



Convention on the Rights of the Child

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Summary record of the 1630th meeting

Held at the Palais Wilson, Geneva, on Friday, 10 June 2011, at 10 a.m.

Chairperson: Mr. Zermatten

Contents

Consideration of reports of States parties (*continued*)

Fourth periodic report of Costa Rica

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The meeting was called to order at 10 a.m.

Consideration of reports of States parties (*continued*)

Fourth periodic report of Costa Rica (CRC/C/CRI/4; CRC/C/CRI/Q/4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Costa Rica took places at the Committee table.*
2. **Mr. Dengo** (Costa Rica) said that numerous laws had been adopted in order to incorporate the provisions of the Convention into the national legislative framework, for example: the General Act on Young Persons; the Act on the Application of Juvenile Criminal Penalties; the Children and Adolescents Code on their right not to be subjected to corporal punishment or degrading treatment; the Act Prohibiting Hazardous and Unhealthy Work for Adolescent Workers; the Act on Strengthening of Measures to Combat Sexual Exploitation of Minors; and the Act Amending the Children and Adolescents Code with regard to the protection of the rights of adolescent domestic workers. In addition, the Criminal Code had been amended to eliminate the possibility of a suspended sentence for persons convicted of crimes against children. The legal age for marriage had been raised to 15 and Costa Rica had ratified the Convention on the Rights of Persons with Disabilities.
3. No progress had, however, been made towards application of the Act on the Protection of Child Victims and Witnesses of Criminal Acts and the National Assembly had not yet adopted the bill eliminating the administrative obstacles faced by the National Child Welfare Agency (PANI) or the bill amending the Family Subsidies Fund.
4. The Constitutional Chamber of the Supreme Court had ordered the establishment of a specialized treatment centre for child drug-users and affirmed the principle of the confidentiality of complaints. It had annulled its decision No. 2008-218, with the result that even partial images of minors who had been involved in criminal proceedings or victims of a crime could no longer be published. The Chamber had also declared unconstitutional national or international adoption by the direct transfer of custody of minors to the adoptive parents.
5. A national policy on children and adolescents, which guaranteed children's rights and applied directly to all sectors, had been established; a plan of action and follow-up and evaluation mechanisms were being developed by the institutions concerned and UNICEF. A National Youth Policy (2011–2013), a Comprehensive and Sustainable Policy for the Safety of Citizens and the Promotion of Social Peace (2011–2021), a national Policy on Sex Education (2010–2021), and a National Food Safety and Nutrition Policy (2011–2021) had also been adopted.
6. The National Development Plan had prioritized such child-related issues as combating violence against minors, poverty reduction and the granting of bursaries. Two national plans to combat sexual exploitation for commercial purposes and two national plans on the prevention and the elimination of child labour and special protection for adolescent workers had been implemented since the previous report. A "road map" on trafficking of minors had been prepared and, for the first time, PANI had developed a strategic plan for the implementation of its constitutional responsibilities.
7. Although Costa Rica, like many other developing countries, found it difficult to invest in projects relating to children, a human rights observatory for children and a single register of beneficiaries of social programmes, managed by the Ministry of Labour and Social Security, were being established. The National Council on Children and Adolescents was reviewing the regulations governing the comprehensive services centres and the functions of the Comprehensive Services Council. PANI had increased funding to NGOs working with minors and intended to reinforce the solidarity homes, which were family-

based structures for the protection of minors. The policy of equality of men and women also applied to children. A bill aimed at reforming the Family Code in order to eliminate the direct transfer of custody of a child to the adoptive parents and to make adoption subject to administrative and judicial review was currently before the National Assembly. PANI had received ISO 2001-2008 certification, which was a guarantee of quality care for minors separated from their families.

8. Primary health-care services and the basic vaccination programme had been expanded. Infant mortality had declined from 11.15 per 1,000 in 2002 to 9.46 per 1,000 in 2010, and a National Adolescent Health Strategy (2010–2015) had been adopted recently. A maternal milk bank had just been set up in cooperation with Brazil.

9. The proportion of GDP allocated to education had increased from 4.7 per cent in 2002 to 7.2 per cent in 2010, and a constitutional amendment requiring the Government to allocate at least 8 per cent of GDP to education could take effect in 2012. The conditions for the granting of bursaries had been changed to extend eligibility to legal immigrants. The National Development Plan envisaged the creation of 90 technical education programmes. Public bilingual and intercultural education had been strengthened in recent years and a plan of action for indigenous education, funded by the World Bank, had been drafted following the first conference on intercultural education in 2009. A Department of Intercultural Education had been set up within the Ministry of Public Education.

10. The intersectoral and inter-institutional “road map” prepared by the National Council on Children and Adolescents and incorporating the commitments of the various institutions would soon be implemented under the supervision of the Ministry of Labour and Social Security. The Tourism Sector (Social Responsibility) Act required all stakeholders to combat the sexual exploitation of minors for commercial purposes and made issuance of the tourism sustainability certificate conditional on acceptance of a code of ethics.

11. **Ms. Maurás Pérez** (Country Rapporteur), noting the increase in the Gini coefficient and the proportion of the population living below the poverty line, asked what was being done to protect children from the effects of the crisis. She wondered if PANI had the technical and financial resources to ensure coordination of the plans of the various institutions at the national and local levels.

12. She asked what the next steps in the formulation of the National Development Plan (2011–2014) would be, and whether civil society and children were involved in its design, whether indicators had been identified for follow-up of its implementation and whether it would be linked to other strategic plans. She requested details of the local comprehensive protection systems due to be set up in 2014. She asked whether laws existed to regulate private-sector activities, in particular their effects on water quality and the lives of families and children, especially in vulnerable areas.

13. She would like to know whether the media were required to observe a code of ethics. She expressed concern at the high level of illiteracy among indigenous children, who did not have access to bilingual intercultural education, and at the situation of migrant or refugee children working in the informal sector in areas far from any protection services. She enquired whether Costa Rica intended to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

14. **Ms. Nores de García** (Alternate Country Rapporteur) said that Costa Rica had spared no effort to eradicate illiteracy and was an example for all of Latin America, where that problem was especially acute. She asked how severely the crisis had affected Costa Rica’s economy, given that economic growth had shrunk from 2.8 per cent of GDP in 2008 to 1.3 per cent in 2009, and wondered what effects the many projects launched to respond to the crisis had had. She was especially interested in learning about the measures included

in the Social Protection and Economic Stimulus Plan (Escudo Plan) aimed at helping the most vulnerable social groups, and the results achieved, given that the poverty rate had reached 17.7 per cent.

15. It would be interesting to know whether the State party had managed to meet its commitment to allocating 8 per cent of GDP to education, even though as a result of the drop in GDP the amount would be less in absolute terms than the amount allocated to education in previous years.

16. The delegation could explain how the State party intended to combat structural poverty, the level of which had remained consistent at 15 to 20 per cent over the past 20 years, and whether it intended to use comprehensive territorial development programmes for that purpose, an approach that had proved effective elsewhere in Latin America.

17. It would be particularly useful to know if the State party had implemented a poverty reduction strategy aimed specifically at the country's four most vulnerable population groups, who made up 20 per cent of the total population, namely: the 75,000 indigenous people living in 24 remote areas; the 500,000 to 1 million migrant workers from Nicaragua and Panama employed for the coffee harvest; the 300,000 children of Nicaraguan, Panamanian and Colombian migrants; and the 85,000 or so Costa Ricans of African descent.

18. **Mr. Kotrane** welcomed the amendments to the Children and Adolescents Code aimed at protecting child domestic workers from economic and also sexual exploitation, but regretted that there were generally long delays before laws were enforced. He asked whether, in cases involving a child, judges were systematically mindful of the child's best interests when taking decisions. He drew attention to the decisions of the Constitutional Chamber cited in paragraph 74 of the report, which did not always seem to be in the interests of the child, in particular decision No. 2008-218, which authorized the publication by the media of an image of a minor in conflict with the law if the image was partially obscured and if that was deemed to be in the public interest. Such precedents raised the question of whether judges really were trained in children's rights.

19. He noted that while international instruments in principle took precedence over national legislation, the report did not provide any examples of cases where the Convention had been invoked before the courts.

20. He requested the delegation to indicate whether the State party intended to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in the near future.

21. **Mr. Cardona Llorens** said he regretted the fact that children could consent to sexual relations at the age of 13, which implied that they were considered to be capable of expressing such consent at an early age. He also regretted that compulsory schooling ended at 15 and a half, higher than the legal working age of 15. He was likewise concerned that, according to a Government study carried out in 2002, more than 10 per cent of children and adolescents between the ages of 5 and 17 were employed, in low-skilled jobs such as domestic workers or street vendors. He would like to know what steps the State party had taken to combat that phenomenon.

22. Referring to a national study on youth undertaken in 2008, he found it worrying that the great majority of young people in both urban and rural areas had stated that there were many types of discrimination in Costa Rican society, including discrimination based on disability, national origin, sexual orientation and even socio-economic situation.

23. He asked why the State party had not expanded the Child Nutrition and Development Programme mentioned in paragraph 599 of the report to include the

indigenous territories and why minors did not have the right to form political associations or start businesses.

24. **Ms. Aidoo** regretted the absence of data disaggregated by gender, age or socio-economic and cultural situation, and the lack of data on vulnerable and indigenous children, street children and children with disabilities. She asked how the State party intended to strengthen data-gathering and analysis mechanisms in order to combat social inequality more effectively and promote economic development. She asked if the human rights observatory that was to be established to gather and analyse statistical data would play any role in the drafting of development policies and programmes aimed at promoting children's rights.

25. **Mr. Koompraphant** asked to whom children whose rights had been violated could turn to make a complaint, how they could bring a complaint before the Juvenile Court if the guilty party was a parent and whether those courts had created any mechanisms to identify acts of violence against children. He also requested information on any provisions in the Domestic Violence Act intended to restore understanding, love and harmony in a family shaken by violence.

26. **Ms. Wijemanne** asked whether the birth registration system recorded the children of migrants and seasonal workers, who largely came from Nicaragua and Panama, what measures were envisaged to combat corporal punishment in schools, and whether the State party intended to raise the age of consent for sexual relations from 13 and the minimum age for marriage from 15, bearing in mind that a pregnancy at such a young age could put the girl's life in danger and jeopardize the health of the child.

27. **Ms. Sandberg** said that, according to credible sources, children were not interviewed in administrative or judicial proceedings concerning them or when school authorities took decisions that affected them. She asked whether the Children and Adolescents Division of the Office of the Ombudsman had dealt with complaints relating to such situations and what the State party intended to do to ensure that children's right to be heard was respected, in particular in asylum proceedings and in schools. She would also like to know whether, when called on to appear in court, minors appeared before the judge in the courtroom or in a separate room where they could be questioned by an interdisciplinary team, which would be less intimidating.

28. The delegation was also invited to indicate what measures the State party had taken to ensure that young people were genuinely involved in decisions affecting them in society and in the formulation of programmes aimed at improving their situation.

29. **Mr. Madi** asked whether it was PANI that was responsible for planning the programmes it implemented in cooperation with NGOs or whether it consulted NGOs and the programmes' beneficiaries, i.e. children, in that regard.

30. He would welcome information on any programmes implemented in schools to ensure that all children were made aware of the principles of the Convention, including the children of immigrants and asylum-seekers, and on whether courses on the rights of the child were held for police officers, teachers, social workers and juvenile court judges.

31. **Mr. Gurán** requested clarification of the mandate of the Children and Adolescents Division of the Office of the Ombudsman, the number and roles of staff, the number of complaints submitted to it, the nature of those complaints and the main problems it had encountered in exercising its mandate. He asked who appointed the children's rights experts who met every month in the standing forums to discuss matters relating to children.

32. **Mr. Gastaud** enquired about any steps the State party had taken to make international cooperation and development assistance more effective in the financial and

administrative spheres, and any legal procedures or rules children had had a hand in establishing.

33. **Mr. Pollar** asked what measures the State party had taken to strengthen enjoyment of the rights enshrined in article 6 of the Convention, in particular to reduce the number of road accidents, suicides and other accidents and to ensure that indigenous people enjoyed those same rights on an equal footing with the rest of the population.

34. **The Chairperson** wondered whether educational establishments that wished to do so could offer courses in religions other than Catholicism.

35. **Mr. Dengo** (Costa Rica) said that the new Act on the transfer of powers to municipal authorities was aimed at giving greater powers to municipal governments and facilitating the transfer of policy implementation to the local level.

36. Costa Rica had not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families because the current political situation did not lend itself to doing so, but the public authorities endeavoured to provide fair treatment to all migrants, in accordance with the Migration and Aliens Act, which incorporated many of the provisions of that Convention. The Escudo Plan, which contained adjustment policies aimed at meeting the needs of the most disadvantaged, had been adopted in response to the recent economic crisis.

37. **Mr. Ching** (Costa Rica) said that coordination of the National System of Comprehensive Protection was dealt with in the Children and Adolescents Code, which provided for three mechanisms for the implementation of related measures: the National Council on Children and Adolescents, the protection boards and the guardianship committees. The National Council included private-sector stakeholders, government bodies, and representatives of unions and children's rights NGOs. In the context of the Act on the transfer of powers to municipal authorities, an inter-institutional committee had been established to coordinate the implementation of activities and plans at the local level.

38. **Ms. Maurás Pérez** requested more information on the role and resources of the guardianship committees and protection boards.

39. **Mr. Ching** (Costa Rica) explained that the National Council on Children and Adolescents, with the technical assistance of UNICEF and NGOs, had established a strategy centred on the creation of local protection subsystems. The subsystems, which had already been established in 14 communities and should soon be extended to all 81 communities, were intended to ensure effective coordination of national policies for children at the local level and identify needs and gaps with a view to developing a targeted plan of action. The National Council had entrusted review of the normative framework of the national system for comprehensive protection to a technical evaluation committee.

40. The public authorities, in consultation with UNICEF, were preparing a set of indicators aimed at evaluating the extent to which the national plan of action on children was being implemented. As to cooperation with the private sector, 120 cooperation agreements had been signed with children's rights NGOs and various other institutions, including universities. In addition, training on how to set up a business was offered to young victims of sexual and commercial exploitation. A process of revising the indicators in the System of Information and Statistics on the Rights of Children and Adolescents was under way and its results would provide the basis for the work of the human rights observatory for children and adolescents.

41. The observatory was not yet operational due to a lack of resources, but its work would be based on 35 indicators and the statistics arising out of recent studies, which would orient its activities for the promotion of children's rights. The current census and periodic

household surveys should help to identify needs and priorities relating to children more closely.

42. **The Chairperson** requested clarification on the role of the human rights observatory for children and adolescents, and wondered whether it would be able to influence public policies. He also requested more information on the data collected in household surveys.

43. **Mr. Ching** (Costa Rica) explained that the observatory was still in the planning stages, but it would be under the responsibility of PANI. Its mandate would be to ensure national legislation was coherent and in conformity with the Convention, and to gather and analyse data on the situation of children and adolescents.

44. **Ms. Maurás Pérez** enquired whether the surveys to be undertaken by the observatory would be part of the national statistical system.

45. **Mr. Ching** (Costa Rica) said that the observatory was not a branch of the National Institute for Statistics and Censuses but would be responsible for compiling and analysing the data.

46. Births were registered in health-care institutions; if a child was not registered at birth, it could be registered at a later date. The authorities undertook regular birth registration campaigns in indigenous areas and registered births retroactively with the civil status authorities, regardless of the child's age. Children born abroad to Costa Rican parents could also be registered on the same basis as children born within the country.

47. **Ms. Varmah** asked what happened if a child was born on a plantation where the parents were unable to have the birth registered by a civil registry official.

48. **Mr. Ching** (Costa Rica) said that the parents could go to a nearby health facility to register the birth of their child and that information would be transmitted to the civil status office.

49. **The Chairperson** enquired about the situation of children born in Costa Rica to parents who were migrants.

50. **Mr. Guillermet-Fernández** (Costa Rica) said that the great majority of Costa Rican children were registered with the civil status authorities; children who had been born abroad but arrived in the country without proper papers could likewise be registered.

51. **Mr. Ching** (Costa Rica), referring to the media, said that the Constitutional Chamber had amended its decision mentioned in paragraph 74 of the report and decided that publishing information that could identify a child constituted a violation of the right to one's image. It nevertheless found that judges were not sufficiently sensitive to the need to take into account the child's best interests, but PANI, through the Cultural Centre on the Rights of Children and Adolescents, was working closely with the law faculties to organize activities aimed at increasing awareness of children's rights among judicial personnel.

52. **The Chairperson** welcomed the adoption of the Act on the Protection of Child Victims and Witnesses of Criminal Acts, and asked whether the law was of a criminal nature and whether it was applied by the criminal courts.

53. **Mr. Ching** (Costa Rica) said that the Act was applied by the courts only in criminal proceedings and basically provided for police protection.

54. Some courts had authorized the adoption of children placed in alternative protection facilities by persons whose names had been provided by NGOs without carefully reviewing whether the children were genuinely available for adoption and without ruling out any possibility of custody with family members or consulting the child. That was in violation of the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption and also the provisions of the Family Code, the Children and

Adolescents Code and the regulations of PANI on the procedure for national and international adoption. Not every child for whom a declaration of abandonment had been issued was necessarily available for adoption, and the National Adoptions Council and the National Children and Adolescents Council reviewed the situation of children very carefully before declaring them adoptable.

55. Two bills on child labour, relating to dangerous work and to domestic work, were currently under consideration. Once they were adopted, their application would require the formulation of a plan of action. The Road Map to make Costa Rica a country free of child labour was an essential feature of the fight against child labour, sexual exploitation for commercial purposes and trafficking. The authorities were working to improve awareness of the Road Map so that local institutions would be familiar with the commitments made by the country in those areas.

56. PANI was working with the Directorate for Migration and Alien Affairs to develop a policy aimed specifically at migrant children. With technical support from UNICEF, it was also working to establish regulations on work and coordination, for example on unaccompanied children and on the regularization of children in an unlawful situation. The purpose of the latter regulations was to issue an identity document to many of the undocumented children placed in alternative protection centres so that they could have access to services, in particular social security.

57. **The Chairperson** requested more information on budgetary allocations for children, in particular in the areas of education, health and assistance for the very poor.

58. **Mr. Ching** (Costa Rica) said that his country did not have sufficient financial resources to ensure respect for all the rights of all children. Implementation of priority social programmes was the responsibility of the Joint Institute on Social Aid. The Council on the Social Sector and the Fight against Poverty was mandated to manage the distribution of funds allocated for the protection and well-being of children with a view to rationalizing expenditure and making assistance programmes more effective. It was relatively common for some persons to receive benefits in error while individuals who needed assistance did not receive any. The benefits information and follow-up system therefore needed to be improved, in particular by establishing a single register of beneficiaries, which the Ministry of Labour and Social Security was currently endeavouring to do. The Ministry of Finance intended to reduce the budgets of all public institutions by 20 per cent, but PANI had been exempted on the basis of the commitments made by the Government within the framework of its national policy on children and adolescents. In addition, a bill had been proposed that would allow PANI to carry over any unused funds from one fiscal year to the next rather than returning them to the general national budget.

59. **Ms. Maurás Pérez** recalled that in 2007 the Committee on Economic, Social and Cultural Rights had found that the State party's measures to combat domestic violence were inadequate, an opinion reiterated by the Committee against Torture in 2008 and during the universal periodic review in 2009. What had the State party done to strengthen those measures and did it intend to amend the Domestic Violence Act (1996) with a view to criminalizing such acts and establishing penalties for convicted offenders?

60. One child in five in Costa Rica was born to a mother under the age of 19 and among the indigenous peoples 40 per cent of births were to girls under 15. Furthermore, clandestine abortions were very common. She asked whether the State party intended to amend article 121 of the Criminal Code, which authorized abortion if the mother's life was in danger but imposed strict limits on health professionals. She was also very concerned about information that there was a lack of emergency contraception and preventive measures, in particular sex education programmes in schools, public information campaigns

and counselling services in health centres. She would welcome any information the delegation could provide on those issues.

61. She enquired whether the State party intended to bring its legislation into conformity with the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and also impose regulations on private enterprises that marketed products from family enterprises working in the fishery and agricultural sectors and in the services and construction sectors.

62. The situation of children from the Ngabe Buglé minority was of special concern. It was difficult to register births in that group and children often had no access to education or health services because of their complex migratory lifestyle linked to coffee production. She was also concerned about discrimination against children of African origin.

63. **Ms. Nores de García** asked whether the Superior Family Court decision that had declared direct national and international adoption unconstitutional meant that those practices had been abolished once and for all. She would also like to know whether the Costa Rican authorities were aware of any cases of international adoption in which those responsible received undue material benefit from the adoption.

64. She was concerned that the secondary-school enrolment rate was only 38 per cent, and half that for indigenous children. Such measures as bursaries, transportation to school and school meals for pupils did not seem to have had the desired effects. The delegation should indicate what would be done to ensure that all vulnerable children had access to those programmes and to prevent school dropout. She wondered whether the Government's main objective was merely to keep children in school or whether it also wished to improve the quality of teaching. In some regions secondary-school pupils complained that the curriculum and teaching methods were uninteresting and did not provide them with the skills necessary to find work. She asked whether teaching methods had been reviewed with a view to increasing pupil involvement.

65. Information should also be provided on any measures to provide quality education to indigenous children and on whether the study of indigenous culture would be included in national curricula with the aim of eliminating discrimination against indigenous groups.

66. The resources allocated for the implementation of legislation and programmes aimed at combating the sexual exploitation of children seemed inadequate. Even implementation of the Road Map had been delayed. Information should be given on the following: what was being done to provide appropriate training for police officers and civil servants working in that area; information provided to groups at risk, in particular street children and child drug-users; the procedures for lodging a complaint of sexual exploitation; the number of complaints and how many had resulted in convictions; the protection measures available to victims; and the specific measures envisaged to combat the trafficking and sexual exploitation of many child victims of African descent in Limón province.

67. **Ms. Herczog** said she would like additional information on the mental health of children and adolescents, in particular cases involving depression, suicide or behavioural problems and the use of medication to treat mental disorders. She asked whether prevention and care services existed and whether the State party had facilities and competent personnel to provide care to children who had mental health problems or whose parents did.

68. **Ms. Lee** asked whether PANI played any role in the identification of, and care for, victims of trafficking. She would also like more information on the regulatory provisions relating to the new legislation on immigration, and on any costs payable by child refugees and asylum-seekers. She expressed concern that the statistics provided in the delegation's written replies to the Committee's list of issues showed an increase in sexual violence against minors, and asked how many of those cases had led to convictions, what penalties

had been imposed on those convicted and what the State party was doing to remedy that situation.

69. **Ms. Varmah** asked whether the delegation could provide statistics on the number of children not registered at birth and how that affected them, in particular with regard to access to the various services for children.

70. Implementation of the various instruments relating to persons with disabilities to which Costa Rica was a party was very slow. Access to education for children with disabilities in particular was difficult because of a lack of appropriate infrastructure. There were no specialized rehabilitation services for such children and most health-care centres were in urban areas. She asked what the Government intended to do to integrate children and adolescents with disabilities in the regular school system, facilitate their participation in society, and improve their access to health and social services and transportation, particularly in rural areas.

71. The sex education component that had been added to school curricula was not offered systematically and was not of sufficiently high quality. There was a lack of capacity for educating children about sexuality, HIV/AIDS and other sexually transmitted diseases or infections. The delegation could indicate what steps were being taken to ensure that adolescents were educated, both in and out of school, about sexuality and the prevention of sexually transmitted diseases.

72. **Mr. Cardona Llorens** recalled that, pursuant to the Juvenile Criminal Justice Act, minors between the ages of 12 and 18 could be placed in pretrial detention only on an exceptional basis; however, he had information that more than 50 per cent of minors aged 15 to 18 in custody were in fact in pretrial detention. He asked what the authorities intended to do in order to remedy that situation.

The meeting rose at 1 p.m.