

PERU

CRC A/49/41 (1994)

8. Concluding observations

145. The Committee considered the initial report of Peru (CRC/C/3/Add.7) at its 82nd, 83rd and 84th meetings (CRC/C/SR.82-84), held on 23 and 24 September 1993, and adopted at the 103rd meeting, held on 8 October 1993, the following concluding observations.

(a) Introduction

146. The Committee notes with appreciation the timely submission of the initial report of Peru, which was one of the first States to become a party to the Convention on the Rights of the Child. The Committee regrets, however, that the information provided in the report was in many respects vague and incomplete and did not follow the Committee's guidelines. Furthermore, the lack of information in the report on factors and difficulties impeding the implementation of the various rights recognized by the Convention prevented the Committee from gaining a clear idea of the real situation of children's rights in the country.

147. However, the dialogue with the State party's delegation enabled the Committee to understand better the situation of children in the country. The Committee therefore expresses its appreciation to the State party's delegation for the valuable information supplementing the report.

(b) Positive aspects

148. The Committee notes with satisfaction the considerable progress achieved during the period under review in bringing domestic law into line with the Convention, through the enactment of new laws and codes and the establishment and strengthening of institutions and processes aimed at promoting and protecting the rights of the child. Among these legislative achievements are the adoption of a Code on Children and Adolescents and the approval of a National Plan of Action for Children. The establishment of the Defensoría del Niño and the possibility for individuals to invoke the provisions of the Convention before Peruvian courts are other welcome developments. The Committee also notes with interest the decision taken by the Peruvian Government to establish a National Week for the Rights of the Child as well as National Monitoring Committees on the Rights of the Child. These measures have a positive impact on the promotion of popular participation in the realization of the rights of the child.

(c) Factors and difficulties impeding the implementation of the Convention

149. The Committee notes that political violence and terrorism have had a considerable negative impact on the situation of children in Peru. Many children have been subjected to various forms of violations and have been obliged to flee areas affected by such violence.

150. The Committee further notes that economic factors, including a high level of external debt, have adversely affected the situation of children.

(d) Principal subjects of concern

151. The Committee expresses its deep concern at the continued violence which has already caused thousands of killings, disappearances and displacements of children and parents. It is therefore necessary that the Government of Peru and Peruvian society adopt an urgent, effective and fair response to protect the rights of the child.

152. The Committee is concerned that, due to the internal violence, several registration centres have been destroyed, adversely affecting the situation of thousands of children who are often left without any identity document, thus running the risk of their being suspected of involvement in terrorist activities.

153. The Committee deplors that, under Decree-Law No. 25564, children between 15 and 18 years of age who are suspected of being involved in terrorist activities do not benefit from safeguards and guarantees afforded by the system of administration of juvenile justice under normal circumstances.

154. The Committee expresses its concern that stringent budgetary measures amounting to decreases in the resources allocated for social expenditures have entailed high social costs and have adversely affected the rights of the child in Peru. Vulnerable groups of children, including children living in areas affected by the internal violence, displaced children, orphans, disabled children, children living in poverty and children living in institutions, are particularly disadvantaged in their access to adequate health and educational facilities and are the primary victims of various forms of exploitation, such as child prostitution. Furthermore, the long-term considerations embodied in the structural adjustment policies have not adequately taken into account the specific needs of the children and, accordingly, dramatic cuts have been made in many social expenditures in recent years, to the detriment of children. In this respect, the Committee notes with concern that 47 per cent of the National Plan of Action for Children remains to be financed.

155. The Committee is also concerned at the extent of violence within the family; at the high number of abandoned and institutionalized children due to widespread family problems; and about the fact that the Code on Children and Adolescents is not completely in conformity with the relevant provisions of the Convention on the Rights of the Child and relevant conventions of the International Labour Organization, especially with regard to minimum ages for admission to employment.

156. The Committee is concerned at the serious situation of children who, in view of increasing poverty and misery as well as of situations of abandonment or violence within the family, are forced to live and work in the streets, even at an early stage of their lives. For these reasons children often become victims of different forms of exploitation and abuse.

157. The Committee notes with concern the absence in the National Plan of Action of strategies and targets to secure the civil rights of children.

(e) Suggestions and recommendations

158. The Committee acknowledges the fact that, since the Code on Children and Adolescents and the National Plan of Action for Children were adopted only recently, there has not been sufficient time to implement them or to evaluate their effectiveness. In those circumstances, the Committee decides to request the Government of Peru to submit information on measures taken in response to concerns expressed and recommendations made in the present "concluding observations". It wishes to receive that information before the end of 1994.

159. The Committee suggests that coordination between the various governmental agencies and non-governmental organizations involved in the implementation of the Convention and the monitoring thereof be strengthened.

160. The Committee recommends that investigations be conducted into cases of extrajudicial executions, disappearances and torture which are carried out in the context of the internal violence prevailing in several parts of the country. Those accused of such abuses should be tried and, when found guilty, punished. Furthermore, special measures should be taken to ensure that children are protected against the occurrence of such human rights violations and that they benefit from recovery and reintegration programmes in an environment which fosters the dignity and the self-confidence of the child.

161. Specific measures should be undertaken to provide undocumented children fleeing zones affected by internal violence with adequate identity documents.

162. The Committee also recommends that the provisions of Decree-Law No. 25564 dealing with the liability of children suspected of being involved in terrorist activities be repealed or amended in order for children below 18 years of age to enjoy fully the rights set forth in articles 37, 39 and 40 of the Convention.

163. The Committee urges the Government of Peru to take all the necessary steps to minimize the negative impact of the structural adjustment policies on the situation of children. The authorities should, in the light of articles 3 and 4 of the Convention, undertake all appropriate measures to the maximum extent of their available resources to ensure that sufficient resources are allocated to children. In that regard, particular attention should be paid to the protection of children living in areas affected by internal violence, displaced children, disabled children, children living in poverty and children living in institutions. The Committee recognizes, in that regard, that international assistance will also be needed to address more effectively the challenge of improving the situation of these children.

164. The Committee recommends that the Code on Children and Adolescents be amended along the lines suggested by the Minister of Labour of Peru in May 1993, following comments made to that effect by the International Labour Office.

165. The Committee underlines that the provisions of the Convention should be widely publicized among the general public and, in particular, among judges, lawyers, teachers and members of other professions who are concerned with the implementation of the Convention. Particularly important in this regard is the training of law enforcement officials and the staff in correctional facilities. In view of the extent of domestic violence in the country, a specific campaign of education for peace,

tolerance and respect for human rights may also be envisaged.

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354. The Committee considered the second periodic report of Peru (CRC/C/65/Add.8), submitted on 25 March 1998, at its 605th and 606th meetings (see CRC/C/SR.605 and 606), held on 21 January 2000, and adopted ¹ the following concluding observations.

A. Introduction

355. The Committee welcomes the wealth of information provided in the State party's second periodic report. Although no explicit reference to the Committee's previous recommendations is contained in the report, the numerous activities mentioned in it are follow-up measures to these recommendations. The Committee notes the submission of the written answers to the list of issues (CRC/C/Q/PER/2), although not in time for the Committee to take them fully into account during the dialogue with the State party. The Committee notes with appreciation that the quality of the State party's delegation allowed not only for an open and frank dialogue but also provided the Committee with precise and valuable additional information about the implementation of the Convention in the State party.

B. Follow-up measures undertaken and progress achieved

356. The launching of initiatives such as the National Strategy to Combat Poverty (1995-2000), and the National Programme of Action for Children (1996-2000) as well as the development of regional children's plans of action, are regarded as positive measures in line with the Committee's recommendations (see A/49/41, para. 163).

357. The Committee welcomes the participation of non-governmental organizations in the process of elaboration of the State party's second periodic report as well as in other projects and programmes for children, in line with the Committee's recommendation (ibid., para. 159).

358. The translation of the Convention into Quechua, one of the official languages in the State party, is also regarded as a positive measure in line with the Committee's recommendation (ibid., para. 165).

359. The State party's accession to the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women, the enactment of Law 26260 for protection against domestic violence, and of Law 27055 containing reforms criminalizing sexual violence issues are regarded as positive steps to combat violence against children and for the treatment of victims, in line with the Committee's recommendation (ibid.).

360. The Committee welcomes the State party's accession to the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption and to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and

¹ At the 615th meeting, held on 28 January 2000.

Their Destruction.

361. In light of its concern on the situation of child labour (ibid., para. 156), the Committee welcomes the signing of a memorandum of understanding between the State party and ILO/IPEC as well as the activities undertaken under this programme.

C. Factors and difficulties impeding the implementation of the Convention

362. The Committee notes that widespread poverty and long-standing economic and social disparities are still affecting the most vulnerable groups, including children, and hampering the enjoyment of the rights of the child in the State party.

363. While noting the decrease in political violence and terrorist activities, the Committee notes with concern that the consequences of these activities are still having a negative impact on the life, survival and development of children in the State party.

D. Subjects of concern, suggestions and recommendations

1. General measures of implementation

Legislation

364. While the Committee welcomes the implementation of the Children and Adolescents Code (1993), it remains concerned about the application of Decree 895 (Ley contra el Terrorismo Agravado) and Decree 899 (Ley contra el Pandillaje Pernicioso), both establishing lower legal minimum ages for criminal responsibility than the one contained in the Code and therefore not in line with the principles and provisions of the Convention. In this regard, the Committee takes note of the enactment of Law 27235, which modifies Decree 895, transferring the jurisdiction of cases of terrorism from military to civilian courts, but retaining the provision regarding lower legal ages of criminal responsibility. The Committee recommends that the State party consider developing alternative measures and programmes to deal with the problems addressed by Decrees 895 and 899 in order to bring them into line with the Convention on the Rights of the Child and the Children and Adolescents Code.

Coordination and monitoring

365. While welcoming the follow-up measures taken to improve the coordination and monitoring of the implementation of the Convention, such as the establishment of the Ministry for the Enhancement of Women and Human Development (PROMUDEH) and the Commission for the Coordination of the National System for Comprehensive Care of Children and Adolescents (known as the Ente Rector), the Committee is of the opinion that further efforts are needed to strengthen the role of these mechanisms. The Committee recommends that the State party continue taking measures to strengthen the Ente Rector by providing it with adequate financial and human resources to carry out its mandate in an effective manner. The Committee encourages the State party to continue with its process of decentralization of the Ente Rector in order to ensure the monitoring of the implementation of the Convention throughout all the provinces of the State party's territory. In

this regard, the Committee recommends that the State party take effective measures to guarantee broader representation in the Ente Rector including at the municipal level, in order to strengthen its role.

Local structures for the defence of children's rights

366. The Committee welcomes the establishment of Children and Adolescents Defence Centres, but it remains concerned about the limited capacity of these new entities, their limited presence in the highland provinces, the poor qualifications of the staff and the inadequate level of their financial resources. The Committee recommends that the State party continue with its efforts to strengthen the mandate of the Children and Adolescents Defence Centres. The Committee also recommends that the State party provide the centres with adequate levels of financial and human resources to carry out their mandate in an effective manner.

Data collection system

367. While taking note of the statistics on the situation of children contained in the annexes to the State party's report and the efforts undertaken for the monitoring of the National Plan of Action for Children, the Committee remains concerned about the lack of disaggregated data for all areas covered by the Convention.. The Committee recommends that the State party continue reviewing and updating its data-collection system, with a view to including all areas covered by the Convention. In this regard, the Committee encourages the State party to use the information provided by its next population census as a basis for the development of disaggregated data on children's rights. Such a system should include all children under 18 years of age, specifically emphasizing the situation of vulnerable groups of children, as a basis for assessing progress achieved in the realization of children's rights and to help design policies for better implementation of the provisions of the Convention. Furthermore, the Committee encourages the State party to seek technical assistance from, inter alia, UNICEF.

Allocation of budgetary resources

368. While acknowledging the measures taken in the areas of health and education, the Committee remains concerned about the limitations imposed, owing to budgetary restrictions, on the full implementation of social programmes for children, in particular the National Plan of Action for Children. The Committee reiterates its recommendation (ibid., para. 163) that such measures should be undertaken "to the maximum extent of [...] available resources" in light of articles 2, 3 and 4 of the Convention and that particular attention be paid to the protection of children belonging to vulnerable and marginalized groups. The Committee further recommends that the State party develop a locally based system to monitor and evaluate the situation of children living in areas of extreme poverty in order to give priority to budget allocations for these groups of children. In this regard, the Committee encourages the State party to seek technical assistance from, inter alia, UNICEF.

2. General principles

Non-discrimination

369. While welcoming the adoption of special programmes, within the National Plan of Action for Children, for the protection of the rights of the most vulnerable children, the Committee is of the opinion that these measures need to be reinforced. Concern is expressed at the existing patterns of gender and racial discrimination; at the marginalization of children belonging to indigenous populations; and at the precarious situation of children from the rural highlands and the Amazonia region, especially regarding their limited access to education and health services. In light of its recommendation (ibid., para. 154) the Committee further recommends that the State party increase measures to reduce economic and social disparities, including between urban and rural areas, to prevent discrimination against the most disadvantaged groups of children, such as girls, children with disabilities, children belonging to indigenous and ethnic groups, children living in and/or working on the streets and children living in rural areas, and to guarantee their full enjoyment of all the rights recognized in the Convention.

Best interests of the child

370. The Committee takes note of the efforts made by the State party for the implementation of the principle of “best interests of the child” (art. 3) in the judicial and other administrative procedures. The Committee is of the opinion that these measures need to be strengthened. The Committee recommends that further efforts be made to ensure the implementation of the principle of “best interests of the child”. This principle should also be reflected in all policies and programmes relating to children. Awareness-raising among the public at large, including community leaders, as well as educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions of children who are too often regarded as objects (Doctrina de la Situación Irregular) rather than subjects of rights.

Right to life, survival and development

371. While the Committee notes with appreciation the establishment of special programmes for children belonging to families who have been displaced as a result of political violence and terrorism, the Committee remains concerned about the short- and long-term consequences of the decreasing but still prevailing climate of violence in several regions of the State party’s territory (emergency zones), which threatens the development and right to life of children. The Committee reiterates its recommendation (ibid., para. 160) that the State party continue taking effective measures to protect children against the negative impact of internal violence, including the establishment of rehabilitation measures for child victims of this violence.

3. Civil rights and freedoms

Birth registration

372. With regard to the Committee’s recommendation (ibid., para. 161) to ensure birth registration in areas affected by internal violence, the Committee welcomes the State party’s efforts in this area but is of the opinion that greater efforts are needed to ensure that all children are registered, especially those belonging to the most vulnerable groups. In light of article 7 of the Convention, the Committee recommends that the State party continue with its measures to ensure the immediate registration of the birth of all children, especially of those living in rural and remote areas and

belonging to indigenous groups.

Respect for the views of the child and other participatory rights of children

373. Although the Committee welcomes the establishment of initiatives to promote children's participatory rights, such as PROMUDEH's Network of Adolescent Leaders, it is of the opinion that these efforts need to be improved and strengthened. In light of articles 12 to 17 of the Convention, the Committee recommends that further measures be undertaken to promote the participation of children in the family, at school and in other social institutions, as well as to guarantee the effective enjoyment of their fundamental freedoms, including those of opinion, expression and association.

4. Family environment and alternative care

Children deprived of a family environment

374. While the Committee welcomes the measures taken to comply with the Committee's recommendation (ibid., paras. 154 and 163) it is still concerned about the insufficient alternative care available for children deprived of a family environment. The Committee recommends that the State party continue developing alternative measures to institutional care of children, in particular by promoting foster care. The Committee further recommends that the State party reinforce its monitoring and evaluation system to ensure the adequate development of children living in institutions and to continue taking measures to review periodically the placement and treatment of children as enshrined in article 25 of the Convention.

Abuse, neglect and violence

375. The Committee welcomes the legislative reforms aiming at preventing and combating domestic violence, but it remains concerned that physical and sexual abuse of children - within and outside the family - is a widespread phenomenon in the State party. In light of, inter alia, articles 3, 6, 19, 28 (2) and 39 of the Convention, the Committee recommends that the State party continue taking effective measures to prevent and combat abuse and ill-treatment of children within the family, at school and in society at large, including through setting up multidisciplinary treatment and rehabilitation programmes. It suggests, inter alia, that law enforcement should be strengthened with respect to such crimes; that adequate procedures and mechanisms to deal effectively with complaints of child abuse should be reinforced in order to provide children with prompt access to justice; and that the use of corporal punishment at home, in schools and other institutions be explicitly prohibited by law. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue. The Committee encourages the State party to consider seeking to this effect international cooperation from, inter alia, UNICEF and international non-governmental organizations.

5. Basic health and welfare

Children with disabilities

376. With regard to the situation of children with disabilities, the Committee remains concerned at the inadequate infrastructure, limited number of qualified staff, specialized institutions for these children, and the inadequate resources, both financial and human. In addition, the Committee is particularly concerned at the insufficient implementation of the existing governmental policies and programmes for children with disabilities and at the insufficient monitoring of private institutions for these children. In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted on its day of general discussion on "Children with Disabilities" (see CRC/C/69), the Committee recommends that the State party develop early identification programmes to prevent disabilities, implement alternative measures to the institutionalization of children with disabilities, envisage awareness-raising campaigns aiming at the elimination of discrimination against them, establish special education programmes and centres and encourage their inclusion in the educational system and in society, and establish adequate monitoring of private institutions for children with disabilities. The Committee further recommends to the State party to seek technical cooperation from WHO and specialized non-governmental organizations for the training of professional staff working with and for children with disabilities.

Right to health and access to health services

377. While acknowledging the measures taken to improve the health of children, in particular initiatives related to the reduction of infant mortality, the Committee remains concerned about the persistence of regional disparities in access to health care and of high rates of malnutrition of children, especially in rural and remote areas and in particular among children belonging to indigenous groups. The Committee is also concerned about the high maternal mortality and teenage pregnancies rates as well as about the insufficient access by teenagers to reproductive health education and counselling services. The increasing rates of substance abuse and of HIV/AIDS among children and adolescents and the constant discrimination they are exposed to are also matters of concern. The Committee recommends that the State party continue taking effective measures to ensure access to basic health care and services for all children. More concerted efforts need to be taken to guarantee equal access to health care and to combat malnutrition, with special emphasis on children belonging to indigenous groups and children living in rural and remote areas. The Committee recommends to the State party to continue with its efforts to prevent HIV/AIDS and to take into consideration the Committee's recommendations adopted on its day of general discussion on "Children Living in a World with HIV/AIDS" (see CRC/C/80). The Committee also recommends that further efforts be undertaken for the development of child-friendly counselling services as well as care and rehabilitation facilities for adolescents. In this regard, the Committee encourages the State party to continue working in this field in cooperation with, *inter alia*, WHO, UNICEF and UNAIDS.

6. Education, leisure and cultural activities

378. While the Committee notes with appreciation the State party's achievements in the field of education, it remains concerned about the high drop-out and repetition rates in primary and secondary school, and about the disparities in the access to education between rural and urban areas. The Committee is particularly concerned about the limited access to education for children belonging to indigenous groups and the low relevance of the current bilingual educational

programmes available for them. In light of articles 28, 29 and other related articles of the Convention, the Committee recommends that the State party continue with its efforts to strengthen its educational policies and system in order to improve ongoing retention programmes and vocational training for drop-outs; to extend school coverage and to improve school quality, making schools more responsive to geographical and cultural diversity; and to improve the relevance of bilingual education programmes for children belonging to indigenous groups. The Committee encourages the State party to consider seeking technical assistance in this area, inter alia, from UNICEF and UNESCO.

7. Special protection measures

Economic exploitation

379. With regard to the Committee's recommendation (A/49/41, para. 164), the Committee takes note that the State party has submitted a proposal to Congress to raise the minimum legal age for admission to employment from 12 to 14 years. Nevertheless, the Committee is still concerned that economic exploitation of children remains one of the major social problems in the State party (e.g. in the indigenous communities in the highlands) and that law enforcement is insufficient to address this problem effectively. The Committee encourages the State party to complete as soon as possible its legislative reform to raise the minimum legal age for admission to employment to at least 14 years. The Committee also encourages the State party to consider ratifying the Minimum Age Convention, 1973 (No. 138) the new Worst Forms of Child Labour Convention 1999 (No. 182) of the ILO. The Committee further recommends that the State party take effective measures to address the situation of children involved in hazardous labour, especially in the informal sector. Furthermore, the Committee recommends that child labour laws should be enforced, the labour inspectorates strengthened and penalties imposed in cases of violation. The Committee recommends that the State party continue working in cooperation with ILO/IPEC.

Sexual exploitation and abuse

380. With regard to the sexual exploitation of children, while noting with appreciation the reforms to the State party's Children and Adolescents Code, Penal Code and Penal Procedures Code, as well as other measures in this area, the Committee remains concerned at the absence of a national plan of action to combat and prevent sexual exploitation of children. The limited awareness among the population on sexual exploitation and abuse and on the available measures to identify and report cases of abuse is also a matter of concern. In light of article 34 and other related articles of the Convention, the Committee recommends that the State party conduct a national study on the issue of commercial sexual exploitation of children as a basis to design and implement a comprehensive national plan of action to prevent and combat this phenomenon, and continue conducting awareness-raising campaigns on this issue. The Committee recommends to the State party to take into account the recommendations formulated in the Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children held in Stockholm in 1996.

Administration of juvenile justice

381. With regard to the administration of the juvenile justice system, the Committee welcomes

the creation of Family Courts and of specialized prosecutors to deal with children's cases. But the Committee remains concerned that the provisions of the Children and Adolescents Code regarding the administration of juvenile justice are not fully implemented, *inter alia*, that the various services in this area are not adequately staffed and trained; that conditions in detention centres are poor and not adequately monitored; that alternative measures to detention are not sufficiently developed. In light of articles 37, 40 and 39 and other relevant United Nations standards in this field, such 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 Committee recommends that the State party:

- (a) Ensure that deprivation of liberty is used only as a measure of last resort;
- (b) Improve the living conditions of children in prisons and other detention centres;
- (c) Strengthen and increase its efforts to develop alternative measures to the deprivation of liberty;
- (d) Develop effective probation services for juveniles, in particular those who are released from detention centres, in order to support their reintegration in society;
- (e) Develop alternative measures to deprivation of liberty; and
- (f) Strengthen its training programmes on the relevant international standards for judges, professionals and staff working in the field of juvenile justice.

382. Furthermore, the Committee recommends to the State party to take into consideration the Committee's recommendations adopted on its day of general discussion on "The Administration of Juvenile Justice" (see CRC/C/46) and to consider seeking technical assistance from, *inter alia*, OHCHR, the Centre for International Crime Prevention, UNICEF and the International Network on Juvenile Justice through the Coordination Panel on Juvenile Justice.

8. Dissemination of the reports, written answers and concluding observations

383. Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that its periodic report and the written replies submitted 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 concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the parliament and the general public, including concerned non-governmental organizations.