



# Convention on the Rights of the Child

Distr.: General  
1 October 2010  
Advance Unedited Version  
Original: English

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**Committee on the Rights of the Child**  
**Fifty-fifth session**  
1 September – 13 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 1568<sup>th</sup> and 1570<sup>th</sup> meetings (see CRC/C/SR.1568 and 1570), held on 23 September 2010, and adopted at its 1583<sup>rd</sup> 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 it conducted, which allowed 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 its 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.

#### **B. Follow-up measures undertaken 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) The Framework Law on the Right to Food (2009);
- (b) The Special Law for the Promotion of Housing Construction and Access to Social Housing (2009);
- (c) The Law of Equal Rights and Opportunities (2008);

- (d) The Law on Protection of Human Rights of People with Mental Illness (2008);
  - (e) The Penal Code (2008);
  - (f) The Responsible Paternity and Maternity Law (2007); and
  - (g) The General Education Law (2006).
5. The Committee further welcomes that Nicaragua has become a party to:
- (a) The Convention on the Rights of Persons with Disabilities and its Optional Protocol;
  - (b) The Optional Protocol to the Convention against Torture;
  - (c) The Second Optional Protocol to the International Covenant on Civil and Political Rights;
  - (d) The Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and
  - (e) 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, paragraph 6 of the Convention)

#### The Committee's previous recommendations

6. The Committee notes with concern that various concerns and recommendations made upon the consideration of the State party's third periodic report (CRC/C/15/Add.265, 21 September 2005) have not been given sufficient follow-up. 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 those recommendations contained in the concluding observations on the third periodic report that have not been sufficiently implemented, including those related to implementation of legislation, National Plan of Action and coordination, data collection, the age for marriage, birth registration, corporal punishment, 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 implementation of the Convention, but it is concerned at the low implementation of legislation. It is particularly concerned that, 12 years after it entered into force, the Child Code (*Código de la Niñez y la Adolescencia*, 1998) has not been afforded the priority required and it has lacked the necessary institutional, human, technical and financial resources for its full implementation.

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

appropriate human, technical and financial resources for the full implementation of the Child 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 Child Code at presidential level with civil society participation, and which previously was in charge of coordinating child policies, has lost its authority by virtue of Law 290 (2008) and that CONAPINA is now located within the Ministry of Family, Adolescence and Childhood (MIFAN), which has affected overall coordination, including with civil society. It is further concerned that a new National System of Social Welfare (*Sistema Nacional de Bienestar Social*) has taken over the overall coordination of social policy, including that related to children, and as a consequence, the promotion and protection of children's rights in general, not only of 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 Child Code, and, in this respect, streamline the roles and activities of both the MIFAN and the *Sistema Nacional de Bienestar Social*, 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 municipalities, out of 153, have set up *Comisiones Municipales de la Niñez y la Adolescencia* (Municipal Commissions on Children and Adolescents), with civil society and children's participation, in order to provide leadership and coordination to programmes related to children's rights at local level, but remains concerned that their actual functioning is limited by the lack of clarity of the overall system and by the scarcity of resources allocated.

13. **The State party should ensure that the *Comisiones Municipales de la Niñez y la Adolescencia* are established in all municipalities with clear leadership and coordination functions of the programmes for children at local level, and that they are provided with the necessary human, technical and financial resources.**

#### 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 have been included therein, in consonance with the Child Code and the approved National Plan of Action for Children and Adolescents 2002-2011. The Committee also notes with concern that the State party has created in parallel the *Programa Amor* and *Estrategia Educativa Amor para los más Chiquitos* (Love Programme and Love Programme for Early Childhood) coordinated by the MIFAN, which seem to have replaced the National Plan of Action despite their limited focus on special protection. The Committee sees with concern that these developments amount to a regression in terms of the integral promotion and protection of child rights, as established in the Child 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 the overall planning efforts of the State party, including the National Plan for Human Development. The Committee recommends that the evaluation of the National Plan of Action for Children and Adolescents (presently ongoing) is used to elaborate a new comprehensive plan of action for children 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 on 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 scarcity of human, technical and financial resources available for this important work. It is also concerned about undue delays in the designation of the Ombudsperson.

**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 so that it can fully exercise its function of oversight and defence of the rights of children and adolescents. It further recommends guaranteeing independence in the designation and operation of the Human Rights Ombudsperson. 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 that spending on health and education has increased somewhat over the past years especially from national resources, the Committee is concerned at the insufficient level of resources available overall for social policies and for 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 may decrease even further including from contributions for budget support and for specific programmes from international cooperation.

**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 para 15 above, that takes full account of existing health, education, nutrition and social welfare policies and special protection programmes and programmes and their budget needs. It further recommends that the State party satisfies criteria of transparency and balance in budget allocations also 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, ensuring the expansion and equitable allocation to disadvantaged regions and groups and addressing gender and ethnic disparities, among others;

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

(c) When possible, follow UN recommendation to start budgeting-by-results to monitor and assess the effectiveness of resource allocation and, if necessary, seek international cooperation to this effect;

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

(e) **Define strategic budgetary lines for those 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 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 to establish a system of child rights indicators in close cooperation with all concerned institutions. The Committee is however concerned that SIENA is located in the MIFAN and is not a part of the SEN. Furthermore the Committee is concerned that the data on children at risk are still not available and that sufficient financial and human resources are not allocated for the full functioning of this 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), allocating appropriate human, technical and financial resources and ensuring that the systems produce comprehensive statistical information and analysis on the implementation of children's rights with particular attention to children at risk, at national and municipal level.**

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

23. While noting the efforts undertaken to provide child rights education to children and teachers through the inclusion of children's human rights 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 along with civil society to broaden the knowledge of the population in general and children and adolescents on the Convention and on 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 ensures that the media, both private and public, respect child rights especially the dignity of the child, support dissemination of the Convention and its Optional Protocols, and include in its programmes the points of view and voices of children. 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 the reinforcement of adequate and systematic training of all professional groups working for and with children, in particular law enforcements officials, teachers (including teachers in indigenous and afro-descendant communities and 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 has recently become more limited, among others due 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 to systematically involve communities, including indigenous and Afro-descendants, civil society as well as children's organisations in the planning, implementation and 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 privately or state owned) to protect and respect the rights of children and that it operates in a socially and environmentally responsible manner. In this respect, the Committee encourages the State party to coordinate among state departments related to children's issues and agencies that work on investment and trade, labour, innovation and technology, environment, etc. 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 may be decreasing both for budget and programme support and that due to heavy dependence of the State party 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 both from domestic and international sources, while aiming at increasing financial and technical resources for the implementation of the Convention both from domestic revenues and international cooperation.**

## **2. Definition of the child (Article 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, ensuring the minimum age for marriage for girls and for boys at 18 years.

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

#### **Non-discrimination**

36. The Committee welcomes 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 para 12, 2008) and that of CEDAW (CEDAW/C/NIC/CO/6, para 31, 2007) respectively, that indigenous and peoples of African descent, as well as women and girls and children in rural and remote areas continue to suffer de facto discrimination.

37. **The Committee urges the State party to strengthen efforts at combating racist and gender biased attitudes and behaviour, as well as those against children and adolescents who are indigenous, come from rural or remote areas or have disabilities. It further recommends that the State party place high priority in the public agenda to prevent and eradicate discrimination, inter alia, through the media and the educational system. The Committee would also like to draw 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 Child 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 in all legal provisions as well as in judicial and administrative decisions and in programmes and projects that have an impact on children.**

#### **The right to life, survival and development**

40. The Committee welcomes that the State party decided to participate in a "Regional Project on Child Development Indicators" conducted by the Inter-American Development Bank, which intends to explore the extent and the dimensions 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 of children in disadvantaged social environments, with a view to increasing their development opportunities.

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

41. The Committee notes achievements made on children and adolescents' right to be heard through school and municipal councils, for example, but notes that these efforts are not taking enough root 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 families 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 influence, and that they are duly heard in the family and in judicial and administrative proceedings affecting them. In this regard, the Committee would like to draw the State party's attention to its general comment no. 12 on the right of the child to be heard (CRC/C/GC/12).**

43. **While commending the Constitutional measure to allow voting for children between 16 and 18 years of age, the Committee encourages the State party to ensure that it is supported by civic and human rights education as a way to ensure early awareness in children that rights are to be exercised as part of citizenship, with autonomy and responsibility, and that it does not lend itself to undue influence. It recommends that the State party evaluate 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 to reduce the number of unregistered children (*Plan Nacional para la Reducción del Subregistro de la Niñez Nicaragüense*), with vast efforts including by NGOs, and which has resulted in 20% 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 high number of children who are still not registered and lack birth certificates (around 40%), particularly those of indigenous and Afro-descendant origin.

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, enabling modernisation of the current registry apparatus at both the municipal and central levels;**

(b) **Prioritize training of civil registrars and health and education service officials to rapidly finish closing 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 Child 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 at 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 systematic training programmes addressed to all professionals, especially in the police forces, working with and for children 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 article 155 of the Penal Code, while prohibiting corporal punishment, makes an exception to the offence in order to allow for “disciplinary correction”. It is also concerned at the inadequate application of MINED administrative regulations that prohibit physical punishment at school.

49. The Committee strongly recommends that the State party amend article 155 of the Penal Code, explicitly stating that all corporal punishment constitutes an offence in the family and in alternative care settings, as well as in the school and in public administration and judicial settings. 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. With regard to the police and the judiciary, the Committee recommends that appropriate standards are set and enforced preventing and severely sanctioning corporal punishment against children and adolescents while in police custody and during judicial proceedings.

#### **Follow-up to the UN 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 for the implementation of the recommendations contained in the report of the independent expert for the United Nations study on violence against children while taking into account the outcome and recommendations of the regional consultation for Latin America held in Buenos Aires between 30 May and 1 June 2005. In particular, the Committee recommends that the State Party 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 United Nations Secretary-General on violence against children, UNICEF and 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 and especially to 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 parental education programmes as well as professional staff trained to identify and address family problems. The Committee welcomes the establishment of Family Courts, but it remains concerned that the system is not yet endowed with appropriate knowledge, financial and technical resources, especially in the regions outside of Managua. The Committee is concerned that due to the insufficient number of Family Courts and specialized judges, powers to initiate procedures are given to registrars and that civil judges, often lacking in specific competences, are in charge.

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

(a) **Urgently pass the Family Code in full consultation with civil society, and evaluate and seek support for the expansion and strengthening of 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, ensuring continuous and gender sensitive training;**

(c) **Develop and financially support community-based and family-focused services, ensuring the *Comisiones Municipales de la Niñez y la Adolescencia* are at the centre of this activity in coordination with MIFAN and *Programa Amor*; and**

(d) **Provide economic and social assistance programmes for the families most at risk such as the families caring for children with disabilities and single-parent families.**

**Children deprived of a family environment**

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

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

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

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

- (c) **Provide MIFAN with the required resources to exercise its functions properly;**
- (d) **Ensure a comprehensive mechanism of periodic review of children placed in all 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 facilitate 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 whereby the State party gives preference to domestic adoptions, the Committee is concerned that the children that could be declared adoptable are left in institutions for long periods.

57. **The Committee recommends that the State party establishes rules, time frames, monitoring mechanisms and allocates resources to streamline adoption procedures, ensuring the best interests of the child, that children spend the least time possible in the transition period and that this is done preferably in well prepared foster families and not in institutions nor with prospective adoptive parents. It 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 Inter-country Adoption.**

#### **Abuse and neglect**

58. The Committee is deeply concerned at the high level of child abuse and neglect, including sexual abuse, and of domestic and gender-based violence in the State party, as reported to the Police Stations for Women and Children (*Comisariías 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. The Committee, 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, 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 measures to prevent domestic and gender-based violence and child abuse and to improve the capacities of professionals and staff working in the health and welfare services, schools and judiciary for 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 given to sexual abuse;**
- (b) **Repeal the articles of the Penal Code that criminalize abortion, ensuring 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 what steps they can take if they experience abuse, including sexual abuse;**

(d) **Provide child victims with protection from any threat of further abuse, including by making shelters available 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, that they obtain an effective remedy, and that the criminal justice system does not re-victimise them;**

(f) **Properly prosecute and punish the perpetrators, without resorting to mediation, due to the gravity of the crimes;**

(g) **Provide training to teachers, law enforcement officials, social workers, prosecutors and others, as appropriate, on how to receive, investigate and prosecute 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; 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 educational system, including training of teachers, to address this challenge, the weakness of early intervention and rehabilitation services, and that a high proportion of children with disabilities does not have access to public health services.

61. **In the 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) **Include family support mechanisms and aim awareness-raising efforts at the families and communities so they can help children with disabilities exercise their rights;**

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

(c) **Ensure that the health and social services have the capacity to prevent, detect and provide care to children with disabilities and, in doing so, support families and communities.**

### **Health and health services**

62. The Committee welcomes and acknowledges progress in reducing child, infant and maternal mortality rates, albeit 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 the enforcement of the Breastfeeding Marketing Code and develop a feeding strategy for small children;**
- (b) Implement the Comprehensive Care for Prevailing Childhood Illnesses (AIEPI) and Maternal Illnesses (AIEPM) programmes, 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 for the implementation of the maternal houses network; and**
- (d) Sustain and increase the budgetary allocations to primary health care, and facilitate appropriate increases of international cooperation.**

#### **Adolescent health**

64. The Committee is deeply concerned that despite reductions in maternal mortality, the percentage of adolescent maternal deaths with respect 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, para 16, 2009), the Human Rights Committee (CCPR/C/NIC/CO/3, para 13, 2008), the Committee on Economic, Social and Cultural Rights (E/C.12/NIC/CO/4, para 26, 2008) and the Committee on the Elimination of Discrimination against Women (CEDAW/C/NIC/CO/6, para 17, 2007). The Committee is also concerned at the lack of attention of health and community services to adolescents' overall physical and mental wellbeing and sense of belonging to their families and communities, including issues related to sexual and reproductive health and to substance abuse.

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

- (a) Ensure that safe, legal and confidential sexual and reproductive health services are accessible to adolescents including for 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 through the media; and**
- (c) Assign strong priority to the development of a strategy for healthy life styles of adolescents, including leisure and sports, and that it reactivate 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 efforts being made to tackle the spread of the epidemic especially regarding HIV/AIDS 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, with a special focus on prevention among adolescents;

(b) Make all efforts to reach children and adolescents at risk and HIV/AIDS orphans; and

(c) Expand efforts to inform and educate the population at large, avoiding stigma and discrimination.

#### **Standard of living**

68. The Committee notes that the *Sistema Nacional de Bienestar Social* is assigned to deal with poverty and families at risk at the highest level in the executive branch, in particular coordinating with the *Programa Amor* under the MIFAN, Zero Hunger (*Hambre Cero*), Zero Usury (*Usura Cero*) and others. The Committee is nevertheless concerned at the pervasive and high level of poverty and extreme poverty affecting children and at the wide inequality of income among families in the country, creating enormous disparities in access to employment, assets and basic services which impact on the standard of living and development of children, and which necessitates 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 to the extremely poor, female headed-households and other populations at risk 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 (*Hambre Cero*), and suggests that these criteria are applied universally to all programmes aimed at children and women by the *Sistema Nacional de Bienestar Social*.

## **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, and that illiteracy has been remarkably reduced (from 22 percent in 2006 to 3.6 percent in 2009), more children attend school (having reduced the number of children out of school from one million to 500,000 since 2006) and fees for primary and middle education have been waived, the Committee is concerned that

(a) Still about half a million children do not attend school, and regional disparities are very broad;

(b) The dropout rates are high and the budget is not adequate to cover the reconstruction of a well equipped school infrastructure and the expansion needed to bring all children in school and make them stay longer;

(c) The quality of the curricula is low and the training of teachers is inadequate;

- (d) There is violence and discrimination 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 outside the school system.

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

- (a) **Increase budget allocations in order to rehabilitate and to expand the educational system on all levels to make sure that all children have access to well equipped schools and teachers are adequately trained and paid;**
- (b) **Take measures to reduce and eliminate drop out and make more children stay in the educational system beyond the compulsory years of school;**
- (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 school;**
- (e) **Expand early childhood development programmes and facilities and in particular ensure the access of disadvantaged and poor children in need of developmental and educational incentives;**
- (f) **Close the gap between the end of compulsory school and the minimum age for access to employment by expansion of the compulsory years of education and the establishment of a vocational training system which prepares adolescent children for qualified work;**
- (g) **Expand 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 working children, likely to grow given the effects of the financial crisis, and that a high proportion of them work in the informal sector, including in activities defined as the worst forms of child labour.

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

- (a) **Provide the required financial allocation and technical support for the implementation of its new Strategic Plan for the Eradication of Child Labour 2007-2012, including by sensitizing the general population, employers and parents regarding 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 improve inspection work 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 children in streets and youth gangs is ongoing, the Committee is concerned at the high number of children living in the streets, related to multiple factors such as abandonment, maltreatment and domestic and sexual violence.

75. **The Committee encourages the State party to increase preventive and protection action in the family and the 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 children in street situations themselves, a comprehensive strategy for the reduction of their numbers, allocating the necessary resources and developing guidelines for implementation and monitoring of such strategy, by public services and NGOs;**

(b) **With the active involvement of children themselves, support 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 health services, shelter and food, 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 by 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 combat this crime. The Committee notes that the Penal Code establishes urgent protection measures for the 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. In particular, the State party should:**

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

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

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

(d) **Refer to the concluding observations adopted by the Committee on the State party's initial report 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%) corresponds to children, of which 17.3% are adolescents 13 to 17, and that 49% of the total are women. 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. Yet, 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 in the consultation stage in the National Assembly specifically deal with the effects on children of the different situations they face in relation to migration and takes 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 regarding the effects on children of migration 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 Child Code with regard to the specialized system of juvenile justice, including the establishment of specialized juvenile courts and the draft procedural manuals and protocols referring to alternatives to privation of liberty, execution and monitoring of sanctions and interdisciplinary teams for psychosocial care awaiting approval. The Committee remains concerned at the lack of special detention centres for children, and that children are therefore detained with adults; and it is deeply concerned at reports of abuse and 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), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). 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 Committee against Torture's recommendations from 2009 (CAT/C/NIC/CO/1, para 24) in this regard. In particular, the Committee urges the State party to:**

(a) **Allocate sufficient resources for appropriately implementing the Child Code in reference to the specialized system of justice for children and adolescents, in the entire territory;**

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

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

(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 drafted with regard to alternatives to privation of liberty, execution 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 and or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking and witnesses of such crimes, 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 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 and 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 for indigenous and Afro-descendant children in decision-making and in 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 in relation to their culture and language, particularly when providing access to basic services, and through 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, the 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 related recommendations (concluding observations) it 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 their report in accordance with the reporting guidelines. Should a report exceeding the page limitations be submitted, the State party will be asked to review and eventually resubmit their report in accordance with the above mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, then translation of the report for purposes of examination of the treaty body cannot be guaranteed.

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 5th 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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