicial provisions for children, and which are not in line with the Convention. In particular, it expresses concern regarding the provisions in Law 15/2007 and Law 6/2010 as well as other provisions on administration of juvenile justice that may lead to a denial of the rights of children in conflict with the law. The Committee is especially concerned at:

(a) The reduction of the age of criminal responsibility from 14 to 12 years (reform to art. 7, Law 40/1999);

(b) The derogation of the provision which forbids the extension of provisional detention (reform to art. 52, Law 40/1999);

(c) The widening of the scope of provisional detention to more offenses (reform to art. 58, Law 40/1999);

(d) The possibility granted for extensions to investigate an alleged offense beyond the maximum time limit provided by law, and the elimination of a maximum time limit to investigate cases related to minor offenses (reform to art. 85, Law 40/1999);

(e) The revocation of socio-educational sanctions in case of recidivism for certain offenses and the increase of the time in prison for aggravating circumstances (reform to art. 141, Law 40/1999); and

(f) The abolition of the possibility that children who have turned 18 years old, and are sentenced to prison can conclude their sentence in a juvenile detention centre (reform to art. 151, Law 40/1999).

75. The Committee is particularly concerned with the conditions of the juvenile detention centres in the State party. The incidents in the Tocumen and Arco Iris youth detention centres mentioned in paragraphs 43 and 44 of these recommendations are of special concern, since investigations have not yet been initiated or reached its term, and those responsible have not been brought to justice. The Committee is concerned that the general conditions of pretrial and detention centres for children in conflict with the law are

very poor and that there is no systematic inspection to investigate and evaluate actual conditions as well as violations to existing regulations.

76. The Committee recommends that the State party bring the juvenile justice system fully in line with the Convention, in particular by:

- (a) Increasing the age of criminal responsibility;
- (b) Reinstating the provision that forbids the extension of provisional detention;
- (c) Reducing the scope of provisional detention to fewer offenses;
- (d) Eliminating the possibility of granting extensions to investigate an alleged offence beyond the maximum time limit provided by law, and re-establish a maximum time limit to investigate cases related to minor offences;
- (e) Reinstating social-educational sanctions in case of recidivism for certain offenses and revoke the increase of the time in prison for aggravating circumstances; and,
- (f) Re-establishing the possibility that children turned 18 years old and sentenced to prison can conclude their sentence in a juvenile detention centre.

77. In doing the above, the Committee strongly recommends that all international standards be taken into account, including the Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Vienna Guidelines for Action on Children in the Criminal Justice System; and the Committee's general comment No. 10 (2007) on the rights of the child in juvenile justice (CRC/C/GC/10). The Committee also reiterates that the State party make use of the technical assistance tools developed by the United Nations Interagency Panel on Juvenile Justice and its members, including the United Nations Office on Drugs and Crime (UNODC), UNICEF, OHCHR and NGOs, and seek technical assistance in the area of juvenile justice from members of the Panel.

78. The Committee also recommends that the State party improve as a matter of urgency the physical conditions of pretrial and detention facilities, including sleeping and eating quarters, bathrooms, playrooms, and food and clothing, revise procedures and norms regarding the use and maintenance of such facilities, and train and supervise personnel.

Protection of witnesses and victims of crimes

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

Children belonging to minority or indigenous groups

80. The Committee reiterates its concern that children belonging to indigenous groups and Afro-Panamanian children from poorer urban areas suffer cumulative disadvantages and discrimination that impact negatively on the enjoyment of their rights and their development, and that they do not receive services adapted to their culture, history and

languages. The Committee is deeply concerned that the situation is compounded if these children are girls and Afro-Panamanian adolescents. The Committee is further concerned that the Convention and its two Optional Protocols have yet to be translated into indigenous languages.

81. The Committee reiterates its recommendation that the State party take all necessary steps to address and prevent the marginalization and discrimination of indigenous and Afro-Panamanian girls and boys, that they receive health services and education adapted to their culture, history and languages, that they enjoy adequate standard of living. It also recommends that the Convention and its Optional Protocols be translated into the main indigenous languages. The Committee further recommends that the State party ratify ILO Convention 169 on indigenous and tribal peoples in independent countries.

I. Ratification of international human rights instruments

82. The Committee takes note of the State party's commitment, under the universal periodic review to ratify the core United Nations human rights treaties and their Optional Protocols to which it is not yet a party, namely, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

J. Cooperation with regional and international bodies

83. The Committee recommends that the State party cooperate with the Inter-American System towards the implementation of the Convention on the Rights of the Child and any other Convention, both in the State party and in other Organization of American States (OAS) member States.

K. Follow-up and dissemination

84. 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 Head of State, the National Assembly, relevant ministries, the Supreme Court, and to local authorities for appropriate consideration and further action.

85. The Committee further recommends that the third and fourth periodic reports and written replies by 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

86. The Committee invites the State party to submit its next combined fifth and sixth periodic reports by 10 July 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 abovementioned 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.

87. 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).

88. The Committee urges the State party to fulfil its reporting obligations under the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography, the reports of which are both overdue as of 2004.
