



**Convention on the  
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Third periodic reports of States Parties due in 2002**

**COSTA RICA \***

[10 July 2003]

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\* For the second report submitted by Costa Rica, see document CRC/C/65/Add.7; for its consideration by the Committee on 28 January 2000, see documents CRC/C/SR.595, 596 and CRC/C/15/Add.117.

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## I. PRESENTATION

1. The development of policies and programmes for children and adolescents from a rights perspective has entailed an effort to redefine the strategic horizons and main lines of action of public policies, with the objective of safeguarding the civil, social, political, economic and cultural rights to which children and adolescents are entitled under the Convention on the Rights of the Child. It means that not only governmental institutions but also local governments and all individuals, families, communities, organizations and sectors, at their several levels, have and must assume their respective responsibilities and commitments stemming from the Convention, under the leadership of the National Children's Trust (PANI) as the competent authority.
2. An initial step in that direction has been to share the essential content, principles and characteristics of the Convention with the whole of Costa Rican society, with a view to creating conditions in which the rights of children and adolescents can effectively be exercised. In this task, Costa Rica has received technical assistance and support from UNICEF and other international organizations, and as a result has been able to make substantial progress in creating a firmly rooted awareness of the importance, not only of following up the implementation of children's rights, but also of forging joint responsibility and complementarity among the central government, local governments and civil society.
3. A second prominent aspect has been the transition from a focus on needs to a focus on rights. To be sure, this has not involved any radical change in the country's traditional outlook; it would be more accurate to speak of the initial thrust of policies having "evolved" over time as the Convention has fostered a progressive transformation of needs into rights.
4. This paradigm includes a conceptual shift in the formulation of policy and strategies, paving the way for the concept of safeguarding children's right to life, including access to forms of peaceful coexistence and cooperation on a basis of solidarity; integrated human development; education, health, early stimulation, proper nutrition, play, recreation, art, information, participation, personal and social development; the right to freedom, dignity, life within a family and a community; a name, a nationality and comprehensive protection. This shift involves implicit acknowledgement of an awareness that children are now entitled to these rights.
5. A third consideration is that rights are coming to be the basis of policies and the fundamental reference for the formulation of strategies. As a result, policies that have been and are being developed include a commitment to safeguard rights through their various programmes and implementation measures.
6. A fourth factor is gender awareness and a gender perspective both in policy design and in the selection of strategies and programmes. And a fifth factor is that action plans which are identified or selected cannot remain mere theoretical programmes, but must be accompanied by the allocation or reallocation of resources, the identification of responsibilities binding upon all actors in society, and equity, rationality, and efficiency in their uses and applications.
7. These five factors, simple as they may appear to be, are part of a process that has required a substantial shift in outlooks, paradigms and attitudes, not only on the part of governmental authorities at all levels, but also on the part of civil society in general.

8. This entails, among other activities, an ongoing analysis of the immediate underlying structural factors that impinge upon the changing situation of children and adolescents. Such an analysis must be as comprehensive as possible, including the voices, expectations and demands of children and adolescents. It implies a transition from a sectoral to an intersectoral focus, characterized by identification of the complementarity between different sectors and the impacts of the various programmes, as well as identification of the most frequent violations of children's rights and the reasons for those violations.

9. It is no longer enough to describe the situation prevailing at a particular time; it is now essential to identify the underlying causes or reasons why specific circumstances or conditions are as they are, having regard to the principles that inform human rights: universality, the unacceptability of discrimination on any grounds, interdependence and indivisibility, progression and irreversibility, and individual and social aspects.

10. In the framework of the Convention, it is clear that the Government has a responsibility to devote particular attention to the best interests of minors and to support mothers and fathers in order to help them fulfil their duty of bestowing parental care and guidance and, not merely providing conditions that will enable their children to survive, but safeguarding their right to life. In that connection, the National Social Development and Family Allowance Act, the Children and Adolescents Protection Boards and the Committees to Safeguard the Rights of the Child which are being established throughout the country will be the main organizations ensuring that the rights of this important component of Costa Rica's population are implemented.

11. We realize that this is a complex task requiring, among other things, a tireless effort to continue developing legislation and administrative measures, allocating and making optimal use of public resources, and establishing intensive training and skills development programmes with a view to bringing about a change in attitudes and eliminating myths and stereotypes, both among public employees and within civil society, and thereby translating human rights and their underlying principles into daily practical reality in the workplace and in private life.

12. This report is divided into two main parts. The first part provides information on the main concerns expressed by the Committee on the Rights of the Child and the follow-up action that has been taken in response to the Committee's recommendations to Costa Rica. The second part comprises a series of annexes containing additional information and explanatory material.

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President, National Council on Children and Adolescents  
Executive President, National Children's Trust

## II. INTRODUCTION

13. Costa Rica ratified the Convention on the Rights of the Child in 1990. Two years later, as required under the Convention, it submitted its first report, in which it reiterated its commitment to safeguard and promote the fundamental rights of all persons without discrimination on any grounds, including age, in accordance with the provisions of its Constitution.

14. After consideration of the report, the Committee issued its concluding observations<sup>1</sup>. While it expressed gratification at a series of positive actions that Costa Rica had taken to implement the Convention, it also displayed concern about some aspects, such as inconsistent provisions in the applicable legislation, which in some cases were at variance with the principles of the Convention; the social impacts of economic adjustment policies; the increase in discrimination against girl children; sexual abuse and other forms of violence against children; the large numbers of domestic and intercountry adoptions; and the growing incidence of pregnancy among adolescent girls. Accordingly, the Committee issued a series of suggestions and recommendations aimed at helping Costa Rica overcome its shortcomings in these areas.

15. We may note at this point that the Committee's recommendations were very well received by the Calderón Fournier Administration and subsequent Administrations (Rodríguez Echeverría, 1998-2002, Pacheco de la Espriella 2002-2006). At the same time, it must be admitted that while headway has been made in implementing some of them, notably with respect to reviewing and amending the relevant legislation and making provision for the welfare of pregnant adolescent girls, other aspects, as we shall see in due course, have not progressed beyond the consensus-seeking stage, especially with respect to the importance of sustaining social investment with optimal efficiency and equity, and applying effective measures to eliminate sexual abuse and other forms of violence against children and adolescents.

16. The second report, for its part, was unfortunately submitted late, for a number of reasons known to the Committee<sup>2</sup>. Furthermore, it did not follow the guidelines for periodic reports established by the Committee, with the result that it did not sufficiently cover important areas of the Convention, such as general principles, civil rights and freedoms, and family environment and alternative care, as the Committee pointed out in its concluding observations.

17. After consideration of the report, the Committee expressed a number of concerns and presented recommendations aimed at addressing them. Prominent among the latter were that Costa Rica should continue taking effective measures to carry out the necessary institutional reform to guarantee the full implementation of the Children and Adolescents Code; take effective measures to guarantee broader representation of all actors involved in the implementation of the Convention; review and update its data collection system as an essential prerequisite for the design of national policies in the area of children's rights; undertake

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<sup>1</sup> Concluding Observations of the Committee on the Rights of the Child: Costa Rica. 18/10/93. CRC/C/15/Add.11. (Concluding Observations/Comments)

<sup>2</sup> Concluding Observations of the Committee on the Rights of the Child: Costa Rica. 24/02/2000. CRC/C/15/Add.117. (Concluding Observations/Comments)

systematic education and training programmes on the provisions of the Convention for all professional groups working for and with children; allocate the necessary budgetary resources, especially for the protection of children belonging to vulnerable and marginalized groups; increase measures to reduce socio-economic and regional disparities and to prevent discrimination; ensure the implementation of the participatory rights of children, especially their rights to participate in the family and at school; prohibit the use of corporal punishment in the home, in schools and other institutions, including the penal system; include a provision in its domestic legislation prohibiting children from being subjected to torture and establishing appropriate sanctions against the perpetrators of torture; and bring its legislation on adoption into line with the requirements of the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption.

18. The Committee also reiterated in its concluding observations that Costa Rica should take effective measures to prevent and combat child abuse, including educational programmes aimed at altering traditional attitudes; prevent teenage pregnancies; develop early identification programmes to prevent or mitigate disabilities; strengthen its educational policies in order to reduce persisting disparities; take effective measures to protect children belonging to ethnic minority groups; ratify ILO Convention No. 182; undertake studies with a view to strengthening policies aimed at preventing the sexual exploitation of children and rehabilitate children who had been victims of such exploitation; improve its juvenile justice system; and, lastly, disseminate the second periodic report and the supplementary replies submitted by Costa Rica as widely as possible among the public at large.

19. The present report describes how those recommendations have been followed up, in accordance with the presentation format for periodic reports as laid down in the document entitled "Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties to the International Human Rights Treaties" (HRI/GEN/2/Rev.1/9 May 2001, pp. 52-101). The recommendations adopted by the Committee on the Rights of the Child at its thirtieth session have also been taken into consideration, especially as regards the need for States parties to submit concise, analytic periodic reports that focus on fundamental implementation issues.

20. In accordance with these instructions, the full texts of the most relevant statutory instruments that Costa Rica has enacted since 1997, together with other reports on children and adolescents that serve to supplement the present report, are appended hereto as annexes.

### **III. GENERAL ASPECTS**

21. The instructions found in the Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties to the International Human Rights Treaties specify that the first part of the report should provide information on the country's population, political structure, general framework of standards for the protection and promotion of human rights, and information and publicity. In compliance with those instructions, some of Costa Rica's leading social and economic indicators are presented, very briefly for the most part, in the following pages, by way of portraying the country's situation as it has been in recent years.

22. As regards Costa Rica's political structure and general framework of standards for the protection and promotion of human rights, and having regard to the final recommendation of

the Committee on the Rights of the Child, we refer the reader to the report submitted by the Chancellery of Costa Rica in 1997 and 2000, which contains full details of these matters.

### **Population characteristics and other social and economic indicators**

23. The ninth national census, conducted in June 2000, indicates that as of that time Costa Rica had a total of 3 810 179 inhabitants. The annual population growth rate was 2.3 % between 1973 and 1984 and rose slightly, to 2.8 %, between 1984 and 2000. In view of the fact that during the latter period fertility continued to decline while the overall death rate remained low and stable, this small upward shift in the historical trend displayed by the country's population growth rate may reasonably be attributed to an increase in immigration during the period in question.

24. Consistently with these findings, the number of persons born abroad and living in Costa Rica totals 296 461, a figure that represents 7.8 % of the country's total population, the highest percentage officially recorded in the past 50 years. Most (88 %) of this immigrant population has come from five countries: Nicaragua, Panama, the United States, El Salvador and Colombia. Its numbers are visibly increasing as a result of the unrecorded immigrants who enter the country daily at unguarded points on the country's borders.

25. A breakdown by sex shows that 1.902.614 Costa Ricans are men and 1.907.565 women. As regards the country's age structure, the 2000 census tallied 1 508 416 minors, including 587 780 children under the age of six, 423 796 between the ages of 6 and 11, and 496 840 between the ages of 12 and 17.

26. As regards population density, the most recent census indicates 75 inhabitants per square kilometre. This is an average value that conceals substantial regional differences. A breakdown between urban and rural areas reveals that in 2000, 59 % of the total population (2 218 359 persons) lived in cities, indicating that the country's urban population grew by 3.8 % during the period 1984-2000.

27. The literacy rate was 95.2 %, with virtually no disparity between men and women. This represents an 2.1 % increase since the 1984 census. But these are figures for the country as a whole; a canton-by-canton breakdown reveals that 11 of the country's cantons had illiteracy rates of over 10 %.

28. School enrolment for the 5-to-19 age group was 57.8 % in 2000, up from 43.6 % in 1984. A breakdown by urban and rural areas reveals that 62.6 % of all city-dwellers in that age group went to school regularly during that period, whereas the corresponding figure for rural areas was 51.2 %. A breakdown by age group shows that for the 5-6 age group, school enrolment increased from 38 % to 64.6 % between 1984 and 2000. For the 7-12 age group, i.e., in the main, the primary-school years, the enrolment rate rose from 91.4 % in 1984 to 95.7 % in 2000, while for the 13-19 age group, the corresponding figures were 41.2 % and 61.3 %.

29. At the preschool level, the net enrolment rate went from 75.7 % in 1997 to 81.6 % in 2000; for the first, second and third cycles, an increase from 81.5 % to 82 % was recorded, while for specialized education, enrolment in 2000 was 33.6 %, up from 30.4 % in 1997. As will be seen, these are very small increases, indicating that Costa Rica still has some way to go before universal access to the right to education will be a reality. In 2000, 81.5 % of all children in the 6-17 age group attended school on a full-time basis, up from 79.8 % in 1997. Here



again, there was a substantial difference between urban and rural areas: the figure for city children was 10 % higher than the corresponding figure for children living in rural areas.

30. According to the ninth census, in the year 2000, one child in five did not have access to basic general education, and the situation was a good deal worse for specialized education, with two young people out of three not in the system. In an age when knowledge is seen as one of the most important keys to development, this inability to persuade young people to remain in school at the secondary level represents a bottleneck and indicates that the rights of children and adolescents are not being fully implemented.

31. As the eighth State of the Nation report (2002) notes, “The Ministry of Public Education does not possess the necessary resources to upgrade the quality of educational services. Efforts have been made to improve educational quality in the areas of curriculum overhaul, teacher training and professional development, the expansion of the academic cycle, and the implementation of computer training and second language programmes”<sup>3</sup>.

32. The 2000 census shows that substantial progress was made in the area of social development. Particularly noteworthy results were achieved with respect to the infant mortality rate, which reached an all-time low at 10.2 per 1000 live births. This is a national accomplishment that reflects the determined effort that has gone into the health care sector in recent years. In part, this decline in the infant mortality rate was the result of lower mortality from infectious diseases, especially acute intestinal and respiratory infections. However, while the overall rate is low, there are indications of different rates for different parts of the country. For example, 20 % of all births occur in cantons characterized by infant mortality rates that are higher than the rate recorded in 1995, i.e. 13.2 per 1000 live births.

33. Similarly, life expectancy in Costa Rica is at its highest level ever, with an average of 77.4 years for the population as a whole, 80.2 years for women, and 76.8 years for men.

34. The crude birth rate declined slightly, from 22.5 in 1997 to 21.4 in 2000. Most births (96.2 %) now take place in hospitals. One serious cause for concern in this connection is an increase in the birth rate for girls under the age of 15, which increased from 360 in 1990 to 611 in 2000, while births among women in the 15-19 age group also increased, from 12 578 in 1990 to 15 999 in 2000. Some irregularity was observable in the behaviour of the maternal mortality rate, which declined from 3.7 per 10 000 live births in 1997 to 1.6 in 1998, rose slightly to 1.9 in 1999, and then increased steeply to 3.6 during the year 2000. This situation is a source of considerable concern for health sector authorities.

35. Data from National Children’s Hospital reports indicate that in 1997, 268 children were victims of physical, sexual, passive or unspecified forms of violence against children. No data are available for 1998, but data for 1999 show an increase to a total of 498 cases, followed by a slight decline in 2000, with 302 cases. In 2002, the NCH’s Battered Children’s Committee dealt with 331 cases, of which 33 % were referred to the National Children’s Trust (PANI). PANI, for its part, dealt with 666 cases of physical abuse, 2 828 of emotional abuse, 955 of sexual abuse by someone other than a family member, and 1 386 case of sexual abuse by a family member.

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<sup>3</sup> State of the Nation, Eighth Report, October 2002, p. 133.

36. As regards social investment by the public sector, figures for 1999 show a real increase over the previous year, at 6.8 % overall and 4.4 % on a per capita basis. Social investment has thus continued to grow, albeit at a slower rate than during the 1996-1998 period. Social investment as a percentage of GDP and consolidated public-sector spending was 40.8 % in 1999, up from 17.4 % during the preceding period. On a sector-by-sector basis, increases were recorded for all sectors except housing, for which spending remained unchanged. Real social investment per capita, in 1999 colones, increased from 167 017 in 1997 to 19 569 in 2000.

37. Turning to social integration, we find that the movement of indicators on telephones, access to electricity and social security coverage reveals positive results both in material terms and in terms of access to services. As regards opportunities for integration and social mobility, the 2000 data provide various indications: a recovery in investment in residential housing, after the decline observed in the previous year, an upward trend in the school population with access to educational computer equipment, and a larger segment of the population with access to basic comprehensive health care teams (EBAIS).

38. These positive trends stand in striking contrast to the behaviour of some income and poverty indicators. Economic growth was slower in that year: GDP grew by only 1.7 % in 2000, down from 8.3 % in 1999, and GDP per capita also declined slightly.

39. In this context, disposable national income and family consumer spending also declined in per capita terms, as did mean family income and real minimum wages, despite a small increase in employment, with unemployment dipping from 6 % to 5.2 %.

40. Over the medium term, it may fairly be said that the incidence of poverty has been stable since 1994, affecting approximately 20 % of all households with 23 % of the country's population, despite strong economic growth in some years. Of families living in extreme poverty, 37 % were headed by women. In general terms, 24.8 % of all Costa Rican households were headed by women in 2001, up from 21.4 % in 1997. Statistics show that the greatest increases in poverty have occurred among children and adolescents under the age of 18. According to available data for the year 2000, approximately 353 000 minors were living under conditions of poverty in that year, including 235 000 who were living in families that did not meet their basic needs and 118 000 who were living in conditions of extreme poverty. It is apparent from these figures that despite the allocation of resources to fund anti-poverty programmes and such poverty alleviation initiatives as the Solidarity Triangle and the New Life Plan launched by the Pacheco de la Espriella Government, more effective strategies are still needed.

41. With respect to the economy, the State of the Nation report referred to earlier notes a number of areas presenting cause for concern. For one thing, the economy grew much more slowly in 2000 than it had done in the previous year. In fact, economic growth in 2000 was below the average attained during the period 1991-1999: GDP grew at a rate of only 1.7 % in real terms, while gross national disposable income declined.

42. Another disturbing point is that gross fixed capital formation contracted for the second consecutive year, this time by 3.2 %. This tends to reduce the economy's production capacity, and consequently has a negative impact on future prospects.

43. A third reason for concern is that the country's trade balance recorded a surplus equal to 1.5 % of GDP, compared to a 6.3 % in the previous year. The decline was particularly

pronounced in trade in goods, which went from a 3.9 % surplus in 1999 to a 1.5 % deficit in 2000.

44. None the less, there were some positive signs as well. Unemployment, for example, declined by four-fifths of a percentage point to 5.2 %, a highly significant result in the light of the country's reduced economic growth rate. Despite the low economic growth rate and the deterioration in the trade balance, public debt increased hardly at all, growing from 54.4 % of GDP to 54.6 %, while inflation was held to very nearly the same rate as in the previous year, i.e. slightly above 10 %.

45. These data are very general, but it is clear that despite some progress (the appointment of a Minister for Child and Adolescent Welfare, in the person of the Executive President of the National Children's Trust, for example, has paved the way for integral participation in decision-making at the highest levels of government), we cannot yet say that all Costa Rican children and adolescents enjoy the full exercise of their rights. In the perceptive words of the third Report on the State of Child and Adolescent Rights, one of the main challenges facing the country is how best to strengthen its efforts to address inequities and disparities arising from the discriminatory access to social resources that affects so many people, to the point that other cultural aspects are now feeling the impact as well.

46. Costa Rica has unquestionably made major strides in the protection and promotion of human rights, as is apparent from the far-reaching legal reform process that has been instituted, especially during the 1990s, with its strong emphasis on recognition of the rights of women, children and adolescents. At the same time, it has become apparent that that reform has its limitations, in the sense that legislative change is not sufficient in itself: it must be accompanied by institutional change, changes in attitude, and a focus on human development in national planning, which in turn must be backed by the allocation of adequate resources if it is to be effective.

#### **IV. ACTION TAKEN IN RESPONSE TO THE PRINCIPAL SUBJECTS OF CONCERN AND RECOMMENDATIONS OF THE COMMITTEE AFTER CONSIDERATION OF THE SECOND REPORT**

##### **A. General measures of implementation**

##### **1. Reform measures**

###### **Institutional reform measures**

47. Over the past decade, Costa Rica has undertaken a growing commitment to the protection and promotion of the rights of children and adolescents. Actions in that connection have included the creation of the post of Minister of Child and Adolescent Welfare, the Pacheco de la Espriella Government's official designation of the welfare of children as a national priority, and coordinated action by government bodies, non-governmental organizations (NGOs) and international cooperation agencies in various areas with a bearing on policy development, planning, project execution and the enactment of new legislation that is consistent with the guiding principles derived from the Convention on the Rights of the Child.

48. In response to the subjects of concern formulated by the Committee with respect to the need for Costa Rica to take effective measures to carry out institutional reform to guarantee the

full implementation of the Children and Adolescents Code, we may note four key measures that have been taken in recent years.

***System for the Comprehensive Protection of Children and Adolescents***

49. As the Committee noted, the Children and Adolescents Code came into force in January 1998. Accordingly, it is appropriate to present at this point a brief summary of the main actions undertaken during the term of the first Council on Children and Adolescents, which since its inception has been instrumental in bringing about important advances in such matters as overhauling national legal standards to bring them into line with international legal instruments in the field of children's rights and designing and implementing public policy, administrative measures, programmes and budget allocations that are enabling Costa Rica to make progress in the task of protecting and promoting the human rights of minors.

50. On 9 September 1998, the President of the Republic, Dr. Miguel Ángel Rodríguez, acting under the Children and Adolescents Code, appointed and swore in the members of this important Council. This was followed by the establishment of the Council's Technical Secretariat, which comprises a body of technical advisors and representatives from governmental institutions, civil society organizations, employers' associations and trade unions.

51. With the inauguration of the Council, the System for the Comprehensive Protection of Children and Adolescents became operational as a coordinating body in the area of the formulation and articulation of public policy. Its mandate is to ensure that every Costa Rican government department and agency promotes and safeguards the rights of children and adolescents in accordance with the role assigned to it under the Code. To supplement the Council's work at the local level, 39 Children and Adolescents Protection Boards and 50 Tutelary Committees have been set up throughout the country.

52. During this process, the National Council on Children and Adolescents has structured its Technical Secretariat in such a way as to ensure that its intersectoral technical resources are systematically coordinated within an institutional framework of four action units: (a) Planning, Programming and Project Development; (b) Communication and Social Mobilization; (c) Systematization, Evaluation and Follow-up; and (d) National Agenda for Children and Adolescents: Coordination and Operative Monitoring.

53. One of the main actions undertaken by the Council, at the instance of the non-governmental sector, has been the drafting of a National Agenda for Children and Adolescents, 2000-2010, which has now been converted into a national pact with specific aims and programme orientations to guide the country through the present decade.

54. The Agenda's foundation is twofold. In the first place, children and adolescents themselves were invited, through a nation-wide survey, to express their main concerns and state which of their rights they felt were most commonly violated. In the second place, a series of consultations were held with the aim of reaching a consensus among all actors in Costa Rica's national life on a formal commitment to work for the establishment of a new social ethic based on unqualified respect for human rights, and the rights of children in particular. The outcome has been that matters relating to children and the family have been able to occupy a prominent place in the country's political agenda.

55. The National Agenda for Children and Adolescents, considered as a platform for action and a means of giving material form to intersectoral efforts, thus constitutes a national commitment and a scenario for a coordinated, dedicated effort to promote the principle of the best interests of children and adolescents, one that involves all local and national organizations and international cooperation agencies and is aimed at the creation of opportunities for all children and adolescents to pursue their full development in accordance with their rights.

56. Another fundamental aspect derived from the work of the Council has been the establishment of special standing work committees, such as the National Steering Committee for the Prevention and Progressive Elimination of Child Labour and the Protection of Juvenile Workers; the National Commission for Prevention and Treatment of the Abuse of Children and Adolescents; the Committee for Comprehensive Childhood Development and the formulation of policies for children in that age group; the Commission on the Development of Policies Aimed at Promoting Responsible Paternity; and the National Commission to Combat Commercial Sexual Exploitation of Children and Adolescents.

57. During the past Administration (1998-2002), one component of the national strategy for overcoming the manifold causes of poverty was the National Solidarity Plan, which included a series of practical aims oriented essentially toward children and adolescents and accompanied by adequate funding and human resources. It is particularly noteworthy that for the first time, the issue of comprehensive childhood development was addressed by means of expanded coverage, grants, and training for fathers, mothers and caregivers through outreach campaigns and the preparation of printed materials for nation-wide distribution. In addition, the Plan strongly emphasized the development of strategies designed to ensure that resources, services and attention would reach children and adolescents in situations of exclusion and poverty.

58. Dissemination of the principles of the Convention and the Code, accompanied by a sustained awareness enhancement effort, has borne fruit in that as of 2003, the annual operating plans of governmental institutions represented on the Council now make provision for sectoral action with a direct bearing on children and adolescents.

59. In previous years, while professionals and technical experts were undoubtedly aware to some extent that those plans ought to reflect the priorities and rights of children and adolescents, it was not feasible for them to do so. None the less, many workshops, meetings and events were held to enhance participants' awareness and develop their competence in the area of the meaning and implications of children's rights and the nation's commitments in that connection. These were highly useful initiatives, and while progress was perhaps not quite so rapid as might have been wished, they did produce an impact which, it is hoped, will be consolidated under the present Administration.

60. Both the Technical Secretariat of the National Council on Children and Adolescents and the Council's Technical Advisory Committee, supported as they are at all times by various institutions, notably the National Children's Trust, the Ministry of Labour and Social Security, the Joint Social Assistance Institute and others, have been instrumental in this effort.

61. Similarly, the National Development Plan 2002-2006 is the first in the country's history to include as one of its major themes "The Creation and Development of Human Capacities", which has children and adolescents among its subject areas, with a full array of main policy orientations, strategic actions, objectives, geographic coverage, target population, indicators and aims, with provision for follow-up on institutional implementation, identification of the

executing departments and agencies, and budget estimates with indication of funding sources. This is an achievement that would not have been possible in the absence of the preliminary work done in previous years, including internal clarification of the importance of rights-centred programming, planning, resource allocation and policy formulation.

62. This process has relied throughout on the technical assistance made available by the specialized agencies of the United Nations system, the direct support of the President of the Republic of that time, Dr. Miguel Ángel Rodríguez, and the dedication of the distinguished First Lady of the Republic, Ms. Lorena Clare de Rodríguez, especially with respect to the formulation and implementation of a number of programmes aimed at the comprehensive development of adolescents.

63. Another noteworthy aspect, and one that will require very close monitoring, is to be found in the plan entitled “New Life: overcoming poverty and developing human capacities, 2002-2006”. One of the three major components of that plan is concerned essentially with the strengthening of ongoing action on behalf of children and adolescents, with particular emphasis on the integrated development of children under the age of five. The plan calls for more high-quality schools in pockets of poverty, accompanied by improvements to the school dinners system, scholarships, school transport, school vouchers, and health programmes aimed primarily at the early detection of disabilities that may adversely affect learning.

64. The same plan includes specific aims in the field of primary and secondary education; the promotion and development of opportunities in the areas of the arts, recreation and sports, and also in the area of housing, with sections on habitat upgrading, health promotion and disease prevention; improved employability indicators for young persons and adults of both sexes; and the implementation of a vigorous job creation policy. In addition, the plan includes a commitment to review and overhaul the Intersectoral Plan to Combat Commercial Sexual Exploitation and to implement by 2003, when, it is hoped, the necessary resources will at last be forthcoming.

#### ***Reform of the National Children’s Trust (PANI)***

65. One noteworthy aspect of institutional reform has been the participation of a panel of prominent persons designated by the Rodríguez Echeverría Government to collaborate in the process. Another has been the provision of technical assistance, beginning in the year 2000, by the United Nations Development Programme (UNDP) and the United Nations Children’s Fund (UNICEF), the outcome of which has been a comprehensive diagnostic analysis of PANI and recommendations for its modernization. The analysis and recommendations were prepared following a broadly based consultation process involving PANI staff members, the Council on Children and Adolescents, and various groups and sectors that work directly with children and adolescents.

66. The paradigm shifts that have occurred in matters relating to children and adolescents as a result of the legislative changes of recent years have made this institution’s work much more complex. Accordingly, it is currently in the process of adjusting to the new legislative environment and current social challenges. Weaknesses that were identified in the course of the diagnostic analysis process include the following:

- (a) PANI has been slow to adopt a focus on the comprehensive protection of children and adolescents;

- (b) PANI's political leadership has failed to exercise the proactive oversight role conferred upon it by its 1996 Charter;
  - (c) Inadequate institutional management as a result of a structure that does not mesh perfectly with the legal setting;
  - (d) Human resources that are insufficient to meet demand and are not adequately trained;
  - (e) A centralized management focus and lack of coordination with recently established regional bodies and their local offices;
  - (f) Obsolete system of information on target population groups;
  - (g) Inadequate capacity to analyse the situations of children, adolescents and families;
  - (h) Inadequate financial resources.
67. In the light of this diagnosis, the reform process must seek to:
- (a) Redefine PANI's mission, vision and strategic objectives;
  - (b) Reformulate the principles governing the institution's technical and administrative focus;
  - (c) Propose conceptual and structural changes that will result in the development of an efficient, effective institution from an intelligent organization standpoint;
  - (d) Develop a master training plan and a continuous information system designed to ensure that the rights of the target population are respected;
  - (e) Develop an institutional reform plan covering the short, medium and long terms that will establish the critical path for the next four years.

68. The proposed reform package is particularly noteworthy for its development of a series of innovations in the area of information systems and quality audits for PANI's Protection and Regionalization Alternatives. These features show that the Executive Board and the Executive President are determined to activate and lead a process of change, one that is also supported by most of the institution's technical and professional staff members. The proposed reform package has been submitted to the current Administration for consideration and resource allocation.

#### ***Establishment of the Social Council***

69. Another fundamental aspect that should be noted at this point is a very recent proposal to establish a Social Council with the same rank as the existing Budget Authority. So far from being a mere whim or decision on the part of an Administration, the proposal is a response to a long process that has been under way for several years. That process was prompted essentially by the fact that to date there has been no comprehensive vision of social policy in Costa Rica, a situation that has resulted in the emergence of scattered, isolated initiatives that have had little impact. Consequently, the founding of the National Children's Trust with overall jurisdiction

in the field of the welfare of children and adolescents and the founding of the Joint Social Assistance Institute with similar jurisdiction in the field of the effort to eliminate poverty are particularly significant developments.

70. The “New Life” plan referred to above makes provision for, among other things, programme reorganization and social investment leading to a new social pact that will enable the country to restructure itself on a basis of equity; service quality audits; the use of information technologies as basic tools for evaluating the processes and impact of social programmes and social management initiatives undertaken by the various executing institutions and agencies with responsibility for public funds allocated for the social sector; and the formulation of an inclusive economic policy, under the coordination and intersectoral direction of the Social Council. The Council’s substantive functions will include the identification of policy outlines with a long-term unifying vision that will ensure the integrity and integration of policies relating to children and adolescents from a comprehensive standpoint.

71. Another highly significant development was the enactment of Law No. 8131 respecting the Financial Administration of the Republic and Public Budgets of 18 September 2001. Under article 4 of that law, public budgets are stated to be “subject to the National Development Plan, as the authoritative framework for institutional operative plans, having regard in each case to the appropriate level of autonomy, in accordance with the applicable legal and constitutional provisions.” Under this new law, all draft policies, strategies, aims, institutional responsibilities, programmes and services and the budget resources allocated for them must, first, be consistent with the National Development Plan and, second, be binding on the entire public sector, i.e. institutions’ annual plans must include all matters in their respective fields of competence that are laid down in the National Development Plan. As we have seen, the Plan, for the first time in the country’s history, includes a substantial component dealing with the welfare of children and adolescents.

72. Moreover, the law establishes a broad framework for the rationalization and in-depth pursuit of budget reform on the basis of up-to-date principles guaranteeing modern public management that is centred on the evaluation of results, satisfaction of the user population, and accountability on the part of officials with respect both to the use of resources and to the results obtained. Accordingly, all public institutions will have to follow the example of the health care sector, which has designed and adopted a cost accounting system; the system is now in use at the Costa Rican Social Security Fund (CCSS). In this way, the country’s institutions will progressively modernize and become innovative in their planning, programming and budget preparation practices.

#### ***Formulation of public policies with a rights approach***

73. A fourth factor with a bearing on the institutional reform currently under way, and one that is of vital significance, is the outcome of the systematic joint consideration effort, involving government institutions and NGOs, that is being devoted to the task of heightening awareness and fostering understanding of the meaning of a rights-based approach to planning, budgeting and policy formulation. As we have seen, this has been a slow process, and much work remains to be done. However, we may affirm with satisfaction that one of its main accomplishments to date has been to create realization of the fact that responsibility for children’s rights does not rest with PANI exclusively, in its capacity as the lead institution in the area of the welfare of children, adolescents and families, but is part of the competence of,



and is incumbent upon, all public-sector institutions, including local governments, and society as a whole. It will not be feasible, for example, to eradicate child labour and regulate adolescent employment unless the business community understands and accepts the reality of children's and adolescents' rights and its own responsibility for safeguarding those rights.

74. A noteworthy instance of progress in this area is the drafting of a proposed public policy action whereby family violence against minors and the sexual abuse of minors by persons other than family members would be included within the framework of the National System for the Treatment and Prevention of Domestic Violence (PLANOVI)<sup>4</sup>, which was the outcome of a broadly-based consultation process involving representatives of public and private organizations concerned with the issue. The proposal relies on a number of international instruments: the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women.

75. Corresponding to these instruments at the national level, we have the Children and Adolescents Code, the Law on Promotion of the Social Equality of Women, the Law on Sexual Harassment in the Workplace and Educational Institutions, the Law against Domestic Violence, the Equal Opportunity for Disabled Persons Act, the Law on the Sexual Exploitation of Minors and the Responsible Paternity Act, as well as the commitments that Costa Rica has undertaken at such international fora as the World Conference on Human Rights, the Beijing Declaration and Platform for Action, Beijing + 5, Cairo and Cairo + 5, to name only those.

76. This proposal, adopting as it does a rights focus, would involve the actuation, simultaneous in some cases and successive in others, of individual and collective processes leading to the progressive determination of institutional practices that would serve to give effect to children's and adolescents' rights to support, protection and participation and the scope of those practices. It would also involve thinking about the overriding private and fully discretionary nature of traditional family or guardianship relations and appropriate forms of interaction among children, between children and adults, and between children and the world of institutions.

77. The proposal emphasizes that the primary concern of any form of action by an institution or social entity that affects or might affect children and adolescents must be the best interests of the children or adolescents concerned, and thus challenges the traditional view that the interests of the family group outweigh those of its individual members. The prevalence of that view has tended to inhibit the activation of external social monitoring mechanisms, formal and informal, that might otherwise have been able to prevent or terminate situations of abuse on the grounds that the authorities should not intervene in what is deemed to be a private family matter.

78. A second example of coordinated work with a rights focus, one that also started from recognition of the principle of the best interests of the child, has been a proposal for a draft policy and practical institutional action to promote responsible paternity, pursuant to the above-mentioned Responsible Paternity Act.

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<sup>4</sup> Proposed public policy action: the inclusion within the framework of PLANOVI of family violence against minors and the sexual abuse of minors by persons other than family members. San José, Costa Rica, April 2002. Proposed guidelines for priority action, 2002-2004.

79. This proposed public policy action is shaped by a number of guiding principles: the best interests of the child, universality and indivisibility, the status of children and adolescents as citizens, support for families, respect for diversity, informed choice, cooperation among adolescents, young people and adults, innovative, sustainable focus, and a confidential and accessible approach<sup>5</sup>.

80. This national policy is the outcome of follow-up action in fulfilment of institutional commitments by the National Council on Children and Adolescents, as represented by its Specific Working Commission, the Women's Rights Division of the Office of the Ombudsman, and the National Children's Trust.

### **Reform measures and overhaul of legislation**

81. Successive Administrations have expressed concern at the fragmented and scattered nature of legislation serving to implement the Convention. Mindful of the recommendations of the Committee on the Rights of the Child, they have identified a series of lacunae in this area, and accordingly have drafted a number of laws which have been passed by the Legislative Assembly. Some of the most noteworthy of these laws enacted during the period 1997-2002 are outlined below. A feature common to them all is that they seek to eliminate standards which are incompatible with the principles of the Convention, or else to bring Costa Rica's legislation into line with the new paradigm of comprehensive protection for children and adolescents.

82. In accordance with the remarks made in paragraph 12 above concerning articles 4 and 42 of the Convention and paragraph 6 of its article 44, we present in the following pages a brief list of new national legislation containing provisions that serve to bring Costa Rican law more closely into line with the terms of the Convention, supplementing other legislation along similar lines that was referred to in the two previous reports. The full texts of these statutory instruments will be found in annex 1.

- (1) Law No. 7476, Regulations for the prevention, investigation and punishment of sexual harassment within the Ministry of Public Education, July 1997, bringing the Law on Sexual Harassment in the Workplace and Educational Institutions (Law No. 7476 of March 1995) into force for that sector.
- (2) Law No. 7735, the Adolescent Mothers Protection Act, which regulates all policies, actions and prevention and support programmes for teenage mothers that are delivered by governmental institutions. Various assistance programmes for teenage mothers and teenage pregnancy prevention programmes have been initiated under this law, which has been in force since January 1998; examples include the programmes entitled "Building Opportunities" and "Young Love". One noteworthy outcome of the latter programme has been the development of a policy on education about human sexuality, which has been approved by the Superior Council on Education and is binding on the entire education sector, having regard to the degree of development of the children and adolescents at various levels. These programmes have been backed by a Technical Secretariat located within the

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<sup>5</sup> Proposed draft policy on the promotion of responsible paternity, National Women's Institute, National Commission on Responsible Paternity, San José, Costa Rica, 2001.

National Women's Institute, and have been funded mainly by the Joint Social Assistance Institute. Details of the achievements and coverage of these programmes will be found further on in this report.

- (3) Law No. 7739 making provision for adoption of the Children and Adolescents Code, which came into force in January 1998. The Code is based on principles derived from the Convention on the Rights of the Child. Significant outcomes of the adoption of the Code were that the National Council on Children and Adolescents became operational, its Technical Secretariat was established, and Children and Adolescents Protection Boards were set up throughout the country. These developments were discussed in detail in Costa Rica's amplification of points in its second periodic report in reply to the list of issues raised by the Committee. A fuller account of the main achievements of recent years will be found in the pages below.
- (4) Law No. 7430 on the Promotion of Breastfeeding, the objective of which is to promote safe, adequate nutrition for infants through family education and protection for breastfeeding. This law came into force on 21 October 1999.
- (5) Law No. 7576, the Juvenile Justice Act, which applies in cases involving persons between the ages of 12 and 17 who are charged with having committed acts described as criminal offences in the Criminal Code or special laws. The Act has been in force since 30 April 1996.
- (6) Law No. 7600, the Equal Opportunity for Disabled Persons Act, is a statute that also makes a series of amendments to other laws and codes to bring them into line with the principles and rights of disabled persons. This law came into force on 29 May 1996.
- (7) Law No. 76758, making provision for the establishment of a national scholarship fund for economically disadvantaged children and young people to enable them to pursue their education at every level, in Costa Rica or abroad. This law came into force on 27 February 1997.
- (8) Law No. 7771 on HIV/AIDS, the objectives of which are education, health promotion, prevention, diagnosis, epidemic alert, treatment and research in the area of the human immunodeficiency virus, or HIV, and the acquired immunodeficiency syndrome, or AIDS. The law is also concerned with the rights and responsibilities of AIDS carriers and other Costa Ricans. This law came into force on 20 May 1998.
- (9) Law No. 7899, the Law Respecting the Commercial Sexual Exploitation of Minors, which includes amendments to articles 156-174 of the Criminal Code of the Republic of Costa Rica, Law No. 4573 of 4 May 1970. Under the Criminal Code, sexual relations with minors under the age of 18, cases of aggravated corruption, procuring, hoodlumism, trade in persons, the manufacture or production of pornography and other forms of sexual abuse are criminal offences subject to prosecution. Law No. 7899 came into force in August 1999. It was exhaustively analysed in 2001, two years after coming into force. In the light of accumulated experience and lessons learned from its enforcement, it appeared that a number of

its provisions should be amended. Amended versions of the provisions in question are currently before the legislature awaiting enactment.

- (10) Law No. 7934, making provision for adoption of the Inter-American Convention to Prevent and Punish Torture. This law came into force in November 1999. It implements one of the recommendations of the Committee on the Rights of the Child, relating to the subject of torture.
- (11) Law No. 7972, making provision for the imposition of taxes on liquors, beers and cigarettes to fund a comprehensive protection plan for adults, children and adolescents at risk. This law came into force in January 2000.
- (12) Law No. 7999 on trafficking in minors, which makes provision for amendments to article 376 of the Criminal Code (law No. 4573). This law came into force on 1 June 2000.
- (13) Law No. 7948 of 1999, making provision for adoption of the Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities.
- (14) Law No. 8002, amending articles 161 and 162 of the Criminal Code to make the penalty for sexual abuse of a minor under the age of 18 a term of imprisonment of between four and ten years. This law, which came into force in June 2000, fills a number of lacunae that had been identified in its predecessor.
- (15) Law No. 8017, the Comprehensive Care Centres Act, making provision for the establishment and development of public, private and mixed comprehensive care centres for persons under the age of 12 and regulating their operation, in accordance with the Convention on the Rights of the Child and the Children and Adolescents Code. Under this law, a Technical Secretariat attached to the Ministry of Health has been established, and it has now issued a series of standards governing the operation of the various categories of centres providing care for their target groups, with a view to ensuring that in all cases the care provided is comprehensive and conforms to the principle of the best interests of the children concerned.
- (16) Law No. 8032, making provision for adoption of the Inter-American Convention on the International Return of Children, as approved by the Organization of American States. This law came into force on 10 November 2000.
- (17) Law No. 8101, the Responsible Paternity Act, which came into force in April 2001. The purpose of this law is to provide more effective protection for children and to encourage fathers to assume responsibility for the care and upbringing of their children jointly with mothers. The law is designed to implement the provision of the Convention on the Rights of the Child and the Children and Adolescents Code to the effect that “every child has their right to be know his or her parents, to grow and develop by their side, and to be cared for by them.”
- (18) Law No. 8111, the National Vaccination Act, the objective of which is to regulate the selection, acquisition and availability of vaccines throughout the country in order to enable the State to protect and promote the health of its population in

fulfilment of its obligations under the Constitution, the Health Act and the Children and Adolescents Code. This law came into force in July 2001.

- (19) Law No. 8122, making provision for adoption of the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. This law came into force in August 2001.
- (20) Law No. 8143, making provision for the addition of a second paragraph to article 174 of the Criminal Code under which the distribution by any means of pornographic or erotic material in which minors or images of minors appear is a criminal offence. This law came into force in November 2001.
- (21) Law No. 8071, making provision for adoption of the Inter-American Convention on International Trafficking in Children, as approved by the Organization of American States. This law came into force on 21 May 2001.
- (22) Law No. 8172 of 22 November 2001, making provision for Costa Rica's approval of the Optional Protocol to the Convention on the Rights of the Child dealing with the sale of children, child prostitution and child pornography.
- (23) Decree No. 30007-S. Regulations governing the operation and scope of Committees for Research on Battered Children, published in *La Gaceta* No. 235 of 6 December 2001.
- (24) Law No. 8178 authorizing the CRSC to donate exposed photographic plates, fixers and solid residues to the Association for Social and Human Development and other NGOs to fund home care and therapy for children who have been victims of sexual abuse. This law came into force in 2002.
- (25) Law No. 8183. Revision of article 5 of Law No. 7633 of 1996, making it unlawful to sell alcoholic beverages to persons under the age of 18. This law came into force in 2004.
- (26) Law No. 8184 making provision for the establishment of a trust for women living in poverty. This law came into force in 2002.
- (27) Law No. 8200 making provision for an amendment to Law No. 7425 respecting search and the seizure and examination of private documents and interception of communications. The amendment authorizes the interception of communications in the course of investigations of criminal offences involving the commercial sexual exploitation of minors or images of minors. This law came into force in January 2002.
- (28) Law No. 8237 regulating the entry of foreign minors into the country, where there are indications that they are at risk of being subjected to commercial sexual exploitation. The law makes provision for the revision of article 17 of the Children and Adolescents Code. It came into force in April 2002.
- (29) Law No. 8261, the Young Persons Act, which includes among its objectives the protection of young peoples' rights and safeguards. Under the Act, "young

persons” are individuals between the ages of 12 and 35. The Act came into force in May 2002.

- (30) Law No. 8272 making provision for the revision of article 7 of the Criminal Code and prescribing punishment for war crimes and crimes against humanity. This law came into force in May 2002.
- (31) Law No. 8283 making provision for the financing and development of equipment for the training of disabled students enrolled in the third and fourth cycles of regular education and the services of the third and fourth cycles of special education. This law came into force in August 2002.
- (32) Law No. 8195, making provision for the addition of International Tolerance Day to the school calendar.

83. However, as we have had occasion to note more than once, it is not enough to bring domestic legislation into line with the principles of the various international instruments that the country in question has ratified, inasmuch as that in itself does not ensure the adoption of effective, feasible enforcement mechanisms, whether for want of the necessary political will or because the State does not have adequate resources at its disposal. Accordingly, it is imperative for Costa Rica to pursue its efforts in this connection so that, as required under the Convention on the Rights of the Child, we can continue taking effective institutional reform measures to guarantee the full implementation of the commitments and mandates contained in these statutes.

## **2. Coordination and monitoring of the implementation of rights**

84. As noted earlier, one of the Committee’s recommendations was that Costa Rica should take effective measures to guarantee broader representation of all actors involved in the implementation of the Convention in the existing coordinating and monitoring mechanisms. Direct representation of this kind is a reality as far as the Government Council is concerned, through the presence of the Minister of Child and Adolescent Welfare, and the same applies to the National Council on Children and Adolescents and the National Agenda for Children and Adolescents. The result has been more extensive coordination and follow-up action, with more than 20 sectors and key actors in the country’s national life being represented. All of them are informed on a regular basis about successes and setbacks that have been identified in the implementation of the Convention, and they are also kept informed about other subjects and events with a direct bearing on the welfare of children and adolescents in which Costa Rica has participated.

85. As regards measures for the periodic assessment of progress toward implementation of the Convention at the national, regional and local levels, including the submission of periodic reports pursuant to Costa Rica’s international commitments and the submission of reports to the country’s legislature, it is relevant to note that under the Children and Adolescents Code, one of the duties of the Technical Secretariat of the National Council on Children and Adolescents is precisely to prepare an annual report on the country’s successes and setbacks in that area.

86. Aware as they are of the importance of reliable, objective and timely information, the University of Costa Rica and FLACSO, with support and technical assistance from UNICEF,

have joined forces, every year since 1999, to produce a Report on the State of Child and Adolescent Rights. The purpose of the report is to provide both governmental authorities and the public at large with an account of the country's advances, challenges and setbacks in that area in the course of the year. In addition, the Office of the Ombudsman issues a yearly report on the status of implementation of the Children and Adolescents Code.

87. The Report on the State of Child and Adolescent Rights is prepared under the coordination of the University of Costa Rica, but with input from the National Children's Trust and a series of other bodies, groups and professionals who are invited to contribute to particular chapters dealing with their respective fields of expertise. In the case of the follow-up reports produced by the National Agenda for Children and Adolescents, the civil society institutions that sit on the National Council on Children and Adolescents (CNNA) are invited to contribute by submitting their own reports on such matters as activities or actions undertaken with a view to attaining the aims of the Agenda, or offering comments and assessments of the Government's efforts in that connection.

### **Implementation mechanisms**

88. The issue of national, regional and local mechanisms serving to implement the Convention and to coordinate, monitor and follow up policies on children and adolescents was discussed in the supplementary document submitted in reply to the list of issues identified by the Committee in connection with Costa Rica's second periodic report<sup>6</sup>. As was there noted, Title IV of the Children and Adolescents Code, which has been in force since 1998, made provision for a comprehensive protection system. That provision was given effect by the establishment of the National Council on Children and Adolescents, the membership of which includes not only representatives of various government departments and agencies but also representatives from the world of business, the cooperative sector, trade unions and NGOs that are directly involved with monitoring implementation of the rights of this important population segment. It pursues its mandate through a Technical Secretariat, which is in charge of following up the Council's agreements. The technical aspects of the Secretariat's work are supported by a Technical Advisory Committee made up of high-level professionals from each of the organizations making up the Council's membership. Its mandate is laid down in its Statutes.

89. In order to enable the system to function at the level of individual cantons, the Code makes provision for the establishment and operation of Protection Boards with a mandate to oversee the consistency of canton-level policies and programmes and promote projects aimed at generating awareness of the importance of ensuring that children's rights are respected. A more dispersed form of institution is Tutelary Committees under the National Community Development Directorate (DINADECO). Fifty of these committees have been established to date, and the present Administration hopes to set up and consolidate 100 more between 2002 and 2006. This is a substantial number, of course, but it is still comparatively small in light of the fact that the country is subdivided geographically into 459 districts in all.

90. From the time the Code came into force to the present day, 39 Protection Boards have been established, and it is hoped that 18 more can be set up in the course of the coming four

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<sup>6</sup> List of issues to be taken up in connection with the consideration of the second periodic report of Costa Rica (CRC/C/65 Add.7). Reply by the Government of Costa Rica, 2000.

years. This will make a total of 57, with 24 remaining to be established in subsequent years so that there will be a Board for each of Costa Rica's 81 cantons.

91. As yet, admittedly, the comprehensive protection system has not functioned fully in accordance with its mandate under the Code. The reasons for this are many and varied. To mention only two that are of particular importance, in the first place, neither the provisions of the Code relating to the operation of the Protection Board nor those relating to the establishment of Tutelary Committees have been translated into practice in such a way as to enable those bodies to discharge their responsibilities with sufficient flexibility.

92. The second reason is essentially that the necessary economic resources have not been available. In a decision on the constitutional "single State payer" principle, Chamber IV<sup>7</sup> ruled that the provisions in statutory instruments for funding to implement the mandates conferred by them on various bodies are not binding on the Treasury. The Chamber's ruling requires the Treasury to manage the State's resources in accordance with available revenues, ensure that the fiscal deficit does not become unmanageable, and distribute budget resources on the basis of priorities and unavoidable fixed expenditures.

93. To be sure, this ruling by the Constitutional Chamber also stated that "social programmes in an advanced stage of preparation should not be left unimplemented" and that "a budget concerned exclusively with economic efficiency, with no social dimension, would concentrate wealth and give rise to social violence." Despite this, the Treasury has consistently cited the Chamber's ruling on the "single State payer" principle as grounds for refusing to make available to the Social Development and Family Allowance Directorate the moneys allocated to it. As a result, the Directorate in its turn has had to deny the National Children's Trust the resources for the establishment of the Children and Adolescents Fund for which provision is made in the Code, and this has meant that the Protection Boards and Tutelary Committees have been unable to shoulder all the responsibilities vested in them under the Code.

94. The competent authorities in this area, supported by the Office of the Ombudsman, regard this as an extremely sensitive aspect that is highly unfortunate. Accordingly, they have indicated that they are prepared to continue their efforts to have future budgets make provision for the resources required to enable institutions responsible for the rights of children and adolescents to perform their duties adequately.

### **Coordination**

95. As regards coordination among different levels, it must be acknowledged that while there has been a great deal of discussion about the mechanisms and procedures that should be established and systematically monitored, this is still an area that requires an understanding on the part of all civil servants as to what their responsibilities are. In many instances, coordination, communication and funding tasks have fallen essentially to the National Children's Trust, whereas in reality, responsibility for safeguarding children's rights and implementing policies adopted in that connection rests with the State, as represented by the various bodies represented on the National Council on Children and Adolescents.

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<sup>7</sup> The full text of this ruling by Chamber IV, which is binding on the public administration, will be found in annex 2. Resolution No. 2002-04884.



96. Moreover, a process that has been under way since the beginning of the 1990s has undermined the efforts of previous years in the matter of regionalization and regional planning under the coordination of the Ministry of National Planning and Economic Policy, and this in turn has weakened the processes of planning, intersectoral action and the preparation of regional and local development plans. This situation is, in part, an outcome of the planning and budget preparation procedures that are currently in use, and as a result all sectors except health care are now centralized in terms of their planning, execution and evaluation.

97. Another weakness in the matter of the establishment of procedures for the work of the Protection Boards and Committees seems to be rooted in the fact that, traditionally, people at the local or canton level have usually organized for such purposes as implementing infrastructure projects or developing practical solutions to problems relating to the production and creation of income-generating activities. Accordingly, the adoption of a rights approach is a task calling for a far-reaching process of sensitization and internalization of what such an approach really means, and that process must be based essentially on the promotion of a cultural change in the way the adult population conceives of and perceives children and adolescents as subjects of rights. For this purpose, actions must be designed and executed to enable the Boards and Committees to fulfil their function of safeguarding children's and adolescents' rights, both within the family and community setting and through the various programmes, services and initiatives delivered by government institutions and civil society organizations that work with children and young people.

98. In this connection, it is essential to take into consideration as well the Government of Costa Rica's very full reply to the Committee (see document CRC/C/15/Add.11, paragraph 7) on the need to strengthen coordination among the various official institutions concerned with implementation of the Convention, such as PANI, the Office of the Ombudsman, Infancia and the CNNA. Coordination among these bodies has, in fact, been growing steadily stronger, as may be seen from the annual reports that PANI submits to the Office of the Ombudsman and the analogous reports submitted by the other institutions represented on the Council concerning their monitoring of the status of the rights enshrined in the Children and Adolescents Code.

99. PANI, for example, uses its periodic reports to the Office of the Ombudsman to provide information about each of the articles calling for implementation action on its part, including trends in selected indicators, such as numbers of children entered in the civil register; cases involving deprivation of some attribute of identity that have been reported, dealt with and resolved in order to protect children's right to honour; cases involving intervention with various institutions in order to guarantee children's right to education; protection of children's right to remain with their families, and other rights.

100. Weaknesses identified in the above-mentioned report include in particular:

- Inadequately trained civil servants who are not familiar with the provisions governing entry in the Civil Register;
- Absence of information campaigns to explain the scope and implications of the concept of the right to honour, and the fact that children lack credibility in the eyes of the judiciary;
- The fact that the courts do not have adequate human resources to deal with various situations relating to the rights of children and adolescents;

- The fact that some criminal court judges, when confronted with situations in which children must be separated from their families, assume that the best way of protecting the children in question is through institutionalization;
- Inadequacy of the resources available to the institutions which, under the Code, are required to provide additional funding, together with insufficient awareness and recognition of this right on the part of the institutions concerned;
- Inadequacy of the available logistic, human and economic resources for the purpose of conducting ongoing inter-institutional follow-up and coordination aimed at enforcement of the prohibition on labour by children under the age of 15 and the return of children in that age-group to the education system, together with inadequate statistics on the numbers of children who are working in each of the country's cantons.

101. Gains in this area include a number of noteworthy achievements by the National Children's Trust. These may be summarized as follows:

- Closer coordination between PANI and regional Civil Registration offices for the purpose of safeguarding the right to identity.
- Realization by the communication media and the population in general of the importance of protecting the image and identity of children.
- A significant decline in the numbers of children separated from their families and a shorter average institutionalization time.
- More effective coordination with the education and health sectors in the form of clinics aimed at protecting the right of children to remain with their families.
- In some municipalities, preparations are under way for surveys that will yield information about the numbers and situations of working teenagers, modelled after the pioneering experiment along those lines that was conducted in the municipality of San José.
- Due process and a minor's right to be heard, to appear at his or her trial and to receive information directly are now guaranteed, as it is now understood that children and adolescents possess the means and knowledge to exercise their rights more effectively.
- More projects, and more ambitious projects, are being executed through the Protection Boards. In 2001, the Children and Adolescents Fund had a budget allocation of 53 million colones.

102. Not only have the contents of the Convention been widely disseminated, an ongoing systematic training and capacity-building process is under way for civil servants and also for society at large, in an effort to instil an understanding of what it really means to be implementing the Convention and other international instruments and to be enacting national legislation enshrining the human-rights principles that Costa Rica has ratified and adopted.

103. This effort, too, must continue and must be accompanied by, among other things, a new vision on the part of the university authorities, aimed at ensuring that the training of professionals of both sexes, especially lawyers, social workers, physicians and others who are directly involved with the delivery of care to children and adolescents, includes content that is relevant in that connection, and that they do not merely apply it in their institutional activities, but internalize it, make it an integral part of their personal lives, and apply it in all areas of their social relationships and activities. For that purpose, PANI has invited the country's public and private universities to develop working plans covering their research, outreach work and curricula.

### **Monitoring**

104. The National Children's Trust has developed a monitoring technique designed to track the functioning of the Protection Boards and Tutelary Committees and assess their work: PANI's various local offices submit quarterly reports, which are considered by the institution's Executive Board. These reports provide information on such matters as the name of the Board, the name of the project under review, project objectives, progress to date, outcomes, accomplishments, resources invested, implementation stage and the anticipated or actual impact.

105. During the period here considered, Protection Boards executed a total of 256 projects. Of these, 19 were aimed at the prevention of sexual abuse, 18 at the prevention of drug and alcohol abuse, 27 at the promotion of responsible paternity and maternity, 130 at dissemination and promotion of the rights of children and adolescents, five at prevention of the commercial sexual exploitation of children and adolescents, 13 at the prevention of domestic violence, 11 at encouragement for children and adolescents to stay in school, 28 at the elimination of child labour and the regulation of teenage labour, and five at training in mediation processes.

### **Numbers of projects and funding made available by the National Children's Trust to Children and Adolescents Protection Boards, by year**

<b>Year</b>	<b>Number of Boards</b>	<b>Number of projects</b>	<b>Percentage</b>	<b>Funding (colones)</b>
1998	25	31	14.29	14 780 590.00
1999	30	54	23.88	36 699 576.00
2000	33	63	29.03	29 256 111.00
2001	38	69	31.80	53 441 997.00
<b>Total</b>		<b>217</b>	<b>100.00</b>	<b>134 178 274.00</b>

106. Furthermore, PANI's Technical Secretariat for the institution's child protection activities has conducted a series of quality audits of the several care options, such as temporary residences (which received 1 438 children in 2001), day care (3 425 children) and foster homes (1 200 children). The Secretariat supervises some 62 protective residential facilities of various kinds, which administer 18 specialized programmes providing care in cases involving disabilities, addiction, sexual exploitation and the like; these, as noted, received 1 438 children and adolescents in 2001. The Secretariat also oversees and monitors 43 day care programmes,

and it is the competent monitoring and technical review authority with responsibility for approving and inspecting Costa Rica's current total of 645 foster homes.

107. Thanks to these quality audits, PANI has been able to identify various situations where there appeared to be room for improvement. In such cases, the institution takes effective action to safeguard the rights of children and adolescents by conducting an analysis to determine the optimal course of action.

108. As noted earlier in this report, while the National Children's Trust (PANI) is the supreme authority in the area of the welfare of children, adolescents and families, the task of safeguarding the rights of young citizens is incumbent upon every department and agency of the State. The fact that the Executive President of PANI has ministerial rank in the present Administration is significant in that she has the right to speak and vote in the Government Council, which is the heart of the decision-making process at the highest political level of the country's executive. The National Council on Children and Adolescents, for its part, is a deliberative body whose mandate includes ensuring that policies and programmes are consistent with the principles of the Convention and the Code. The members of the Council, including representatives of civil society organizations and their counterparts from the Government, must work in coordination to share and disseminate the decisions they reach together.

### **3. Data collection system**

109. Costa Rica has taken various measures in recent years to ensure the systematic collection of data on children and adolescents as a means of gauging progress made and identifying weak points in the area of their fundamental rights and evaluating current national, regional and local trends. It has also taken measures to determine and gather indicators, statistics, research findings and other relevant information that can serve as a basis for designing policies in the field of children's and adolescents' rights. In that connection, there are a number of remarks that should be made here.

110. In the first place, one of the most relevant lessons that we have learned is that most public agencies with responsibility for executing programmes aimed at children and adolescents actually know little about the target population they supposedly serve. None the less, it is important to point out that most if not all institutions generate substantial quantities of data. Regrettably, those data are usually not processed as they should be; they tend to be scattered, serving neither for diagnostic purposes nor as a contributing factor in the evaluation and monitoring of the situation of children and adolescents.

111. In the second place, there is now general awareness of the importance of reliable, timely information systems, based on the services provided by public and private institutions, as an indispensable precondition for effective monitoring and evaluation of the processes initiated by programmes and services aimed at children and adolescents, and of their impact in terms of their contribution to effective implementation of the vital principles of the Convention.

112. Certainly Costa Rica has achieved important gains in this area, as we shall shortly see. At the same time, there is undoubtedly room for further improvement as regards local data collection and the development of regular publications as means to the development of a culture of evaluation which can provide feedback for decision-making and constant updating of policies and programmes. This is essential in view of the fact that the situation of children and

adolescents is a dynamic one that is constantly changing. Only timely, reliable data can enable the country to address the nascent challenges confronting it in such areas as child labour, child abuse, mistreatment and abandonment, drug consumption and dependence, and sexual exploitation, among other problems.

### **Statistical information system on the rights of children and adolescents**

113. As recommended in a report by the National Council on Children and Adolescents for the period 1998-2002<sup>8</sup>, a statistical information system on the rights of children and adolescents (SIEDNA) has been created and developed under an action plan featuring cooperation between UNICEF and the School of Statistics within the University of Costa Rica's Faculty of Economics. This initiative has been supported by the Council.

114. The system has been designed expressly as a response to one of the concerns and recommendations of the Committee on the Rights of the Child. Statistical information with a direct or indirect bearing on children and adolescents has long been centralized, but it was formerly dispersed among various institutional information units. This was a drawback, not only because the material was not readily accessible, but also because, even though data in abundance were collected regularly, the task of performing integrated analyses of those data was complex.

115. It is important to emphasize that data production has traditionally served institutional interests exclusively. In some instances, data have been available only as great national aggregates, which have been of limited use for purposes of identifying gaps or difficult situations confronting children in particular geographic regions or children who belong to particular socio-economic categories. In other instances, data have not been gender-disaggregated or broken down by age groups, and thus have not been suited to the different purposes, criteria and formats required for different cases; consequently, it has been difficult to use them in designing policies or for purposes of evaluation, promotion or social mobilization on behalf of the rights of children and adolescents.

116. In this situation, SIEDNA has been devised as a means of integrating, processing and analysing data and disseminating timely, reliable information that not only can support decision-making by the institutions constituting the Council on Children and Adolescents, but can also be used as a basis for policy development, besides serving as a scientific research tool and being useful to society in general. By way of illustration, SIEDNA recently produced an analysis based on information on the under-18 population in the 2000 census, with an interesting canton-by-canton breakdown by age-group and sex.

### **Target population information system**

117. Another issue is poverty, which for a host of reasons tends to affect children and adolescents under the age of 18 in particular, to varying degrees and in many forms. Concerned at this situation, the Joint Social Assistance Institute has designed and is now using a target population information system (SIPO), which takes information from families' social

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<sup>8</sup> Report by the National Council on Children and Adolescents for the period 1998-2002. San José, Costa Rica.

data records and uses it to identify a series of variables that indicate the specific needs of those population segments.

118. Thanks to SIPO, it has been feasible to digitize information on 534 910 persons, of whom 52.6 % were under the age of 18. This meant 267 304 persons living in poverty, including 159 149 who were living in extreme poverty. The system can pinpoint each family's spatial location and classify families on the basis of their various situations and needs by means of an econometric weighting technique. As a result, families that are entered in SIPO are in a position to choose much more readily and flexibly among the various programmes and forms of assistance available from the Institute. The system is currently being expanded with a view to its use by other organizations that deal with families living in poverty.

#### **Sustainable development indicator system**

119. The Ministry of National Planning and Economic Policy has been developing a system of sustainable development indicators (SIDES) since 1994. The system now has an excellent database, updated in some cases to the year 2000 and in other cases to the year 2001, containing social, economic and environmental information. SIDES has been used to identify 32 cantons and 22 districts that were the most heavily disadvantaged in Costa Rica; development efforts could then be concentrated on those cantons and districts in the context of an intersectoral, inter-institutional approach designed to address the causal factors underlying poverty, rather than simply dealing with its symptoms.

#### **Local information, monitoring and evaluation system**

120. The programme known as "Take my hand", which is aimed at promoting comprehensive early childhood care, has given rise to the development of a local information, monitoring and evaluation system that includes information on service availability from both public and private sources. This system has produced an initial quantification of service demand from people living in poverty. In another development, a database that is currently being developed will integrate information on supply and demand, thereby making it feasible to prepare national, regional and local managerial reports on progress in upgrading early childhood service quality and coverage. This system is also developing techniques that will provide the Government with cost structures for various forms of early childhood care services.

121. In addition, this system is giving Costa Rica the capacity to diagnose the true situation of children everywhere in the country from the first months of life to the age of 5. It also affords a means of monitoring the performance of the programme in question, tracking progress in this area, and promoting active local participation in the process of reaching decisions that affect the quality of life and comprehensive development of the children who are born every day.

#### **Institutional information system**

122. As we have seen, the National Children's Trust (PANI) has embarked on a process of institutional modernization this year. As part of that process, PANI, too, is upgrading its information systems with a view to having timely, reliable information at its disposal, including not only information about the population it serves, but also about real demand for its services. The new system will also enable it to monitor the impact of the various programmes and actions that it undertakes in the areas included in its mandate.

123. PANI has just begun to use its institutional information system, which was developed with funding from the Agencia de Cooperación Española [Spanish cooperation agency]. The system will be installed at all the Trust's local offices. The first stage got under way with an initial input of \$97 757 for the development of an automated information system for the Adoption Bureau and computer equipment for 23 local offices. The system includes an attention area and an information and storage unit.

124. The second and third stages were completed thanks to a further contribution of \$69 000 from the same agency. The results of early trials with the system are currently being evaluated. In other developments, under a three-way agreement among UNICEF, PANI and UNDP an information system has been developed for the Trust's Technical Secretariat in charge of protection activities, while an institutional theoretical framework has been built up. The latter includes both practical and methodological factors, as well as parameters that can be evaluated by quality audits. It serves as an instrument for monitoring the various forms of protection and comprehensive care in residential facilities of various kinds, family and non-family, as well as day care programmes. Beginning this year, the Trust hopes to possess the capacity to provide both in-house and outside users with information about the outcomes of its programmes, projects and processes and its policy impacts. Such capacity would be a useful tool which, it is hoped, will evolve into a flexible, accurate mechanism for providing feedback on decision-making and also an accountability mechanism.

#### **4. Training for professionals**

125. As regards the matter of training for professionals and technicians, we shall see throughout this report that all the institutions represented on the National Council on Children and Adolescents have devoted great efforts to the task of providing their professional and technical staff members with training in the implications of the new legal framework now in force. That training covers their responsibilities relating to the enforceability of rights and, in particular, teaches them what a rights approach to planning, programming and operating really means.

126. This training has been made available to the staff members of judicial institutions and local governments as well as to the personnel of executive institutions. Various approaches have been used, including training and discussion days, workshops, seminars, development of educational materials and teleconferencing, among others.

127. Some of the most relevant aspects of this issue were presented by the Chancellory of Costa Rica in response to General Assembly resolution 56/167 and Commission on Human Rights resolution 2002/74<sup>9</sup>, supplemented with information provided by the Office of the Vice-Rector for Social Action of the University of Costa Rica<sup>10</sup> and information from other sources.

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<sup>9</sup> Report by the Government of Costa Rica on activities and actions to mark the United Nations Decade for Human Rights Education, 2001-2002.

<sup>10</sup> Official letter No. VAS-979-2002 from Dr. Leda Muñoz García, Vice-Rector for Social Action, University of Costa Rica, San José, Costa Rica, September 2002.

**The institutional sphere: the Ministry of Public Education**

128. Turning to the institutional sphere, it is noteworthy that the Ministry of Public Education has developed a National Education Plan, one of the main objectives of which is to ensure that every pupil is familiar with his or her rights. Specifically, actions to that end have included:

- ❑ Workshops on the subject “Adolescents have rights” for third-cycle and specialized education students;
- ❑ A project on “Values”, which was relevant in its entirety to the issue of human rights;
- ❑ A project on “A culture of peace”;
- ❑ Curricula are designed to ensure that the educational process affords various opportunities for pupils to exercise their right of thought and opinion.

129. Human rights education is a subject that is included in the work plans of all 20 of Costa Rica’s school districts and in all primary and secondary schools. The subject is discussed by specialized advisors at training sessions and workshops, and it is an integral part of civic education courses at all levels. It is also included in the social studies programme. In the 300 schools of the joint IOM/MPE project, a large percentage of the students are Nicaraguans, and the curriculum used in those schools contains elements of Nicaraguan culture. Educational quality has been upgraded with the distribution of teaching and training materials to 1 489 teachers.

130. The Department of Educational Development in each of the country’s 20 school districts and the Ministry’s regional advisors have provided school principals at all levels, including preschool, first and second cycles, third cycle and specialized education, with materials dealing with various laws and regulations, including:

- Application of the Children and Adolescents Code;
- Application of the Law on the Prohibition of All Forms of Violence;
- Application of the Law on the Social Equality of Women;
- Children’s rights and responsibilities;
- Application of Law No. 7600 on equal educational opportunities for Costa Rican children and young persons with special educational needs;
- Application of the Regulations for the prevention, investigation and punishment of sexual harassment in the Ministry of Public Education;
- Draft curriculum reform aimed at rehabilitating the authentic culture of every school circuit;
- Project for training in population and human rights education;
- Project on “Abuse prevention” in preschool education, coordinated and funded jointly with PANI;



- Project on “Experiencing values for a culture of peace” in outstanding schools, leading schools and schools providing priority projection and attention, for a total of 900 educational institutions in all;
- Project on “Experiencing values for a culture of gender equity”;
- Joint training project with IOM on Nicaraguan migrants;
- Provision of services required by the special-needs student population in every school district;
- Training for advisors on migration as a human right;
- Training for teachers on quality attention to Costa Rican children and young people with special educational needs;
- Training for teachers on quality attention to Costa Rican children and young people for experiencing their rights and duties;
- Organization of regional creativity festivals, the common theme of which is the promotion and strengthening of fundamental human rights.

131. Human rights education is also addressed in the framework of the National Value Training Programme, which features the participation of public institutions and private firms and, in particular, the collaboration of the mass media. The programme is an initiative aimed at providing value training for all teachers and professors in the country. It uses the cascade method, and thus has been made available to 6 539 educational institutions with approximately 38 000 teachers and some 900 000 students, from the preschool level to the twelfth year of the secondary level. Television and radio messages have also enabled the Value Training Programme to reach every corner of Costa Rica and all its inhabitants.

132. The results have been highly satisfactory in terms of commitment to and interest in the regions. Three quarters of the regional teams have functioned flawlessly, and educational materials, including books, cassettes and the like, containing strategies for teaching pupils about values have been distributed to all the country’s educational institutions. Another educational strategy aimed at value training is a programme entitled “I am a valuable person”. In the present year, nine meetings with regional groups have been held, and 16 workshops on values have been organized.

133. Within the existing education system, there are approximately 30 institutions that prepare teachers for preschool education, a slightly smaller number offering preparation for primary education, a considerably smaller number offering preparation for secondary education, and approximately eight education centres that offer preparation for special education, with emphasis on various areas. Human rights education is part of the course content at all these institutions, but the institutions described in the following paragraphs are particularly noteworthy in that respect.

## **University programmes**

### ***Faculty of Education of the University of Costa Rica***

134. The Faculty comprises a number of Schools, including the Teacher Training School, which accounts for approximately 70 % of the Faculty's activity. The programme includes two optional courses for those who are studying preschool and primary education: one of these is Global Education and the other Education for Peace, for preschool teachers. Students at the university are required to take two National Reality Seminars as part of their selected programmes, and one option, which will be available beginning next year, is a seminar on "Gender, Environment, Human Rights and Peace". Negotiations with IIDH (the Inter-American Institute of Human Rights) are currently under way in an effort to develop a cooperative initiative aimed at more effective teacher training.

### ***National University***

135. This university works to a different paradigm. The Institute for Interdisciplinary Studies on Childhood and Adolescence (INEINA) and the Education Research and Teaching Centre (CIDE) have joined forces to conduct research that is being translated into changes in the curriculum of the education programme. The education programme offers two alternatives, Orientation and Basic. Within those alternatives, students are offered optional courses on "Child Development" and "What I experience and feel in the classroom".

136. In 1988 the Centre for Information and Documentation in Education: Childhood, Adolescence and Family was established; since that time, it has developed into one of the country's main documentation centres in its field. The Centre also has a directory of organizations and institutions working in the same areas. Its renown has spread beyond Costa Rica's borders, and it is acknowledged as an important source of information throughout Latin America.

137. INEINA's activities include:

- Organization of seminars. The theme of the sixth in the series, which is to be held this year, will be Children and Adolescents: Rights and Responsibilities. Themes of previous seminars have been Academic Performance, Sexual Education, Aggression in the Classroom and Values in the Classroom and in the Home. The proceedings of these seminars are published and made available to the general public. Participants in these seminars, in their various fields, work in one way or another with the Institute's target population.
- In 2003, the Institute will receive a budget allocation for the establishment of an M.A. programme in the Rights of Children and Adolescents.
- Another aspect of the work of these components of the National University is research. Research findings are published in the form of monographs on various subjects, including one on sexual exploitation.

***State Distance University (UNED)***

138. This institution has a Human Rights Commission made up of representatives of the administration, disabled persons, academics, criminologists and legal experts. The main object of the Commission's work is to review and overhaul the content of teaching programmes for students taking courses in education. However, its mandate also includes education for teachers and administrators for an institutional paradigm based on the internalization of human rights.

139. At the present time, the university is engaged in a joint project with the Ministry of Justice to develop a Handbook of Rights and Duties of Detained Persons. It also publishes the journal *Espiga*, the next issue of which will be dedicated to the subject of human rights.

***University of Costa Rica: Faculty of Law***

140. The subject was formerly taught in uncoordinated fashion in various courses. Some four years ago, however, it was included more systematically within the Constitutional Law programme. As a result, the Constitutional Chamber now stands at the apex of Costa Rica's system of protection for fundamental rights and freedoms. The Chamber has been a rich source of jurisprudence which, in most cases, has supported broadly-based interpretations of the integral nature of human rights at the national, regional and international levels. In view of the importance of offering students subjects which are of the utmost significance for the society in which they live, three new programmes are being established this year:

- Master's degree in Public Health with emphasis on adolescents and young people. Designed for professionals in various fields: nursing, odontology, medicine, social work, sociology, anthropology, economics, political science, law, education, communications, guidance and psychology, among others.
- Interdisciplinary programme of studies and social action on the rights of children and adolescents, coordinated by the School of Social Work. The aim of the programme is the production, transfer and dissemination of knowledge about children and adolescents, and it is organized by the University of Costa Rica and UNICEF. It seeks to integrate a human-rights focus into the country's social and institutional practices. The programme aspires to be international in scope, contributing to the same process in Latin America and the Caribbean.
- Open course on Law and Gender, coordinated by INAMU (National Women's Institute).
- Open course on international law. Currently being established. The course will be coordinated by UNHCR.
- Statistical information system on the rights of children and adolescents (SIEDNA). This is a project that was established for the purpose of disseminating information to support the decision-making processes of institutions, civil society organizations and communities in the area of the protection, enforceability and implementation of the rights of children and adolescents.

141. The Faculty of Law coordinates what is known as communal university work, which involves providing legal advice for persons seeking refugee status in Costa Rica, in

consultation with UNHCR. In addition, these people are given training before running the gauntlet of rules that determine who qualifies as a refugee. This work is done under an agreement between UNHCR and the University of Costa Rica that was signed in August 2001. Three specific projects are currently under way:

- Strengthening the Migration and Immigration Division, which processes applications for refugee status. In the first generation there were 52 students, the great majority of them in law, but some from social work as well, and the remainder from such fields as psychology, anthropology and economics. These students are given intensive training lasting a week and a half, followed by 300 hours distributed over a period of several months. Waiting time for the settlement of a claim for refugee status has been reduced from 14 months to the 30 days prescribed by law. This increase in efficiency has eliminated the backlog that had accumulated, especially as a result of the massive influx of Colombian nationals beginning in the year 2000. The second generation consisted of 25 students, which is the established maximum for optimal results and control in the field of communal university work.
- Assistance of various kinds for applicants and refugees, in collaboration with the International Consultancy Centre.
- A study, currently under way, on the extent to which refugees have integrated into Costa Rican society.

***National University: Master's degree in Human Rights and Education for Peace***

142. A third generation of students is currently enrolled in this M.A. programme, which was formerly offered jointly with UPEACE, but will henceforth be offered separately.

143. Some 75% of the participants in previous classes were Costa Rican. The cost of this M.A. programme will shortly be reduced from its former level of \$5 400 to \$3 000, and grants have been made available to between 25% and 33% of the students. Students prepare final monographs, and three research courses are included in this professional M.A. programme. The subjects that are being emphasized this year in particular are Citizen Participation, Migration and Immigration, and Environment and Human Rights. The university has entered into agreements with the University of Utrecht in the Netherlands, which provides not only resources but also expert assistance from its Institute of Human Rights.

144. This generation is undergoing its apprenticeship, and efforts are under way to establish alliances that will enable the students to put the knowledge they have acquired into practice, while simultaneously benefiting any institution or organization whose field of action requires training in human rights.

***State Distance University (UNED)***

145. The admission of UNED to membership of the Central American University Council (CSUCA) gave rise to the establishment of the Commission known as CODEHUNED, which has been functioning since September 2000. This body's interdisciplinary composition gives it broader coverage and enriches the scope of its action. The Commission's objectives include:

- Development of a sensitization process aimed at generating awareness within all sectors of the university community of the importance of respecting human rights;
- Generation of knowledge in the field of human rights education, utilizing the methods and technological means of distance education;
- Promote UNED's teaching capacity, research, outreach and editorial function in the area of human rights;
- Extension of the university's reach by creating openings for national and international interaction that will foster peaceful, democratic coexistence based on respect for human rights;
- Enlistment of the student community in the human rights training effort and commitment to the university's social outreach.

146. UNED's system of postgraduate studies includes an M.A. programme in human rights and another in the specific field of the human rights of children and adolescents; the latter is currently being programmed. Other M.A. programmes include constitutional law, labour law and social security, criminology, and social and family violence. The university also offers a doctoral programme in the field of law, which includes the subject of human rights.

147. This is an example of a cross-cutting field in education—both teacher training and general education—that constitutes institutional action in the field of human rights, including the rights of children and adolescents.

### ***University for Peace***

148. The University for Peace has been located in Costa Rica since the 1980s. Two generations of students have taken M.A. degrees in human rights under a joint UPEACE/National University programme. When the two institutions agreed to terminate the agreement between them, at any rate in that field, UPEACE entered into a cooperation agreement with the Raoul Wallenberg Institute of Human Rights and Humanitarian Law at Lund University in Sweden. A programme in international law and human rights has been established, which awards an M.A. degree in international law and dispute resolution and also an M.A. in human rights studies. The M.A. programme, which costs \$18 000, has attracted 21 students from 17 different countries in its first year.

### ***La Salle University***

149. There are two courses on human rights in the law programme, with emphasis on the place of international human rights instruments within the sphere of law, and the impact of those instruments on domestic law. Much of the course is devoted to study of the mechanisms of the inter-American system and some of its most relevant jurisprudence.

***Latin University of Costa Rica***

150. The international relations programme includes a course on human rights.

***International University of the Americas***

151. The international relations programme includes a course on human rights.

**The judiciary**

***Judicial School***

152. The Judicial School offers courses, seminars, lectures and workshops dealing with various aspects of human rights. They are of various lengths, ranging from two hours to as much as 84 hours. Overall, some 1 400 hours of human-rights training was provided during the past year. These activities are attended by anywhere from seven to 210 persons every time they are given, and the total number of persons who received training during that period is estimated at 4 000.

153. Most short lectures are open to the general public, law students and officers of the judiciary. More specialized courses are intended for specific categories of persons, depending on the subject-matter. By attending these courses, employees can accumulate credits that will stand them in good stead when competing for posts, and in some cases the courses are indispensable as qualifications for occupying particular posts. Frequently treated subjects include:

- Domestic violence;
- Rights of children and adolescents;
- Labour law;
- Legislation dealing with women;
- Legislation dealing with refugees;
- Juvenile criminal law;
- Alimony and child support;
- Responsible paternity;
- Testimony given by minors;
- Child labour;
- Indigenous law in various regions with indigenous populations;
- Fundamental rights;
- Abandonment and adoption of children;

- International humanitarian law;
- Disabled persons.

154. The training is provided by persons from a variety of national and international organizations and institutions with specialized knowledge in the subjects they teach. Last year, the Judicial School, with technical and financial support from UNICEF, designed a course on the commercial sexual exploitation of children and adolescents. This course, which is now given twice yearly on a regular basis, is aimed at public prosecutors, defence lawyers and magistrates who try criminal cases.

### **Ministry of Public Safety**

155. A Juvenile Section of the police was established in May 2002. It comprises 12 trained officers (six women and six men) who work exclusively with children and adolescents. Its mandate is to collaborate with the Office of the Assistant Public Prosecutor for Juvenile Offences in cases involving minors between the ages of 12 and 17, compile information, develop links and prevent juvenile delinquency from increasing by channelling comprehensive assistance to children and adolescents who are deemed to be at risk.

156. The Sexual Exploitation Unit began work in 1999. The Unit is made up of graduate students in criminology and psychology and working police officers. Its mandate is to gather intelligence, conduct monitoring operations, carry out patrols and, in general, investigate the sexual exploitation of children. In order to keep this crime to a minimum and combat the violation of children's and adolescents' rights, the Unit works closely with the Ministry's Office for Sexual Offences and Domestic Violence.

157. Working through the DARE Foundation, the Ministry seeks to combat drug addiction by providing information and developing students' skills in the areas of decision-making, dealing with high-risk situations and resisting peer pressure and other influences. The programme is aimed at pupils in primary education (preschool through grade 6) and in general basic and specialized education (grades 7 through 12).

158. A specialized programme has been developed expressly to train police officers with sufficient sensitivity and awareness to prevent and deal with cases of domestic violence and protect victims of it. Officers assigned to deal with this issue work to prevent abuse and violence throughout the country. To that end, they undertake information visits to schools and colleges and to Catholic and Protestant churches to spread the message that violence and sexual abuse must be prevented. As part of the "Play safe" programme, they give talks on abduction prevention.

159. Every six months, approximately 120 police officers receive training in the issue of domestic violence, while 200 more receive training on the rights and responsibilities of children and adolescents. Civic police patrols are also carried out. A protocol for police intervention in these cases was developed; it is currently under revision, and a second edition will be issued in due course.

160. An awareness and motivational effort relating to a gender culture is currently being developed for the benefit of all Ministry employees. The end in view is not merely to detect any type of discrimination between men and women as regards opportunities and advantages,

but also the establishment of a Gender Equity Office in the near future, to be headed by a woman director reporting directly to the Minister in person. At the present time, reports submitted by Ministry employees are being received and followed up. Meanwhile, the ministerial regulations on sexual harassment are being revised.

### ***National Police Academy***

161. The basic police training course consists of 1 050 hours of instruction. The curriculum includes the subject of human rights. The human rights module is one of several modules dealing with legal matters. Its objective is to ensure that future police officers will be concerned to respect human rights and determined to protect and defend them.

162. The overall objective of the course is to instil awareness of the importance of respecting and protecting the human rights of all persons, and enable police officers to act in accordance with national and international standards in the matter, thereby guaranteeing that criminal procedures will be just and effective and that citizens will respect the police forces that protect them. The content of the course is as follows: Brief historical survey of the evolution of the State. Human rights not subject to State power. Concept. Main sources of human rights. Main characteristics. Outline of general principles in international instruments and in Costa Rica's Constitution. Code of conduct for law enforcement officers. Basic principles governing the use of force and firearms by law enforcement officers. Human rights in times of civil disturbance and states of emergency.

163. Professional development courses for junior officials interested in promotion also include 40 hours of material on human rights and 20 hours of material on the rights of children and migrants.

164. During their training, fledgling police officers receive various courses on ethics in which they analyse the United Nations Code of Conduct for Law Enforcement Officers. At the present time, the curriculum is being subjected to a general review with a view to mainstreaming a focus on gender and human rights.

### ***Penitentiary Police***

165. The National Penitentiary Police School offers various training and professional development courses and programmes for members of the Penitentiary Police, whose task it is to "guard and control all the country's penitentiaries, in accordance with the principles governing the Constitution, international treaties, laws and regulations," in the words of the Police Forces Act.

166. Under the terms of articles 2 and 10 of the Police Forces Act (Law No. 7410 of 1994), police forces are required faithfully to observe and abide by the Constitution, international treaties and applicable legislation. Under article 60 of the same Act, the members of the various police corps have a duty to "take, as a matter of obligation, such training and professional development courses as their superiors may require, for the purpose of improving the quality of the service they provide."

167. Under article 5, paragraphs (d) and (e), and article 14, paragraphs 18 and 19 of the General Penitentiary Police Regulations (Executive Decree No. 26061-J), the Social Rehabilitation Directorate and the Penitentiary Police Directorate are required jointly to ensure that applicable standards governing human rights in security matters are observed at all



penitentiaries in respect of both inmates and visitors, and that inmates' rights and duties are respected.

168. Articles 63 and 119 of the Act provide that the National Penitentiary Police School shall be required to structure and offer basic Penitentiary Police courses and programmes, courses and programmes for subaltern and senior Penitentiary Police officers, and training and professional development for Penitentiary Police officers. The Act also states that the National Penitentiary Police School is the competent authority in the matter of planning and executing the teaching and learning process. The basic course is intended for persons wishing to become members of the Penitentiary Police corps, and is designed to provide them with a basic package of theoretical knowledge and practical skills.

169. The programme of studies comprising the basic Penitentiary Police course is divided into two phases:

- (a) Classwork, which involves four weeks of classes for a total duration of 178 hours. In this phase, the instructor acts as the facilitator in the teaching/learning process. Assorted teaching aids are used, and the student analyses and discusses various subjects under the direction of the instructor.
- (b) Individual work, consisting of 150 hours which the student spends at home, studying the Manual of Good Penitentiary Practice. He is then given an oral examination by a board of examiners.

170. The course is broken up into six modules, of which two are of particular interest for our present purpose:

- (a) The humanistic module, which comprises three subjects: United Nations guidelines, United Nations Minimum Rules for the Treatment of Prisoners - Manual of Good Penitentiary Practice, and ethics and human rights.
- (b) The legal module: Social Rehabilitation Act, Police Forces Act, General Penitentiary Police Regulations.

171. In recent years there have been significant advances in human rights education as part of the training undergone by members of Costa Rica's Penitentiary Police.

172. On the one hand, as domestic and international standards in the matter have been adopted, human rights has assumed growing prominence in the School's training courses and programmes for Penitentiary Police officers. Human rights training has become compulsory for the members of Costa Rica's police forces in general, and for the Penitentiary Police in particular.

173. On the other hand, programme content and the textbooks used at the School reflect a noticeably greater emphasis on human rights education as a component of penitentiary work, and this, increasingly, involves analysis of domestic and international human rights standards. There has been an tendency to see the study of those standards in practical terms. As a result, all the subjects currently taught as part of the basic Penitentiary Police course include a focus on respect for the human rights of persons in detention.

174. Moreover, the basic theoretical aspects and principles of human rights have been explored in greater depth, and the human-rights protection bodies of the Inter-American system and their domestic counterparts have become more widely known. As a result, there is a more adequate understanding of the ways and means available for claiming protection for the full exercise of those rights as an obligation incumbent upon the State.

175. Lastly, the National Penitentiary Police School has been generally strengthened: it now possesses a highly trained staff, teaching materials and a library, all of which enable it to fulfil its functions effectively.

### **Private security**

176. The National Police Academy is responsible for approving the subject-matter used for private security training. In general, the training period is significantly shorter than in the case of its public counterpart, averaging 40 hours in all, including four hours of human rights education.

### **Professional associations**

#### ***Bar Association***

177. The Association has offered courses on such subjects as the application of international human rights law in Costa Rican law and new paradigms in the field of children and adolescents, but few law students were interested in taking them, and consequently they have now been dropped. This approach, offering courses in areas that are deemed to be of current interest, is entirely contingent on prevailing circumstances. However, the present Board of Directors of the Bar Association has decided that the fees charged for courses of this kind are to be considerably reduced in order to make them more readily accessible to law students who may be interested.

#### ***Journalists' Association***

178. The Association possesses a Centre for the Academic Development of Communicators (CEDAC), which in turn has an Ethics and Human Rights Division mandated to provide journalists with training in various social awareness issues. Particularly noteworthy accomplishments in this connection have been a series of ten workshops for national and local media personnel organized in 2001 by IPEC/ILO/UNICEF/Women's News Services, and the preparation of a training handbook for journalists on dealing with cases of the commercial sexual exploitation of children. The latter has served to enhance awareness of the issue in the media and among the general public.

### **Leaders and members of social organizations**

179. A number of courses and programmes on human rights education have been organized, mainly by NGOs. The Inter-American Institute of Human Rights, which has its headquarters in Costa Rica, has also conducted activities of this kind. The Office of the Ombudsman, too, has made human rights education part of its work.

180. At the inter-American level, the leading academic institution in the field of human rights is the Inter-American Institute of Human Rights (IIDH). Some of the activities designed and

implemented by IIDH in Costa Rica in the field of formal human rights education between 1995 and 2001 are summarized below.

- Organization of 18 national workshops, seminars and other national and regional training activities;
- Training in the conceptual and methodological content of human rights education for 812 outreach persons, including employees of the formal education system, members of NGOs, teachers' professional associations, the Office of the Ombudsman and other civil society organizations and governmental institutions.

181. The materials listed below have been distributed, mainly in the context of training activities, to persons employed in the formal education system and members of other organizations and institutions:

- ❑ Latin American Kit of Teaching Materials on Human Rights Education. This material comprises an introductory module as a teacher's guide and four conceptual modules on the values of freedom, equality, solidarity and participation. Each of the conceptual modules is accompanied by a practical activities section.
- ❑ Posters.
- ❑ Catalogue of teaching materials II and III.
- ❑ International human rights instruments.
- ❑ In the School of Life (audio-visual materials).
- ❑ Self-teaching text on human rights education.
- ❑ Human rights education manual. This material was originally developed by the Section for Humanistic, Cultural and International Education at UNESCO, in Paris, in collaboration with IIDH. It was initially produced in French and English language versions. UNESCO subsequently asked IIDH to have it translated into Spanish and adapted and validated for use in the Central American region.
- ❑ Universal Declaration of Human Rights. Version for children.
- ❑ Yeli Yam (teacher's guide). Environmental education materials produced by IIDH with the support of various public institutions, civil society institutions and private firms (Earth Voice, Ministry of Education, Ministry of the Environment and Energy, State Distance University, Environmental Education Programme, Baha'i Community of Costa Rica, Yiski Group, UNICEF and Baxter Healthcare S.A.)
- ❑ Yeli Yam (student's guide).
- ❑ Derechito Plus. A game for children between the ages of 10 and 14 on various hypothetical human-rights situations.
- ❑ Central American Directory of Human Rights Education Organizations.

### **Support for the Children's Rights Room, Children's Museum**

182. The Inter-American Institute of Human Rights collaborated actively in the design and presentation of the Children's Rights Room at the Children's Museum of Costa Rica and in the production of teaching materials. In recent years, IIDH has continued its support by reissuing materials, including:

- Different but equal in terms of rights (audio-visual document);
- Walking for our freedom (audio-visual document);
- Let's talk about human rights (publication for teachers);
- Long live my rights! (publication for children).

### **Research and communication activities**

183. The year 1999 saw the beginning of a process of research, regional validation of findings, production of materials and training in the field of human rights education and life in a democracy.

184. The research project was concerned with the practice and knowledge of human rights and democratic principles in Costa Rica and Panama. It began with an opinion survey covering all institutions of secondary education in both countries. The informants selected were high school principals, teachers, students in their final year of secondary studies, and fathers of families.

185. The quantitative findings of this study were systematized, and then specific aspects were investigated in greater depth by means of the focus group method, using the same categories of informants.

186. The conclusions of both phases of the project were used as the basis for a descriptive analytical report on this issue which was published and distributed to persons working in the education system, Ministries of Education and other organizations, institutions and interested groups. The report was published under the title Democracy and Human Rights in Secondary Education in Costa Rica and Panama.

187. In 2000, the findings of the research project were validated for the Central American region as a whole at a regional meeting attended by education system personnel from various countries.

188. By way of an additional effort, the National Children's Trust has translated the Children and Adolescents Code, the Law against Domestic Violence and the Commercial Sexual Exploitation Act into the Nogue language, and the Children and Adolescents Code into the Bri Bri language. Both translated versions are currently in press.

189. Since 1998, PANI has printed 17 000 copies of the Children and Adolescents Code, 5 000 copies of the Convention on the Rights of the Child, 8 000 copies of a document entitled "Let us share our rights", 37 000 posters to publicize issues relating to the rights of children and adolescents, 10 000 copies of publications on various kinds of abuse and 6 000 copies of publications on the meaning and importance of Children and Adolescents Protection Boards.

190. The Costa Rican Social Security Fund has been active in the same area, publishing a variety of informational and educational materials on such matters as the right to breastfeeding and children's right to be recognized by their parents. Another noteworthy example has been the design and distribution of the Children's Health Book as a means of giving practical effect to the right to information and communication between health care services and families, while the National Women's Institute has been active in the framework of the "Young Love" and "Building Opportunities" programmes.

## **5. Budget allocations**

191. As noted in the 2001 Report on the State of Child and Adolescent Rights<sup>11</sup>, "The Convention and its expression in the Costa Rican legal setting, the Children and Adolescents Code (1998), establish rights for the country's minor citizens, including: the right to a standard of living adequate for their physical, mental, spiritual, moral and social development; the right to the highest standard of health and to medical and rehabilitation services; the right to social security; the right to an education that will enable them to develop their personalities, talents and mental and physical abilities to their fullest potential, in order to prepare them for an active, responsible adult life; the right to leisure, play and cultural activities, among other things. It is for the State to ensure the implementation of all these rights."

192. Despite this recognition of the State's responsibility, it must be admitted that in Costa Rica, that responsibility has not always been matched by a corresponding allocation of resources. To begin with, the neoliberal policies that have been applied more or less rigorously in Costa Rica and in other countries of the region in recent years have not resulted in sustained economic growth, nor have they eliminated poverty and social exclusion, as was noted at the beginning of this report.

193. A report entitled The Performance of the Social Sector in Costa Rica during the 1990s<sup>12</sup> shows that public spending increased substantially during that decade. Between 1990 and 1999, the Government's total spending grew by approximately 70 % in real terms, with the main increases having occurred in general basic education, social security pensions and economic services: spending in these areas more than doubled in real terms.

194. Spending on social services, overall, grew by 80 % during that decade, with the most noteworthy increases having occurred in the areas of, in descending order of importance, higher and parauniversity education, occupational training, health and housing. Spending on social services increased as a percentage of total public spending from 59 % in 1990 to 63 % in 1999, albeit with fluctuations in the intervening years. Chart 1 below shows that while the relative share of health spending as a percentage of total public spending tended to decline, spending on pensions and education grew significantly, particularly after 1995. In terms of GDP, total government spending held relatively stable during the 1990s. None the less, social spending, which accounted for 13 % of GDP in 1990, had increased to 14 % by 1999, mainly

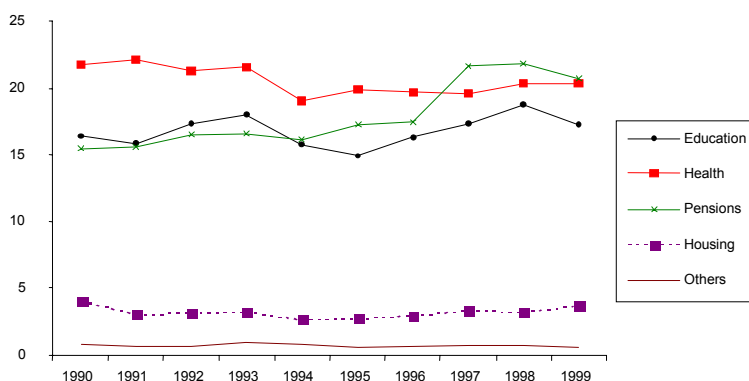
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<sup>11</sup> Third Report on the State of Child and Adolescent Rights, 2001, p. 23, University of Costa Rica, United Nations Children's Fund, San José, Costa Rica.

<sup>12</sup> James Cercone, Fabio Durán and Rodrigo Briceño, eds., The Performance of the Social Sector in Costa Rica during the 1990s: the New Challenges (San José, ILAPP, World Bank and Sanigest: January 2002).

from mid-decade onward. This growth is attributable mainly to increased real spending on education and pensions.

Chart 1  
Costa Rica. Components of social spending, 1990-1999



195. In a closely related development, the internal structure of public spending underwent substantial changes, with spending on health, housing and other social services declining while spending for other purposes increased, most notably pensions, which rose from a 19.6 % share of the total in 1990 to a 25.7 % share by the end of the decade.

196. Given the prevailing economic situation, with Costa Rica's large public-sector deficit and growing indebtedness, the task of increasing social investment above its present level represents a serious challenge. In addition, it is essential to enhance current priority-setting procedures and modernize social management processes. This will require both a restructuring of public finances and more efficient resource use by public institutions.

197. The analysis contained in the third Report on the State of Child and Adolescent Rights, which has been referred to earlier, focuses primarily on investment in children. Some of the most noteworthy observations and considerations found in the report are summarized below.

198. A passage from the report that was quoted in the eighth State of the Nation report runs as follows: "The incidence of poverty is much lower in Costa Rican than in other Latin American countries. Even so, 21 % of the country's households and 30 % of its children remain below the poverty line. Half the poor population consists of children and adolescents, and 59 % of those are lacking some basic need. The premise underlying these data is that children and young people are the most vulnerable members of society, and no country will be able to break out of underdevelopment if it does not break the poverty cycle and meet the basic needs of that component of its population" (p. 132).

199. The present Pacheco de la Espriella Administration is in full agreement with the report's recommendations, which are that it is essential to:

- (a) Give priority to children and adolescents in universal and selective policies;

- (b) Develop economic policies and social policies that are organically linked and consistent;
- (c) Develop a policy aimed at employment and participatory economic growth, with a broadly based productive sector and access to capital and entrepreneurial technological knowledge;
- (d) Apply a redistributive tax policy, with more equitable access to basic services;
- (e) Enhance efficiency in public investment by setting targets and minimum standards for universal service delivery;
- (f) Achieve greater community participation in administration and decision-making in the area human resource development spending;
- (g) Implement institutional reform, with the rules of the game rewritten for more effective operation and safeguards for the exercise of people's rights;
- (h) Develop an emergency policy designed to address poverty and vulnerable sectors, with specific assistance, training and labour force integration programmes.

200. We may note at this point that both the National Development Plan 2002-2006 and the plan entitled "New Life: overcoming poverty and developing human capacities, 2002-2006," which were referred to earlier, incorporate some of the above-mentioned recommendations.

201. Furthermore, as the third Report on the State of Child and Adolescent Rights points out, Costa Rica has been characterized by vigorous State intervention in social matters with very satisfactory results, as is apparent from human development indicators in recent decades, which show that Costa Rica has done much better than many other Latin American countries; none the less, in the context of a rights approach and a broader vision of social exclusion, additional resources will be required in order to close existing geographic and social gaps. The task of addressing the heterogeneous phenomenon of poverty, with its multiplicity of causes, calls for a transition from policies of assistance to policies that will provide children and young people with effective access to education, health care, protection, nutrition, recreation, opportunities to engage in sports and artistic activities, and adequate accommodation, among other conditions.

202. To conclude this discussion of social investment, it is worth recalling that the State is facing financial problems which are adversely affecting the National Children's Trust, just at a time when problems of unknown scope and depth are emerging, such as the sexual exploitation of children and vagrant young people. Under these conditions, the new Government is confronted with the task of devising a budget that will enable it to overcome the present limitations and bring the country into line with the binding principles derived from the Convention on the Rights of the Child and the Children and Adolescents Code and the new legal framework in which those principles apply. PANI's efforts to recover the resources to which it is legally entitled deserve nation-wide support.

## **B. General principles**

### **The right to non-discrimination (article 2)**

203. The Committee recommended that the State should increase measures to reduce socio-economic and regional disparities; prevent discrimination against the most disadvantaged groups of children, such as the girl child, 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 undertake educational campaigns to raise awareness in order to prevent and combat discrimination on the grounds of gender, ethnic and/or national origin. Some actions that have been initiated or executed in response to these recommendations are outlined in the following pages.

204. Dr. Elizabeth Odio, former Second Vice-President of the Republic, a former Judge of the International Criminal Tribunal for the former Yugoslavia and now a Judge of the International Criminal Court, has aptly defined discrimination as “differential treatment for what is equal, and equal treatment for what is different.” Costa Rica accepts this definition. In 2001 it submitted a detailed report<sup>13</sup> on the various measures it had adopted in its progress toward the elimination of all forms of racial discrimination. Here we shall confine ourselves to a brief survey of some of the most relevant aspects relating to children and adolescents.

#### **Measures to reduce socio-economic and regional disparities**

205. Costa Rica has taken measures aimed at reducing socio-economic and regional disparities. Owing to the gains the country has made in the area of improved and more sophisticated information systems, it now has at its disposal a “critical shortfalls map”<sup>14</sup> based on information from the ninth population and housing census, which was conducted in 2000 and featured the “unsatisfied basic needs” method. Households with unsatisfied basic needs were identified in terms of four factors: access to decent accommodation, access to a healthy life, access to knowledge, and access to other goods and services. These maps yield information about such households, broken down by districts.

206. The data indicate that 36.6 % of all Costa Rican households, accounting for 39.9 % of the country’s population, are characterized by shortfalls in one or more areas. In urban areas, 27 % of all households fall short in at least one area, while the corresponding figure for rural areas is 50 %. The factor with the greatest incidence of shortfall is access to knowledge, with 15.2 %, followed by access to decent accommodation with 14.7 %, access to other goods and services with 11.2 %, and finally access to a healthy life with 10.7 %. Slight differences appear when the data are broken down for rural and urban areas.

207. As a result of this research project, Costa Rica now has at its disposal recent, reliable information about unsatisfied basic needs in each of its 459 districts. The figures range from a low of 7.8 % to a high of 97.3 %. The districts with the highest unsatisfied needs levels are

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<sup>13</sup> Report by Costa Rica to the Committee on the Elimination of Racial Discrimination, March 2001.

<sup>14</sup> Juan Diego Trejos, Research Scientist with the Economics Institute, University of Costa Rica, and Floribel Méndez, Coordinator, Continuous Statistics Department, National Statistics and Census Institute (INEC): “Costa Rica: a map of critical shortfalls for the year 2000”, version for discussion, San José, Costa Rica.



mainly rural, with low population densities, whereas those with the lowest levels are entirely urban, with high population densities.

208. These maps, combined with the information provided by the Target Population Information System (SIPO), with its 56-variable database on 534 910 persons, afford a means of breaking down data in many ways: by age, sex, geographic location, access to services and family's socio-economic situation, and also yield information on income, housing situation and tenure.

209. Thanks to this system, it has been feasible to develop more effective selection systems for determining the eligibility of children living in poverty for the scholarships and school vouchers made available by the Ministry of Education under the National Scholarship Fund Establishment Act. The system has also been used to award scholarships to enable children under the age of 16 to attend public or private comprehensive care centres. It is hoped that it will also be feasible to use SIPO in the agriculture sector for the purpose of making production incentives available to farm operators under the Agricultural Productivity Promotion Act, in the housing sector for the purpose of distributing housing vouchers, and in other areas for the purpose of supporting institutions responsible for addressing and eliminating the factors that cause poverty, which, as we have seen, affects mainly children and adolescents under the age of 18.

210. Applying these various instruments, both the present Administration and its predecessor have undertaken to channel resources to families living in poverty and marginalization in districts characterized by the highest incidence of unsatisfied basic needs, as part of a far-reaching strategy aimed at reducing Costa Rica's socio-economic and geographic disparities and eradicate forever the situations of extreme poverty in which so many children and young people now live.

### **Gender equity**

211. Costa Rica submitted detailed information in this area in its 2000 report to the Committee on the Elimination of Discrimination against Women (CEDAW). Some of the country's most recent achievements are discussed below.

212. The National Women's Institute has had a significant impact in the task of promoting gender equity ever since it was established in May 1998, replacing the former National Directorate for Women and the Family under the terms of Law No. 7801, which came into force at that time. As the Rodríguez Echeverría Administration (1998-2002) had promised, the Executive President of the Institute was given ministerial rank with the title of Minister of the Status of Women, and that appointment has been ratified by the new Administration.

213. As noted earlier in this report, international events have permeated the general framework within which Costa Rica designs and implements its public policies aimed at the eradication of extreme poverty and equity and equality for women. In response to the adoption of a series of international instruments dealing with these issues, the country has revised its national legislation to bring it into line with international standards.

214. During the previous Administration, critical concerns were deemed to be unequal access to the means of production and sources of employment, violence against women and girls, and the absence of meaningful representation and political participation by women in the country's

national life. To address these concerns, the Government adopted the National Anti-Poverty Plan (which included a component dedicated to the advancement of women), the National Plan for Equal Opportunity for Women and Men, the National Plan for the Treatment and Prevention of Domestic Violence, and the Active Citizenship Promotion Plan for Women.

215. The Rodríguez Echeverría Administration, with its awareness of the international context, its ideological principles and its concern to carry on the legacy of previous Administrations, sought to enhance and upgrade the quality of women's lives by formulating policies that highlighted the diversity and distinctive situations of half the country's population: girl children, adolescent girls, teenage mothers, young women and older women, indigenous women, domestic workers, women living in poverty, women with disabilities and women with little access to comprehensive health care services, whose rights had been jeopardized by a culture which traditionally and historically has discriminated against them.

216. To that end, the Government developed and implemented a consistent intersectoral, inter-institutional strategy that was binding upon all public institutions of the executive branch and was directly related to the eradication of extreme poverty and the attainment of equality and equity. This strategy was given material form in a number of mutually reinforcing, complementary instruments, of which perhaps the most noteworthy example is the National Human Development Plan 1998-2002. The Plan outlined public policy in the field of the advancement of women, identifying nine specific areas in particular as dynamic, forward-looking and gender-oriented: women and the economy, women and human rights, rural women and the environment, women and health, adolescent women, municipal status of women departments, ministerial and sectoral status of women departments, women and political participation, and a national gender indicator system.

217. Costa Rica has substantial achievements to its credit in the areas of the implementation of policy guidelines and coordination and follow-up action in pursuit of the objectives of gender equality and equity, and this has unquestionably been due in large measure to the tireless, dedicated efforts of the First Lady of the Republic under the previous Administration, Ms. Lorena Clare de Rodríguez. The National Women's Institute has also played a strategic role, as has the former Second Vice-President and Ministry of the Environment and Energy, Dr. Elizabeth Odio, who was instrumental in the implementation and funding of pioneering programmes and projects aimed at women living in poverty, notably programmes and projects featuring income-generating initiatives and environmental protection.

218. The actions promoted and coordinated by the First Lady of the Republic, Ms. Lorena Clare de Rodríguez Echeverría, focused essentially on older women, children and adolescents, women's health, women and overcoming poverty, and comprehensive care for persons with disabilities.

219. The National Women's Institute, for its part, has been the leading organization working for gender equity. Under the previous Administration, the Institute's efforts were concentrated mainly on the management of public policy for equity, leadership, active citizenship and local management, the legal status and protection of women's rights, building identities and life projects, gender violence and information.

220. The policy guidelines developed in this connection by the National Women's Institute reflect the high priority that has been assigned to the task of overcoming gender gaps. As an illustration of actions that are being taken in the field of public policy formulation and the

adoption of practical measures for gender equality and equity, we may note that under an executive decree signed in February 2000, high-level political and technical committees were established in the Ministries of Agriculture, Education, Health, Labour and Social Security, and Culture, Youth and Sport.

221. That priority has been translated into practical reality in the Ministry of the Environment and Energy, the Ministry of Health, the Ministry of Culture and Youth, the Ministry of Labour and Social Security, and the Ministry of Foreign Relations.

222. Lastly, as we have seen, the present year (2002) has seen the introduction of a draft public policy on action to address domestic violence against children and sexual abuse of children by persons other than a family member. This draft policy relies on the principles of the best interests of children, universality, comprehensiveness, maximal implementation and the concept of risk.

223. Under the proposed policy, the following population segments would be targeted: children and adolescents living in Costa Rica; children and adolescents with disabilities; fathers, mothers and caregivers; agencies that work with children; abused children and adolescents; abusive children and adolescents; abusive fathers, mothers or caregivers, and adult sexual offenders who are not family members.

224. The components of the proposed policy include guidelines for promotion and prevention, care, administrative procedures, the criminal justice system and support systems. By way of example, the first in this list of components features the propagation and protection of rights that are frequently violated in abusive situations, including in particular the right to life, the right to personal integrity, the right to protection and optimal development of sexuality, the right to protection in the face of grave danger, the right of access to information, the right of image protection, the right to home education, the right to a life free from violence, the right to development of individual potential, the right of access to justice, the right to the expression of opinion, the right to education and the right to health.

225. As we shall see, however, gender gaps still persist, especially in the health and public safety sector, and consequently this area calls for immediate action. Significant numbers of women have died for reasons directly associated with domestic violence and other forms of abuse and mistreatment.

### **Discrimination based on nationality**

226. The first point to be noted here is that under article 13 of the Constitution of 7 November 1949 “The following are Costa Ricans by birth: ...3. A child born in Costa Rica to foreign parents, who is registered as a Costa Rican by the will of either parent during minority or by his own will up to the age of twenty-five.” As this provision shows, and as the Office of the Civil Registrar has confirmed, Costa Rica’s statistical records make no distinction as to the parents’ nationality.

227. Moreover, data on children treated in health care institutions are not broken down by nationality in the country’s system of statistics, and the country’s medical coverage system treats all children, regardless of country of origin.

228. In this connection, we consider it essential to direct the Committee’s attention to a ruling on the school voucher programme that was handed down by the Constitutional Chamber in

1998. That programme was established pursuant to Executive Decree No. 21989, Ministry of Public Education and Ministry of Labour and Social Security. A suit alleging that articles 6 and 7 of the Executive Decree were unconstitutional was brought by a Costa Rican professor. In its ruling, the Constitutional Chamber stated in its reasons for its decision "...that articles 6 and 7 of the above-mentioned Decree are contrary to the principles and rights of children contained in international human rights instruments, especially as regards the right to education. That the articles in question contravene the provisions of articles 19, 33 and 34 of the Constitution in that they discriminate between nationals and aliens, inasmuch as the abstract, general and absolute exclusion of foreign children as potential beneficiaries of vouchers for basic education constitutes unreasonable and disproportionate discrimination. That children's right to basic education, being a fundamental right, cannot be made conditional upon circumstantial factors such as nationality..."

229. On 15 December 1998, the Constitutional Chamber issued its resolution No. 008857-99 upholding the lawsuit: "...in consequence, articles 6 and 7 of Executive Decree No. 21989-MPE-MLSS are unconstitutional and are hereby disallowed. This ruling is declaratory and retroactive to the date of coming into force of the articles under consideration, without prejudice to rights acquired in good faith..."

230. Another noteworthy example is a case involving an investigation by the Office of the Ombudsman into a confidential complaint about a directive issued by the Social Development and Family Allowance Directorate to the effect that non-Costa Ricans were to be excluded from social programmes funded from the Social Development and Family Allowance Fund (FODESAF) on the grounds that such persons allegedly did not meet the requirements laid down in the Social Development and Family Allowance Act.

231. The Office of the Ombudsman noted that the Directorate's Legal Affairs Unit had issued different standards applicable to different age groups or other groups in specific cases arising in the context of social programmes. It also found that the Social Development and Family Allowance Directorate had applied the standard designated AJ-DESAF (No. 152-00) improperly in advising the CEN-CINAI Programme Directorate that only low-income Costa Rican nationals were eligible for benefits under its programmes. The Office of the Ombudsman held that discrimination on that basis was incompatible with programmes aimed at the welfare of children and adolescents.

232. The standard in question had been issued at the instance of the Director General of the Social Development and Family Allowance Directorate in the matter of the Farm Family Settlement Programme, to deal with the issue of grants of parcels, lots and farms to foreign nationals, and consequently should not be interpreted as being automatically applicable to all programmes funded by FODESAF, with no exception made for cases involving children.

233. Thanks to this intervention by the Office of the Ombudsman, the Director General's directive has not become a threat to the rights of foreign children and adolescents, who would otherwise have been excluded from social programmes such as those relating to food, education and health care.

234. The Office of the Ombudsman's ruling is grounded into the Convention on the Rights of the Child, which provides that children may not be subjected to discrimination and are entitled to all their rights irrespective of their nationality. The Convention also establishes the eligibility of children to social security benefits in States that are parties to the Convention.

235. Similarly, the Children and Adolescents Code establishes the right of children to comprehensive development and the protection of the State. Inasmuch as poverty is a condition that affects the comprehensive development of children and adolescents, it is the State's duty to pursue policies that safeguard those rights.

236. Both the Convention on the Rights of the Child and Children and Adolescents Code provide that children have a right not to be subjected to discrimination, and also state that States have a duty to provide protection for all children and adolescents and to safeguard their comprehensive development, which implies that, independently of their nationality, they are entitled to benefits under State-funded social programmes.

237. It is clear that under the standards in force in Costa Rica, no discrimination of any kind against children is lawful. Any child who is unable to satisfy his or her basic needs for food, education, health care and shelter has a claim on the State, which is duty-bound to provide him or her with the opportunity of achieving his or her full development. The State, through its institutions, is responsible for implementing programmes that will endow children living in poverty with social mobility, and consequently they cannot be denied eligibility for benefits under those programmes on their grounds of their nationality.

238. In the light of the considerations outlined above, the Office of the Ombudsman made the following recommendations to the Social Development and Family Allowance Directorate:

- ❑ The advisory to the CEN-CINAI Programme Directorate concerning eligibility for benefit under programmes funded by FODESAF should be suspended, and all entities responsible for executing programmes for children and adolescents with FODESAF funding should be informed to that effect, with a view to respecting children's right of access to social programmes funded or implemented by public institutions.
- ❑ The standard designated AJ-DESAF (No. 120-99) should be applied. According to that standard, which had been issued by the Social Development and Family Allowance Directorate's Legal Affairs Unit, all children, Costa Rican or foreign, were declared eligible for benefits under programmes funded by FODESAF. Furthermore, all entities responsible for executing programmes for children and adolescents with FODESAF funding should be notified that it would henceforth be in force and that they were required to apply it, in accordance with the provisions of the Convention on the Rights of the Child and the Children and Adolescents Code.
- ❑ In order to ensure that similar situations relating to foreign children and adolescents would not arise in the future, the Social Development and Family Allowance Directorate's Legal Affairs Unit, when issuing statements about eligibility for benefits under programmes funded by FODESAF, should indicate explicitly that cases of children and adolescents in Costa Rica would henceforth be governed by the Social Development and Family Allowance Act, the Convention on the Rights of the Child and the Children and Adolescents Code.

239. A noteworthy example of innovative legislation is the Responsible Paternity Act, enacted pursuant to article 7 of the Convention, which provides that "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a

nationality and, as far as possible, the right to know and be cared for by his or her parents.” The Act has a number of purposes: among other things, it seeks to ensure that all children born in Costa Rica are duly registered, along with the names of both their parents, by the time they are one year old, thereby holding both the father and the mother to one of their most important duties as part of the task of safeguarding children’s comprehensive development and growth. Another purpose of the Act is substantially to reduce the frequency and duration of paternity cases in the courts by promoting a greater sense of responsibility on the part of men and of society in general in the matter of paternity. Above all, however, the Act seeks to promote awareness of the fact that the care and nurturing of children is a task that should be shared by women and men.

240. Pursuant to the provisions of the Act, Costa Rica has developed a draft public policy aimed at promoting responsible paternity, and in that connection it has assigned responsibility and committed to practical actions for execution by various governmental institutions. In particular, the country’s senior university authorities are being urged to collaborate both by participating in research projects in this area and by including information about the Act and the associated responsibilities in their several disciplines. These policies and practical actions were approved by the Committee on Responsible Paternity and were submitted to the Social Development and Family Allowance Act late in 2001 for implementation. In connection with this Act, it is essential to note that the Office of the Women’s Ombudsman (a division of the Office of the Ombudsman) has been holding periodic meetings to monitor and evaluate progress to date in this area. The issue will be discussed in greater detail later in this report.

#### **Children and adolescents with disabilities**

241. The public institution with primary responsibility in matters relating to disability is the National Council on Rehabilitation and Special Education (CNREE). The Council was founded in 1973 pursuant to Law No. 5347, which provides that it is the body in charge of developing general policy in the area of rehabilitation and special education.

242. Costa Rica’s focus on human rights and equality of opportunity are reflected in Law No. 7600, the Equal Opportunity for Disabled Persons Act, which was enacted in 1996, followed by implementing regulations two years later. Under these statutes, CNREE is the body with primary responsibility in matters relating to disability, and part of its mandate is to oversee State institutions and make sure that they provide persons with disabilities with opportunities and conditions such that they are able to exercise their rights. Another statute, Law No. 7972, makes resources available for the funding of programmes designed to help adults living in poverty who are at risk of social exclusion.

243. This legislation also recognizes the rights of disabled persons under the age of 18, and specifies the duties of public institutions, local governments and communities in helping the members of this substantial population segment improve their quality of life. In this way, the statutes help make the needs and characteristics of this group more visible.

244. Further details of the effort that has been made in this area in recent years will be found in the section dealing with article 23 below, where action taken in response to the Committee’s specific recommendations will be discussed at greater length. The same approach will be adopted for the issue of vagrant children and adolescents, which is relevant for our consideration of the informal work that these young people do, and also for our consideration of the issues of the school dropout phenomenon and commercial sexual exploitation.

245. In general terms, as regards national awareness and education campaigns as means of safeguarding the right to non-discrimination, the organizations we consulted for purposes of this report, including the National Women's Institute, the Office of the Ombudsman and CNREE, did not specify how many such campaigns had been conducted. However, they all stated unequivocally that one major line of action was the distribution of information about the rights of children and adolescents and the use of the media (including radio, television, educational materials and other means) to disseminate awareness of the meaning of discrimination. Another was the oversight and monitoring of public institutions and local governments, to ensure that they were living up to their commitments by eliminating all directly or indirectly discriminatory attitudes and behaviour based on gender, ethnic origin, nationality or any other factor.

### **C. Civil rights and freedoms (articles 12 to 17)**

#### **1. Participatory rights**

246. The Committee recommended that further efforts should be made to ensure the implementation of the participatory rights of children, especially their rights to participate in family decisions, at school, within other institutions and in society in general, and that awareness raising among the public at large, as well as educational programmes on the implementation of these principles, should be reinforced in order to change traditional perceptions of children as objects and not as subjects of rights. The discussion in the following pages relies essentially on the first State of Child and Adolescent Rights report<sup>15</sup>, and to some extent on the report of the Children and Adolescents Division of the Office of the Ombudsman for 2001-2002.

247. The State of Child and Adolescent Rights report states unequivocally that children's and adolescents' rights to participation and expression are enshrined in the Constitution, article 29 of which states that "Every person may communicate his thoughts verbally or in writing". Article 12 of the Convention, for its part, provides that a child has the right to express his or her views freely in all matters affecting him or her, those views being given due weight in accordance with the age and maturity of the child. The Children and Adolescents Code states at greater length that children under the age of 18 have the rights to report actions prejudicial to them and to participate in processes and proceedings affecting them, and that their views shall be taken into account in the resolutions that are adopted. Moreover, the Code makes provision for effective participation by children and adolescents in society and in their communities. The process of developing the National Agenda for Children and Adolescents included interviews with more than 500 adolescents and 490 children, who stated their views on what they regarded as their main rights. It is also noteworthy, in connection with PANI's work with Protection Boards, that the membership of the latter includes 40 adolescents and as many substitutes, all popularly elected.

248. Another factor that emerges clearly from the report, one that is shared by the national authorities, is that if the new paradigms are to evolve into a new culture and new forms of social action, an essential first step is widespread dissemination of a rights approach among the adult population. Recent statistics indicate that a change in perception and discourse about the

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<sup>15</sup> State of Child and Adolescent Rights. First report, chapter VI, pp. 225-251. University of Costa Rica and UNICEF, San José, Costa Rica, 1999.

traditionally prevalent image of children and adolescents is beginning to be observable. This change is the result of the combined efforts of governmental institutions, the Protection Boards and NGOs, including the COSECODENI organization (the Costa Rican Federation of NGOs for the Defence of Children's Rights), led by DNI (Defence for Children International). National opinion surveys reveal that three quarters of adult respondents define children under the age of 18 as human beings in the process of development who require responsible, respectful care.

249. However, significant differences appear when respondents' ages and economic levels are taken into account. The findings indicate that the greater the respondent's age, the lower his or her income and the further away from an urban area he or she lives, the more traditional his or her views. The traditional image of citizens under the age of 18 is that they constitute a group in need of protection and "care" in a more conservative sense.

### **Participation in family life**

250. With reference to children's participation in their family environment, the report states, "Our research indicates that children and adolescents perceive the family as a haven of restraint and respect, and as an essential space where they can avoid the violation of their rights by other persons who are not family members or by social institutions. At the same time, for some children, the family is perceived as a space where their rights are openly violated: where, for example, they are subjected to physical punishment, where adults are not interested in inviting them to contribute to decision-making, and where they experience the development of undemocratic relationship models featuring the arbitrary application of power by adults for allegedly disciplinary or educational purposes."

251. As far as participation is concerned, there appears to be a social blockage within the family group that makes it impossible for most families to encourage these processes from an early age. Children under the age of 18 are undoubtedly recognized as subjects of rights outside the family: the persons responsible for the family group display much more concern to protect children and adolescents from violation of their rights by outside entities, such as social institutions, community organizations or individuals. But when it comes to day-to-day decisions within the family group, having to do with such matters as socialization processes, school attendance or early workforce entry, children and adolescents are perceived as being under the tutelage of adults.

252. The report also notes that adolescents, in particular, tend to feel that their families exclude them from deliberation and decision-making processes in matters that will affect the nuclear family as a whole. They are consistently left uninformed about what is going on in the house, for example, with the result that they have to draw their own conclusions as best they can. Their views are seldom taken into account when there is an initiative in prospect that will have an impact on them, such as a change of home or school, an outing or a journey.

253. In this connection, the Director of the Children and Adolescents Division of the Office of the Ombudsman noted in his annual report for 2001-2002<sup>16</sup> that "... surprising as it may seem,

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<sup>16</sup> Office of the Ombudsman. Children and Adolescents Division. Report submitted to the Legislative Assembly, May 2002.



the history of children's rights, the concept of children, not merely as objects of protection but as subjects of rights, is very recent."

254. We thus conclude that the barriers to children's enjoyment of their rights within the family group are ultimately attributable to cultural factors rather than to gaps or weaknesses in the applicable legislation. This is a challenge that Costa Rica will have to address in the near future.

#### **Participation in the education system**

255. The Director of Children and Adolescents Division of the Office of the Ombudsman states in the report just referred to that of the complaints handled by the Division between May 2001 and May 2002, 51 % involved the Ministry of Public Education, 36 % the National Children's Trust and 7 % other institutions, such as the Ministry of Health, the Migration and Immigration Division, the National Women's Institute and the National Social Security Institute. Most of the complaints in question had to do with procedures applied by these institutions that ignored children's rights and did not treat children as subjects of rights.

256. In this connection, it is noteworthy that according to the third Report on the State of Child and Adolescent Rights, as long ago as 1977 the education sector was institutionalizing mechanisms to channel student participation, originally with the ostensible motive of promoting the development of democratic civic values and creating organizational forms that would enable students, especially adolescents, to express their views and formulate their concerns. Regulations (which are still in force) were issued with a view to, *inter alia*, "fostering student participation in decision-making in matters of relevance for the learning process".

257. Despite the broad scope of the regulations, however, their provisions relating to "conscious, critical and respectful participation in educational matters" are currently being revised to take into account not only the outlook, interests and requirements of teachers, but also those of students. The recently enacted Young Persons Act pursues the same objective: one of its main purposes is to promote participation.

258. At the same time, it may reasonably be said that in general, students are not familiar with the agencies, mechanisms and procedures available to them within the system for appealing from decisions, complaining of abuses and unfair treatment, and requiring teachers to fulfil their responsibilities. This is a weakness of the system which will have to be addressed and resolved in short order, inasmuch as it seems somewhat inconsistent to be attempting to strengthen civic education for persons who are not perceived as citizens, pending their attainment of an age that will convert them into adults.

259. The education system, at all levels, should encourage children and adolescents to exercise their citizenship, and should provide them with the information they need to play their role as active subjects. Adoption of a model of this kind would probably enable the education system to cope effectively with some of the challenges it is currently facing.

260. As regards legislation providing children opportunities for participation, the Ministry of Public Education points out that the entire student population can organize and participate in student political parties and elect its own government democratically, and consequently the children's rights of organization, participation, association and expression are safeguarded.

Every school applies the Student Electoral Code and Community Regulations, and information about grassroots participation have been distributed to all schools for the use of teachers in dealing with the subject.

261. A common theme running through all subjects is that the values of respect and tolerance toward the beliefs and opinions of others, regardless of social status, ethnic origin, sex or religion, are to be cherished and encouraged, and that they contribute to the consolidation of individual and collective freedoms. The schools also seek to instil attitudes of respect and cooperation with others in students as a means of achieving harmonious coexistence and by way of civic training for the exercise of their rights and responsibilities. In addition, students in the eleventh and twelfth years of specialized education are required to perform what is known as student community service, with a view to the survival and reinforcement of personal, social and community values.

262. Discipline in schools must, of course, be compatible with the children's human dignity and the provision of the Convention, and in this connection, it is noteworthy that the measures used in Costa Rican schools are governed by the Learning Assessment Regulations, chapter III, articles 56-93, which cover procedures for assessing students' behaviour, students' responsibilities, different categories of unacceptable behaviour and corrective actions, among other things. Article 91, for example, sets forth the procedure for a student's defence, which he or she has three working days to prepare following receipt of notice.

263. If a student is not satisfied with the mark he or she has received, the student concerned or his or her caregiver, father or mother may challenge it, following the procedure laid down in the Regulations, which deals with students' participation in the educational process as well as disciplinary matters.

264. Under articles 21 and 46 of the Regulations, a student may challenge the allegations made against him or her and ask for conclusive evidence. Article 74 provides that a student who has been subjected to corrective action, or who considers that his or her rights and integrity have been violated in some way, may present a defence.

265. It is worth recalling at this point that Costa Rica has enacted Law No. 7475, the Law on Sexual Harassment in the Workplace and Educational Institutions, together with implementing regulations, which provide the Ministry with adequate means of preparing reports on cases of sexual harassment, conducting the necessary investigations, and taking appropriate action tailored to the circumstances of individual cases.

### **Participation in the health care sector**

266. The State of Child and Adolescent Rights report notes that the health care sector in Costa Rica has a long tradition of making civic action an integral part of the development of community-level preventive medicine programmes. The modernization process that has been under way in the health care sector for several years now has pointed up the importance of promoting participatory processes and service audits, and of developing strategies to combat the main problems confronting the country in the area of service delivery. A major step in this direction was the establishment of 124 democratically elected Health Boards.

267. Both the National Council on Children and Adolescents and the Costa Rican Social Security Fund support the application of the Children and Adolescents Code with a view to

enabling adolescents to express their opinions, providing them with access to information, and encouraging them to play an active role in consultations. However, institutional modernization, in the field of health care services as elsewhere, has not kept pace with the cultural change that has overtaken most of the adult population: health care delivery continues to be adult-centred. The Costa Rican Social Security Fund has made substantial efforts and undertaken a variety of activities aimed at promoting and protecting the rights of children and young people. Recent examples have included the establishment of the Commission and the adoption of regulations under the Children and Adolescents Code and the Adolescent Mothers Protection Act, as well as action to overhaul institutional regulations and bring them into line with the applicable statutory instruments.

268. Moreover, as we have seen, respect for children's rights in the health care sector is being integrated into care and management standards. It is also noteworthy that the health care sector submits a yearly report to the Office of the Ombudsman on the observance of human rights in its programmes.

269. One particularly significant instance of a programme that has embraced participation by children and adolescents is the Comprehensive Adolescent Care Programme (PAIA)<sup>17</sup>, which has played a primordial role in breaking through stereotypes, myths and cultural resistance in the promotion of comprehensive health for adolescents. The programme has fostered participatory involvement by young people through the establishment of a national youth network, the members of which develop training activities in the field of comprehensive and reproductive health. The network covers the entire country and includes over 50 organized groups.

270. This is an example of a direct health promotion initiative that has attracted input from young people by means of a strategy of encouraging social participation by adolescents. Furthermore, their participation has been made effective through the formation of various types of groups of adolescents (it makes no difference whether a particular group is concerned with health care, education, the arts, Red Cross first aid, Boy Scout work, youth pastoral outreach, other denominational religious activity and so forth). Not only do these groups receive extensive health education, their members are also trained as youth leaders and health outreach persons who project their actions with their various peer groups.

271. This strategy has also sought to develop its effectiveness through the formation of groups of young leaders who serve as coordinators in various regions of the country. These, in turn, appoint a representative to sit on a national coordinating group. The local youth groups, the regional groups and the national coordinating group together constitute what is known as the National Proactive Youth Network.

272. Another development that has become fairly widespread is schools for parents, offering talks and workshops on the same issues that are discussed with civil servants and youth leaders. The aim of this strategy is to enhance fathers' and mothers' awareness of the processes, characteristics and possible difficulties involved in dealing with children, and to promote dialogue, reciprocal confidence and communication with them. By way of support for health training and education processes, training modules for civil servants, professionals and

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<sup>17</sup> A Costa Rican Social Security Fund programme introduced prior to the changes to the country's legislation relating to children and adolescents.

youth leaders have been designed, validated and widely distributed. These modules address the various issues that we have been considering, and they are accompanied by user guides, audio-visual supporting materials and the like.

### **Participation by children and adolescents in other institutions and in society in general**

273. Growing awareness of the importance of creating opportunities for progress in the realization of this right has led to other forms of action, albeit still incipient in some instances. Various institutions, both governmental and non-governmental, have launched initiatives aimed at, *inter alia*, promoting participation by children and young people through the creation of spaces for recreational, sports and personal development activities. However, while these programmes have sought to promote participation by children and adolescents, they may be regarded as tangential in that in most cases the work of designing and implementing them and the decision-making and evaluation activities associated with them have been carried out without much regard for the perceptions and views of the young people concerned, except in some isolated situations such as those referred to earlier in this report.

274. A 1999 UNICEF study, quoted in the first State of Child and Adolescent Rights report, showed that 55.4 % of all children participated in church groups, 34 % in community groups, 43 % in sports clubs, 63.7 % in groups of friends living in the same neighbourhood, 21.1 % in music, dance or painting groups, and 48.1 % in study groups or other groups.

275. Similar behaviour was found in the case of adolescents: 54.6 % of respondents of both sexes said that they belonged to some kind of group, with a higher percentage for males and students; 25 % reported that they belonged to a religious group, 25 % to a sports group, 17 % to a group of friends, 7 % to a cultural group and 6 % to a community group. No more than 1.8 % of the respondents said that they belonged to a political party, suggesting declining interest in traditional forms of political organization. This, of course, should not be understood or interpreted as a lack of interest in issues of national relevance.

276. The National Youth Movement, an organization supported by the Ministry of Culture, Youth and Sport, comprises 286 young people's organizations distributed throughout the country, 80 % of them in rural areas. Another noteworthy phenomenon has been the large-scale mobilization of young people and adolescents for the National Games Programme, under the direction of the Costa Rican Institute for Sport and Recreation. The Games attracted some 8 000 athletes from all parts of the country to participate in the championships. Young people and adolescents are organized in a more permanent sense in canton-level sports clubs, and this is a basic feature of the participation process. These sports clubs are supported by the Ministry of Public Education.

277. Lastly, it may reasonably be said that in recent years, various public institutions have sought to respond to the challenges associated with a rights approach by attempting to promote alternative forms of institutional participation, notably the National Adolescent Participation Network (PAIA-CCSS), the National Agenda for Children and Adolescents, the National Protection System, the National Youth Violence and Crime Prevention Network, promoted by the Ministry of Justice, the Hand of the Community Volunteer organization, promoted by the Joint Social Assistance Institute, the Young Communicators Network, and others.

278. We may conclude that, in the words of the State of Child and Adolescent Rights report, “In spite of the country’s systematic efforts to disseminate a rights approach, the adult population continues to put a construction on rights that is directly bound up with day-to-day life. For that population, education, health care and family appear as the strongest images on which the idea of children’s rights is founded. However, other rights associated with the building of the personality, the development of autonomy and subjective experience have been related to a secondary position.”

279. This perception on the part of the adult population confronts Costa Rica with two major challenges. In the first place, it is essential to overcome partial visions that tend to centre children’s rights on the school environment and health care. In the second place, the country must imperatively undertake a systematic effort to enable its adult population to overcome an intolerant vision of adolescents’ exercise of their rights. The State of Child and Adolescent Rights report rightly notes that the adult population and the country’s existing institutions are confronted with the challenge either of assuming the historic responsibility of being active protagonists and laying the groundwork for a far-reaching socio-cultural transformation, or, alternatively, of continuing to cling to the canons of tradition to preserve archaic models of social relations which have clearly ceased to be functional for promoting comprehensive human development, family coexistence and social development.

## **2. Measures aimed at enforcing the legal prohibition of corporal punishment**

280. The Committee recommended that Costa Rica should take effective measures to enforce the prohibition of corporal punishment in the home, in schools and in the penal system, including the design and execution of educational campaigns for the development of alternative disciplinary measures for children in the above-mentioned institutions. Some of the most noteworthy measures to that end that have been adopted in recent years are discussed below.

281. The first State of Child and Adolescent Rights report notes that “Despite progress in disseminating a rights approach throughout the country, daily experience seems to indicate the persistence of situations characterized by the violation of children’s and adolescents’ rights, or regard for socialization models that are incompatible with that population segment’s exercise of its rights.” The report goes on to state, “It would seem that greater awareness of the rights of children and adolescents on the part of the adult population has not sufficed to alter long-standing cultural practices.” As regards violence and physical abuse, the second State of Child and Adolescent Rights report, published in 2000, notes that there has been some improvement, inasmuch as there have been more cases reported: “It must be acknowledged that a measure of social awareness of the issue has developed, and consequently growing numbers of persons are willing openly to provide information or state their views on the matter.”

282. Furthermore, “Substantial segments of the adult population continue to be characterized by deeply rooted patterns of socialization featuring personal injury, psychological or physical. A survey has revealed that 52.1 % of the adults interviewed, all living in urban areas, considered that “on occasion” it was necessary to strike children as part of their upbringing. This view tended to be justified on the grounds of standards having to do with correcting the behaviour of children.”

283. Certainly Costa Rican legislation, including, in particular, the Criminal Code and the Children and Adolescents Code, lays down clearly defined standards concerning the liability of civil servants and the general public. In the matter of the violation of children’s and

adolescents' rights, however, those standards are not always observed, partly because of financial constraints.

284. Various reasons are offered for this situation, including the fact that the country does not have sufficient human resources at its disposal to respond in timely fashion to complaints, and the fact that there appears to be some reluctance on the part of family members and society at large to report violence of this kind, even though change is visibly occurring.

285. The Ministry of Public Education has plans for further action to disseminate awareness of the provisions of article 49 of the Children and Adolescents Code, which states that Directors and senior personnel of educational institutions, both public and private, or any other institutions where children are regularly present or cared for have a duty to report "any reasonable suspicion of mistreatment or abuse committed against them."

286. Article 134 of the Code, for its part, provides that "... where indications of mistreatment or abuse of a child have been duly confirmed, criminal charges shall be laid without delay. A person or institution acting to protect a child shall not be liable to an action for damages, even in cases where the prosecution does not result in a conviction."

287. The Director of the Children and Adolescents Division of the Office of the Ombudsman refers in his reports to a series of actions that his Division has taken in response to reports of cases of corporal punishment in schools. By way of illustration, two cases and their outcomes are described in detail.

288. The National Children's Trust has endeavoured to promote a cultural shift in the matter of corporal punishment through the community projects executed by its local offices and the Protection Boards, and as a result there is a growing awareness of alternative forms of correction at the local level. These efforts are to be pursued and reinforced in every community in the country.

289. As a contribution to this campaign against corporal punishment, a parents' education programme is currently being designed. The programme will be introduced nation-wide, and it will feature an array of systematic, ongoing actions aimed at strengthening families' capacity to approach discipline problems adequately while respecting children's rights.

290. It is clear, then that the Ministry of Public Education has sought consistently to take appropriate action to prevent situations of this kind from arising, implementing a broad range of training and professional development activities designed to inform teachers about the rights of children and adolescents and the importance of eradicating practices that are physically or psychologically harmful to them. Most regrettably, however, such practices persist, although it is fair to say that they have become less common than they once were.

291. Aware as it was of the persistence of cultural patterns that were prejudicial to the rights of children, the Rodríguez Echeverría Administration, with technical assistance from UNICEF and UNDP and with the aid of human and financial resources from the Joint Social Assistance Institute, the Ministry of Health, the National Children's Trust and the Ministry of Public Education, designed and implemented, beginning in 2000, the "Take my hand" programme.

292. That programme seeks essentially to promote the comprehensive development of children under the age of 16, with heavy emphasis on training for parents and caregivers. The goal of the programme is to foster awareness among the general public with a view to altering

traditional cultural patterns and eliminating the use of corporal punishment and some other practices.

293. The programme is articulated around five main themes: rights, gender equity, disability, non-violence and environment, all of which figure prominently in the programme's two major action lines: (1) training, orientation and capacity building, and (2) managerial development, which in turn consists of two general components: (a) expansion of existing service coverage and development of new alternatives, and (b) information, monitoring and evaluation system.

294. The "Take my hand" programme has a number of achievements to its credit, including in particular the training of 900 "family educators"; the production of 360 radio programmes, which have been broadcast nation-wide and relayed to rural areas through 20 local transmitters; two awareness campaigns organized and carried out with the support of the First Lady of the Republic; and the preparation of 10 educational modules dealing with various subjects, 2 250 000 copies of which have been produced and distributed throughout Costa Rica.

295. A "content manual" has been developed for training family educators, and a "family training model" has been designed and put into practice this year (2002). Coverage of the target population expanded by 5.5 in 2000 and by 8.3 % in 2001, which in real terms means that the programme was initially delivered to 27 602 children and two years later had reached 42 900. Certainly there is room for improvement, but these figures undeniably offer an indication of the political will and the effort that the participating institutions have made to upgrade the comprehensive care of this important population segment.

296. The drafting and enactment of Law No. 8017, the Comprehensive Care Centres Act, which has been in force since September 2000, and the adoption of regulations governing the accreditation and operation of comprehensive care centres for children under the age of 12 have been another essential step in the same direction. This Act replaces Law No. 7380 of March 1984, the Childrens' Day Care and Home Schooling Act, and the regulations made thereunder, which reflected the old paradigm and principles of the doctrine of tutelary protection.

297. The Prevention and Children's Rights Promotion Division of the National Children's Trust, with the backing of DNI and COSECODENI, planned and conducted information campaigns throughout the country in 2000 and 2001, using both the print media and television; the watchword of the campaigns was "Education with kindness". The Division had stands to display and distribute educational materials at three events in the greater metropolitan area, and 10 000 posters bearing the legend "No more child abuse, kindness is the way".

298. Battered Children's Committees have been functioning at the National Children's Hospital and many other hospitals throughout the country for some years now, and there have been various national campaigns against all forms of violence against children, especially in 2000 and 2001, under the auspices both of public institutions and of NGOs, especially COSECODENI and UNIPRIM (an association of private organizations that care for children with various problems). These are highly promising initiatives that are to be pursued and expanded, not only in the short term but over the longer term.

### 3. Prohibition of the torture of children and adolescents (article 37)

299. With respect to the Committee's suggestion that Costa Rica's domestic legislation should include provisions explicitly prohibiting the torture of children and adolescents and setting appropriate penalties for persons who commit acts of torture, we should like to point out that, as noted in Costa Rica's report to the Committee Against Torture<sup>18</sup>, the country has a full array of statutory instruments in that area. Accordingly, only a few brief comments will be presented in this part of the report, supplementing the remarks made in response to paragraph 28, on the process that has been developed in recent years to apply the Juvenile Justice Act.

300. In the first place, it should be noted that while Costa Rica's Criminal Code does not explicitly identify torture as a criminal offence, that does not mean that acts of torture can be committed with impunity. International instruments that Costa Rica has ratified, including the Convention against Torture, which was ratified in 1999 by means of Law No. 7934, and the Convention on the Rights of the Child, contain provisions dealing with this issue. In response to a number of international recommendations, however, an amendment to the Criminal Code making every act of torture a criminal offence has been prepared and submitted to the Congress of the Republic for consideration.

301. A 1997 study<sup>19</sup> revealed that one of the problems confronting the health care sector was a lack of special programmes for children and adolescents suffering from mental illness. Another issue that is currently under review by the competent authorities is the legality of the practice of sterilization in one of the country's psychiatric hospitals<sup>20</sup>, although this is something that is virtually never done in the case of a child.

302. Care for children and adolescents with mental illness is a matter to which increasing attention is being paid throughout the country. At present, the Psychiatric Hospital offers the following programmes:

- Outpatient consultations for children and adolescents;
- A special wing for the observation of battered children;
- A protection team for adolescent mothers;
- Individual and group care for children and adolescents, provided by interdisciplinary teams;
- Training programmes in children's mental and psychiatric health care for generalists and other physicians.

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<sup>18</sup> Report by Costa Rica to the Committee Against Torture on its implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, August 2000 2000.

<sup>19</sup> CCSS, ILANUD, PAHO *et al.* Human rights of persons with mental illness in Costa Rica's health care system, 1997.

<sup>20</sup> Report by Costa Rica to the Committee Against Torture, 2000, p. 35, para. 213.



303. Juvenile patients do not share quarters with adults; there is a special wing for their exclusive use. The outpatient consultation clinic for children also has its own premises.

304. In the matter of complaints against the Civil Guard, a report entitled *Situational Analysis of the Rights of Girl Children and Adolescent Girls in Costa Rica*<sup>21</sup>, published by UNICEF and the University of Costa Rica, found that “according to the evidence given by two teenagers who had been working in the streets for several years, there is evidence of cases of arbitrary arrest and improper, sometimes abusive, treatment of teenagers by the police”.

305. To look into complaints against the police, the Ministry of Public Security relies on the Department for Police Inspection, which was established in 1997 under Executive Decree No. 25938-SP. The Ministry also devotes a great deal of attention to the issue of training for police officers, as we have seen.

306. Lastly, the Office of the Ombudsman’s report for 1999 notes that there had been complaints about the situation of the children of women in detention, with reference to the “Casa Cuna” agreement between the Ministry of Justice and the National Children’s Trust, under which the length of time children could stay with their mothers was reduced from three years to one. Following a joint effort to find a solution, an addendum to the agreement was signed whereby an extension may be authorized up to the time the child is three years of age where there are technical reasons for such an extension. In addition, the parties agreed to take the necessary steps to organize a creche at the Good Shepherd Penitentiary and to work more closely with the Santa Maria Home to offer more options for the children of women in detention. After the age of three, children in the Casa Cuna who have no family on the outside can be accommodated in the Santa Maria Home.

307. In the view of the Office of the Ombudsman, all aspects relating to Casa Cuna, and specifically the matter of how long children may stay there, should be dealt with in a single legal instrument<sup>22</sup>.

#### **D. Family environment and alternative care**

308. With respect to this important aspect, it is important to note that professional and technical people working in the field of the protection of children’s and adolescents’ rights, among others, acknowledge the fact that for some years now, Costa Rica has had policies in place aimed at providing families with adequate economic and social support to enable them to maintain their family coexistence and to ensure that they have access to a life of quality and dignity, free of violence, injustice and discrimination on the grounds of gender, ethnic origin, religion or social status. At the same time, it is clear that the task of attaining these aims will require more attention on the part of the competent authorities and greater resources.

309. Accordingly, for the past few months a new public policy has been in preparation, one that structures the various existing efforts along these lines and also seeks to respond to individual requirements in family and community contexts. The new policy emphasizes

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<sup>21</sup> UNICEF/University of Costa Rica: *Situational Analysis of the Rights of Girl Children and Adolescent Girls in Costa Rica*, 10<sup>th</sup> special edition, 1999.

<sup>22</sup> Office of the Ombudsman, 1999 report, p. 89.

capacity-building and greater opportunities for children and adolescents, adopting a focus on rights and social and gender equity with a view to laying, over the short, medium and long terms, the foundations of a juster society. The Technical Committee of the National Council on Children and Adolescents is preparing a plan for children and adolescents that is aimed at implementing the National Agenda within the next ten years.

310. However, while Costa Rica is not yet endowed with a formal policy in this area, it is noteworthy that the central theme of the Summit Meeting of Heads of State and Government of the Rio Group, held in Costa Rica in March of this year, was “Strengthening the family and combating poverty”. That theme had been selected by the then President of the Republic, Dr. Miguel Ángel Rodríguez, and was formulated in a proposal developed by the Costa Rican Technical Committee for the meeting, which was duly adopted by the assembled heads of State and Government. The main objective outlined in the proposal was the identification of “successful practices” developed by the several countries of the Rio Group, with a view to initiating a process of exchanges in the areas listed below:

- Children and adolescents;
- Education;
- Labour;
- Sexual exploitation;
- Health care;
- Violence;
- Family policy;
- Legislative and institutional adjustment;
- Adult males;
- Families of different ethnic groups;
- Instruments for the evaluation and monitoring of social programmes.

311. But while Costa Rica has no family policy as such, it does have a variety of statutory instruments that effectively serve the purpose, including articles 51 and 55 of the Constitution and the Convention on the Rights of the Child, which define the family as the fundamental element of society with a right to the special protection of the State, while the National Children’s Trust is vested with responsibility for the protection of mothers and children. Under article 1 of the 1974 Family Code, “It is the duty of the Costa Rican State to protect the family,” while article 101 states that “Every child has the right to develop and be brought up and cared for within his or her family and under its responsibility; he or she may be adopted only under the circumstances set forth in this Code.” Other statutory instruments that have been referred to earlier in this report include the Charter of the National Children’s Trust (PANI) and the Children and Adolescents Code, both of which enshrine the country’s conviction that it is in the national interest for children and adolescents, as a matter of priority, to grow up and develop with their families.

312. To safeguard children's rights, PANI does everything in its power to enable them to remain with their families. To deal with the exceptional cases where that is not possible, the Trust has established a system of alternative means of providing care. The main options include:

#### **Foster homes**

313. These are homes that have volunteered to serve as an effective social option for providing solidarity and family integration for a child or adolescent who is in need of security, affection and protection. The foster family may or may not have blood ties with the foster child. The foster home may be either a temporary or a permanent solution, i.e. the foster child may or may not return to his or her original family.

#### **Non-governmental organizations**

314. These are care options that have been promoted by organized groups in society that have formed themselves into legal entities known variously as associations, foundations or institutions. Like a foster home, an NGO may provide a child with either a temporary or a permanent solution.

#### **Shelters**

315. A shelter is a house in a community, run by a group of persons who live in it, in what may be analogous to a family situation.

#### **Children's villages**

316. This care option consists of a group of houses within a clearly defined geographic perimeter in a community. Each house provides what is tantamount to a family setting, much like the shelters just described.

317. These various care measures and options must be capable of providing physical and emotional support for the children or adolescents whom they accommodate. In particular, they must be capable of meeting the needs of groups of siblings, adolescents with some type of disability or behavioural problem, or exceptionally complex situations.

318. The fundamental objective of any alternative care option is to make comprehensive care available, providing and safeguarding a therapeutic environment that enables children and adolescents to learn how to live with themselves and with a family, develop self-esteem and confidence in other people, progressively acquire autonomy, creativeness and self-expression, and benefit from opportunities for comprehensive development.

319. These options afford conditions that provide children with an adequate quality of life and respect for their rights by structuring and developing the various aspects comprising the care model: infrastructure, affection, day-to-day care, education, health care, participation in community events, professional care, recreation, art, culture, and opportunities for social mobility.

320. Costa Rica has 34 shelters and one children's village, distributed throughout the country, which provide daily care and protection for 420 children and adolescents, the costs being assumed by PANI. The Trust has also signed agreements with 63 NGOs that provide care for

approximately 1 500 children and adolescents. In addition, cooperation agreements have been signed with 637 foster homes, which currently have 1 300 children in their care.

321. For purposes of evaluating and monitoring the care provided under these various options, several different models have been developed, including:

- Care model for options under which children and adolescents are provided with care;
- Supervision model options under which children and adolescents are provided with care;
- Theoretical-methodological profile for foster homes;
- Manuals for conducting quality audits.

322. The system has some weaknesses, including the following:

- Difficulty in providing timely, regular therapeutic care for all children and adolescents;
- Delays in making resources available for the development of alternative care options such as youth homes, independent living support, shelters for groups of siblings, and closed centres for juveniles with drug addiction problems or who are otherwise at risk. Centres of this kind may be founded beginning in 2003;
- Quantitative limitations on the grants and other resources at PANI's disposal for transfer to NGOs and foster homes.

323. Alternative care options have undoubtedly been substantially improved, thanks to support from NGOs and public sector institutions, and quality auditing processes have been upgraded. However, continued effort along these lines is essential, as much work remains to be done.

#### **1. Domestic and intercountry adoption (article 21)**

324. The Committee on the Rights of the Child recommends that Costa Rica should take further measures to reform its legislation in accordance with the requirements of the Hague Convention, to which Costa Rica is a party. In response to that recommendation, we present the following comments by PANI<sup>23</sup>.

325. In the first place, before a Costa Rican child or adolescent can be removed from his or her family environment and entrusted to the care of PANI, the following guidelines must be followed:

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<sup>23</sup> Dr. Hilda Castro Bolaños, National Coordinator, Protection and Care Division, National Children's Trust, August 2002.

- (a) Alternative care options should be resorted to only where the physical and emotional integrity of the child or adolescent is seriously at risk within his or her nuclear family.
- (b) Priority should be given to family and community alternative care options.
- (c) Action should be taken to foster preparation processes for entering and leaving the various alternative care options, taking into account the child's age and his or her family characteristics and conditions.
- (d) Priority should be given to securing accommodation that will enable groups of siblings to remain together. In situations where that is not feasible, every effort should be made to promote the maintenance and strengthening of the bonds between the children concerned.
- (e) Institutionalization time or the length of time a family group has been separated should be closely monitored and kept to a minimum in so far as possible.
- (f) In all cases of separation, the cultural context should be respected in so far as possible, with children and adolescents placed in alternative care facilities that are located in their areas of origin, subject to the overriding consideration of the best interests of the children concerned.

326. In all cases of separation, every effort must be made to work exhaustively with the children concerned and their families to determine, within the periods of time prescribed by law, whether they can return to their nuclear families or whether they will be better able to exercise their rights to the full in other family-based or institutional settings.

327. Adoption, domestic or intercountry, is defined as a legal institution characterized by family protection and integration and serving public order and the interests of society. It is a legal and psychosocial process by means of which the adopted child becomes part of the adopting family for all purposes, as a son or daughter. It is a permanent, definitive alternative care option that excludes any return to the original family. Domestic adoption is preferable to intercountry adoption, in accordance with the Hague Convention in the matter.

328. Costa Rica has a number of statutory instruments containing provisions relating to adoption, including the PANI Charter, which states that one of the aims of the Trust is "to safeguard children's right to grow and develop within a family, whether biological or adoptive."

329. Another such instrument is Law No. 7517, making provision for approval of the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, which was enacted in 1995. Other important examples are the Family Code and the Adoptions Act.

330. In an effort to expedite domestic and intercountry adoption procedures and make them more secure, PANI issued new operating regulations for the National Adoption Council, making provision for, among other things:

- (1) Establishment within PANI of the National Adoption Council as the central authority referred to in the Hague Convention, with responsibility for overseeing

compliance with the Convention. At present, the Council is interdisciplinary in nature, with representatives from NGOs and Children and Adolescents Protection Boards among its members.

- (2) Establishment of seven Regional Councils to oversee adoption procedures in their respective jurisdictions throughout the country.

331. These regulations have recently been subjected to a revision process aimed at upgrading and refining them, and it is hoped that the revised version will be approved in due course. As soon as it is, a manual of standards and procedures for use with the regulations will be prepared.

332. Concurrently, various actions are in the process of being designed and implemented with a view to clarifying and reinforcing the multifarious aspects of domestic and intercountry adoption and strengthening relations with the national judicial authorities. That particular aspect is crucial, owing to the fact that in Costa Rica there are still occasional cases of children and adolescents whose legal status is not settled securely and expeditiously, with the result that their right to grow up in a family setting is violated and obstructed.

333. In the matter of intercountry adoption, PANI is the central authority, although it has been obstructed by some family court judges who have been under the misapprehension that the Hague Convention applies only in cases of children in PANI's care, or in the care of an NGO, and not to cases of intercountry adoption by consent, which are brought directly before family courts by counsel for the parties involved.

334. This situation shows that children involved in intercountry adoption proceedings have been treated differently in different cases. For some, the procedures laid down in the Convention have been observed, with the result that the children involved have had the benefit of maximal safeguards. For others, those procedures have not been observed, and the children involved have been at a disadvantage, having been denied the protection to which they were entitled.

335. As a matter of interest, we may note that virtually all children who have been involved in intercountry adoptions of this kind, by consent, with the participants being represented by private lawyers, have been infants under the age of two.

336. The issue of intercountry adoptions is one that, admittedly, will require further unremitting effort in order to secure cooperation between countries. Useful initiatives in that respect will include:

- The drafting and signing of bilateral agreements with France, Italy, Canada, the United Kingdom and the Netherlands.
- More satisfactory communications with the consultates, in Costa Rica, of receiving countries that have signed the Hague Convention.
- The drafting of agreements with federal governments and agencies that are accredited to the authorities of the United States of America.

- The preparation of a draft law amending the Criminal Code, with a view to eliminating irregularities of the kind that have occurred in intercountry adoption procedures, including adoptions that have not been authorized by PANI.
- An approach to the Costa Rican judiciary with a proposal for the establishment of regional-level liaison committees between PANI and the judiciary, analogous to the one that currently functions at the national level, to expedite relinquishment procedures and adoption procedures.
- Agreements between public and private hospitals, the Migration and Immigration Directorate and foreign consulates, making provision for training and awareness enhancement in the matter of adoption and the Hague Convention, with a view to immediate detection and reporting of irregular situations.

337. One of the subjects dealt with in the Office of the Ombudsman's report for 2001-2002 is an investigation of adoption procedures followed in Costa Rica. The two tables shown below are taken from that report. The first summarizes domestic and intercountry adoptions in recent years that have been arranged through PANI, while the second presents adoptions that have been arranged by direct contact between the parties concerned.

**Adoptions arranged by the National Children's Trust**

<b>Type of Adoption</b>	<b>1997*</b>	<b>1998*</b>	<b>1999**</b>	<b>2000**</b>	<b>2001**</b>
Total adoptions	40	54	87	166	38
Domestic	8	28	75	43	16
Intercountry	32	26	43	23	11
Direct contact	25	15	30	37	11

\* Includes only adoptions arranged through the National Adoption Council.

\*\* Includes adoptions arranged through both the Council and local offices.

338. The data in the second table refer to adoptions in the metropolitan area that were arranged by direct contact between the parties concerned, whose lawyers apply to the courts. PANI appears at hearings and makes its technical standards available to the court, but, according to PANI itself, judges do not always take those standards into account, especially in cases of adoption by non-resident foreign families.

**Adoptions arranged by direct contact between  
the parties concerned, metropolitan area**

<b>Domestic adoptions</b>		<b>Intercountry adoptions</b>	
1997	13	1997	39
1998	8	1998	62
1999	10	1999	47
2000	6	2000	50
2001	2	2001	34

339. The investigation conducted by the Office of the Ombudsman looked primarily at the procedure followed in cases involving the adoption of a child or adolescent by a Costa Rican or foreign family. Its aims were to determine the average time that elapsed between an applicant's first approach to a PANI local office and final placement of the child with his or her adoptive family by a ruling of a family court judge, to identify international agencies with which agreements have been concluded, to determine final destinations in cases of intercountry adoptions, and to determine other relevant aspects of the procedure.

340. The investigation led to a number of conclusions and recommendations, of which the following may be noted:

- In view of the “erroneous interpretation of and failure to observe” standards governing adoption on the part of the family court and some of its judges, on 30 May 2000 PANI issued an executive order (reference No. P.E.783-2000) making provision for amendments to article 109, paragraph (c) and article 113 of the Family Code. Those amendments are now part of Costa Rican law.
- Any adoption should be characterized by appropriate psycho-social and legal support and guidance before, during and after the adoption procedure, with adequate legal and professional counselling. The competent courts should have clear, homogeneous standards to guide them in order to be sure of applying objective criteria. In all cases, they should be able to rely on technical support provided by PANI in its capacity as the central administrative authority with responsibility for overseeing both domestic and intercountry adoption procedures. It is part of PANI's mandate to prepare a comprehensive assessment including the child, the biological parents and the adoptive parents, and PANI is also responsible for organizing the adoption procedure, preparing the adoption papers and following up the placement.
- It is essential to adopt measures to ensure that the placement of children and adolescents with adoptive families is not a source of lucrative financial advantage for those involved. The line between honest professional earnings and exorbitant fees has not always been clearly drawn.
- It is the rights of children and adolescents that are paramount in any adoption procedure. They must be recognized as subjects of rights and not as objects: that is the principle that must guide both legal and psycho-social action. Adoption cannot, from any point of view, be regarded as a mere legal transaction.
- Adoption in the full sense must be arranged through a central administrative authority (PANI) and be legalized by a court order. Adoptions arranged through direct contacts between the parties involved should either be eliminated altogether or else regulated by the central authority through a standard procedure; an adoption should never be a matter of a mere notarized contract.
- Owing to the socio-cultural limitations that act as a barrier to full use of the institution of adoption, PANI, as the competent authority in the matter, should develop programmes designed to bring about change in prejudicial social practices and attitudes. An effort should be made to promote a national culture of adoption



as one of the best options available for children and adolescents who have been abandoned or orphaned.

- In the matter of intercountry adoption, PANI, in its capacity as the central administrative authority, should approach its counterparts in other countries in an effort to enter into bilateral or multilateral agreements between Costa Rica and countries receiving Costa Rican children and adolescents, with a view to ensuring that all measures relating to intercountry adoption are duly implemented and preventing the abduction of and trafficking in children and adolescents. Agreements of this kind will be essential in the case of countries that have not ratified the Hague Convention.
- Intercountry adoption should be authorized only after all possibilities of meeting the child's needs within Costa Rica have been exhausted, with protection of his or her nationality rights and identity and respecting the principle of subsidiarity.
- The adoption process should be accompanied by strict procedural guarantees that do not involve excessive bureaucratic red tape and are not humiliating, discriminatory or effectively inaccessible to some population segments. Similarly, action should be undertaken to reform the Criminal Code so as to add provisions making it unlawful to evade legal adoption procedures, to secure consent to adoption by means of payment or promise of payment, to keep children for adoption without authorization, to insert false dates on birth certificates, and other acts.

341. It is worth repeating at this point that it is for PANI to ensure that the child's best interests take precedence over the wishes of the biological parents. Adoption should coexist and be closely associated with other forms of protection such as day care, fostering or removal to a shelter, with the last-named of these options being regarded as a last resort. In all cases, the children's best interests must prevail.

342. It is essential for PANI, as the primary agency, to promote broadly based coordination with the judicial authorities in an effort to streamline the existing procedure, which is unacceptable, and to reduce the length of time required to arrange an adoption.

## **2. Child abuse, neglect, maltreatment and violence (article 19)**

343. The Committee recommended that the State should take effective measures to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. Some comments on these recommendations and a summary of progress to date and some continuing weak points have been made earlier in this report, in the discussion of paragraph 17 of the Committee's concluding observations. Some additional remarks will be found in the discussion of paragraphs 26 and 27 below, on economic exploitation and sexual abuse.

344. The Committee recommended that law enforcement should be strengthened with respect to child abuse and mistreatment, which are referred to as crimes, that adequate procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and to avoid the impunity of offenders, and that educational programmes should be established to combat traditional attitudes within society

regarding this issue. Some measures along these lines are outlined in the following pages. As will be seen, PANI's Division for the Defence and Safeguarding of Children's and Adolescents' Rights has been particularly instrumental in developing and implementing these measures<sup>24</sup>.

345. In the first place, it is important to note that under articles 128 and 129 of the Children and Adolescents Code, PANI local offices are empowered to take measures for the protection of children and their families, with the aim of eliminating any violations of their rights as enshrined in the various applicable statutory instruments and minimizing, in so far as possible, the impact of such violations on the lives of the children concerned. The PANI local office seeks to correct the balance of forces, which otherwise would be unfavourable to the child because of his or her age.

346. Measures of this kind are taken when children's rights are threatened or violated as a result of an action or omission on the part of society or the State, as a result of some failure, omission or abuse on the part of their parents, caregivers or guardians, or as a result of some action or omission on the part of the children themselves.

347. In any such situation, any individual, authority or human rights organization may report that children's rights are being violated. The case may be reported verbally or in writing, and the person or entity reporting it may remain anonymous. The intervention process is initiated as soon as the facts are known or the report is received, or the local office may take action on its own initiative.

348. The principles governing the intervention process are as follows: absence of procedural formalities; procedure launched at the initiative of the local office; oral communication; concern to determine the facts; immediacy, concentration and prompt procedural action; broad range of probative resources; and right of defence and due process, having regard to the overriding interests of children.

349. In cases where intervention is based on the fact that the rights of the child or adolescent have been infringed upon within the family unit, and the aim is essentially to safeguard not only the physical integrity but also the emotional and moral integrity of a child or children, the matter must be referred immediately to the judge of the district family court. The judge will review the content of and justification for the measure or measures, since in such cases intervention involves limitations in the areas of custody, care and upbringing, which are pre-eminently within the realm of parental authority, and can be restricted only by court order. This judicial review must be completed within a period of not more than six months.

350. An interdisciplinary approach is now adopted in cases of this kind, in an effort to find alternatives that will minimize the trauma resulting from the removal of a child from his or her home, safeguard the child's rights, and ensure that he or she is returned to his or her family as soon as possible. If it appears that the situation can be resolved, the interim measure may be extended, but where that is not feasible, there is no option but to petition the competent court to initiate what is known as the special protection process.

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<sup>24</sup> Protection Measures, Dr. Alma Nuvia Zavala Martínez, Division for the Defence and Safeguarding of Children's and Adolescents' Rights, August 2002.

351. It is important to note here that the only appeal from protection measures taken by a PANI local office lies to the Executive President of PANI itself. An appeal must be brought within 48 hours following service of the notice of intervention. The lodging of an appeal does not suspend the effect of any measures that have been ordered.

352. In conclusion, we may note that where a protection measure has been taken but examination of the situation – abuse, neglect, maltreatment or violence – reveals that the outlook is promising, other alternative measures may be taken instead, or more time may be allowed before implementation of the original measure. If, on the other hand, the psycho-social and legal situation cannot be retrieved, despite the best efforts of one or more institutions, the community or the family, the case must be turned over to the courts and the parental authority of the child or children concerned suspended or withdrawn.

## **E. Social rights**

### **1. Right to health and access to health services (articles 24-27)**

353. The Committee recommended that the State should continue taking effective measures to ensure access to basic health care and services for all children. In that connection, it is noteworthy that modernization of the Costa Rican Social Security Fund (CCSS) began in 1995, and one of the most salient developments to date has been, as we have seen, the implementation of a policy aimed at reducing infant mortality through the optimization of technical and human support. Another essential initiative has been the integration of a rights and gender equity approach into all services provided by CCSS and the Ministry of Health.

354. Costa Rica's health care model is characterized by action to strengthen primary care, with programmes aimed at persons of both sexes in all age-groups: a comprehensive care programme for children up to the age of 9, a comprehensive care programme for adolescents between the ages of 10 and 19, a comprehensive care programme for women, and others.

355. Another component of the reform is a new financial resource allocation programme, which reflects a shift from the traditional approach of budgeting for services to a people-based approach designed to meet needs, and as such more equitable. The programme's main tool is what are known as management agreements, which feature priority objectives relating to care, coverage and other quality factors.

356. These management agreements have been gradually introduced over the period here under review. Five "health areas" and seven hospitals were established in 1997. In the following year, 14 health areas were established, including four under third-party purchasing or cooperative arrangements, and 10 hospitals. In 1999, the numbers increased to 34 health areas and 21 hospitals, and by 2000 total services comprised 89 health areas, 29 hospitals, six areas under third-party arrangements, four cooperatives and one agreement with the University of Costa Rica. The system is evaluated to determine to what extent its objectives and goals are being met, and data on coverage and the quality of the services being provided for the various population segments are compiled regularly. Full information for the country as a whole has been available since the year 2000.

357. Another of the system's achievements has been the allocation of greater financial resources to health areas or primary care, compared to the resources allocated for hospital care, i.e. a more equitable approach has been adopted. Experts regard greater investment in primary

health care as crucial, and it is noteworthy that spending on first-level care increased from approximately 15 % of CCSS's total spending in 1997 to 20 % of the total in 2000.

358. Furthermore, thanks to this process, the doctor-patient ratio in Costa Rica has improved from 1 doctor for every 10 000 inhabitants in the past to a much more equitable 1 for every 3 000 to 4 000 inhabitants today.

359. Basic comprehensive health care teams (EBAIS) have been organized throughout the country, giving people better access to health services. In May 1998 there were 427 such teams, whereas today there are 812 of them, working in 98 health areas and providing coverage for 87.7 % of the population.

360. In placing such emphasis on primary health care development, CCSS has sought to upgrade quality, equity, continuity and consumer satisfaction while improving its cost-benefit ratio and making its services more cost-effective. With these ends in view, it is currently executing a series of projects aimed at more effective management at the primary care level, which is the entry point to the system for people with health care needs. Higher priority is being given to disease prevention, and consistent with that approach, the level of primary care now being promoted features resolution capacity and is based on the principles of universality, solidarity, unity, equality, equity and compulsory participation. The fundamental characteristics of the services provided are client service, social and community involvement, innovative management, economic sustainability, harmony with the human environment, receptiveness to change, and timely, high-quality services.

361. The nation-wide comprehensive care programme for children comprises three major components: perinatal care, preschool care, and care for children of school age. At the primary level, it includes concern for growth and development, immunization, treatment of disease, and the detection and treatment of psycho-social and abuse risks, among other matters.

362. With a view to encouraging social involvement, Health Boards have been established and a self-evaluation tool has been developed to enable health area teams to monitor their performance constantly and to determine how well they are doing in solving people's health problems. The tool is the outcome of a joint project executed by CCSS, the University of Costa Rica and the Pan American Health Organization.

363. The tool in question is in its early stages, having recently been introduced in six health areas, but in due course it will also afford a means of meeting other information needs specified in the management agreements between individual health areas and the central administration of CCSS, and it will also be a useful aid to research on specific health problems and efforts to identify appropriate strategies for dealing with them.

364. This modernization process has involved a substantial increase in investment for infrastructure at all levels. Over the past five years, approximately \$10 million worth of primary care equipment has been acquired. Total spending on the health care sector increased from 6 239 million colones in 1997 to 22 812.2 million colones in 2001.

365. The incidence of hospital infection declined from 16 % before the reform to 9 % in 1998. Ninety-five % of Costa Rican hospitals now have a functioning Service Control Centre, and a "Charter of the Rights and Duties of Insured Persons" has been printed and widely distributed with a view to introducing explicit, informed consent in the matter of users' rights.

366. Moreover, the Ministry of Health, as the primary authority in the health care sector, has selected maternal and infant mortality as the key indicator to the quality of a health service, assessing performance at all stages through pregnancy, birth, newborn care, and the growth and development of infants under the age of 1. This focus transforms an indicator of this kind from a mass of abstract data that is meaningless at the local level into an important source of inputs for purposes of decision-making and priority-setting in such areas as forms of action aimed at different population segments.

367. During the period 1998-2002, the Rodríguez Echeverría Administration, in an effort to stabilize infant mortality rates, developed the national infant mortality plan, comprising 90 local plans and nine regional plans, with the aims of:

- Reducing the infant mortality rate to not more than 11 per 1000 live births by 2001, and to not more than 10.6 per 1000 live births by 2002;
- Investigating 70 % of all infant deaths occurring in Costa Rica.

368. Between 1997 and 2001, the infant mortality rate declined by 1.7 to 10.8 per 1000 live births in 2001, a 24 % decrease. The target of an infant mortality rate of 11 or fewer per 1000 live births by 2001 was thus met. Taking geographic distribution into account, the average decline in infant mortality over the period 1997-2001 was 3.4 per 1000 live births. In 2001, the lowest rates were observed in the provinces of Alajuela, Guanacaste and Heredia, all of which had infant mortality rates of less than 10 per 1000 live births. The highest rates were observed in the provinces of Puntarenas, Limón and San José, which had respectively 13.5, 12.6 and 11.7 infant deaths per 1000 live births.

369. A plan to reduce infant mortality and promote maternal and perinatal health over the period 2002-2006 has now been prepared and approved. Local and regional plans taking the distinctive aspects of different regions and different establishments into account are currently being prepared to supplement the national plan.

370. In 2001, primary health care was available to 90 % of all infants under the age of 1, and to 44 % of all children in the 1-6 age group. However, assessment of selected activities as set forth in the Ministry's care standards, which yields a measure of what has been termed "coverage with quality", reduces these figures to 53 % and 35 % respectively. It is clear that the task of upgrading the quality of care remains a challenge.

371. Early in the 1990s a neonatal screening programme was established with the general objectives of preventing mental retardation and other disabilities caused by hereditary metabolic disorders, developing predictive medical services, gathering data and creating a database for the formulation of public-health policies. Infants are examined in their first week of life; the programme detects congenital hyperthyroidism, phenylketonuria, maple syrup urine disease, congenital suprarenal hyperplasia and galactosemia, the latter two disorders having been added this year. To date, 224 children with these problems have been diagnosed and successfully treated at the National Children's Hospital, which applies a specific protocol for every disorder and offers genetic counselling for parents. For the period 1997-2002, coverage increased from 86.5 % to 95 %, in marked contrast to the 1990 and 1991 figures of 3.7 % and 31.5 % respectively.

372. Immunization programme coverage is a basic indicator to the promotion of children's and adolescents' rights, and this has been a priority for many years now, to good effect: measles and rubeola have been brought under control, Haemophilus influenzae Type B (HIB) meningitis has been prevented, and such diseases as poliomyelitis, diphtheria and neonatal tetanus have been eliminated. The basic plan is to provide protection against 10 disorders. In 1997 and 1998, vaccination against hepatitis B and HIB was introduced throughout the country. An upward trend in coverage for all diseases included in the basis plan has been apparent between 1998 and 2001: during that period, HIB immunization rates increased from 25 % to 89 %, OPV3 from 84 % to 94 %, DTP and MMR from 85 % to over 91 %, and and HBV from 86 % to 80 %.

373. The comprehensive care programme for school-aged children (along with their teachers) is characterized by an emphasis on grades 1, 3 and 6 of the primary level. In 2001, coverage was 78 % for the country as a whole. Activities include promotion of vaccination, measurement of the children's weight and height, the dissemination of nutritional information, testing of their sight and hearing, and the detection of psycho-social risks, including violence. This programme is a part of the Healthy Schools initiative; indeed, it is the most highly developed component of that initiative. Substantial progress has been made in providing healthy school environments and health education.

374. With respect to the extension and scope of the health care system, one favourable indicator is births under medical supervision, which ran at a rate of over 95 % throughout the 1990s. Statistics for the year 2001 show 96 % of all births as having taken place under medical supervision in CCSS's general and maternity hospitals, with another 2 % for infants born in private facilities.

375. Average maternal mortality during this period has been 23 deaths per year, with a mean average rate of 29 maternal deaths per 10 000 live births. The main causes of maternal mortality are complications during labour and birth, termination of pregnancy by abortion, edema, proteinuria and hypertensive disorders during pregnancy, birth and puerperium, amniotic fluid embolism and puerperal infections, together with other disorders in association with pregnancy, such as diabetes, heart disease and nephropathy. These conditions, of course, are largely preventable, and consequently maternal and perinatal health is included in the plan referred to above.

376. The incidence of low birth weight remained stable during this period. For the year 2000, the figure was 6.5 %. The breastfeeding situation has improved, with 95.4 % of newborn infants being breastfed. However, fewer than half of all infants are still nursing at the age of three months, and by the age of six months the proportion has declined to approximately one third.

377. As we have seen, reform has brought about a shift in the responsibilities of health care sector institutions, and this prompted the development of standards for the comprehensive care of children with malnutrition at the several care levels. The process began late in 1996 and was complete by 1999. Its purpose is more effective identification of undernourished children, or children who are at risk of malnutrition, and interdisciplinary and inter-institutional treatment of their condition, with emphasis on outpatient and community management and monitoring, but with continuity between different care levels where required in particular cases. The work of implementation began with interdisciplinary training for Ministry of Health and CCSS personnel in health areas and hospitals in regions in which malnutrition was most prevalent.

378. With a view to improving consumer education in the area of nutrition, a training programme has been instituted in the methodological framework of schools for parents. The aim of this initiative (which is part of comprehensive care) is to reinforce preventive education and health promotion activities by creating participatory forums where the parents or caregivers of infants, preschool and school-aged children can meet with health teams to discuss and analyse such issues as positive child-rearing, rights, other health matters and the prevention of common problems, including the mistreatment of children.

379. In view of the importance of the health of school children, a School Health Manual has been prepared and widely distributed, and teaching personnel throughout the country have been trained in delivery of the health care services defined in it. Particular attention is devoted to the problem of malnutrition. The Ministry of Health has joined forces with the School and Adolescent Food and Nutrition Division of the Ministry of Public Education to produce nutrition guides for educational establishments, and teaching personnel have been given training in the use of these guides as well. CCSS, working in coordination with the Ministry of Public Education, has just conducted an initial school health survey, and the data obtained from the survey are currently being compiled.

380. Turning to the issue of HIV/AIDS, in 1995 an institutional AIDS Commission was established to develop guidelines on management of the disease. In August of that year a treatment protocol was published, with Zidovudine for the prevention of perinatal transmission of the human immunodeficiency virus. Screening of pregnant women began in February 1998. In the year 2000, 25 cases of HIV-positive pregnant women were detected; in the following year, the number of such cases declined to 18.

381. In addition, since late 1997 all HIV-positive persons have been given triple-combination therapy; Costa Rica is one of the few developing countries offering this option under its State-supported health care system. Twenty-three children are currently undergoing treatment at the National Children's Hospital, where they are receiving the pediatric doses that have recently been developed.

382. The new (1997) Social Security Regulations include a chapter on the rights of insured persons, and in that chapter the rights of pregnant women, children and adolescents are set forth at length, without prejudice to any rights that may be conferred under other standard-setting statutory instruments.

383. Noteworthy developments during the period under consideration include the drafting of various standards. These include, over and above those already mentioned, a manual on the care of high-risk infants (1999), standards for implementation of the right to immunization (2001), standards governing health care for persons who have been victims of domestic violence (2000), standards governing comprehensive care for premature babies weighing under 2000 grams at birth, featuring the Kangaroo Mother Care technique (2000), standards governing joint admission for mother and infant during the breastfeeding period (2000), and now work has begun on specific standards dealing with children and adolescents who have been victims of abuse, including sexual abuse in general and also sexual exploitation.

384. Another measure that is having a substantial impact in this area is the recent publication of the Manual of Comprehensive Adolescent Maternity, Paternity and Pregnancy Care, which constitutes an up-to-date standard that integrates comprehensive care into the field of health promotion, prevention and special care for pregnant teenage girls. It also covers prenatal care,

birth preparation courses and postnatal care for adolescent couples, with the aim of integrating and helping to reconstruct traditional forms of maternal and paternal behaviour among persons in this age group.

385. Costa Rica now has a coordinated intersectoral and inter-institutional mechanism to monitor children's rights in the form of the CCSS Central Commission, which affords a means of coordinating the work of basic CCSS teams, especially those working with the Children's Health Section and the Comprehensive Adolescent Care Programme.

386. The Commission also works in coordination with other CCSS teams to support and promote decision-making in their own scenarios: recognition of rights, social work, domestic violence, monitoring of rights and purchase of services, among other things. In addition, CCSS coordinates with other institutions: it is part of the National Council on Children and Adolescents, it is represented on the Council's Technical Advisory Committee, and it participates in the work of other technical commissions such as the Building Opportunities Programme and the Take My Hand Programme.

387. Over and above these measures, it is noteworthy that CCSS has endeavoured to promote the rights conferred by the Convention and its national statutory counterparts like the Children and Adolescents Code and the Adolescent Mothers Protection Act through its organization, awareness, dissemination and training efforts at all levels in pursuit of the rights enshrined in this legislative framework.

388. Despite these significant gains, however, a number of problems remain, and those problems must be addressed and overcome as a matter of urgency. They include:

- Continuing gaps in coverage, notably in the area of sexual, reproductive and prenatal health among people living in poverty.
- Need for further action to foster a cultural shift away from budgeting based on historic trends to performance-based budgeting.
- Need for further action to promote change in the health care delivery system in the direction of more administrative and financial autonomy for clinics and hospitals in line with the CCSS Decentralization Act adopted in 1999.
- Need to introduce alternative service delivery solutions in the health care model to implement primary care in metropolitan areas.
- Need for action to consolidate and extend health areas, which still do not provide coverage for all Costa Ricans: one person in three does not yet have access to benefits under the new comprehensive care model. Priority should be given to the North Central, South and Brunca regions.
- Need for action to strengthen the controlling and regulatory role played by the Ministry of Health and to upgrade the regulatory framework for the private sector.
- Need for CCSS to promote the development of outpatient solutions, home care and other non-hospital options.



## 2. Adolescents' right to health

389. The Committee recommended that Costa Rica should undertake effective measures to develop adolescent-friendly health policies and strengthen reproductive health education and counselling services in order, *inter alia*, to prevent and reduce teenage pregnancies, and that further efforts should be undertaken for the development of counselling, care and rehabilitation services to prevent and combat substance abuse among children and adolescents. Some recent actions along these lines are outlined below.

390. Great credit is due to the former First Lady of the Republic, Ms. Lorena Clare de Rodríguez, for her historic, pioneering efforts to promote and implement two major programmes for adolescents, “Young Love” and “Building Opportunities”. The starting-point of these programmes is acknowledgement of the fact that sexuality is an integral part of children’s and adolescents’ development. Accordingly, they are designed to impart sexual information and education, to provide access to high-quality specialized services, and to combat sexual violence in all its various forms under all circumstances.

391. Both programmes aim at constructing sexuality along lines that will enable present and future generations to lead a full life characterized by equitable relations between men and women and safeguards for the rights of all as enshrined in Costa Rican legislation and international instruments, in a setting of respect for the principles of universal human rights and children’s and adolescents’ rights in particular.

392. “Young Love” and “Building Opportunities” are regarded as pioneering programmes in that they are the foundation-stones of a national sexual education policy and comprehensive care for adolescent mothers, as such, within the overall context of social policy. Under the “Building Opportunities” programme, a total of 12 383 adolescents participated in training and life preparation courses between 1998 and 2002. The course content was divided into four main modules entitled “Spreading my wings to fly” (identity), “My right to fly” (rights), “Strong and steady on the wing” (occupational choices) and “In order to fly, we need to go forward together” (participation and organization).

393. The “Young Love” programme includes action in the field of prevention, and its purpose is to strengthen children and adolescents to enable them to achieve personal and social self-fulfilment, with the participation of their families and society in general. During the period 1998-2002, this programme focused on a number of major areas: information and training in the field of sexual education, dissemination through large-scale campaigns aimed at enhancing people’s awareness of the importance of sexual education, training for educators and outreach persons, analysis of the legal framework and technical administrative procedures, and research and information on issues with a bearing on sexuality.

394. These efforts encountered a certain amount of criticism and opposition from some of Costa Rica’s more conservative Catholic Church leaders, among others, with the result that the Government of the day entered into negotiations with the Church on the issue. The latter, however, finally withdrew from the process and produced its own guidebook on the subject. This experience took a heavy toll, not only of the professionals who had taken part in the negotiations, but also of the NGOs involved.

395. In April 2001, the Superior Council on Education approved a “policy for education on the expression of human sexuality”, which subsequently was officially adopted for use by the

Ministry of Public Education. However, the policy has been strongly criticized on the grounds that it is lacking in any overarching vision of rights or gender equity, and some of the numerous professionals who were consulted during its preparation have complained that it does not live up to their expectations.

396. Other government agencies have also developed prevention, promotion, care and research models aimed at integrating comprehensive care for adolescents into health service delivery. CCSS's comprehensive care programme for adolescents has been serving just that purpose for over 11 years now, and has established a nation-wide network of adolescents. The members of the network have participated actively in prevention and promotion actions on the subject of sexual and reproductive health.

397. Another initiative currently under consideration in the context of the same programme is the establishment of comprehensive care units for adolescents. The basic concept is a dedicated physical space for the care of adolescents and for their use (groups of adolescent leaders). The units would be run by a trained interdisciplinary team with special skills in the area of comprehensive care for that particular age group, including psychological, social and biological aspects.

398. A free confidential telephone service has been set up for adolescents, parents and educators, with trained social workers and psychologists available 12 hours a day, Monday through Saturday, to provide counselling, consultations, information, reassurance, crisis care and, if necessary, professional coordination or referral services.

399. CCSS possesses a Telemedicine system consisting of a closed-circuit television hookup connecting central offices and hospitals throughout the country. The system can be used to transmit live or recorded programmes on various issues of relevance for adolescents.

400. There is a Web site as well, located at the Virtual Library on Adolescence, which is a section of the National Library's page dealing with health and social security. The site contains a great quantity of statistical, documentary and scientific information on adolescence and health. A counselling service for adolescents using the site will be available within a few months.

401. A tool of the utmost significance for visualizing the issue of adolescents and health care delivery at all three levels is a psycho-social risk screening test for adolescents. The test can be used for any adolescent, regardless of his or her location or the reason why he or she has come for a consultation. The test delivers a risk rating of high, moderate or low, with corresponding measures that should be taken in order for health care personnel to treat and manage moderate- or low-risk cases, or specific risks that may be detected. The application of this test, the results of which are strictly confidential, is compulsory for all CCSS offices, integrated as it is into management agreements.

402. The various actions, plans and activities developed in the context of the "Comprehensive Care for Adolescents" programme, at all three levels of care and the various technical administrative levels, are designed to be proactive and intersectoral and to focus on rights, gender and human development.

403. Furthermore, the programme has published and distributed a wide variety of informational material and research reports.

404. As regards narcotics use, the Alcoholism and Drug Dependence Institute (IATA) states that “persons under the age of 18 constitute its target population segment, in view of the fact that it is young people between the ages of 10 and 15 who are most at risk of engaging in the experimental or occasional use of legal or illegal drugs.”

405. During 2001, the prevention programme expanded its coverage to 120 740 children and 45 895 adolescents, with 4 454 outreach persons, 257 primary-school teachers, 531 secondary-school teachers and 13 262 fathers and mothers. Mobilization and awareness campaigns were carried out in 23 cantons (Costa Rica has 81 cantons in all), targeting a population of 95 535 children, adolescents and parents, besides various community workers.

### **3. Rights of children with disabilities (article 23)**

406. In response to the concerns expressed by the Committee in its concluding observations, we should begin by recalling that Costa Rica enacted an Equal Opportunity for Disabled Persons Act (Law No. 7600) as long ago as 1996, and PANI has developed a special programme designed to protect the rights of children with disabilities. Furthermore, an Inter-Institutional Commission has been established to address the needs of that population segment, made up of representatives from PANI and various other institutions, such as the National Council on Rehabilitation and Special Education (CNREE).

407. The Act clearly defines institutional and sectoral responsibilities aimed at providing equal opportunity for all children with disabilities. Measures to that end are expressly prescribed for institutions in the health, education, housing, transport, culture, recreation and sports sectors, and the duties of families, local governments and society in general are also spelled out under the Act.

408. A question about disability was included in the 2000 census, for the first time: respondents were asked to identify any kind of permanent handicap that made it difficult or impossible for them to pursue their ordinary day-to-day activities independently. They were required to choose one of the following options: partial or total blindness, partial or total deafness, mental retardation, paralysis or amputation, mental disorder, or other. The results showed that 53 out of every 1 000 Costa Ricans had a disability of some sort, making the country's total disabled population 203 731. Specifically, 16 persons out of every 1 000 indicated that they were totally or partially blind, seven, that they were totally or partially deaf, five, that they were mentally retarded and three, that they suffered from a mental disorder. The “Other” box was ticked by 14.5 % of all respondents.

409. A breakdown by sex showed that men were characterized by a higher incidence of disability than women, accounting for 55.3 % of the disabled population, all forms of disability taken together. However, there were more women than men in the “Other” category, which covered a wide variety of disabling disorders, with incidence figures of 16.7 % and 12.3 % respectively.

410. For persons in the 0-14 age group, the numbers were as follows: partially or totally blind, 6 529; partially or totally deaf, 2 486; mentally retarded, 6 004; paralysis or amputation, 3 378; mentally disturbed, 1 476; others, 7 352, making a total of 27 225 children in that age group. Of that number, 15 354 were male and 11 871 female.

411. As we have seen earlier in this report, Costa Rica has been bringing its domestic legislation into line with international instruments in various areas, including the area of the rights of disabled persons: the Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities was ratified in 1999. The Convention serves to supplement the country's own legislation on this issue.

412. The Committee recommended that Costa Rica should develop early identification programmes to prevent disabilities, implement alternative measures to the institutionalization of children with disabilities, envisage awareness-raising campaigns to reduce discrimination against them, establish special education programmes and centres as needed and encourage their inclusion in the educational system and in society, and establish adequate monitoring of private institutions for children with disabilities. Progress to date and achievements in these areas, together with some aspects that remain unresolved, will be discussed in the following pages.

413. Costa Rica has developed a system of institutions by means of which it has been able to provide public services in various areas; however, those institutions have not invariably taken the needs and characteristics of disabled persons into account, especially disabled children and adolescents. In view of this situation, CNREE has adopted various measures aimed at making services directly available to that population segment, as it must be acknowledged that inequality is still a fact, and disabled persons still face some discrimination in the matter of their access to various public services.

414. CNREE's plan of action in this connection comprises two main lines of emphasis: on the one hand, direct support for persons with disabilities, and on the other, an array of information, training and consultancy activities for employees of public agencies and members of NGOs. The latter aspect entails guidance, promotion and oversight services designed to ensure that public institutions are fulfilling their responsibilities under Law No. 7600.

415. Noteworthy efforts undertaken in recent years that are of relevance for our present purpose include the following:

- Delivery of support services, including physical and occupational therapy, family counselling, job training and economic incentives. These services are offered on a decentralized basis and are funded by the Social Development and Family Allowance Fund (FODESAF);
- Development of standards and prerequisites for channelling budget resources to NGOs that develop programmes directed at children with various types of disability;
- Provision of educational materials and equipment for 32 special education classes at various levels, which accommodated a total of 960 students with disabilities in 2000;
- Action to make credit available to women heads of families with disabled children, for the purpose of enabling them to establish or develop small business ventures, thereby improving the living conditions and quality of life of persons in this category;

- Establishment of an 800 number to enable people to ask questions and receive information about disabilities;
- Ongoing production of media messages containing information about disability and care services available, including a campaign aimed at upgrading the image of persons with disabilities and promoting equal opportunity for them;
- Production and distribution of information and guidance materials for members of families with disabled children or adolescents;
- Training and support for the National Statistics and Census Institute in its decision to include in a census questionnaire, for the first time in the country's history, questions designed to yield information about the incidence and extent of disability in Costa Rica, and the processing of the information obtained;
- Professional training and development work within all governmental institutions has been reinforced and extended. Some agencies have established their own committees with an explicit mandate to ensure that the rights of persons with disabilities are taken into consideration in all activities, including infrastructure upgrading activities.

416. Three additional actions in this area have been particularly noteworthy. One of these was the formulation of national policies on disability, which were published in the form of a Presidential Executive Order in 2000. The policies in question include provisions expressly aimed at institutions such as the National Children's Trust, the Ministry of Public Education and the Joint Social Assistance Institute, concerning technical support, funding and service delivery for persons with disabilities.

417. Another noteworthy action has been CNREE's study of draft legislation and its submission of recommendations. In the case of the Beer, Alcoholic Beverage and Cigarette Taxation Act, for example, CNREE recommended that part of the revenue raised by means of the proposed taxes should be earmarked for projects aimed at providing care for children and adolescents; in the case of the Public and Intermodal Transport Act, the Council recommended that the Act should include provisions designed to facilitate access to public transport for disabled persons; and it offered judicious amendments to the Life Pensions for Persons with Cerebral Palsy Act.

418. The third action was the establishment of the "Museum of Shapes, Spaces and Sounds" under the sponsorship of the former First Lady, Ms. Lorena Clare de Rodríguez, with technical assistance from Costa Rican Museum of Art personnel and economic support from the Ministry of Culture, Youth and Sport; the Museum was inaugurated in 2002. It is characterized by bar-free access throughout, and its interactive displays are designed to provide enjoyment for all the senses (touch, hearing, smell, sight and taste). The Museum's three main display areas are named "Our hands know what art is", "Music to feel" and "Let us learn about history with our fingertips", and there is a library of recordings where visitors can listen to a selection of literary works by Costa Rican and foreign authors, arranged by genres. The Museum's visitors have included many children, with or without disabilities.

419. It is in the area of guidance, promotion and oversight for public institutions that the main weak points are to be observed, and the State must unquestionably endeavour to improve the

situation here. The salient features of this aspect of the issue of disabled children's rights are outlined below.

420. Costa Rica's public health services do cover the entire country, but there is undeniably room for improvement in the matter of attention to the specific needs of children and adolescents with disabilities, especially with respect to rehabilitation services, support services for families with disabled children, and technical assistance for children and adolescents.

421. Rehabilitation services are designed primarily for physical disabilities; language therapy services are scanty, and little is available in the way of comprehensive care (rather than merely "medicalization") for persons with mental and cognitive disabilities.

422. As regards the integration of disabled children into the education system, a good deal of progress has been made. Technological assistance is now available for visually impaired students of both sexes in the under-18 age group, while the Ministry of Education has established a national resource centre for inclusive education expressly for the benefit of students with disabilities. To date, however, the resources allocated for these purposes have been inadequate, with the result that the existing physical plant continues to be seriously deficient in terms of physical accessibility, while few working teachers or administrators have received the training they need in order to cope with the integration of disabled children into regular classes.

423. We may note at this point that the Director of the Children and Adolescents Division of the Office of the Ombudsman made a number of recommendations in this connection in his most recent report. That report, incidentally, notes that of the total number of complaints relating to the education sector (which account for 52 % of all complaints received by the Division), 30 % have to do with alleged violations of the provisions of Law No. 7600 on the part of the Ministry of Education, despite the fact that that law came into force sixteen years ago. PANI has held public hearing on rights-related issues, and in so doing has contributed to the effective implementation of the Act: access ramps have been installed, curricula have been adapted, and disabled children and adolescents have been guaranteed access to the education system.

424. It will be of some interest to quote at length some of the remarks formulated by the Director of the Children and Adolescents Division of the Office of the Ombudsman: "During this period, the Ministry of Education has undertaken a number of actions with a view to providing children and adolescents with disabilities or special educational needs with reliable access to and integration into the regular education system. Those actions have consisted primarily in issuing and securing approval of standards, such as the document entitled 'Policies, standards and procedures for access to education by students with special educational needs', in addition to a number of initiatives involving the elimination of physical or architectural barriers at colleges and schools, and the engagement of qualified employees with the requisite skills.

425. "However, while it is true that thousands of children and adolescents with special educational needs are receiving their formal education within the regular education system, greater efforts will be required in order to ensure that those students receive an education of the highest quality, one that is genuinely adapted to their specific characteristics and needs. Accordingly, it is disturbing to note that this Office continues to receive complaints alleging that teaching and administrative personnel at educational centres still have not made

appropriate adjustments to curricula; indeed, complaints of that kind are more numerous than complaints about any other issues relating to access to education by persons with disabilities or special educational needs.

426. “Needless to say, this problem is merely a reflection or consequence of a larger phenomenon. Teachers with inadequate training and awareness continue to constitute a major deficiency in this area, and are the main reason why the rights of this population segment are being violated. Resistance to the introduction of adjustments to curricula is such a violation of their rights, but it is really only an effect. Inadequate training also results, in some cases, in inappropriate—even, on occasion, offensive—attitudes on the part of frustrated teachers who feel incapable of responding to or meeting the special needs of their students. Moreover, there have been instances of administrative personnel who are quite simply opposed to new thinking in the field of educational theory and special education, and adopt an attitude of passive resistance.

427. “This situation is aggravated by the fact that teachers do not have the necessary tools at their disposal or the working conditions they require in order to perform their duties in the matter adequately. Infrastructure has not been suitably adapted, educational materials and supporting resources are lacking, and to make matters worse, trained personnel with the skills needed to meet these students’ needs are in short supply. It is essential for the Ministry of Public Education to provide the conditions required for the transformation of social perceptions and the implementation of applicable standards, ranging from everyday opinions, attitudes, turns of phrase and social practices to the allocation of resources and materials and the formulation of public policy in this area.”

428. In the light of the foregoing, the Office of the Ombudsman recommends that the Ministry of Public Education should:

- Organize training workshops, seminars, awareness meetings or other activities for school directors and teaching personnel, to enable them to upgrade their knowledge in the field of special education and equal opportunity for persons with disabilities in general, and with respect to curriculum adaptation in particular;
- Undertake appropriate measures and actions to create optimal conditions as regards infrastructure, teaching aids and human resources, among other things, with a view to ensuring that children with special educational needs, regardless of whether those needs are associated with disability, can be adequately accommodated within the system.

429. The object of the above discussion has been to show that while Costa Rica has continued to work on these issues, its efforts have been inadequate. Progress has certainly been made, but we must acknowledge that serious weaknesses have persisted, especially in the field of education.

430. This, indeed, is one of the factors that have led the Pacheco de la Espriella Administration to give high priority to the task of addressing the problem of children and adolescents with disabilities, special needs or behavioural difficulties. This represents a major challenge in view of the fact that if positive results are to be achieved, significant changes will have to be brought about, including changes within families and in the school system. At the same time, in order to make progress and overcome current weaknesses, the institutions

immediately involved must not lose sight of the fact that the interests of the children concerned are paramount, and they must bear in mind that equal opportunity, especially in the field of education, is a right to which persons with special needs are entitled.

## **F. Education, leisure and cultural activities (articles 28-31)**

### **1. Further efforts in the field of education**

431. The Committee recommended that Costa Rica should continue with its efforts in the field of education by strengthening its educational policies and system in order to reduce regional disparities in access to education and to establish retention programmes and vocational training for dropout students. The Committee further recommended that Costa Rica should design and conduct continuous training programmes for teachers on human rights, especially children's rights, and suggested that it should seek technical assistance in that area, *inter alia* from UNESCO and UNICEF.

432. We shall begin our discussion by reviewing some of the analyses contained in the third Report on the State of Child and Adolescent Rights, which has previously been referred to in a number of passages.

433. During the 1990s, the subject of education came to the fore once again as a priority issue on the country's political agenda on the grounds that it was of crucial importance for economic growth and social welfare. The deterioration of the education system has been reflected in low preschool and secondary coverage levels, a high percentage of unqualified teachers, inadequate physical infrastructure and outmoded curriculum content. At the same time, owing to lack of budget flexibility and management problems, the resources allocated for the system have barely sufficed to cover staff salaries, with only small and seriously inadequate amounts left over to address emerging needs.

434. According to the ninth census, in the year 2000 there were a total of 280 000 children and adolescents of school age who were not attending a regular educational institution of any kind. With respect to preschool education, it is now known that early stimulation not only contributes to children's emotional and intellectual development, but also facilitates the learning process. The gross enrolment rate for preschool children has shown sustained improvement over time, especially since 1994: 82.4 % of all children of preschool age were enrolled in 2000, up from 62.0 % in 1990. Even so, figures from the above-mentioned census show that a total of 57 100 children aged 5 and 6 were not attending an educational institution of any kind in 2000.

435. At the primary education level, the gross enrolment rate increased from 103 % to 105.3 % over that same period, revealing that the phenomenon of overage pupils has intensified. That phenomenon is observable mainly in the first cycle, and is due essentially to the combined effect of two factors: late enrolment in the system, and high repetition rates.

436. The census also identified 213 149 adolescents and young people between the ages of 13 and 19 who were not attending any regular educational institution. Young persons in this category, upon dropping out of school, have two options: either entering the labour market, where they will be at a disadvantage, owing to the fact that they have few skills and thus are easy prey for employers looking for cheap labour, or, alternatively, joining the ranks of the unemployed.



437. Coverage at the secondary education level continues to be critical, despite the fact that the gross enrolment rate displayed a favourable trend throughout the 1990s: in 1990, coverage was 53.6 %, i.e. nearly one adolescent out of two was not attending school, whereas by 2000 coverage had increased to 65.6 %.

438. Statistics show that in 2000 school performance at the primary level was 90.6 %, a bare three percentage points above the level observed in 1990, while for the secondary level the figure was 82.7 %, less than two percentage points above the value observed in 1990. It thus appears that no appreciable improvement in school performance has been achieved as yet.

439. During the 1990s, substantial effort went into the upgrading of school infrastructure, curriculum overhaul, teacher training and qualifications, support for single-teacher schools, extension of the school year, new incentives to enhance teachers' work and the implementation of a computer education programme and a second language programme. All this shows dedication and good will, but evidently it has been insufficient. Admittedly, emphasis to date has been placed on expanding coverage, with concerns about a meaningful quality policy relegated to secondary status.

440. One aspect that is particularly noteworthy is the substantial expansion in school infrastructure that has been achieved. In 2000 the country had 6 884 schools, up from 4 539 in 1990. This represents a 47.2 % increase, most of it at the preschool and secondary levels.

441. Lastly, as regards development of Costa Rica's institutional capacity, there are three major challenges, in particular, that must be addressed. In the first place, integrated databases should be consolidated in order to eliminate the dispersal of information and ensure that it is available to support decision-making. In the second place, action should be taken to eliminate the country's overcentralized budgeting process, which is an impediment to flexible budget programming that takes account of the needs of different regional branches of government agencies. In the third place, attention should be focused on the process of teacher recycling, training and professional development, which is a necessary precondition for sustained quality improvement in education.

442. According to information provided by the Ministry of Public Education, an effort to inform students about freedom of thought, conscience and religion has been undertaken through a series of initiatives comprising the distribution of printed materials and the organization of training workshops that have brought students, teachers and administrators together to discuss these issues, together with technical and administrative personnel from the Ministry's Headquarters and regional offices. As regards freedom of religion, the Ministry's position is that any child who does not wish to attend religion classes may opt for other activities instead while the classes are being held, or may engage in activities specific to his or her own religion in coordination with the teacher, minister and parents. The same safeguards apply to members of all minorities who do not profess the Catholic faith.

443. Some legislative, administrative and budgetary measures aimed at recognizing children's right to education and achieving that right progressively and on the basis of equal opportunity that have been adopted in recent years are outlined below.

- Introduction of a mother and child programme (2000).
- Universal preschool education (1996).

- ❑ Constitutional reform requiring investment of 6 % of GDP in the education sector (1996).
- ❑ Introduction of a school year of 200 class days (1998).
- ❑ Introduction of second-language teaching in the first and second cycles.
- ❑ Open Classroom programme for children under the age of 15 who have not completed the second cycle of basic general education.
- ❑ The New Opportunities programme for adolescents between the ages of 15 and 18 who have not completed the third cycle. This programme is based on a strategy consisting of a harmonious blend of classroom education, with a teacher who acts as a facilitator, and self-teaching with programmed texts and face-to-face, thematic and telephone tutoring. This programme, which was initiated in 2001, now has 10 457 students and is available at 76 open locations in the country's 20 school districts. Its enrolment represents 2.6 % of all students enrolled at the secondary level.

444. By way of policies aimed at safeguarding equity and ensuring school access and attendance by socially disadvantaged children and adolescents and improving their academic performance, various incentive measures have been adopted: school vouchers, basic educational supplies, school bus transport, scholarships, and upgrading of the school dinners system.

445. The number of scholarships awarded increased from 11 700 in 1997 to 42 997 in 2001, for a total of 2 373 million colones. Spending on school vouchers and basic school supplies increased from 597 million colones in 1997 to 892 million in 2001.

446. Statistics show that between 1997 and 2001, spending per primary-level student increased from 82 035 current colones to 213 073 colones. The corresponding figures for the secondary level were 164 160 colones and 304 623 colones, while spending for special education went from 147 722 colones per pupil in 1997 to 595 243 colones per pupil in 2002.

447. As we have seen, there have been problems with the education of children with special needs, but various measures to address those problems have been taken in the years since 1996. At the present time, every school has an educational support committee mandated to assist teachers in their task of integrating children with special needs into regular classes. In addition, regional travelling special education teams provide assistance and training services and deal with cases that are referred to them.

448. Moreover, standards governing the construction of new educational infrastructure include a requirement that access ramps must be available for the use of persons with disabilities. Such ramps are being installed progressively as resources for construction are allocated year by year.

449. Measures relating to the education of children in local, indigenous or minority languages fall within the mandate of the Department of Indigenous Education, which is responsible for ensuring that quality education services are delivered in indigenous areas of the country.

450. According to figures from the 2000 census, Costa Rica's indigenous population numbers 68 800 persons, while 1.9 % of the country's population, or 72 784 persons, belong to the

Afro-Costa Rican culture, and 0.2 %, or approximately 7 800 persons, are of Chinese cultural origin. The Department of Indigenous Education works with eight cultures and six languages distributed over 22 areas, and it advises 150 primary schools, 35 preschool sections and two secondary schools. These institutions are staffed by 250 regular teachers and 80 teachers of language and culture, and serve a population of 6 900 children and adolescents.

451. Costa Rica's education system has endeavoured to accommodate the national curriculum to the characteristics and educational rights of the country's indigenous population, and to integrate the indigenous curriculum in terms of language, culture and environmental education. Substantial efforts have been devoted to the production of multilingual and bilingual textbooks and securing professional status for teachers through an agreement with the National University.

452. The 2000 census showed that the incidence of illiteracy among adults was highest in the cantons of La Cruz, Los Chiles, Upala, Guatuso, Talamanca y Parrita. Confronted with those findings, the Department of Adult Education, one function of which is to reduce adult illiteracy rates, took immediate action by formulating an emergency literacy plan for those six cantons.

453. The task of monitoring comes within the mandate of the Quality Control Division. The Division's National Supervision and Examinations Department evaluates educational quality at all levels and subdivisions within the system. The main difficulty that has been encountered in this connection is defining the areas and parameters of quality control for the various levels, branches and subdivisions with a view to ensuring adequate service for users and setting up feedback processes. The set of education quality indicators used by the Department is currently in the process of being expanded and updated.

454. Quality education coverage at the intermediate or secondary level displays an encouraging trend: by 2001, coverage had increased by 7.4 % to 70.4 %, and it has increased further, to 75.4 %, in the present year.

455. The extent of this national effort can be more readily grasped if we recall that in 1997, coverage was of the order of 58.4 %. As regards academic education, seven new secondary-level academic institutions were opened in 2000, bringing the total for the country as a whole to 278 public institutions of that kind and 158 private ones, serving a combined total of 152 220 students.

456. Another of the main lines of emphasis applied by the Ministry of Public Education is respect for and the protection, preservation and love of nature and its resources. The Ministry's Bureau of Environmental Education has developed and executed a number of projects, including in particular one entitled "Schools as agents of sustainable human development", which was concerned with integrated solid waste management at primary and secondary schools and public institutions, and the national plan on education for risk reduction and natural phenomena.

457. A broad range of activities have been conducted in recent years in the context of gender equity promotion strategies. Noteworthy examples include the establishment of an Office of Gender Equality and Equity within the Ministry, and the writing and distribution of the "Toward the twenty-first century" series of textbooks, which are used in the first and second cycles of general basic education and have been prepared with particular care to ensure that they do not contain any form of discriminatory bias against women.

458. In 2000, the Ministry and the National Women's Institute signed an agreement establishing a high-level technical committee with a mandate to develop a strategic plan of action entitled "A gender equity culture within the national education system". The plan was duly issued: it contains 21 measures designed to integrate the principle of gender equity into all areas of Costa Rica's education system.

459. Despite the significant gains outlined above, however, it must be admitted that a number of challenges remain to be overcome in the short and medium term. Action to this end should include:

- Expansion of coverage at the primary and preschool education level by increasing options in rural areas, and upgrading education at that level by introducing appropriate teaching materials and encouraging participation by parents and caregivers;
- Enhancement of the quality of basic education, reductions in repetition and dropout rates, especially in the primary grades, expansion of computer education coverage and ensuring that teams with the necessary skills are available to all educational institutions;
- Development of coverage expansion programmes and educational quality and relevance upgrading programmes, especially in rural areas and areas characterized by heavy concentrations of families living in poverty. This will involve curriculum review and adaptation and teacher training initiatives, among other things;
- Enhancement of the efficiency of equity programmes to ensure equal access at the preschool and secondary levels and reduce the incidence of repetition and dropping out, which have an adverse impact on students from low-income families;
- Introduction of "Telesecondary" schools in rural and indigenous areas, and more funding for the construction and remodeling of educational establishments with high-priority needs, such as renovations aimed at ensuring bar-free access for persons with disabilities.
- Nation-wide enforcement of the national plan for the treatment and prevention of violence within educational establishments, among other measures.

## **2. Right to leisure and cultural activities**

460. According to the third Report on the State of Child and Adolescent Rights, "Costa Rica's public sector includes an extensive array of entities specializing in various areas of culture, the arts, recreation and sports." Among those entities are various museums, the National Dance and Theatre Company, the National Theatre and the Mélico Salazar Popular Theatre, sports fields and recreational areas, and other institutions, all run by the Ministry of Culture, Youth and Sport. Under a recent reorganization, these facilities are structured around seven areas:

- (1) Cultural promotion and management, including the promotion of activities at the regional level, such as fairs and festivals, and grants for the development of local projects in the field of culture;

- (2) Cultural heritage, which involves promotion of archaeological centres and the various aspects of the country's historical heritage;
- (3) Dramatic arts and music, including provincial bands, the National Symphony Orchestra, Youth Symphony Orchestra and Children's Symphony Orchestra, dance and theatre workshops, and theatres;
- (4) Visual arts, represented by the various museums and Artists' House;
- (5) Information, communication and distribution, comprising the Costa Rican Film Production Centre, the National Cultural Radio and Television System (SINART), and the network of public libraries;
- (6) Youth, which is the responsibility of the National Youth Movement; and lastly
- (7) Recreation and sport, which is the responsibility of the Costa Rican Institute for Sport and Recreation.

461. To be sure, Costa Rica has no consolidated policy for the promotion of children's right to culture, recreation and sport as such, but there are many activities aimed at the creation and expansion of opportunities for children and adolescents to engage in recreational, artistic and sporting activities, and these may be said to serve the same purpose from the Government's point of view.

462. Information about some of the country's main achievements in this area is to be found in the Ministry of Culture's annual reports for 1998, 1999 and 2000. The material in the paragraphs below is derived from that source.

- In 1998, the Office of the Ombudsman invited the Ministry of Culture, Youth and Sport to participate in the Standing Monitoring Forum that tracks progress in implementing the Children and Adolescents Code. The Ministry is also part of the National Council on Children and Adolescents. Since 1999, a number of artistic and cultural programmes and projects for children and adolescents have been implemented by competent agencies with support from UNICEF.
- Specific guidelines for work with children and adolescents were subsequently developed at the Headquarters of the Ministry. These are laid down in a document entitled "Some factors of relevance to the development and promotion of activities for children and adolescents". That document spells out the new paradigm for a comprehensive approach to children and adolescents, and it is the first publication in the Ministry's history to have been distributed to the head offices and boards of directors of all executing agencies with a view to encouraging them to adopt a rights focus in working with children, adolescents and young adults.
- As noted, UNICEF has provided support for specific projects. Thanks to that support, institutions that already engaged in projects for children and adolescents, such as the National Theatre Company, the National Theatre Workshop, the Costa Rican Film Production Centre, the National Youth Movement, the Public Libraries Directorate, the Culture Directorate, the Costa Rican Institute for Sport and Recreation and SINART, have been able to join forces to take a stride toward an informed, organized form of institutional action on behalf of children and

adolescents. This will provide input to the task of formulating a policy for that constituency in the field of recreation, sport and culture.

463. Perhaps one of the main accomplishments to date in that connection has been the Ministry's reaffirmation of its commitment to work for, with and on behalf of children and young people. It has issued instructions to the effect that they are to be viewed as a target constituency whose rights must be respected and safeguarded, in accordance with the new paradigms and principles that have been stipulated and ratified by Costa Rica in the framework of the Convention on the Rights of the Child.

464. The Ministry of Culture, Youth and Sport has always implemented training activities and programmes in the field of recreation and culture for children and adolescents, not only because they have a right to recreation and culture, but also because they are at the age when they are beginning to develop the sensitivity they will need in order to appreciate and develop their artistic, cultural, sporting and recreational skills and abilities.

465. An important point that should be noted here is that Law No. 8281, the Young Persons Act (defined as persons between the ages of 12 and 35) was enacted in 2002. The objectives of the Act include the following:

- (a) To develop, promote and coordinate the implementation of public policies, especially in the fields of education, preventive health and technology, aimed at creating opportunities for young persons, ensuring their access to services and enhancing their potential with a view to enabling them to achieve their optimal development and exercise their citizenship to the fullest extent;
- (b) To protect the fundamental rights and guarantees of young persons in conditions of solidarity, equity and welfare.

466. This Act makes provision for the establishment of the National Youth System, comprising the Deputy Minister for Youth, the National Council on Youth Policy, cantonal Youth Committees and the National Youth Advisory Network.

467. As regards article 17 of the Convention, which is concerned with adequate access to information, it is noteworthy that:

- The Ministry runs a national library and 53 public libraries distributed throughout the country, with a total of 38 041 collections of children's books (accounting for 10 % of their total possessions) and 16 816 collections (6 % of the total) on subjects of special interest to adolescents and young adults, all of which are available for consultation at any time. These libraries are frequented by approximately 23 976 children and young people.
- Various activities are organized to encourage children and adolescents to use libraries, including informal talks on various interesting subjects, handicraft courses, Christmas activities, initiatives aimed at encouraging reading for persons in various age groups, "children's corner" programmes, story hour and film hour programmes, reading clubs, a "model reader" project, a home reading programme, reading guides, "Reading is Fun" and the Magazine Corner.

- There is an art and educational materials library for children and adolescents in the Costa Rican Museum of Art, and Artists' House has two libraries on the premises.
- The National Archives Directorate has all the country's historical documentation in its collections. Last year, 1 971 children and young people came to consult that material.

468. A number of actions have been undertaken to disseminate information about children's rights since 1999, including the following:

- The Ministry organized three information campaigns in the form of 2D short animated films. It prepared 30-second announcements on the rights to participation, food, safety and recreation. Under an agreement with the Civic Foundation of Costa Rica and its History, the Ministry produced four television "spots" on the rights set forth in the Convention on the Rights of the Child and the Children and Adolescents Code, with emphasis on the right not be discriminated against on the grounds of religious belief, ethnic origin, nationality, gender or physical condition, among others. These spots were shown 600 times during 2000 and 2001 over seven national and local channels.
- Since 1999, the Costa Rican Film Production Centre has held a yearly travelling film festival, showing selected children's films and analysing them with viewers afterward from the standpoint of children's rights. The year 2000 saw the establishment of the Annual Film and Video Exhibition, with an award for the best audio-visual production dealing with the rights of children and adolescents.
- During 2001, SINART concentrated on culture, education, violence-free programming and alternative criticism, and broadcast musical and educational programmes and brief discussions of children's rights aimed expressly at young audiences. It also produced educational programmes presented by children on learning-related, human and civic issues, including documentaries on cases of child abuse, children in poverty, child labour, the right to recreational activities and the like.

469. En Article 31 of the Convention is concerned with the right to rest, leisure and cultural activities. The source of the information on these issues presented in the paragraphs below is the Ministry of Culture.

- Admittance to the six national museums that are part of the Ministry is free of charge for young people. Features include regular guided tours of the permanent exhibits, exhibitions designed and produced by young people, travelling exhibitions at schools, pottery workshops, and information about and presentation of Costa Rica's cultural and historic heritage. These museums offer community facilities for activities for children, adolescents and young adults in the fields of dance, drama, visual arts, puppet theatre, choral performances and other types of musical events.
- Since 1998, Costa Rica's annual International Festival of the Arts has included a school programme featuring artistic activities for children and adolescents,

presented in gymnasiums in every canton in the province where the Festival is being held. All presentations, informal talks and lectures are free of charge.

- The National Music Institute, which is run by the National Symphony Orchestra, accepts pupils between the ages of 4 and 18 with musical ability. Its “Suzuki” programme is designed for children between the ages of 4 and 6. It offers instruction in the violin, viola, cello, double bass, harp, flute, oboe, bassoon, trumpet, saxophone, tuba, trombone and other instruments.
- The Artists’ House School offers training for children and adolescents in such techniques as painting, drawing, pottery, graphic arts, sculpture, precious metal-working, engraving, and art appreciation. Thousands of children have taken courses at the school.
- Last but not least, under a recently adopted policy, discounts are available to students at the Ministry’s five theatres, while the National Theatre Workshop is offering a programme of workshops for family groups as a means of promoting participation by families in recreational drama activities.

470. PANI, for its part, has promoted awareness of the subject of play as a right, and in that connection has organized many events for family groups and Child and Adolescent Protection Boards, with the participation of its local offices, in the context of the Children and Adolescents Code and the Convention on the Rights of the Child, providing training for a total of 678 persons.

471. The National Learning Institute has developed a programme of what it called “technology acquisition workshops” for adolescents, with financial and technical support from UNICEF, the Ministry of Culture, Youth and Sport and SINART. The aim of the programme is to disseminate awareness of children’s and adolescents’ rights through television and radio programmes and electronic forums created by young people from the Ministry of Justice’s National Youth Violence and Crime Prevention Network.

## **G. Special protection measures**

### **1. Specific measures to eliminate discrimination against children belonging to indigenous and ethnic minority groups (article 30)**

472. The Committee recommended that the State should take effective measures to protect children belonging to indigenous and ethnic minority groups, as well as children of Nicaraguan families in irregular situations, against discrimination and to guarantee their enjoyment of all the rights recognized by the Convention on the Rights of the Child.

473. Following the march of indigenous peoples on 12 October 1999, the President of the Republic undertook a series of commitments, notably the formation of a high-level Inter-Institutional Commission comprising representatives from the Ministries of Agriculture, Health, Housing, Education, Security, Labour, Culture and the Environment and also the Executive Presidents of the Agricultural Development Institute and the National Children’s Trust, to be coordinated by the Ministry of the Presidency, for the purpose of addressing the issue of the country’s indigenous peoples.



474. In October 2000, with the consent of the Government Council, the President of the Republic established an Interministerial Commission made up of senior officials from the Ministries of Justice and Foreign Affairs and the Executive President with Ministerial Rank of the National Women's Institute for the purpose of considering and developing, within four months, a State inter-institutional policy to eliminate all forms of discrimination in Costa Rica. Various actions were decided upon, including a period of consultation with all ethnic groups in the country to enable them to air their grievances concerning barriers facing them with respect to access to education, culture and socio-economic development.

475. One positive outcome of the work of the first-mentioned of these two Commissions has been the formulation of the first development plan for the indigenous peoples of Costa Rica, which is to be incorporated into the country's National Development Plan. This political decision means that for the first time in Costa Rica's history, the State is taking action to support an indigenist policy. A second innovative aspect has been the organization of workshops on needs, which have been endorsed by all comprehensive development associations. These processes have been fully participatory: no individual or group wishing to participate has been excluded.

476. With this plan, and the identification of specific projects, Costa Rica and the Central American Bank for Economic Integration have embarked on a joint working process with a view to the incorporation of those projects into the Bank's list of projects approved for funding. Formal discussions with the World Bank's Regional Technical Assistance Unit have been initiated with the same aim.

477. In this context, the various institutions involved have committed to the implementation of specific actions and projects featuring the integration of indigenous communities' initiatives and priorities in various areas.

478. To take the particular case of the Ministry of Culture, two socio-cultural projects were executed in 2001, in close cooperation with culture and language teachers and local and regional indigenous organizations, which provided the facilities and organized a series of art workshops for children on literature, photography, drawing and painting. The workshops led to the production of reports and other documents in the indigenous languages concerned and in Spanish, and it is hoped that this will have a favourable impact on further compilation, composition and interpretation in indigenous languages. Activities were held in the communities of Ujarrás, Cabagra, Térraba, Rey Curré, Coto Brus, Abrojos, Montezuma and Talamanca, and approximately 400 indigenous persons, mainly children and adolescents, took part in them.

479. Furthermore, as we have seen, PANI has had the Children and Adolescents Code, the Law against Domestic Violence and the Responsible Paternity Act translated into two indigenous languages, thereby addressing two of the main problems affecting the country's indigenous peoples.

480. The National Agenda for Children and Adolescents, which was referred to earlier in this report, makes provision for a number of long-term goals concerning the migrant population, the Afro-Costa Rican community and the country's indigenous peoples. These may be summed up under two main headings:

- Action to guarantee equal rights for all, with access by the migrant, indigenous and Afro-Costa Rican communities to services and programmes aimed at implementing the rights of children and adolescents in those communities and providing them with opportunities for comprehensive development and social and labour market integration;
- Action to heighten the awareness of education, health and social sector personnel of the respect due the beliefs, customs and languages of these groups<sup>25</sup>.

481. Available development indicators reveal that Costa Rica's indigenous peoples are facing a critical socio-economic development situation. The social development index, for example, is an indicator that measures social disparities between different geographic areas on a scale ranging from 0 to 100, and is based on such variables as educational infrastructure, access to special education programmes, infant mortality, under-5 mortality, growth deficit among the grade 1 population, average monthly electricity consumption, and births of children to mothers who have no responsible companion. In 2000, San José's SDI was 63.6, Heredia's was 67.8 and Cartago's 66.7, while the SDI ratings of indigenous communities like Bratsi de Salamanca, Boruca, Buenos Aires and San Rafael de Guatuso, to mention only a few, were 0.10, 20.4, 37.8 and 47.2 respectively<sup>26</sup>.

482. According to the Ministry of Public Education (to expand somewhat on a matter that was mentioned earlier in this report), the Department of Indigenous Education is developing an indigenous languages programme which includes among its objectives the reinvigoration and dissemination of the country's indigenous languages, the promotion of traditional indigenous literature, and additional impetus for bilingual education. However, it must be acknowledged that there are problems that must be overcome in the future: for example, it will be essential to expand coverage at interactive levels II and Transition in cantons that are socially underdeveloped and in indigenous areas, and to strengthen indigenous schools by providing them with travelling teachers in basic subjects and establishing new indigenous education centres in Costa Rica's 24 territories.

483. The Office of the Ombudsman's report for 2000 identified the main discriminatory factors as being:

- Inadequate numbers of translators with a knowledge of indigenous languages;
- The fact that indigenous peoples are uninformed about their rights and unfamiliar with procedures and formalities;
- Service delivery conditions that are not well suited to the real needs of indigenous communities (e.g. such matters as the opening hours of health care centres and public offices);
- The fact that the indigenous view of the universe is not widely understood;

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<sup>25</sup> National Council on Children and Adolescents: National Agenda for Children and Adolescents, Goals and Commitments, 2000-2010, San José, September 2000.

<sup>26</sup> Ministry of National Planning and Economic Policy, National Development Plan for Costa Rica's Indigenous Peoples, San José, 2000.

- Lack of communication with the indigenous population generally, and few visits by institutional authorities to indigenous communities, together with the fact that there are no specific institutional plans for indigenous people.

484. According to the 2001-2002 report issued by the Office of the Women's Ombudsman, "The living conditions of many indigenous communities in our country are evidence of the fact that the State's policies and practices continue to be discriminatory toward indigenous people. They have little or no access to health programmes and health care centres, basic services and social programmes (such as those delivered by the Joint Social Assistance Institute or the National Children's Trust), agricultural extension services, police services in their communities, or other services."

485. The report continues, "These communities are characterized by a high incidence of domestic violence, assaults by the men of the community, problems with alimony, difficulties relating to fathers' recognition of children, and many teenage mothers who have no companions... These are only some of the problems facing women in the communities with which this Division works." The report adds that the Division intends to continue working to enable these communities to enjoy the rights to which they are entitled.

486. It is clear from the foregoing discussion that indigenous people in Costa Rica, most unfortunately, are still subject to discrimination. The other documents that were consulted during the preparation of the present report contained no information about specific measures taken in recent years to eliminate the various forms of discrimination against indigenous children or children belonging to other ethnic groups and eradicate the causes of such discrimination.

## **2. Economic exploitation of children, including child labour (article 32)**

487. The enactment of Law No. 7184 on 7 August 1990, making provision for the ratification of the International Convention on the Rights of the Child, brought about a total change in the perception of childhood in Costa Rica. The traditional view of children as subjects of protection was replaced by the modern view of children as subjects of rights, and with it the paradigm of the comprehensive protection doctrine entered our system of law. Furthermore, article 32 of the Convention explicitly requires States Parties to set a minimum age of admission to employment, regulate the hours and conditions of employment for young persons, and to enforce legislation governing the employment of children and adolescents. All these issues are addressed in the Children and Adolescents Code.

488. The Government of Costa Rica, aware as it was of the various aspects of the problem, signed ILO Convention No. 138 as long ago as 1974, and on 13 June 1996 signed a Memorandum of Understanding with the ILO to join the International Programme for the Eradication of Child Labour (IPEC), under which Costa Rica undertook to take serious action aimed at the progressive elimination of child labour.

489. Pursuant to that commitment, in March 1997 a National Steering Committee to Combat Child Labour was established (in December of the following year the Committee's name was changed to National Steering Committee for the Prevention and Progressive Elimination of Child Labour and the Protection of Juvenile Workers). The Committee is a highly decentralized body attached to the Ministry of Labour and Social Security.

490. One of the first things the Committee did was prepare a national plan for the prevention and progressive elimination of child labour and the protection of juvenile workers. The plan was officially submitted on 10 December 1998.

491. Responsibility for monitoring and evaluating the implementation of the plan was entrusted to the Ministry of Labour and Social Security in coordination with the Office of the Ombudsman. The plan was the outcome of approximately one year of coordinated effort by various stakeholders, including the trade union movement, and it clearly formulates a number of strategic commitments for each of the participating bodies in the course of the next few years.

492. The plan is structured around two main lines of emphasis: the elimination of labour by children under the age of 15 by means of an absolute prohibition, and protection for workers over the age of 15 but under the age of 18 through a system of regulations.

493. The plan has a threefold focus:

- Education: all children under the age of 15 and adolescents between the ages of 15 and 18 should attend school and complete their studies in the formal (academic and technical) or informal education system, this being a necessary condition of their success in adult life;
- Health: all children and adolescent workers should have effective access to comprehensive health coverage, inasmuch as this contributes to their physical, mental and social welfare, with emphasis on preventive care, curative care, geriatric care and death coverage, besides primary care programmes;
- Work and family: optimal social and working conditions and opportunities should be guaranteed for heads of households with dependent children and working adolescents, and the working population should be protected.

494. Action takes place at four levels: prevention, elimination, restitution and protection, in a framework of progressive elimination. In addition, a number of amendments to the Labour Code were enacted in order to bring the Code into line with ILO Convention No. 138, concerning the minimum age for admission to employment. Those amendments came into force simultaneously with the Children and Adolescents Code, under which all measures at variance with the provisions of the Code were made null and void and all existing statutory provisions relating to children and adolescents were repealed and replaced by protection measures, with the exception of such as might be deemed necessary in the absence of law or constituted a standard that served the interests of children and adolescents more satisfactorily than any other.

495. The national plan is currently at the final evaluation stage, and consequently it will soon be feasible to determine to what extent institutional commitments have been met and decide on any necessary corrective measures that should be incorporated into the new plan, which will cover the four-year period 2002-2006. Many initiatives in the context of the plan have been undertaken in close coordination with IPEC, a body specializing in this area which has provided funding for a series of projects currently under way in Costa Rica.

496. In December 1998, the Ministry of Labour and Social Security issued Ministerial Decree No. 27516, which made provision for the establishment of an Office for the Prevention and

Eradication of Child Labour and the Protection of Juvenile Workers as a standing body attached to the Ministry's National Social Security Directorate, with a mandate to direct policy and practical action in its area of competence. On 31 July 2001, the Government of Costa Rica ratified ILO Convention No. 182, concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, and Recommendation 190.

497. The Ministry, in collaboration with the ILO, is currently working on preparatory measures for the implementation of a limited-term programme comprising a set of integrated, coordinated policies and projects aimed at preventing and eliminating the worst forms of child labour within a specific time frame. The concept underlying this programme is a comprehensive one, beginning with individuals or families and extending on to action at the community, provincial, national and international levels.

498. Guided by this vision, various preparatory activities aimed at the elimination of the worst forms of child labour are currently under way: identification of hazardous work from analysis of the 2000 census, analysis of a national survey on child labour, determination of what is meant by "hazardous work" through nation-wide consultation with employers, workers, children and parents, institutional reinforcement and training for civil servants, and a nation-wide media campaign to heighten awareness of the issue.

499. One section of the Children and Adolescents Code is entitled "Special Protection Regimen for Juvenile Workers". Under articles 78, 83 and 94 of that section, adolescents' right to work is recognized, subject to the restrictions stipulated in international agreements, Costa Rican law and the Code itself, and having regard to the Ministry of Labour and Social Security's responsibility to ensure that adolescents are protected and that their labour rights are respected; the Ministry's responsibility in that connection includes the power to prohibit the employment of juveniles for certain kinds of activities.

500. Article 94, in particular, lists a series of activities for which juvenile workers should not be employed, but the list is not sufficiently specific. Accordingly, the Occupational Health Council, the Department of Medicine, Hygiene and Workplace Safety and the National Social Security Directorate joined forces to conduct a study on the issue of working conditions and types of activity that should be deemed likely to jeopardize the health or safety of juvenile workers.

501. The study, which was published in August 2000, defined work likely to jeopardize the safety of juvenile workers as "any work or economic activity performed by persons under the age of 18 which, by its nature or because of the conditions in which it is performed, is harmful to their health or physical, mental, spiritual, moral or social development." In accordance with the provisions of articles 83 and 94 of the Children and Adolescents Code, and following an extensive consultation process involving various Costa Rican organizations, including employers, workers and NGOs, the study was used as the basis for Ministerial Decree No. 29220, issued by the Ministry of Labour and Social Security and published in the Official Gazette of 10 January 2001.

502. The decree is entitled "Regulations for the employment and occupational health of adolescent persons", and it sets conditions for the hiring of juvenile workers, with particular emphasis on acceptable kinds of work and the working conditions that must be met, for the purpose of protecting the health of the young people concerned, allowing scope for their physical, emotional and social development, and avoiding work-related accidents and illnesses.

503. The first and fifth preambular paragraphs of the decree read as follows:

“(1) Whereas the coming into force of the Children and Adolescents Code has made it necessary to reconsider some aspects of the performance of services by juvenile workers with a view to making them subject to special regulations, in keeping with the principles laid down in the Convention on the Rights of the Child and the Conventions of the International Labour Organization, especially Convention No. 182, which was ratified by Costa Rica by the enactment of Law No. 5594 of 19 October 1994;

(5) Whereas the Occupational Health Council has prepared a document entitled “Working Conditions and Types of Activity Likely to Jeopardize the Health or Safety of Juvenile Workers”, which affords a means of formulating regulations under article 94 of the Children and Adolescents Code and thereby complying with the requirements set forth in article 83 of that Code.”

504. We may also note here that the regulations distinguish between activities that are strictly prohibited and kinds of work that may be performed by persons under the age of 18, subject to certain restrictions. These two categories of activities are outlined in the paragraphs below.

#### **Prohibited kinds of work**

Article 4. Juveniles are absolutely prohibited from engaging in kinds of work which, because of conditions relating to the technology used, safety conditions or the physical environment in which the work is performed, or because the work involves toxic, combustible, inflammable, radioactive, infectious, irritating or corrosive products, substances or objects, may occasion permanent injury or death. They are also prohibited from engaging in activities involving a risk of violence or the acquisition of antisocial forms of behaviour, vulnerability to sexual abuse or exploitation in an environment that is prejudicial to an adolescent’s biological, physical and social development.

Article 5. The employment of juveniles in the following activities is prohibited:

- (a) Mining, quarrying, underground work and excavating.
- (b) Work under conditions of a noise level equal to or greater than 85 decibels.
- (c) Work involving the use of machinery, tools and equipment generating low-, medium- or high-frequency vibrations of between 2 and 300 Hz or more.
- (d) The preparation, packaging, handling, transport, sale or application of agricultural chemicals.
- (e) Activities involving contact with toxic, combustible, inflammable, radioactive, infectious, irritating or corrosive products, substances or objects in accordance with the standards set forth in Decree No. 28113-S and the guide to the classification of hazardous products in these Regulations, and all products, substances or objects for which the material safety data sheet indicates effects injurious to health, such as carcinogenicity, mutagenicity, teratogenicity, neurotoxicity, or adverse effects on the reproductive system or vital organs such as the eyes, kidneys, brain and heart, or any other product deemed to be hazardous by the Ministry of Health.

(f) Entertainment activities in harmful environments such as night clubs, brothels, gambling establishments, theatres or other sites where obscene spectacles are performed, or workshops where pornography or other matter conducive to the acquisition of antisocial behaviour or injurious to the emotional integrity of the person concerned or other persons is recorded, printed, photographed or filmed.

(g) The production, distribution or exclusive sale of alcohol and establishments where alcoholic beverages are sold for consumption on the premises.

(h) The operation of such types of motorized equipment as cranes, service lifts, crawler tractors and other equipment which persons under the age of 18 may not lawfully operate under article 68 of the Law on Overland Transport on Public Roads.

(i) Activities involving lifting, moving and positioning objects weighing more than 15 kilograms in the case of male employees and more than 10 kilograms in the case of female employees, where the object must be lifted, moved or positioned by the employee's unaided efforts.

(j) Activities requiring the use of machines and hand or power tools at locations or worksites that are not adequately equipped with safety devices, with an attendant risk of accidents with potential adverse consequences for the health of the operator, including amputation, crushing, concussion, bruising, sprains, fractures, wounds, superficial lesions, dislocations, burns, internal injuries and the like.

(k) Activities in which the worker's own safety and that of other persons depend on a juvenile, as in the case of guard work, the care of children, the elderly or invalids, and money transfers.

(l) Dockside work, specifically stevedoring or loading cargo, under the conditions set forth in paragraph (i) above.

(m) Work aboard seagoing vessels.

(n) Construction activities requiring training and experience, such as reinforced concrete construction, earthmoving operations, the operation of trucks, the operation of demolition equipment, the use of explosives, manual demolition operations and transporting rubble.

(o) Roadbuilding and road marking, including in particular jobs involving earthmoving operations, handling asphalt, paving roads, operating roadbuilding vehicles and machinery, profiling and recycling asphalt paving, and painting road markings.

(p) Work at heights greater than two metres, specifically work on scaffolding and work involving the use of safety harness, steps and lifelines.

(q) Work involving electricity.

(r) Ionizing, infrared and ultraviolet radiation.

(s) Work in a freezer room.

### **Kinds of work that are lawful subject to restrictions**

Article 6. Restricted kinds of work are kinds of work which, because of the content of the job performed, the effort required, the organization of the work, the machines and equipment used and the attendant environmental conditions, may occasion physical and mental fatigue and/or slight injuries, and which therefore require periodic risk monitoring (inspections, evaluations and other action as appropriate) and meticulous compliance with safety standards.

Article 7. These kinds of work may lawfully be performed by juveniles, subject to the prescribed restrictions and safety measures. Permissible activities and acceptable workplaces are listed below.

(a) The operation of machinery only where the juvenile worker has been properly trained to perform the work.

(b) Light tasks involving an expenditure of approximately 100 kilocalories per hour under stressful (WBGT) ambient conditions ranging between 30°C and 32.2°C. In such cases, working hours must be organized as shown below:

- (i) Exposure to a temperature of 30°C: continuous work.
- (ii) Exposure to a temperature of 30.6°C: one hour of work followed by 15 minutes of rest.
- (iii) Exposure to a temperature of 31.4°C: 30 minutes of work followed by 30 minutes of rest.
- (iv) Exposure to a temperature of 32.2°C: 15 minutes of work followed by 45 minutes of rest.

(c) Work in a refrigeration room at a minimum temperature of 5°C, provided an epidemiological watch is constantly maintained, the juvenile is not required to perform the work alone, and he or she is provided with adequate clothing and hot drinks.

(d) Work in a noisy environment where continuous noise levels fall within a range extending between 75 and less than 85 dB(A), provided a technical noise study is conducted, the juvenile is provided with personal protective gear adequate to provide protection from the characteristics and intensity of the noise, and he or she has been trained in the use of such equipment.

(e) Operation of road tractors by persons over the age of 17 and in accordance with the provisions of article 68 of the Law on Overland Transport on Public Roads, where the operator holds a D-1 licence.

(f) Activities involving lifting, moving and positioning objects weighing more than 15 kilograms in the case of male employees and more than 10 kilograms in the case of female employees, provided the energy used to perform the work is provided by a mechanical device and the function of the juvenile worker is exclusively to control such mechanical device. Furthermore, the safety precautions set forth in the operating manual must be observed.



(g) Repetitive work under conditions of time pressure and demanding constant unbroken attention is permissible only provided active rest pauses and on-the-job recreation programmes are available.

505. As regards the setting of a minimum age or ages for admission to employment, it should be noted that Costa Rica ratified ILO Convention No. 138, concerning the minimum age for admission to employment, as long ago as 1974. However, that particular aspect continued to be governed by the provisions of the Labour Code.

506. In July 1997, the Executive used its veto power (veto No. 7680) to have the provisions of Convention No. 138 incorporated into the Labour Code. This involved amending chapter 7 of the Code, which is now entitled, "Protection standards for juvenile workers". Article 88 had read as follows:

"The following are absolutely prohibited:

- Work by juveniles under the age of 12.
- Work by juveniles under the age of 18 involving the performance of unhygienic, heavy or dangerous tasks that would jeopardize their physical, moral or social health.
- Night work by juveniles under the age of 18.
- Day work by juveniles under the age of 18 in clubs, bars or other establishments where alcoholic beverages are sold for consumption on the premises.
- Transport of juveniles under the age of 18 to work at locations far from their homes."

507. The new provisions were justified on the grounds that "to allow a child under the age of 15 to work at any kind of occupation or employment would be to interrupt the natural process that his or her development should follow and, in many cases, to cause him or her to abandon his or her basic education, with the result that he or she would be at risk of becoming an undereducated adult condemned to a life of poverty..." (letter accompanying veto No. 7680).

508. Since the enactment of Law No. 7739, which prohibits work by juveniles under the age of 15, no exceptions have been lawful, however "light" the tasks involved, inasmuch as the employment of an underage person would violate articles 78 and 92 of the Children and Adolescents Code and article 78 of the Constitution of Costa Rica, which provides that "general basic education is compulsory", thereby ensuring a minimum of education up to the age of 15, on average. "If Costa Rica aspires to maintain and even raise education levels, it cannot reasonably permit the employment of girls and boys during the stage of their education that is prescribed by the State"<sup>27</sup>.

509. Article 95 of the Children and Adolescents Code, which is part of the section of the Code headed "Special Protection Regimen for Juvenile Workers", provides that "juveniles may not

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<sup>27</sup> Taken from the wording of the Executive veto of Law No. 7680, 24 July 1997.

work for more than six hours per day and not more than 36 hours per week. Night work by juveniles is prohibited. 'Night work' shall mean work performed between 7 p.m. and 7 a.m. the following day, except in the case of a mixed workday, in which case 'night work' shall mean work performed after 10 p.m."

510. As regards working conditions, the Regimen stipulates that every juvenile worker shall be entitled to social security and work accident insurance, in accordance with the provisions of the Labour Code and other related legislation. Furthermore, under article 97 the Ministry of Labour is required to monitor the employment of juveniles, and is also responsible for:

- Formulating policies governing work by juveniles;
- Ensuring that juveniles are protected and that their labour rights are observed, by monitoring their employment;
- Regulating the hiring of juveniles, especially as regards types of work that they may lawfully perform.

511. With respect to the second of these responsibilities, the Code provides that "every employer who hires the services of juveniles over the age of 15 shall keep a file on every such juvenile containing the following information: name in full, age, proof of identity, to be supplied by the Office of the Civil Registrar, ID card number, names of parents or guardian, home address, occupation, work schedule, with indication of working hours, pay, proof of completion of basic education or grade currently attended and name of educational institution, whether the juvenile is performing the work with a view to occupational training or is under a contract of apprenticeship, work accident insurance policy number and social security number."

512. Effective enforcement of this article of the Code is ensured by the imposition of penalties or other appropriate sanctions, the establishment of an inspection mechanism and a system whereby a child can submit complaints, either directly or through a representative.

513. Article 101 of the Children and Adolescents Code provides that every employer who, by action or omission, violates the provisions of articles 88, 90, 91, 92, 93, 94, 95 or 98 commits a serious offence and is liable to a penalty under articles 611, 613, 614 or 615 of the Labour Code as amended by Law No. 7360 of 12 November 1993. An individual or corporate entity found guilty of having violated one or more of these articles is liable to whichever of the following penalties is applicable:

- Violation of article 88: fine of one to three wage payments;
- Violation of article 90: fine of four to six wage payments;
- Violation of articles 91 and 93: fine of eight to 11 wage payments;
- Violation of article 95: fine of 12 to 15 wage payments;
- Violation of article 94: fine of 16 to 19 wage payments;
- Violation of articles 92 and 98: fine of 20 to 23 wage payments.

514. The reference used for the purpose of setting the amount of the penalty is the base salary of a level 1 office worker, as set in the regular budget of the Republic in force at the time of the infraction.

515. In cases involving failure to provide reports, notification, applications, permission, verifications or documents required under the Code or labour and social security legislation, in order to enable the labour authorities to exercise control as they are required to do under the law, the persons responsible become liable to one of the fines set forth in the above list if they fail to produce the missing item within thirty days.

516. It is important to note that the Children and Adolescents Code itself provides that a minor has the right to report any action that has caused harm to him or her, and to initiate civil action in connection with that action through the agency of the Ministry.

517. As regards other relevant international conventions and instruments, including ILO instruments, it is appropriate to recall here that one of the first commitments undertaken by Costa Rica in this area was ILO Convention No. 138, which we ratified in 1974. Under that Convention, Costa Rica accepted responsibility for developing a national policy aimed at the effective abolition of child labour and progressively raising the minimum age of admission to employment to a level such that children would be able to achieve their full physical and mental development.

518. Some noteworthy steps in the direction of the elimination of child labour from 1998 to the present time are outlined below.

- All juvenile workers who are registered with the Ministry of Labour and Social Security are immediately and comprehensively tracked on an individual basis to ensure that their working conditions are respected, that they can return to school if they so wish, that they receive the protection to which they are entitled, that their families receive support, or that such other measures are applied as the study of each case may suggest are appropriate. This monitoring work is conducted in coordination with the National Learning Institute, the Ministry of Public Education, the Joint Social Assistance Institute, PANI and other bodies. The process described above constitutes the system of protection made mandatory by the Children and Adolescents Code.
- The Ministry keeps a register of working children and adolescents who are known to it and under its protection, and all of them are monitored on an ongoing basis. To date, a total of 2 899 children have been registered.
- Information and counselling is available for children and adolescents who approach the Ministry of Labour and Social Security in search of information about their rights, applicable legislation, the responsibility of various stakeholders and the resources available to support the comprehensive care process.
- The National Scholarship Fund collaborates to make support available to child and juvenile workers to enable them to return to school. To date, 400 scholarships have been awarded.

- Six information newsletters on the subject of child labour have been published to date, with the collaboration of a number of the institutions comprising the Committee.
- Various sectors of society are now aware of our shared responsibility for providing children and adolescents with protection and realize the importance of eliminating child labour.
- With the support of ILO/IPEC, the action capability of NGOs has been strengthened so that they can identify and help develop solutions to situations observed in their own communities and regions. The purpose of this initiative is to characterize each region's particular problems more specifically.
- With the technical and financial support of ILO/IPEC, various direct action programmes have been developed which have resulted in the return to school of approximately 1 698 children and adolescents. Of these, 834 have stopped working.
- As an ongoing process, action is taken to promote the social and work-related well-being of juvenile workers in 100 % of the cases identified by the Labour Inspection Service or the Department of Labour Affairs, cases that are reported or cases where the individual concerned approaches the Office directly, to ensure that his or her educational, work-related or socio-economic needs are met.
- Three radio programmes have been produced with the aim of heightening the general public's awareness of the issue of child and adolescent labour.
- Two hundred and ninety community training events on the theme of child labour have been organized, with the participation of various persons. This is an ongoing initiative.
- A seminar has been organized for the purpose of presenting the various research projects and other activities in the field of child and adolescent labour that are currently under way in Costa Rica. It was attended by officials from various institutions, both governmental and non-governmental.

519. Concurrently with the above-mentioned actions, a series of projects have been organized with technical and economic assistance from ILO/ IPEC, which to date have been directly beneficial to substantial numbers of children and juvenile workers. These projects have been executed by NGOs, with the participation of public and private institutions. It is important to note that the Office for the Prevention and Eradication of Child Labour and the Protection of Juvenile Workers has provided technical support, supervision and consultancy services for all these projects.

- The National Steering Committee for the Prevention and Progressive Elimination of Child Labour and the Protection of Juvenile Workers has been reactivated;
- A draft decree for the regionalization of the National Steering Committee has been prepared and has been approved by the Minister of Labour and the National Steering Committee itself. The draft decree is now in the hands of the Department of Legislation and Decrees at the Presidential Palace.

- The Office for the Prevention and Eradication of Child Labour and the Protection of Juvenile Workers is coordinating the Technical Secretariat of the National Steering Committee.
- Inter-institutional coordination and teamwork have been strengthened with a view to addressing needs that have been identified, and the Ministry of Labour, PANI, the Ministry of Education, the National Learning Institute and the Joint Social Assistance Institute have been assigned their respective areas of responsibility to ensure that juveniles' working conditions are respected, that they can return to school if they so wish, that they receive the protection to which they are entitled, that their families receive support, or that such other measures are applied as the study of each case may suggest are appropriate.
- Various sectors of society are now aware of our shared responsibility for providing children and adolescents with protection and realize the importance of eliminating child labour.
- Various initiatives were undertaken in the National Assembly with a view to ratification of ILO Convention No. 182 on the worst forms of child labour. That convention was ratified in July 2001.

520. There has been a major effort to enlist the support of all sectors of society in this great task of eradicating child labour. Some union and business leaders have shown great interest, but it must be admitted that a good deal of work remains to be done. That is why the role that is being played in this process by the ILO's IPEC Programme and other public and private bodies is so important, and that is why the Office for the Prevention and Eradication of Child Labour and the Protection of Juvenile Workers is seeking to organize a coordinated effort supported by all social sectors and stakeholders in order to be able to meet its objectives.

521. For the present year, programmes aimed at the eradication of the worst forms of child labour are being implemented in coordination with ILO/IPEC, which is working closely with what is known as the "Limited-term integrated focus" programme.

522. The Immediate Concern for Juvenile Workers programme executed by the Office was evaluated in coordination with the Inter-American Development Bank over a period of ten months extending from November 2001 to September 2002. For projects in recent years and projects currently under way, see the Annexes.

### **3. Sexual exploitation and abuse (article 34)**

523. The Committee expressed its concern at the high incidence of commercial sexual exploitation of children, and recommended that Costa Rica should undertake studies on this scourge with a view to strengthening current policies and measures, particularly in the area of care and rehabilitation, in order to prevent and combat this phenomenon.

524. The Committee also suggested that in developing measures to this end, Costa Rica should 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.

525. The main actions undertaken by Costa Rica to deal with this difficult problem during the period 1997-2002 are outlined below in chronological order.

526. PANI, the mandate of which was broadened last year to include responsibility for monitoring and promoting intersectoral action aimed at addressing this scourge, has published a report<sup>28</sup> on legislative, educational and social measures to this end that have been adopted to date. The information below is drawn from that report.

- In 1996, various national and international institutions, both public and private, agreed to join forces to initiate a process aimed at the prevention and elimination of commercial sexual exploitation of young persons under the age of 18 in Costa Rica.
- In January 1998, a specialized unit was established within the Office of the Public Prosecutor to deal with sexual offences and domestic violence (the unit is known as the Office for Sexual Offences). This was a major step forward, albeit its impact is limited owing to the fact that its competence is restricted to the First Judicial Circuit of San José; it has jurisdiction elsewhere in the country only by delegation from the Office of the Public Prosecutor of the Republic. The Office for Sexual Offences deals with all offences relating to domestic violence, including attempted murder, fraud and sexual offences committed by third parties, among others.
- In 1999, a unit to combat the sexual exploitation of children and adolescents, known as the Sexual Exploitation Unit, was formed within the Ministry of Public Safety, and another specialized unit was set up within the Judicial Investigation Department (OIJ).
- In 2000, the issue of sexual exploitation was officially added to the priorities of the National Council on Children and Adolescents, inasmuch as it is one that calls for close cooperation among the various organizations making up the Council. The National Commission to Combat the Commercial Sexual Exploitation of Children and Adolescents in Costa Rica (CONACOES) is now one of the Council's special commissions.
- In April 2000, at the Council's instance, a "Proposed Immediate Action Plan" was prepared, based on inputs generated by the members of CONACOES, in an effort to mobilize the political backing required to produce a meaningful impact on the problem.
- Late in 2000, a programme entitled "Change is in your hands" was officially presented and launched. This programme was developed under a cooperation agreement among UNICEF, the Costa Rican Tourist Institute, the National Children's Trust and the National Women's Institute, and its purpose is to collect money from tourists, to be invested in a work plan for the prevention and eradication of the commercial sexual exploitation of children and adolescents. The key component of the plan is awareness generation in the hotel sector and persons who work in that sector.

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<sup>28</sup> Dr. Delia Miranda, Report on Measures Adopted by Costa Rica in Recent Years to Protect Children from All Forms of Sexual Exploitation. National Children's Trust, August, 2002.

- Early in 2001, a cooperation programme between the Government of Costa Rica and the United States of America was officially launched. The programme features a joint effort aimed at combating the sexual exploitation of juveniles, and a draft work plan has been developed.

527. CONACOES' Executive Unit has been operational since August of this year, while PANI has established a unit to combat the commercial sexual exploitation of children and adolescents, which reports to the Office of the Executive President.

528. Newly enacted legislation relating to this issue and draft legislation tabled in the Legislative Assembly during 2002 included:

- Bill No. 14 568 – Draft Act to strengthen the effort to eliminate the sexual exploitation of minors through the amendment of certain articles of the Criminal Code, Law No. 4573 of 4 May 1970, and the addition of new articles, and the amendment of certain articles of the Code of Criminal Procedure, Law No. 7594 of 10 April 1996. The Ministry of the Presidency, the Ministry of Justice, the Office for Sexual Offences, other government departments and agencies and civil society organizations all contributed to the drafting of the bill. Status as of 20 August 2002: at the head of the agenda of the Legislative Assembly's Social Affairs Committee.
- Bill No. 14.567 – An Act to amend the Tourism Development Incentives Act, Law No. 6990 of 30 July 1985. The proposed amendment provides that tourist enterprises that use their premises or tolerate their use for purposes of the commercial sexual exploitation of minors shall be liable to denial of benefits and incentives. Status as of 20 August 2002: tabled on 17 July, to be placed on the order paper of the plenary meeting during September.
- Bill No. 14 204 – Addition of a paragraph 4 to article 6 of the Criminal Code, making provision for extraterritorial liability for sexual offences against minors. Status as of 20 August 2002: has been tabled and is to be placed on the order paper of the plenary meeting during this month (September).

529. Other noteworthy initiatives in this year have included the preparation of a set of guidelines entitled "Guidelines for reducing the revictimization of minor persons during court proceedings". This is a practical handbook for the use of judicial personnel, which is designed to minimize the risk of revictimization.

530. A special unit to deal with Internet offences has been established in coordination with INTERPOL. The latter will provide a "red list" of previous offenders, thereby helping the unit to update and modernize its methods of investigation.

531. Active operations against various forms of the commercial sexual exploitation of children and adolescents were undertaken again this year, with the involvement of a number of government departments and agencies. Lastly, a coordinated effort is currently under way to open more specialized centres for the care of children and adolescents who have been sexually exploited.

532. A number of educational measures have been implemented during the years here under review. Some of the more noteworthy of these are outlined below.

- Preparation and publication of training manuals for facilitators; specific training modules for target groups; preparation and distribution of leaflets, posters, video films, tapes and public opinion articles.
- Organization of workshops, study days and other awareness and training events for civil servants, including in particular persons employed in the education and health sectors, police forces and judiciary, PANI, the Joint Social Assistance Institute, the tourist and hotel industry, and high-school and university students.
- Nation-wide distribution of informational and educational materials and the findings of research on the commercial sexual exploitation of children and adolescents, as a contribution to the task of promoting prevention and encouraging communities to report situations relating to such exploitation.

533. Information, awareness and education campaigns aimed at preventing the sexual exploitation or abuse of children in any form have been conducted, in some cases in cooperation with the media. Some of these campaigns are outlined below.

- In 1998, a joint effort involving the Costa Rican Tourist Institute, PANI and UNICEF led to the production of posters bearing the message, “The exploitation of children as workers or for sexual or commercial purposes is prohibited in Costa Rica.”
- In 1999, the Costa Rican Tourist Institute funded a campaign featuring the design and distribution of two posters. One read “Passport to safety: Customs against sexual exploitation,” while the message of the other was “Exploitation and children. Anyone who has sex with a minor goes to prison.”
- A national campaign against sexual exploitation was designed and implemented in a cooperative effort involving the Costa Rican Tourist Institute, PANI and UNICEF, while a nation-wide campaign aimed at preventing sexual exploitation was conducted with funding from PANI.

534. Activities during 2000 included the following:

- A national “Report it!” campaign organized by PANI, with television and radio messages, posters and leaflets.
- PANI gave priority to projects aimed at combating sexual exploitation that were submitted by Children and Adolescents Protection Boards.
- Under the auspices of the Costa Rican Tourist Institute, an information campaign for hotel operators and tourists was organized, based on protection of and respect for children. Billboards were made and erected at strategic locations, and decals with educational messages were distributed to taxi services. In addition, a nation-wide television campaign was organized under the auspices of PANI and the Costa Rican Tourist Institute. Messages were also broadcast over a national channel and, in some cases, by cable.
- The year 2001 saw the first nation-wide campaign on behalf of “Zero tolerance for the commercial sexual exploitation of children and adolescents”. The campaign



was developed by PANI, with contributions by other CONACOES member organizations and with the support of the Office of the First Lady and the Ministry of the Presidency. The campaign was based on television and radio messages, radio interviews, informal awareness-raising meetings in some high schools and communities, teleconferences and informational materials distributed to libraries and to various communities around the country, thanks to the efforts of the Ministry of Culture, Youth and Sport and local volunteers. Churches and the Ministry of Public Education also contributed, and the Web page [www.costaricaenlucha.com](http://www.costaricaenlucha.com) was created.

535. In view of the need to design a multidisciplinary national strategy to guarantee the protection of children and juveniles under 18 from all forms of sexual exploitation and abuse, including exploitation and abuse within their families, the National Plan against the Commercial Sexual Exploitation of Children and Adolescents was relaunched in August 2001 and its main lines of emphasis were determined.

536. The plan includes a number of prevention strategies, including those listed below.

- Networking with a rights and gender focus.
- Decentralized management and nation-wide coverage.
- Training for teachers, parents and guardians of school children, senior judiciary and police authorities and lower-level officials and policemen, owners, managers and staff of hotels, restaurants and bars, and taxi drivers.
- Continued training for police officers.
- Preventive communication directed at the general public.
- Action to prevent children who drop out of the education system from being at risk of sexual exploitation.
- Demand prevention: nation-wide campaigns to inform exploiters, procurers and others that the commercial sexual exploitation of children and adolescents is unlawful.

537. Monitoring mechanisms for each of the three components of the plan (prevention, legal action, direct response), accompanied by the introduction of a vigilance indicator system, will be a basic input for measuring the impact of the various actions developed to address and eradicate the commercial sexual exploitation of children and adolescents.

538. As regards legislative measures, we have seen earlier in this report that Costa Rica's achievements (including the enactment of Law No. 7899 in particular, which was described by UNICEF as "one of the 10 best practices" in the entire region) were the subject of a publication that mentioned the establishment of the Office for Sexual Offences and the training, awareness and organization that has been accomplished in that connection, among other examples. This initiative won recognition in the form of the annual UNICEF - Supreme Court of Justice Prize, which in 2001 was awarded to the Office for Sexual Offences. Costa Rica may justly take pride in this honour, demonstrating as it does how far the country has come in combating demand for commercial sexual exploitation.

539. In Costa Rica, the sexual exploitation and abuse of children, child prostitution, child pornography, including possession of child pornography, and the use of children for other unlawful sexual practices are criminal offences, but possession of child pornography “for private use” is not an offence. However, draft legislation designed to eliminate this exception is currently before the Legislative Assembly.

540. No Costa Rican law or treaty makes provision for the principle of extraterritoriality in this matter, and consequently the sexual exploitation of children by a national or resident of the country is a criminal offence even when carried on in a third country.

541. There are special units consisting of civil servants and senior officials in the area of the maintenance of public order, working closely with the police, that deal with the problem of children who have been sexually abused or exploited. The members of these units receive special training to prepare them for their duties. Two entities that are of particular importance in this context are (a) the Ministry of Public Security and (b) the judiciary.

542. The Costa Rican judiciary possesses an enforcement arm in the Judicial Investigation Department (OIJ), which looks into all criminal offences. In 1999, the OIJ set up a special unit that was originally named the Miscellaneous Offences Unit, but soon became the Sexual, Domestic and Life-Threatening Offences Unit. The unit works in close, direct two-way coordination with the Office for Sexual Offences in all cases relating to procuring.

543. A Computer-Related and Other Offences Unit was established in 1997 to investigate offences in the field of information technology (its human resources received training from specialized personnel provided by the United States of America). Since 2002, it has helped investigate Internet procuring. Its agents are now being trained to deal with this new offence by United States specialists working in coordination with the Office of Sexual Offences in San José.

544. The Ministry of Public Security, for its part, possesses an enforcement tool in the form of the country’s police. For many years now, all Costa Rica’s police forces have been consolidated under a single administrative authority with human resources in every part of the country.

545. Police officers receive instruction and training in legal matters, field operations, and the attributes and functions of government departments and agencies and NGOs to ensure that they can deal appropriately with all cases. The institutions that provide training include PANI, the National Crime and Violence Prevention Directorate, which is an arm of the Ministry of Justice, the PANIAMOR Foundation, the Office of the Assistant Public Prosecutor for Juvenile Offences and the OIJ.

546. As we have seen, in January 1998 a specialized unit was established within the Office of the Public Prosecutor to deal with sexual offences and domestic violence, with competence restricted to the First Judicial Circuit of San José; it has jurisdiction elsewhere in the country only by delegation from the Office of the Public Prosecutor of the Republic. The unit deals with all offences relating to domestic violence, such as murder, sexual offences, fraud and so forth, and also with sexual offences committed by third parties. In 1999, a specialized team whose function is expressly to combat the sexual exploitation of children and adolescents was established within the unit. The team comprises two OIJ officers and six members of the Ministry of Public Safety’s Sexual Exploitation Unit. Thus far the team has worked in San José

for the most part, but it is now joining forces with that Ministry to extend its operations to the country's seven most problem-ridden regions: San Carlos, Pérez Zeledón, Guanacaste, Golfito, Limón, Jacó and Puntarenas. (*Source:* Coordinator, Office for Sexual Offences, San José.)

547. To deal with high-risk situations, including commercial sexual exploitation, PANI has an emergency 911 telephone service, its immediate response service and various types of comprehensive care facilities for the children and adolescents involved.

548. Costa Rica has signed or acceded to a number of bilateral and multilateral regional agreements aimed at promoting the work of preventing all forms of child abuse and sexual exploitation and providing effective protection for victims. Many of these agreements have had to do with cooperation between judiciaries and police forces. Some examples are listed below.

- Recommendations of the Yokohama Declaration.
- “Commitment to a Strategy against Commercial Sexual Exploitation and Other Forms of Sexual Violence against Children and Adolescents in the Latin American-Caribbean Region”, adopted at the Inter-American Congress against Sexual Exploitation of Children, held in Montevideo, Uruguay, 7-9 November 2001.
- Commitments of the El Salvador Meeting.
- Ibero-American Agenda and Plan of Action.
- Cooperation programme between the Government of Costa Rica and the Government of the United States of America.

549. An agreement for cooperation among police forces would be one outcome of a proposed coordinated initiative involving municipalities, police forces, the Criminal Investigation Division and Interpol.

550. In addition, the ILO, Covenant House, the Embassy of the United Kingdom and Interpol have contributed training personnel and material resources.

551. Relevant programmes, including multidisciplinary programmes, aimed at the recovery and social reintegration of child victims of sexual exploitation or abuse pursuant to article 39 of the Convention include the following:

- CCSS's comprehensive care programme for adolescents, which include reproductive health among its priority areas. In this context, the programme provides, among other things, prevention, early detection and comprehensive care for young victims of incest and sexual abuse.
- Programmes and projects administered by UNICEF, ILO-IPEC, Defence for Children International, the PANIAMOR Foundation, the PROCAL Foundation, the Ser y Crecer [being and growing] Foundation and Covenant House.
- PANI's Protection Division: recovery and social reintegration. Action against commercial sexual exploitation.

552. Preference has been given to processes characterized by empathy with the victims of commercial sexual exploitation, who have met with a variety of persons from different walks of life, much as in the case of FUNDESIDA.

553. In 2000, this approach resulted in the establishment of a centre dedicated to the care and social reintegration of young people who are being sexually exploited for commercial purposes and have no family and/or community support networks; the centre can accommodate 50 young people. The reception and treatment processes have led to the emergence of a population segment with new development opportunities which will enable them to exercise their rights to the fullest extent. The care process applied by the centre follows the guidelines laid down by PANI for this special project, and has been positively evaluated by UNICEF.

554. Two further projects for the care of this population segment are to be executed in 2003: the establishment of an initial reception centre, where the young people concerned will be able to stay for approximately 30 days, and the establishment of homes for young people who have completed the treatment process in rehabilitation centres.

555. Within PANI's Technical Secretariat for child protection activities, three programmes in particular have emphasized the care of sexually abused children: the Association for Social Development, which is sponsored by Richmond Fellowship International; the Manas Amigas [friendly hands] Association, run by the Sisters of the Good Shepherd, the Social Welfare Association, which is run by the Evangelical Centre, and the Ser y Crecer Foundation.

556. Besides these centres, which specialize mainly in cases involving commercial sexual exploitation, there are other centres that seek to address the larger issue of sexual abuse in general, including Aldeas SOS, Pueblito Costa Rica, Vista de Mar, and 64 programmes operating under agreements with PANI.

557. Relevant data on children to whom article 34 applies, broken down by age, sex, region, rural or urban area of residence, and national, social and ethnic origin, would undoubtedly be desirable, but PANI's records show only numbers of victims, broken down by sex.

#### Reason for opening files on children and adolescents

(by province and year)

Province/Year	Sexual abuse by someone other than a family member	Sexual abuse by a family member	Sexual exploitation	Incest*	Total
1998					
San José	51	180	15		246
Alajuela	121	114	8		243
Heredia	4	22	0		26
Cartago	4	24	1		29
Puntarenas	58	44	16		118
Guanacaste	15	29	0		44
Limón	14	25	3		42
<b>Total for year</b>	<b>267</b>	<b>438</b>	<b>43</b>		<b>748</b>
1999					
San José	53	224	26		303
Alajuela	127	279	19		425
Heredia	6	24	12		42

Province/Year	Sexual abuse by someone other than a family member	Sexual abuse by a family member	Sexual exploitation	Incest*	Total
Cartago	14	47	16		77
Puntarenas	20	57	24		101
Guanacaste	9	22	4		35
Limón	21	37	14		72
<b>Total for year</b>	<b>250</b>	<b>690</b>	<b>115</b>		<b>1055</b>
2000					
San José	86	209	37		332
Alajuela	100	208	23		331
Heredia	23	33	15		71
Cartago	15	50	9		74
Puntarenas	66	104	17		187
Guanacaste	15	35	5		55
Limón	19	64	9		92
<b>Total for year</b>	<b>324</b>	<b>703</b>	<b>115</b>		<b>1142</b>
2001					
San José	90	182	42		314
Alajuela	168	227	21		416
Heredia	30	66	11		107
Cartago	16	48	6		70
Puntarenas	81	96	19		196
Guanacaste	39	91	2		132
Limón	17	52	9		78
<b>Total for year</b>	<b>441</b>	<b>762</b>	<b>110</b>		<b>1313</b>

*Source:* Data processing service. Report No. 1. Information on new files within the institution. 1998-2001.

*Note:* Information for the period 1998-2001 is taken from report No. 1, “Information on new files within the institution”; other files relating to comprehensive care will not be considered here. Numbers recorded for those years represent reasons for the opening of files on children and adolescents, but the same child may appear in more than one category.

558. Persisting obstacles to implementation of the measures set forth in article 34 of the Convention include:

- Inadequate economic resources.
- Information systems that are unable to generate flexible responses to requests for information and programming, or can do so only at a low level of efficiency.
- Unevenness in the level of knowledge about the problem.
- Concrete legal obstacles that have hampered drastic action against persons involved in the commercial sexual exploitation of children and adolescents.

559. An investigation into the issue conducted by ILO/IPEC led to the publication in 2002 of a report entitled Costa Rica: the Commercial Sexual Exploitation of Minors. The report notes that “In terms of legislation, gaps persist in respect of both the legal definition of the offence and laws under which offenders may be prosecuted, and this situation tends to result in

impunity for those who traffic in children and adolescents.” The report adds, “Law reform has had little impact on ‘client-exploiters’, owing to the fact that many cases are not reported and procedural difficulties with evidence. Concurrently, violence committed against women by their partners and family members, which is a common characteristic of victims’ families, and hence a risk factor for vulnerability and running away from home, continues to be invisible in the eyes of the criminal law.”

560. Another report, entitled *Investigation on the Trafficking, Sex Tourism, Pornography and Prostitution of Children in Central America and Mexico* (Covenant House International, ECPAT and the Audrey Hepburn Children’s Fund), which was also published in 2002, notes that in the case of Costa Rica in particular, the one of the concerns of the Office for Sexual Offences and Domestic Violence is gathering enough evidence to launch a prosecution, together with the fact that procedural standards are not consistent with the new Law on the Sexual Exploitation of Minors. The study adds, “Punishable behaviour can be sanctioned only if it is the act of an individual. For that reason, given an Internet page containing child pornography, it would be necessary to identify the individual who was promoting it, i.e. who the owner of the material was, in order to initiate criminal proceedings against the person responsible.”

561. Moreover, “Web pages containing explicit child pornography are difficult to access and locate, owing to their clandestine nature.” Some are hosted within “temporary or free” Web pages. “Users of pornographic material... ‘store’ photographs and video films on their own computers, and once this is done, the material can be used as often as desired, or sent by e-mail to other users.” The report adds that “At the present time, there are communication media like the Internet that promote sex tourism in Costa Rica, thereby facilitating the activities of procurers and sexual exploiters, some of whom come to the country after having previously established contacts.”

562. The use of the Internet as a means of promotion and distribution thus represents an obstacle to the gathering of evidence. Other aspects would have to be taken into consideration as well, including the following:

- (a) To date, our country has developed its tourist industry in the absence of regulations aimed at the protection of children and adolescents. For example, it would be desirable to review the regulations governing tourist accommodation enterprises to determine whether they include provisions for liability in cases of commercial sexual exploitation of minors, in the interest of providing protection for persons under the age of 18 who are potentially victims of the offence of paid sexual relations.
- (b) The term “Internet” does not appear in Costa Rica’s Criminal Code, and this tends to foster impunity in cases of offences involving child pornography<sup>29</sup>.
- (c) Both adults and minors fear possible reprisals if they report an incident. At the First National Congress on Victimology: Victims Have Rights Too, held in June 2001, Chavarria Guzmán noted in a paper entitled “Protection for victims and

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<sup>29</sup> Second report on the state of children’s and adolescents’ rights in Costa Rica, published in 2001 and prepared under a cooperation agreement between UNICEF and the University of Costa Rica.

witnesses” that “The transnationalization of crime as a subproduct of the global view of trade points inevitably to the conclusion that this material must be regulated as soon as possible, given the increasingly well-organized nature of criminal activity.”

563. In addition, there are a number of non-legal obstacles that have hampered vigorous action against those who are involved in the commercial sexual exploitation of minors. A number of risk factors that foster this social scourge are identified in a document entitled Public Policy for the Eradication of the Commercial Sexual Exploitation of Minors, which was presented to public opinion by PANI and UNICEF in 2000. These are relevant in this context as direct or indirect variables that make it difficult or impossible to proceed vigorously against persons who engage in these activities:

- A macho culture that produces gender inequity;
- A development style that promotes consumerism and a view of women as objects;
- The weakness of community prevention and solidarity mechanisms;
- Social indifference to and tolerance of sexual exploitation;
- Inadequate awareness of the problem of the sexual exploitation of children and adolescents among society at large;
- The increasing proliferation of well-organized criminal networks;
- Declining moral values.

564. In addition, the Law on the Sexual Exploitation of Minors and other relevant legislation should be more widely disseminated, and should be more effectively enforced by all agencies that are responsible for action in that connection. The judicial authorities and all members of society should be informed about the provisions of the Law, so that it can serve its intended purpose.

565. The above-mentioned ILO/IPEC report on the commercial sexual exploitation of minors remarks that in 2002, “The country is confronted with legal, administrative and budget-related difficulties in its efforts to combat organized groups of procurers” offering sexual services, and that “Despite growing numbers of reports of procuring, the judiciary’s criminal investigation services lack the financial and human resources required to deal with organized networks.”

566. This conclusion also is amply supported by the report published by Covenant House International in 2002, which found that social and governmental responses aimed at dealing effectively and integrally with the problem of the commercial sexual exploitation of young people were still uncoordinated, and that local action plans were conspicuous by their absence.

567. The ILO/IPEC report lists a number of major challenges that remain to be overcome, including the following:

- Initiation and development of universal policies designed directly to address the social, economic and ideological factors that promote the vulnerability of minors to commercial sexual exploitation and the inclination to commit that crime;

- The allocation of greater budgetary resources specifically to combat offences involving the commercial sexual exploitation of young people, taking into account the fact that the task of investigating organized groups and networks calls for high technology and specialized training;
- The implementation of coordinated, sustainable strategic actions that are not vulnerable to changes of government.

568. In November 2001, at the second World Congress against Commercial Sexual Exploitation of Children, held in Yokohama, Japan, the Government of Costa Rica prepared a report on its follow-up to the Agenda for Action that had been adopted at the first Conference, held in Stockholm, Sweden, in 1996. The report's main lines of emphasis were as follows:

- The stigmatization generated by commercial sexual exploitation, as by all forms of abuse, makes it difficult either to detect cases or to treat them, and also affects requests for services on the part of the children and adolescents concerned.
- The fact that networks of exploiters are growing rapidly at all community, institutional and power levels calls for involvement by families and the formulation of a genuine strategy of social confrontation.
- There is a lack of reliable information about the problem, owing to the fact that regular information systems (clinical histories, health centres, schools and the like) do not include indicators and do not undertake the necessary follow-up action in cases of child sexual abuse and exploitation.
- Education should be oriented along lines aimed at mobilizing communities to promote the protection of children and adolescents from mistreatment and exploitation. It is essential for the communication media to be involved in the preparation of education campaigns, identifying themselves and displaying their commitment.
- Action on behalf of the prevention and treatment of sexual abuse should concentrate in particular on border areas, heavily populated areas and areas frequented by tourists, where key allies should be identified.
- The many-sided effort to defeat those who subject children and adolescents to sexual abuse may find answers in many-sided strategies that concentrate on giving ongoing, expanding form to recreational programmes, the arts, sport and other expressions of culture, as well as the configuration of spaces for technical and vocation training for adolescents aged 14 and over.
- Judicial services should develop plans for obtaining the trained personnel they will need in dealing with the various forms of child abuse.
- Policies relating to this issue should feature a gender perspective and a decentralization strategy to ensure that benefits accrue first and foremost to residents of communities characterized by a high incidence of sexual exploitation and abuse.



- The State understands that this is a widespread social problem with many causes, that those causes, which have varying impacts at different stages of life, have not yet been sufficiently investigated, and that sexual abuse has a substantial adverse effect on the exercise of children's and adolescents' other fundamental rights.
- The issue of the mistreatment of children, including abandonment and all other forms of abuse and exploitation, calls for an intersectoral focus that should include action to promote detection and reporting, shelter and protection measures, judicial solutions, treatment systems for victims and families, and research aimed at obtaining more in-depth knowledge of the circumstances that tend to foster this type of behaviour toward children and adolescents.
- Accordingly, all areas of national life, public institutions, the private sector and society as a whole must endeavour to promote the advent of a cultural change, beginning in infancy, to create conditions that will foster the development of family units as democratic entities, in which the needs, demands and rights of children, adolescents, women, men, persons with disabilities and older people can be fairly met, in an atmosphere of tolerance. This will enable Costa Ricans to advance toward a democratic, pluralistic society, one characterized by solidarity, in which freedom, peace and harmonious, non-violent relationships prevail.
- The implementation of the Agenda for Action is and must be a matter of sustained, long-term commitment that is an integral part of the day-to-day activity of all institutions.
- The commercial sexual exploitation of children is not a sort of epidemic; on the contrary, it may be regarded as an endemic disorder with an age-old history, one that is deeply rooted in a patriarchal culture which must change. No government or institution can hope to find the solution unaided. The task is one that calls for commitment on the part of all areas of national life and awareness of our common responsibility for eradicating this scourge, ensuring that it does not occur, and reporting, identifying and severely punishing the adults and the national and international rings that profit from this systematic violation of the human rights of children and adolescents.

569. As the foregoing shows, Costa Rica has made significant gains in its efforts to put an end to the commercial sexual exploitation of minors. To be sure, a number of weak points remain, but it is hoped that these can be corrected during the present Administration. The President of the Republic, Dr. Abel Pacheco de la Espriella, made a noteworthy commitment in this connection when inaugurating the newly formed Council on Children and Adolescents. "I am prepared," he said, "to fight head-on, boldly and decisively on all fronts to defend our sons and daughters... This is a declaration of war against those who corrupt minors, those who traffic in minors, those who sell drugs to children, child sex tourism, producers of child pornography, those who exploit the labour of children, and abductors of children."

#### **4. Administration of juvenile justice (articles 37, 39 and 40)**

570. In this broad field, the Committee's concerns were essentially that the Juvenile Justice Act had not yet been fully implemented, partly because there were not enough specialized judges, that there was only one specialized centre for children in conflict with the law, that

there was a lack of adequate training for the police on the Convention and other relevant international standards, that a large number of children were placed in pre-trial detention, and that the penalties imposed were disproportionately heavy in relation to the nature of the offences.

571. In the light of these concerns, the Committee recommended that Costa Rica should continue undertaking effective measures to overcome the obstacles listed above and other obstacles to the full implementation of the Juvenile Justice Act, and to that end should take into account not only articles 37, 39 and 40 of the Convention, but also the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Protection of Juveniles Deprived of their Liberty. The Committee suggested that Costa Rica should establish a working group in that connection, and that to establish the working group it should seek technical assistance from the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF.

572. This issue has been broken down into three main components. The first of these relates to a series of considerations obtained from experience with the implementation and scope of the Juvenile Justice Act. The second has to do with the work being done by the Ministry of Justice through the Social Rehabilitation Directorate, in the framework of the programme for the delivery of care to juveniles in detention. The third component relates to the work of PANI. It is our hope that the discussion of these three areas in the following pages will help to clarify some aspects relating to the Committee's main concerns and recommendations.

573. Before embarking on that discussion, however, it will be as well to take the opportunity to recall some of the points made in Costa Rica's statement of position on an application for an advisory opinion relating to the issue of guarantees for children and adolescents. In a note issued in April 2001, the Inter-American Court of Human Rights forwarded a copy of an application submitted by the Commission in the matter of the interpretation of articles 8, 19 and 25 of the American Convention on Human Rights, requesting consideration and comments.

574. The Commission had asked on that occasion whether the judicial guarantees and the right to judicial protection established by the American Convention on Human Rights constituted a limitation on the discretion or freedom of action of States to enact special protection measures for children in accordance with article 19. It had also requested a ruling on various measures that were imposed on minors in American States without guarantees of due process.

575. The State of Costa Rica submitted its comments on the application, and in addition it presented a synopsis of the many standards that go further still as regards the form in which the rights to judicial guarantees and judicial protection for children and adolescents should be safeguarded.

576. After consultation with the various institutions concerned with children and adolescents, including the Office of the Ombudsman, the statement concluded that as far as could be judged from Costa Rica's experience, no arbitrary interpretation of the State's discretion to "protect" children could justify any reduction in the minimum established in articles 8 and 25. However, the provisions of those articles could not apply to minors on the same basis as adults; they must be developed and improved in accordance with the distinctive nature of the issue as derived from the American Convention on Human Rights, the Convention on the Rights of the Child,

and the recognition of children and adolescents as subjects of specific rights. Moreover, it concluded that the measures referred to in the Commission's application were incompatible with the American Convention on Human Rights and the Convention on the Rights of the Child. On 21 June 2002, the State of Costa Rica participated in a public hearing on the matter, where it upheld that position.

### **Juvenile Justice Act**

577. In the first place, it is important to note that when the Convention on the Rights of the Child came into force, the Constitutional Chamber stated, "In accordance with the provisions of article 7 of the Constitution, as soon as the Convention on the Rights of the Child was ratified by our country, any legal standards that are at variance with the standards and principles set forth in that international instrument became unconstitutional"<sup>30</sup>. Here the Chamber establishes the primacy of the Convention as an international treaty with binding force for the State.

578. Furthermore, as we have seen, the Juvenile Justice Act, as part of a penal system with safeguards, establishes the observance of due process as an unquestionable obligation. Due process requires, among other things, that before a minor who has been charged with an offence can be subjected to any penalty, the constitutional and procedural safeguards applicable to adults must, at a minimum, be respected.

579. This principle is valid, not only in the context of Costa Rican legislation, but also under international law, including instruments specifically concerned with children and adolescents, notably the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and also human rights instruments, notably the American Convention on Human Rights, and more particularly article 8, paragraph (3) of that Convention, which sets forth a series of judicial guarantees, including every accused person's right to a hearing, with due guarantees and within a reasonable period of time, the presumption of innocence, and the validity of a confession only if made in the absence of coercion. With these standards, we can start from the essential proposition that in the field of juvenile justice, the above-mentioned principle must be respected if the safeguards available under the rule of law are to be effective.

580. The point of the foregoing discussion is to show that the drafting of the Juvenile Justice Act involved careful consideration of a series of principles derived from a host of world conferences on crime prevention that have been held under United Nations auspices since 1955. More particularly, however, the drafting process was sustained and guided by the provisions of the Convention on the Rights of the Child, supplemented at the national level by the Children and Adolescents Code, both of which lay down a series of procedures in this area.

581. The following pages contain summaries of some of the points made in the General Summary<sup>31</sup> on the subject of juvenile justice in Costa Rica, with a view to expanding on and

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<sup>30</sup> Vote No. 1982-94, Constitutional Chamber.

<sup>31</sup> From *Arbitrary Treatment to Justice: Adolescents and Criminal Liability in Costa Rica*. Policy Series. Mauricio González Oviedo and Carlos Tiffer Sotomayor, Coordinators, UNICEF. Joint

exploring in greater depth the impact that the enactment of the Act has had, and also looking at some remaining weak points.

582. The Juvenile Justice Act is structured in accordance with the model of liability for criminal acts committed by persons under the age of 18. Its defining characteristic is that it establishes an essential minimal concept of criminal law. It recognizes the principles of legality and guilt. It includes procedural safeguards. It acknowledges adolescents as being persons who are subjects of rights and have responsibilities, and it relies on the doctrine of comprehensive legal and social protection for them.

583. The action of the criminal justice system is limited by the fact that provision is made for a broad range of sanctions which are essentially educational in nature, with the result that penalties involving the deprivation of liberty are reduced to a minimum.

584. The Act takes as its first principle the comprehensive protection of minors, i.e. that the State, because of the distinctive situation of persons in that category, has an obligation to see to their social rehabilitation. This entails determining the specific characteristics and needs of those persons, to ensure that both trial procedures and penalties take into account and are adapted to their distinctive nature, in an effort to minimize the harmful effects of criminal prosecution.

585. The safeguards and fundamental rights laid down in the Act include the right to equality and non-discrimination, which must be observed by the police, the Office of the Public Prosecutor, judges and those responsible for administering the penalty. The principle of specialized justice requires the State to establish institutions for adolescents exclusively, both during trial and after sentencing. The principle of legality requires that the limits provided for at law may not be exceeded, and this means that offences must be clearly characterized and penalties established for purposes of trying and punishing juveniles. The principle of harm requires that before a juvenile can be punished for an act, damage or danger to a tangible asset must be clearly established.

586. Two fundamental principles that are characteristic of criminal justice proceedings against a juvenile are the right to privacy and the principle of confidentiality, which make it unlawful to reveal the identity of a juvenile who is charged with an offence or to divulge information about the acts committed. The principles that serve to ensure the imposition of an appropriate penalty are the principle of rationality and proportionality between the penalty and the offence, the principle of the determination of penalties that can be applied to a juvenile, and the juvenile's right to be sent to a specialized centre to serve his sentence.

587. Juvenile criminal law is applicable only to persons who are older than 12 but have not yet turned 18. Children under the age of 12 cannot be held liable. However, offenders under the age of 12 are dealt with by administrative authorities, and in such cases it is PANI that decides what measures are called for, except that the offender can be deprived of liberty only by order of a juvenile court judge. The Act distinguishes between two age groups: juveniles who are over 12 but have not yet turned 15, and those who are over 15 but have not yet turned 18. The effect of this legal distinction is that lighter penalties are imposed for minor offences, depending on the offender's age group.

588. The basic principle governing the determination and administration of penalties for juvenile offenders is that such penalties must be educational, and that they must be framed so as to respect the juvenile's best interest and the comprehensive protection to which he is entitled. Socio-educational penalties seek to foster the growth of awareness in adolescents. The Act lists a number of these penalties: admonition and warning, which is a penalty that is executed immediately by the juvenile court judge and consists in drawing the adolescent's attention to his delinquent conduct; probation, which means that the juvenile offender may be released subject to the condition that he must attend educational programmes and remain under the guidance and supervision of the court and specialists with the Juveniles Programme of the Social Rehabilitation Directorate; community service, which consists in working without pay for a public or private entity, depending on the skills and abilities of the juvenile concerned; reparation for the wrong done to the victim, which consists in the direct performance of work by the juvenile offender; and, instead of reparation, compensation in the form of a sum of money earned by the juvenile's efforts.

589. The Act makes provision for orientation and supervision orders, which are instructions or prohibitions imposed by the juvenile court judge as a means of regulating the behaviour of the juvenile in the case. These may include an order to establish or change a place of residence; desist from dealing with specified persons; refrain from frequenting certain places; enrol at a formal educational institution or some other type of educational establishment; find employment; refrain from ingesting alcoholic beverages or hallucinogenic, mind-altering, narcotic or toxic substances that produce addiction or dependence; or an order for inpatient or outpatient treatment at a public or private health centre for detoxification and elimination of addiction.

590. As regards penalties involving the deprivation of liberty, the Act makes provision for three types of detention comprising progressively more severe forms of punishment. The mildest is house arrest, which means that the adolescent continues to live with his family and that his work or education is not affected. Next comes confinement during the offender's free time in a place of detention. The harshest measure, which is imposed only in exceptional cases, is full-time confinement in a specialized place of detention.

591. The Act emphasizes the importance of making provision for a variety of sanctions and using confinement in a specialized place of detention only as a last resort. Statistics bear this out: in 1998, the most common sentence was probation, in 28.9 % of all cases, followed by admonition and warning with 24.8 %, and confinement in a specialized place of detention with 21.5 %. This trend has continued: statistics indicate that in 1999, only 2.5 % of all cases ended in convictions, and of those, only 0.5 % involved a sentence of confinement in a specialized place of detention.

592. According to available information<sup>32</sup> provided by the Office of the Public Prosecutor for Juvenile Offenders, in the year 2000 there were a total of 13 981 cases, of which 4 699 were disallowed; 52 were provisionally dismissed and 5 461 definitively dismissed; verdicts were handed down in 363 cases; 975 were tried in absentia; there were 201 cases of joinder of proceedings, 237 of conciliation, and rulings of incompetence in 198 situations.

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<sup>32</sup> Charts Nos. 159 to 173 on the work of juvenile criminal courts in 2000. Judicial Investigation Department.

593. Of the 363 cases in which verdicts were handed down, there were 137 acquittals and 226 convictions, accounting for 1.6 % of all outcomes. The convicted juveniles received the following sentences: admonition and warning, 31 cases; probation, 102 cases; community service, 28 cases; orientation and supervision order, 24 cases; and confinement in a specialized place of detention, 40 cases. As will be seen, sentences of detention accounted for 0.28 % of all outcomes in that year. No juveniles were sentenced to house arrest or confinement during free time.

594. Of the 40 sentences of detention, 36 concerned males and four females. The breakdown by age was as follows: one 12-year old, two 14-year-olds, four 15-year-olds, seven 16-year-olds and 26 17-year olds. The offences of which they were found guilty comprised one case of aggravated assault, five of premeditated homicide; four of manslaughter, one of compound robbery, four of infractions of the Psychotropic Substances Act, one of grievous bodily harm, one of unlawful confinement, 15 of armed robbery, five of theft, one of attempted murder and two of rape. Both the 12-year-old and the 14-year-old were found guilty of armed robbery.

595. As will be seen from the above statistics, there has been a downward trend in sentences of confinement in specialized centres since the enactment of the Juvenile Justice Act, and most penalties handed down by juvenile courts cannot be termed disproportionate. At the same time, it must be acknowledged that some aspects of the system are still unsatisfactory. In particular, there are not enough juvenile courts, and consequently in a significant number of jurisdictions, juvenile cases are handled by family court judges.

596. The Social Rehabilitation Directorate, which, as we have seen, is an arm of the Ministry of Justice, has done much useful work with juveniles. Some relevant aspects are outlined below.

597. To begin with, we may note some clarifications made in an official letter (No. DM 316) issued by the then Minister of Justice, Dr. Mónica Nágel, in April 2000 in response to the Committee's observations. Her comments addressed the following points.

598. With respect to the Committee's remark about the insufficient number of specialized judges to administer the Juvenile Justice Act, Dr. Nágel noted, "Costa Rica is endeavouring to develop and upgrade coordination and training activities through the Standing Committee on the Juvenile Justice Act, the objectives of which have been to analyse, propose and manage solutions to all problems relating to the administration of the Act and implement the agreements that have emerged from various fora held to consider the issue."

599. In response to the Committee's remark that the country had only one specialized centre for children in conflict with the law, the Minister wrote, "As regards this point, it is important to bear in mind that the CRC and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice have steered us toward the use of sentences of other than detention, especially in the Juvenile Justice Act, including what are known as socio-educational penalties on the one hand and orientation and supervision orders on the other."

600. "From the outset, the enactment of Costa Rica's juvenile justice legislation has altered the traditional hierarchical structure of penalties, in which deprivation of liberty was the most widely used form of punishment. Now, in contrast, in the light of the various international instruments dealing with minors, the Ministry of Justice, in its capacity as the authority that administers juvenile justice, is devoting particular attention to projects designed to serve the

purpose of adequately administering socio-educational penalties for all adolescents who have been sentenced to such penalties by the various judicial authorities. At the same time, of course, the Ministry is not neglecting persons who have been deprived of their liberty.”

601. As regards the Committee’s concern that the penalties imposed on children in conflict with the law are disproportionately heavy in relation to the nature of the offences, the Minister offered the following clarification: “One aspect that has caused controversy among specialists in this area is the maximum length of time a juvenile should be kept in detention. The maximum term to which a young person or adolescent over the age of 15 but not yet 18 may be sentenced is 15 years. Since the enactment of the Juvenile Justice Act in 2000, one youth has been sentenced to 15 years.”

602. The Minister concluded, “It is essential to realize that the main lines of emphasis set forth in the Act, its guiding principles, are comprehensive protection for juveniles, their best interests, respect for their rights, comprehensive training and reintegration into his family and society. These principles that our country is endeavouring to put meaningfully into practice, subject in all cases to observance of the spirit and the letter of the law.”

### **Juvenile detention centres**

603. One of the functions of the Social Rehabilitation Directorate is dealing with adolescent and juvenile offenders. To that end, the Directorate maintains the Zurquí Juvenile Training Centre for convicted male and female offenders and the Centre for Young Adults for young men aged 18 or over who were deprived of liberty before reaching that age.

604. The Zurquí Juvenile Training Centre was inaugurated in December 1999 following a \$388 000 remodeling that transformed it into a new type of institution in which adolescents, both males and females, share a space that possesses every facility for their rehabilitation and training. The Centre boasts four men’s residences and four for women, each accommodating from two to eight adolescents. Each residence has a television, a spacious eating area, table games and a small garden.

605. The Centre has teaching modules for various levels of primary and secondary education. There are four teachers, two from the Ministry of Justice and two from the Ministry of Education. A doctor and a dentist come regularly once a week, and there is a resident nurse. A gynecologist is on call as well.

606. Custodial staff members receive their training at the Penitentiary Training School, where psychological assessments are performed to determine whether a candidate’s profile is suitable for work involving the custody of young persons. From time to time the school also offers training courses on such subjects as functional group management. Inside staff members carry only police nightsticks, while outside staff members carry regulation sidearms.

607. Since September 1999 an experimental plan has been under way, involving 72 adolescents of both sexes who have been sentenced for various offences. These young people work with firefighters at 26 fire stations throughout the country under a volunteer programme as a way of paying their debt to society, and the results have been very promising. The programme is sponsored jointly by the Ministry of Justice and the National Insurance Institute.

608. In the context of the national programme for the delivery of care to juveniles in detention, a good deal of work has been done on the development of a specialized action

model to meet the personal needs of male and female adolescents who have been sentenced by one of the country's juvenile courts. The outcome has been a proposal for action entitled "Young offenders in search of opportunities"<sup>33</sup>.

609. Educational projects have been strengthened in a joint effort with the Ministry of Public education, while health care delivery has involved a partnership with the Costa Rican Social Security Fund. Concurrently, therapeutic projects have been designed and executed in specific areas, such as drug dependence, the consequences of emotional, physical and sexual violence, with therapy being provided for both victims and offenders, and a broad range of recreational and sports events. In addition, family visits and working with alternative support resources are promoted, especially for juveniles in detention.

610. In the field of juvenile violence prevention, the National Violence and Crime Prevention Directorate has been instrumental in establishing the National Youth Violence and Crime Prevention Network among secondary-level students. The network is active at 100 educational institutions in 50 cantons, and counsellors, directors, students, families and community representatives are involved with its work. It has been supported by the Joint Social Assistance Institute, Universities, the National Press, INAMU, DNI, the Ministry of Public Safety, the Ministry of Culture, Youth and Sport, PANIAMOR, UNICEF, ILO-IPEC, UNDP, the Family Counselling Centre (COF), IAFA, and other organizations.

611. The network's activities have included (a) training camps for student leaders on rights promotion and participation in violence and crime prevention; (b) publication of newsletters in collaboration with the National University Press; (c) organization of workshops on the prevention of gender-based violence and domestic violence; (d) distribution of materials published by various public and private institutions on subjects of interest to adolescents and young people; (e) action to promote the Art and Culture Ambassadors project, which has helped some 1 700 young people from the network and Costa Rican schools to participate in creative artistic activities.

612. The National Violence and Crime Prevention Directorate is part of an Inter-Institutional Community Commission that has been set up in Rincón Grande de Pavas to provide training for police officers assigned to that community in the area of legislative provisions relating to minors. Another noteworthy initiative has been a research project on the impact of violence on adolescents' health, conducted by the Directorate under the auspices of the Commission for the Ecological Health of the Cantón of San José.

613. Another important area of the Directorate's work has been practices stemming from the administration of the Law on the Sexual Exploitation of Minors in Costa Rica. It has participated actively in the preparation of training manuals, including a module entitled "Police responses to situations of commercial sexual exploitation of children and adolescents", another entitled "Tourist training module for young people", and a third entitled "Module for adolescents: what young people working in the tourist industry can do". It has also provided training courses on the psycho-social and legal effects of sexual exploitation which have been attended by all members of the Ministry of Public Safety's Community Police service.

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<sup>33</sup> Dr. Ada Luz Mora, in collaboration with Dr. Isabel Gamez. Young Offenders in Search of Opportunities, Ministry of Justice, Social Rehabilitation Branch, Programme for the delivery of care to juveniles in detention, June 2001.



614. In conclusion, it is essential to note that the 1999 report of the Office of the Ombudsman acknowledges that despite the efforts of the authorities, “Costa Rica still lacks a culture of support for penalties not involving the deprivation of liberty.” The report goes on to recommend action to “build collective awareness of the importance of supporting young offenders.”

#### **H. Dissemination of the report (article 44)**

615. Lastly, the Committee recommended that the second periodic report and the written replies submitted by Costa Rica 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.

616. With the approval of the Chancellery, copies of the Committee’s recommendations and main concerns were distributed to all government departments and agencies, to enable senior management to take appropriate action. Copies of the Committee’s report were distributed to the various bodies represented on National Council on Children and Adolescents so that each of them could disseminate it as widely as possible within its own constituency.

617. Work on the preparation of the present report began in May 2001, when the Chancellery, the Technical Secretariat of the National Council on Children and Adolescents, the National Children’s Trust, the Office of the Ombudsman, the President of the Republic’s advisor for matters relating to children and adolescents and NGO representatives held a series of meetings to design a mechanism and establish a procedure aimed at ensuring that the prospective report would be maximally inclusive and participatory. Owing to circumstances, however, this initiative turned out to be short-lived. The Chancellery found itself caught up in a process of staff mobility and change, while PANI had to devote its attention to internal and external consultations in connection with a proposed institutional restructuring and modernization plan. Last but not least, 2001 was a pre-election year, with all that that inevitably entails in terms of institutional functioning and priority-setting by senior officials.

618. When the new Government took office in July, the Minister of Child and Adolescent Welfare and President of the National Council on Children and Adolescents agreed to initiate a process of consultation with the various official bodies directly concerned with safeguarding the rights of children and adolescents at the central governmental level, since, as we have seen, planning and budgeting processes take place essentially at that level, and data and information for the country as a whole are held by central agencies. A person was appointed to coordinate the process of compiling relevant data, combing through the annual reports and other reports of various departments and institutions and interviewing individuals in search of the specific information needed to address the various issues and questions to which the Committee had requested concrete answers. In addition, the two reports and supplementary reports that had previously been submitted to the Committee were systematized, and the final recommendations reviewed.

619. An initial draft document based on this material was submitted to the Minister of Child and Adolescent Welfare, who submitted it to the National Council on Children and Adolescents for consideration. The Council, in its turn, distributed it to the various technical

consultants in the matter for their comments and suggestions for amendment and clarification, requesting particular attention to any shortcomings they might have identified with respect to the aim of ensuring that the population segment in question could exercise their rights in full.

620. This report will be disseminated as widely as possible, as will any observations that the Committee may transmit to the Government of Costa Rica after having read and analysed it. To that end, a plan for the distribution of these documents to governmental institutions, NGOs and regional and local authorities will be prepared in due course.

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