

GUATEMALA

CRC A/53/41 (1998)

5. Concluding observations

180. The Committee considered the initial report of Guatemala (CRC/C/3/Add.33) at its 306th to 308th meetings, on 3 and 4 June 1996 (CRC/C/SR.306-308), and at its 314th meeting, on 7 June 1996, adopted the following concluding observations.

(a) Introduction

181. The Committee expresses its appreciation to the State party for its report and its replies to the Committee's list of questions, as well as for the information provided on the most recent measures taken to implement the Convention.

182. The openness of the State party's high-level delegation in acknowledging the problems, difficulties and challenges facing the State party in implementing the principles and provisions of the Convention is highly appreciated. The Committee expresses its appreciation to the State party for engaging in a constructive dialogue and for its willingness to take into account the recommendations made by the Committee.

(b) Positive factors

183. The Committee welcomes the steps taken to secure a durable peace within Guatemala, particularly by enhancing the enjoyment of human rights, including for the indigenous peoples. In this connection, the Committee notes the adoption of the Agreement on the Identity and Rights of Indigenous Peoples and the Agreement on Socio-Economic Aspects and the Agrarian Situation. The ratification by Guatemala of International Labour Organization Convention No. 169 concerning indigenous and tribal peoples in independent countries is also welcomed.

184. Further positive developments as evidenced by the signing of the Comprehensive Agreement on Human Rights, the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, and the establishment of the United Nations Verification Mission in Guatemala (MINUGUA), particularly its human rights component, are noted with interest. Additional measures taken with a view to strengthening the monitoring and implementation of human rights are noted. In this regard, the Committee notes with satisfaction the establishment of the Office of the Human Rights Procurator and its Children's Ombudsman.

185. The establishment of the Presidential Commission for Coordinating Policy in the Field of Human Rights and the work of the Social Committee within the Cabinet of Ministers are also noted with interest, especially as regards the formulation of policies for improving the social and economic development of the most vulnerable groups in Guatemalan society.

(c) Factors and difficulties

186. More than 30 years of armed conflict in the country have left a legacy of human rights violations, impunity and a climate of fear and intimidation which hampers the confidence of the population in the ability of procedures and mechanisms to ensure respect for human rights.

187. The decades of conflict affecting society have resulted in the frequent use of violence, including within the family.

188. As recognized by the State party, the root causes of the armed conflict need to be tackled, embedded as they are in socio-economic disparities and uneven land distribution, as well as in historical social contrasts within the country. High levels of poverty and illiteracy and discrimination against the indigenous population and those living in poverty contribute to widespread violations of human rights.

189. Problems relating to the situation of refugees, internally displaced persons and returnees have also arisen out of the armed conflict. In this connection, the difficult task of meeting the needs and expectations of the population that remained in or fled from the country during the period of armed conflict is recognized.

(d) Principal subjects of concern

190. The inadequacy of measures adopted to allocate priority to the implementation of the principles and provisions of the Convention and the absence of a national policy for children are matters of concern to the Committee.

191. The Committee is equally concerned about the lack of measures to harmonize national legislation with the principles and provisions of the Convention. It is especially concerned that the Minors Code currently in force in Guatemala contains provisions which are incompatible with the Convention and does not address all the rights recognized by the Convention.

192. The Committee is deeply concerned about the insufficient efforts to collect disaggregated statistical data and to identify appropriate qualitative and quantitative indicators on the situation of children, particularly those belonging to the most disadvantaged groups, including those living and/or working on the street, victims of abuse, neglect or ill-treatment and internally displaced children.

193. The Committee is of the view that insufficient measures have been adopted to promote widespread awareness of the principles and provisions of the Convention to adults and children alike, particularly to those belonging to indigenous populations, in the light of article 42 of the Convention. The failure to provide sufficient activities to train and educate professionals working with or for children about the Convention is to be regretted.

194. The Committee is concerned about lacunae identified in national legislation. In this connection, the failure to provide for an age for the completion of compulsory education as required by the Constitution of Guatemala, as well as by article 2 of International Labour Organization Convention

No. 138, is a matter of considerable concern to the Committee. Equally, the Committee is deeply concerned that national legislation does not prohibit capital punishment or life imprisonment without the possibility of release, as required by the provisions of article 37 (a) of the Convention. Moreover, the absence in national legislation of a minimum age for criminal responsibility causes deep concern to the Committee. Similarly, the low age of marriage for girls, which is different from that for boys, is, in the Committee's view, also incompatible with the principles and provisions of the Convention.

195. In view of the historical disparities affecting indigenous children and children belonging to groups living below the poverty line, as well as girls, the Committee is concerned about the adequacy of measures to ensure the effective implementation of the economic, social and cultural rights of children at the national, regional and local levels, in the light of articles 2, 3 and 4 of the Convention.

196. The Committee is concerned at the insufficient support given to families facing severe problems in fulfilling their responsibilities as regards the upbringing of their children. The Committee shares the concern expressed by the representative of the State party at the widespread severe malnutrition and at the inadequacies of data and statistics monitoring nutrition.

197. Particular concern is expressed at the inadequate measures taken to ensure the effective implementation of the general principles of the Convention on the Rights of the Child both in legislation and in practice.

198. Deficiencies in the system of birth registration are of deep concern to the Committee since the failure to register children prevents them from being recognized as persons, from having access to education and health services and from being protected against trafficking and illegal adoption.

199. The Committee is deeply alarmed at the persistence of violence against children, including at the reported information on the 84 children killed. The high number of child victims of violence raises serious concern, particularly in view of the ineffectiveness of investigations into crimes committed against children which paves the way for widespread impunity.

200. The Committee notes with concern the information provided by the State party that an illegal adoption network has been uncovered and that the mechanisms to prevent and combat such violations of children's rights are insufficient and ineffective.

201. Despite the considerable progress achieved in recent years in improving infant and maternal care, the Committee remains concerned about the relatively high maternal, infant and under-five mortality rates. The Committee observes that some factors contributing to high maternal deaths may be related to the inadequacies of the training given to birth attendants and of home deliveries. It is also the view of the Committee that many problems remain with respect to the reproductive health of women, the low birth weight of children being a possible manifestation of this fact.

202. The Committee is seriously concerned that the majority of children of school age are not attending school, but are involved both in the informal and formal work sectors. Moreover, the Committee is disturbed about the inadequacy and ineffectiveness of the measures designed to ensure

the establishment of appropriate standards and to monitor the working conditions of children when such activities are compatible with article 32 of the Convention. The Committee is seriously concerned at the persistence of child labour and about the lack of accurate assessment by the Government of the dimensions of the phenomenon in the country.

203. The juvenile justice system in the State party raises serious concern in the Committee, in particular the system of irregular behaviour (conducta irregular). The Committee is further concerned about the lack of specialized training of professionals working in the field of juvenile justice, which hampers efforts to ensure the independence of the judiciary and the capacity of the system to effectively investigate crimes committed against children and undermines measures to eradicate impunity.

(e) Suggestions and recommendations

204. The Committee recommends that children's issues be accorded a higher priority in the State party. It is the Committee's view that the development of a global and national policy on children must be attended to urgently. The Committee also recommends that the State party adopt all the necessary measures to ensure that its national legislation fully conforms to the Convention. In this regard, and in recognition of the importance of ensuring an integrated legal approach to children's rights in the light of the principles and provisions of the Convention, the Committee encourages the State party to pursue its efforts aimed at the adoption of a code on children and adolescents.

205. The Committee recommends that legislative measures be undertaken to ensure that national legislation conforms with the provisions of articles 37 and 40 of the Convention, including establishing a minimum age of criminal responsibility. The Committee also recommends that the State party set the age for completion of compulsory schooling at 15 and consider raising the minimum age of employment to 15. Furthermore, the Committee recommends that the State party review its legislation on the age of marriage for girls in the light of the principles and provisions of the Convention, notably those of its articles 2, 3 and 24, with a view to raising it and ensuring the same age for girls and boys.

206. The Committee encourages the State party to pursue its efforts to strengthen the institutional framework for the promotion and protection of human rights in general and the rights of the child in particular. The Committee recommends that a permanent and multi-disciplinary mechanism be developed for coordinating and implementing the Convention at the national and local levels and in urban and rural areas. The Committee also encourages the promotion of close cooperation with non-governmental organizations in this regard.

207. The Committee further recommends that the State party give priority attention to the development of a system of data collection and to the identification of appropriate disaggregated indicators with a view to addressing all areas of the Convention and all groups of children in society. Such mechanisms can play a vital role in systematically monitoring the status of children and evaluating the progress achieved and the difficulties hampering the realization of children's rights, and can be used as a basis for designing programmes to improve the situation of children, particularly those belonging to the most disadvantaged groups, including girls, children living in rural areas and indigenous children. It is further suggested that the State party request international

cooperation in this regard, particularly from the United Nations Children's Fund.

208. In view of the State party's willingness to develop a culture of human rights and to change attitudes towards children in general and the indigenous population in particular, the Committee recommends that information and education about children's rights be disseminated among children and adults alike. It is also recommended that consideration be given to the translation of such information into the main indigenous languages and that appropriate measures be adopted to spread such information in such a way that it reaches groups affected by a high level of illiteracy. In the light of the considerable experience of the United Nations Children's Fund and other organizations in responding to such challenges, it is recommended that international cooperation be sought in this regard.

209. It is the view of the Committee that training and education in the principles and provisions of the Convention on the Rights of the Child is urgently required and must encompass all professionals working with or for children. In addition, the Committee recommends that the inclusion of children's rights in the school curriculum be pursued as a measure to enhance respect for the indigenous culture and multiculturalism and to combat paternalistic and discriminatory attitudes which, as recognized by the State party, continue to prevail in society.

210. With respect to article 4 of the Convention, it is the Committee's opinion that sufficient budgetary provision must be made to respond to national and local priorities for the protection and promotion of children's rights. While noting the trend towards decentralizing the provision of services to the municipal level as a means of promoting greater popular participation, the Committee emphasizes that such a policy must be designed to overcome and remedy existing disparities between the regions and rural/urban areas. To ensure the full implementation of article 4, the Committee recommends that consideration be given to the provision of international assistance within the general framework of the Convention.

211. The Committee recommends that urgent measures be taken to ensure effective consideration of the general principles of the Convention, namely, its articles 2, 3, 6 and 12, in the national process of implementing the Convention.

212. The Committee recommends that a comprehensive public information campaign be developed and implemented urgently to combat the abuse of children in the family and within society, as well as the use of corporal punishment in schools.

213. The Committee recommends that the State party introduce the measures necessary to monitor and supervise effectively the system of adoption of children in the light of article 21 of the Convention. It is also recommended that adequate training be provided to concerned professionals. In addition, it is recommended that the Government consider ratifying the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

214. The Committee encourages the State party to strengthen its support to families in carrying out their child-rearing responsibilities, such as by providing nutritious food and conducting vaccination programmes. As a means of addressing the problems of maternal death and poor antenatal care and delivery services, the Committee suggests that the State party consider introducing a more effective

system for training medical personnel and birth attendants. The Committee also recommends that the State party consider requesting international cooperation from relevant international organizations to address issues relating to the reproductive health of women.

215. The Committee encourages the State party to implement the "Food for Education Programme" as an incentive for children to attend school. It also recommends that a comprehensive nutritional programme be developed, taking into particular account the special needs of children.

216. The Committee encourages the State party to pursue its efforts, in conformity with the Agreement on Socio-Economic Aspects and the Agrarian Situation, to increase the budgetary allocations for education by 50 per cent up to the year 2000. With a view to ensuring the implementation of articles 28 and 29 of the Convention, the Committee recommends that the State party focus greater efforts on providing for compulsory and free primary education, eradicating illiteracy and ensuring the availability of bilingual education for indigenous children. Moreover, greater efforts should be made in training qualified teachers. Such measures will contribute to the prevention of any form of discrimination on the basis of language with regard to the right to education.

217. The Committee recommends that provision be made for offering social assistance to families to help them with their child-rearing responsibilities as laid down in article 18 of the Convention as a means of reducing institutionalization of children. Further efforts are also required to ensure the active participation of disabled children in the community in conditions which ensure their dignity and promote their self-reliance, as well as to ensure that disabled children are separated from adults suffering from mental ill health. The Committee recommends that measures be taken to review periodically the placement and treatment of children, as required under article 25 of the Convention.

218. The problems of children traumatized by the effects of armed conflict and violence in society are, in the Committee's view, a matter of serious concern. In this connection, the Committee recommends that the State party give consideration to the implementation of specific projects for children, to be carried out in an environment which fosters the health, self-respect and dignity of the child.

219. In view of the fact that the Constitution of Guatemala recognizes the predominance of duly ratified international conventions in the field of human rights, the Committee urges the State party to apply the principles and provisions of the Convention in the area of juvenile justice, rather than the provisions of the national legislation which are in contradiction with the Convention, in particular those relating to the system of "irregular behaviour". The Committee further recommends that the juvenile justice system be revised to ensure that it is compatible with the principles and provisions of the Convention, including its articles 37, 39 and 40, as well as other relevant international instruments in the field. In this connection, it is recommended that the State party consider requesting technical assistance from international organizations, including the United Nations Centre for Human Rights.

220. As a means of tackling the interrelated issues of education and child labour, the Committee recommends that all necessary measures be adopted to ensure that children have access to education and that they are protected from involvement in exploitative activities. The Committee further

recommends that effective public awareness campaigns be launched for the prevention and elimination of child labour in the light of article 32 of the Convention. In this regard, the Committee recommends that the State party seek technical assistance from the International Labour Organization.

221. The Committee recommends that the State party consider developing an agenda for priority action to ensure an integrated approach to the implementation of human rights in Guatemala in the light of the suggestions and recommendations addressed to the State, particularly in the area of children's rights.

222. Finally, the Committee recommends that the State party's report, the summary records of the examination of the report in the Committee and the Committee's concluding observations be given wide dissemination in Guatemala. The Committee suggests that these documents be brought to the attention of the Congress as a means of ensuring follow-up to the suggestions and recommendations made by the Committee.

CRC/C/108 (2001)

228. The Committee considered the second periodic report of Guatemala (CRC/C/65/Add.10), submitted on 7 October 1998, at its 707th and 708th meetings (CRC/C/SR.707 and 708), held on 29 May 2001, and adopted, at the 721st meeting, held on 8 June 2001, the following concluding observations.

A. Introduction

229. The Committee welcomes the submission of the State party's second periodic report, which follows the guidelines for reporting, and of the written replies to its list of issues (CRC/C/Q/GUA.2). It further notes with appreciation the high-ranking delegation sent by the State party and welcomes the frank dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

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

230. The Committee notes with satisfaction that for the preparation of the second periodic report the State party carried out a consultative process with representatives of civil society, including non-governmental organizations.

231. The development of a Master Plan of Operations for 1997-2001 by the SEGEPLAN (the National Economic Planning Council of the Guatemalan Government) and UNICEF in order to support and implement activities to improve the living conditions of women and children is welcomed by the Committee.

232. In the light of its previous recommendation (CRC/C/15/Add.58, para. 33), the Committee welcomes the creation of a National Commission against Child Abuse (CONACMI) and the holding of two National Campaigns against Child Abuse in 1996 and 1998.

233. The Committee welcomes the establishment of the Advisory Committee on Educational Reform for the modification of curriculum content to help eradicate stereotypes and discrimination based on sex, ethnic and social origin, or poverty, and the programme for girls, linked to the National System for the Improvement of Human Resources and Curricula established by the Ministry of Education to develop a gender methodology and an intercultural approach in curricula, textbooks and educational material, as follow-up measures to its previous recommendation in that domain (ibid., para. 30).

234. The Committee notes with interest the Education Programme for Working Children and Adolescents (PENNAT) to assist children who work in markets, parks, and the streets in both urban and rural areas.

235. The Committee welcomes the initiative taken by those working in the juvenile justice system to develop unified criteria to be applied in the administration of juvenile justice in the absence of a common system. It further welcomes the implementation in 2000 of a Programme on Probation

as a follow-up measure to its recommendation in this regard (ibid., para. 40).

C. Factors and difficulties impeding progress in the implementation of the Convention

236. The Committee, while noting significant progress since the signing of the final peace agreement on 29 December 1996, is concerned that the State party still faces many difficulties in the implementation of the Convention, due in particular to the legacy of poverty and authoritarian rule, as well as to human rights violations and impunity resulting from more than 30 years of armed conflict. Of particular concern to the Committee is the recent information that there are signs that the human rights situation is deteriorating. It also notes the serious economic and social disparities affecting most of the population, in particular indigenous people.

D. Principal areas of concern and recommendation

1. General measures of implementation

Legislation

237. The Committee is deeply concerned that the entry into force of the Children and Adolescent Code of 1996 was postponed several times and, on 24 February 2000, was suspended indefinitely by Congress Decree No. 4-2000. Concern is also expressed that some of the provisions of a new draft Children Code introduced in Congress in October 2000 are not in conformity with the Guatemalan Constitution and the Convention, as the Government itself noted in its written response to the list of issues. The Committee is encouraged that, according to information provided during the dialogue with the State party delegation, the Congress and civil society are engaged in negotiations and discussions about the drafting of a Children's Code which is in conformity with the Constitution and the Convention.

238. The Committee, in line with its previous recommendation (ibid., para. 25), strongly recommends that the State party support as much as possible the process to draft a new Children and Adolescent Code that is in full conformity with the principles and provisions of the Convention, expedite its approval by Congress, and ensure its enactment and full implementation as soon as possible. This new code should make a clear distinction, in terms of judicial procedures and treatment, between children in need of care and protection and those in conflict with the law, and should therefore not be based on the doctrine of "irregular situation".

Coordination

239. The Committee is concerned at the inadequate coordination within government agencies, both at the national and local levels, as well as between government agencies and non-governmental organizations working in the field of children's rights. Further, it notes with concern that the bodies designated to carry out these tasks, i.e. the National Children's Council at national level and the departmental and municipal Children's Councils at local level, were not established because the Children and Adolescent Code did not enter into force. It is also noted that another coordinating body, the Commission for the Convention on the Rights of the Child (PRODEN), had to scale down its activities due to a cut in its resources.

240. The Committee reiterates its previous recommendation to the State party for a permanent and multidisciplinary mechanism to be developed for coordinating and implementing the Convention at the national and local levels, including the establishment of various mechanisms at all levels to ensure the effective decentralization of the implementation of the Convention, and for the promotion of close cooperation with non-governmental organizations (*ibid.*, para. 27). Further, it recommends the allocation of adequate financial and human resources to existing bodies working in the field of children's rights.

Allocations of budgetary resources

241. While noting the information that there has been an increase in budgetary allocations for children, the Committee nevertheless reiterates its concern that these allocations are not sufficient to respond to national and local priorities for the protection and promotion of children's rights and to overcome and remedy existing disparities between the regions and rural/urban areas with respect to services provided to children (*ibid.*, para. 31). Further, it notes with deep concern that, according to data provided in the State party's report, 88.9 per cent of the population aged between 0 and 14 live in a state of poverty.

242. In light of article 4 of the Convention, the Committee encourages the State party to strengthen its efforts to reduce poverty among children and to identify clearly its priorities with respect to child rights issues in order to ensure that funds are allocated "to the maximum extent of ... available resources and, where needed, within the framework of international cooperation" for the full implementation of the economic, social and cultural rights of children, in particular with respect to local governments and for children belonging to the most vulnerable groups in society. It further recommends that the State party identify the amount and proportion of the budget spent on children at the national and local levels in order to evaluate the impact and effect of the expenditures on children. The State party is encouraged to seek international cooperation and technical assistance in this regard.

Data collection

243. The Committee notes that measures were taken by the State party in line with its recommendation (*ibid.*, para. 28), such as the establishment of a social indicator system in the National Statistical Institute and the conducting of the National Survey on Maternal and Child Health in 1999. It nevertheless expresses its concern that the collection of data is still focused on health and education and does not include all areas covered by the Convention.

244. The Committee recommends that the State party continue to develop a system to collect data and indicators reflecting the provisions of the Convention, disaggregated by gender, age, indigenous and minority groups, urban or rural area. This system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable, including children belonging to indigenous groups; child victims of abuse, neglect, or ill-treatment; children with disabilities; children who are displaced; children in conflict with the law; children who work; children who are sexually exploited for commercial purposes; adopted children and children living in the streets and in rural areas. It further encourages the State party to use these indicators and data for the

formulation of policies and programmes for the effective implementation of the Convention.

Dissemination and training

245. The Committee recognizes that material on the promotion of human rights was disseminated by both governmental agencies and non-governmental organizations, but it notes that these measures need to be strengthened, in particular in rural areas and among indigenous children.

246. The Committee recommends that the State party increase its efforts to translate informative material into the main indigenous languages and that it develop more creative methods to promote the Convention, including through audio-visual aids such as picture books and posters, in particular at the local level. The Committee also recommends adequate and systematic training and/or sensitization of professional groups working with and for children, such as judges, lawyers, law enforcement personnel, teachers, school administrators and health personnel. The State party is encouraged to fully integrate the Convention into the curricula at all levels of the educational system. It is suggested that the State party seek technical assistance from, among others, UNICEF, UNESCO and OHCHR.

Civil society

247. The Committee, while noticing examples of collaboration between governmental institutions and non-governmental organizations, such as within PRODEN, it nevertheless notes that cooperation with non-governmental organizations should be further promoted and reinforced. Concern is also expressed that some non-governmental organizations working with children have lately been subjected to threats and assaults.

248. The Committee reiterates its recommendation (ibid., para. 27) to encourage the promotion of closer cooperation with non-governmental organizations for the coordination and implementation of the Convention at the national and local levels and in urban and rural areas. It strongly recommends that the State party effectively investigate and prosecute cases of threats and assaults against non-governmental organizations working with and for children and take the necessary measures to prevent such actions.

2. Definition of the child

249. The Committee reiterates its concern about the disparity between the legal minimum age for admission to employment (14 years) and the age for the end of compulsory education (15 years). Further, it notes that, in line with its recommendation (ibid., para. 26), a proposal to set the minimum legal age for marriage for both boys and girls at 16 was introduced in Congress but was never considered.

250. In light of articles 1 and 2 and other related provisions of the Convention, the Committee reiterates its recommendation that the State party pursue its efforts to review its legislation with a view to increasing the minimum age of marriage for girls to that for boys in order to bring it into full conformity with the provisions and principles of the Convention. It further recommends that the State party redefine the minimum age for admission to employment so that it corresponds to the age

at which compulsory education ends.

3. General principles

251. The Committee is concerned that the principles of non-discrimination (art. 2 of the Convention), best interests of the child (art. 3) and respect for the views of the child (art. 12) are not fully reflected in the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children at both national and local levels.

252. The Committee recommends that the State party appropriately integrate the general principles of the Convention, in particular the provisions of articles 2, 3 and 12, in all relevant legislation concerning children and apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children. These principles should guide planning and policy-making at every level, as well as actions taken by social and health and welfare institutions, courts of law and administrative authorities.

Non-discrimination

253. The Committee is concerned that the principle of non-discrimination (art. 2) is not fully implemented for children belonging to indigenous groups; urban and rural poor children, girls, children with disabilities, and displaced children, especially with regard to their access to adequate health and educational facilities.

254. The Committee recommends that the State party take all the necessary measures to end discrimination. In this respect, the State party is encouraged to monitor discrimination against children, in particular those belonging to the above-mentioned vulnerable groups, and to develop, on the basis of the results of such monitoring, comprehensive strategies for implementing specific and well-targeted actions aimed at ending all forms of discrimination.

4. Civil rights and freedoms

Birth registration

255. The Committee notes with concern that a large number of children, in particular girls in rural and poor urban areas, are not registered because of distance from registry offices or because parents are unaware of the importance of the procedure for birth registration.

256. In light of article 7 of the Convention, the Committee recommends that the State party develop more widespread awareness among the population of the importance of birth registration and improve the registration system so that it reaches all people, in particular those in rural areas.

Torture, or other cruel, inhuman or degrading treatment or punishment

257. The Committee is deeply disturbed by information that violence against children is increasing. In particular, it notes with great concern that many children fear for their lives because they are continually threatened and are victims of violence, notably when they are living and/or working in

the street but also when they are at home. Of particular concern to the Committee is the alleged involvement of the State Civil Police in some of the alleged cases of violence and the lack of proper investigation of these cases by Guatemalan authorities.

258. The Committee recommends that the State party take, as a matter of the highest priority, all the necessary steps to prevent these serious violations of children's rights and to ensure that they are properly investigated and that those responsible are brought to justice. In light of article 39, the Committee also invites the State party to take all appropriate measures to ensure the physical and psychological recovery and social reintegration of child victims of torture and/or ill-treatment and to provide adequate compensation. The State party is invited to seek international cooperation in this regard.

5. Family environment and alternative care

Parental responsibilities

259. The development of initiatives such as the Plan of Action for Social Development and Peacebuilding 1996-2000, which had among its priorities the strengthening of the family, schooling for parents and the Comprehensive Care Programme for Children under Six (PAIN), are positive measures in line with the Committee's recommendation (ibid., para. 38). The Committee is, however, concerned that such programmes have had little impact in view of the number of children and parents who need this support.

260. In light of article 18 of the Convention, the Committee reiterates its recommendation that the State party improve social assistance to families to help them with their child-rearing responsibilities, including through counselling and community-based programmes, as a means of reducing the number of children in institutional care. The Committee recommends that the State party seek international assistance from, among others, UNICEF.

Adoption

261. The Committee notes with deep concern that there was no follow-up to its recommendations (ibid., para. 34) to introduce measures to monitor and supervise the system of adoption effectively and to consider ratifying the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993. Concern is expressed at the extremely high rates of intercountry adoptions, at adoption procedures not requiring authorization by competent authorities, at the absence of follow-up and, in particular, at reported information on sale and trafficking in children for intercountry adoptions. It is also noted that several drafts of adoption laws have been pending in Congress but never adopted.

262. In light of article 21 of the Convention and in line with the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography (see E/CN.4/2000/73/Add.2) and of the United Nations Verification Mission in Guatemala (MINUGUA), the Committee strongly recommends that the State party suspend adoptions in order to take the adequate legislative and institutional measures to prevent the sale and trafficking of children and to establish an adoption procedure which is in full compliance with the principles and provisions of

the Convention. It further reiterates its recommendation to ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

Abuse and neglect

263. The adoption of the Act on the Prevention, Punishment and Eradication of Domestic Violence in 1996, the creation of CONACMI and the conducting of national campaigns against child abuse are positive measures in line with the Committee's recommendation (ibid., para. 33). However, concern is expressed at the lack of data and appropriate measures, mechanisms and resources to prevent and combat domestic violence, including child physical and sexual abuse, and neglect and at the limited number of services for abused children, in particular in rural areas.

264. In light of article 19 of the Convention, the Committee recommends that the State party undertake studies on domestic violence, ill-treatment and abuse, including sexual abuse, in order to understand the extent, scope and nature of these practices, adopt and effectively implement adequate measures and policies, and encourage changes in attitudes. The Committee also recommends that cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, be properly investigated within a child-sensitive inquiry and judicial procedure in order to ensure better protection of child victims, including the protection of their right to privacy. Measures should also be taken to provide support services to children in legal proceedings, and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment and violence, in accordance with article 39 of the Convention. The Committee recommends that the State party seek, in this regard, international cooperation and technical assistance from, among others, UNICEF and WHO.

6. Basic health and welfare

Children with disabilities

265. The Committee, while taking note of the Act on the Provision of Services for Persons with Disabilities of 1996 and the establishment of a National Network for Support to Disabled Persons which has also established departmental links in the interior of the country, is nevertheless concerned that discrimination against children with disabilities still occurs and that parents are often unaware of their children's rights. Further, it is concerned about the huge number of children with disabilities who are institutionalized and the general lack of resources and specialized staff for these children.

266. In light of article 23 of the Convention, the Committee recommends that the State party undertake measures to ensure that the situation of children with disabilities is monitored in order to effectively assess their situation and needs, and to conduct public awareness campaigns in all languages, in particular indigenous ones, to raise awareness of the situation and rights of children with disabilities. It further recommends that the State party allocate the necessary resources for programmes and facilities for all children with disabilities, especially those living in rural areas, and develop community-based programmes to enable them to stay at home with their families. Also, support programmes for parents of children with disabilities are recommended, including counselling and, when necessary, financial assistance. In light of the Standard Rules on the

Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on "The rights of children with disabilities" (see CRC/C/69), it is also reiterated (ibid. para. 38) that the State party should further encourage the integration of disabled children into the regular educational system and their inclusion in society, including by providing special training to teachers and by making schools more accessible. The Committee recommends that the State party seek technical assistance from, among others, WHO.

Health and health services

267. Measures such as the launching of a Comprehensive Health Care System (SIAS), the Friendly Hospitals initiative, a national plan for the reduction of maternal and perinatal mortality and a national mother and child programme are positive steps. However, the Committee is concerned that the health standard of the children living in Guatemala, especially children living in the rural areas and in poor urban areas, is inadequate. It notes in particular the high infant mortality rates due, *inter alia*, to nutritional deficiencies, lack of sanitation facilities and limited access to preventive and curative health services, with wide differences between urban and rural areas and between the different ethnic groups; the Committee also notes the high maternal mortality rates, due largely to a high incidence of illegal abortion.

268. In light of article 24 of the Convention, the Committee recommends that the State party allocate appropriate resources and develop comprehensive policies and programmes to improve the health situation of all children without discrimination, in particular by focusing more on primary-level care and decentralizing the health care system. In particular, to prevent child mortality and morbidity and to address the high maternal mortality rate, the Committee recommends the provision of adequate antenatal and postnatal health care services and the development of campaigns to provide parents with basic knowledge about child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation, family planning and reproductive health. The Committee encourages the State party to look to international cooperation for the full and efficient implementation of the immunization programme. Further, it recommends to the State party to seek technical assistance from, among others, WHO, UNICEF and UNFPA.

Malnutrition

269. The Committee notes that the State party has implemented a number of food and nutrition programmes for children in schools such as the "Happy Heart" programme, as also recommended (ibid., para. 36). However, by noting the high rates of both chronic and severe malnutrition still affecting in particular children under five in rural areas, especially those belonging to indigenous groups, the Committee expresses its deep concern that there are no governmental policies to reduce and combat malnutrition among babies and children under five.

270. The Committee reiterates its recommendation that the State party develop a comprehensive nutritional programme in order to prevent and combat malnutrition, in particular among children under five (ibid., para. 36), and assess the impact of the programme on those affected, with a view eventually to improving its effectiveness. The Committee recommends that the State party seek international cooperation from, among others, UNICEF and WHO.

Adolescent health

271. The Committee expresses its concern regarding the high rates of early pregnancy, the rise in the number of children and youths using drugs, the increase in cases of sexually transmitted diseases (STDs), in particular syphilis, and the growing number of cases of HIV/AIDS among youths. Further, it notes the limited availability of programmes and services in the area of adolescent health, including mental health, and the lack of sufficient prevention and information programmes in schools, especially on reproductive health.

272. The Committee recommends that the State party increase its efforts to promote adolescent health policies, including mental health, particularly with respect to reproductive health and substance abuse, and strengthen the programme of health education in schools. The Committee further suggests that a comprehensive and multidisciplinary study be undertaken to understand the scope of adolescent health problems, including the negative impact of STDs and HIV/AIDS, in order to be able to develop adequate policies and programmes. It is also recommended that the State party undertake further measures, including the allocation of adequate human and financial resources, to evaluate the effectiveness of training programmes in health education, in particular as regards reproductive health, and to develop youth-sensitive and confidential counselling, care and rehabilitation facilities that are accessible without parental consent when this is in the best interests of the child. The Committee encourages the State party to seek additional technical cooperation from, among others, UNFPA, UNICEF, WHO and UNAIDS.

7. Education, leisure and cultural activities

Education

273. While noting with appreciation the number of national efforts undertaken to extend the coverage and improve the quality of the school system, particularly at the pre-school and primary levels and with special attention paid to girls, the Committee is nevertheless concerned about the high repetition and drop-out rates, the high pupil-teacher ratio and the high incidence of absenteeism, truancy and over-age pupils. Further, it notes with concern that bilingual education is offered only in a limited number of indigenous languages and only at pre-school level and in the first three grades of primary schooling.

274. In light of articles 28 and 29 of the Convention, the Committee recommends that the State party undertake appropriate measures to increase budgetary allocations for education, ensure regular attendance at schools and the reduction of drop-out rates, and strengthen the quality of education in order to achieve the goals stated in article 29.1, in line with the Committee's General Comment No. 1 on the aims of education (CRC/C/GC/2001/1). It also reiterates its recommendation (ibid., para. 37) that the State party should continue to strengthen the teacher training programme in order to increase the number of trained teachers and improve the quality of teaching and the bilingual education programme. In this respect, the Committee encourages the State party to seek additional technical cooperation from, among others, UNESCO and UNICEF.

8. Special protection measures

Children affected by armed conflict

275. The Committee notes that the State party launched an action plan for the psychological rehabilitation of children affected by the armed conflict based on a preventive programme with community participation, as previously recommended by the Committee (ibid., para. 39). However, it expresses its concern at the lack of professional staff prepared to work in these communities and at the insufficient number of services to meet demand. It also notes with concern that a large number of children were internally displaced or forcibly disappeared during the armed conflict and that the State party did not investigate these disappearances effectively.

276. In light of article 39 of the Convention, the Committee recommends that the State party consider complying with the recommendations of the Truth Commission regarding a national reparation programme that would also include children affected by the internal armed conflict, and that it effectively investigate all cases of children who were forcibly disappeared by allocating human and financial resources to and cooperating with the National Commission for Searching for Disappeared Children. Further, the Committee recommends that the State party strengthen its efforts to implement the Programme to Support Resettlement of Displaced Groups and to ensure adequate protection to internally displaced children, paying special attention to the problem of lack of identification papers. The Committee encourages the State party to continue its international cooperation programmes with, among others, UNDP, UNHCR and UNCHS (Habitat).

Economic exploitation

277. With regard to its recommendation on child labour (ibid., para. 39), the Committee takes note of the measures taken by the State party such as the signing in 1996 of a memorandum of understanding with ILO for the adoption of the International Programme on the Elimination of Child Labour (IPEC). However, it expresses its deep concern at the large number of children who are still exploited economically, in particular those under 14 years of age.

278. In light of article 32 of the Convention and in line with its previous recommendation (ibid., para. 41), the Committee reiterates that the State party should continue to enforce and strengthen its legislation protecting working children and to combat and eradicate as effectively as possible all forms of child labour, in cooperation with ILO/IPEC.

Sexual exploitation

279. While noting that the National Plan against Sexual and Commercial Exploitation is in the final stages of elaboration, the Committee expresses its deep concern that, with regard to the increasing phenomenon of commercial sexual exploitation of children, in particular girls, there are no data available, legislation is inadequate, cases involving sexually exploited children are often not investigated and prosecuted, and no rehabilitation programmes are available.

280. In light of article 34 of the Convention and in line with the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography (see E/CN.4/2000/73/Add.2), the Committee recommends that the State party expedite the adoption of the National Plan against Sexual and Commercial Exploitation, taking into account the Agenda for

Action adopted at the World Congress against Commercial Sexual Exploitation of Children, and undertake a study on this issue in order to understand its scope and causes, to enable effective monitoring of the problem and to develop the necessary measures and programmes to prevent, combat and eliminate it. The Committee invites the State party to seek international cooperation in this regard.

Children living in the streets

281. The Committee expresses its concern at the significant number of children living in the streets and notes that assistance to these children is provided mainly by non-governmental organizations. In light of article 6 of the Convention, serious concern is expressed at allegations of rape, ill-treatment and torture, including murder for the purpose of “social cleansing”, of children living in the streets.

282. The Committee recommends that the State party expedite the adoption of a National Plan for the Care of Street Children and ensure that children living in the streets are provided with nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development. Moreover, the State party should ensure that these children are provided with rehabilitation services for physical, sexual and substance abuse; protection from police brutality; and services for reconciliation with their families. The Committee encourages the State party to seek additional international cooperation from, among others, UNICEF and WHO.

Juvenile justice

283. The Committee expresses its serious concern that its previous recommendation encouraging the reform of the juvenile justice system to ensure its full compatibility with the principles and provisions of the Convention (CRC/C/15/Add.58, para. 40) has not yet been implemented because of the postponement of the entry into force of the Children and Adolescent Code of 1996. In particular, it reiterates its concern about the doctrine of “irregular situation” and notes that legal assistance for children is not mandatory and that the presence of a translator for indigenous children is not required. Concern is also expressed at the long periods of pre-trial detention and at poor conditions in detention centres, at the fact that children with no prior criminal record are held together with children with a criminal record and that inadequate education, rehabilitation and reintegration programmes are provided during the detention period.

284. In line with its own previous recommendation and with that of the Special Rapporteur on the independence of judges and lawyers (see E/CN.4/2000/61/Add.1), the Committee recommends that the State party continue reviewing its law and practices regarding the juvenile justice system in order to bring it as soon as possible into full compliance with the Convention, in particular articles 37, 40 and 39, as well as with other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and that it expedite the adoption of the Children and Adolescents Code of 1996 which guarantees due process of law for children and social and educational correctional measures. In particular, the Committee reminds the State party that juvenile offenders should be dealt with without delay, in

order to avoid periods of incommunicado detention, and that pre-trial detention should be used only as a measure of last resort, should be as short as possible, and should be no longer than the period prescribed by law. Alternative measures to pre-trial detention should be used whenever possible.

285. With reference to children deprived of their liberty, the Committee recommends that the State party incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of Liberty, in particular to guarantee them access to effective complaints procedures covering all aspects of their treatment, and take appropriate rehabilitative measures to promote the social reintegration of the children involved in the juvenile justice system. Finally, the Committee recommends that the State party seek assistance from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

Optional Protocols

286. The Committee encourages the State party to ratify and implement the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

9. Dissemination of documentation

287. Finally, the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the second periodic report and the written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government and the general public, including NGOs.