



Convention on the Rights of the Child

Distr.: General
21 June 2011

Original: English

Committee on the Rights of the Child Fifty-seventh session

Summary record of the 1631st meeting

Held at the Palais Wilson, Geneva, on Friday, 10 June 2011, at 3 p.m.

Chairperson: Mr. Zermatten

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The meeting was called to order at 3 p.m.

Consideration of reports of States parties (continued)

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

1. *At the invitation of the Chairperson, the delegation of Costa Rica took places at the Committee table.*
2. **Ms. Aidoo** asked whether poor children and their families were represented on the 16 working committees set up to fight child poverty. If not, she wished to know how children could communicate their views to the committees and if they were taken into account.
3. **Mr. Koompraphant** asked if the State party could confirm that there had been only one conviction for trafficking in persons, as reported in the written replies (CRC/C/CRI/Q/4/Add.1, para. 41). He wished to know what mechanisms had been established to identify cases of child prostitution, child pornography and the sale of children, including illegal adoptions. Given that labour inspectors now had the right to enter homes where underage domestic workers were known to be employed, he asked what criteria the inspectors used to distinguish between children who were employed in domestic work and those who were victims of the sale of children.
4. **Ms. Wijemanne** asked whether teenage girls who had abortions were given post-operative counselling or any other type of support. She wished to know if young people were given sex education and had adequate access to contraception.
5. She would appreciate an explanation for the rapid drop in the rate of exclusive breastfeeding between birth and the age of six months. She asked if all health workers were given training on the importance of breastfeeding. She wished to know if the State party had a policy on breastfeeding by mothers who were HIV-positive. In the light of reports that the commercial sector continued to breach the International Code of Marketing of Breast-milk Substitutes by giving away samples of such substitutes, she urged the State party to establish a permanent monitoring system in order to prevent further violations.
6. **Mr. Gastaud** asked what steps the State party was taking to reduce the high rate of juvenile delinquency.
7. **Mr. Kotrane** asked whether the State party was implementing any measures to reduce the secondary school dropout rate and tackle the growing problem of child labour. It would be useful to have additional details of the State party's cooperation with the International Programme on the Elimination of Child Labour of the International Labour Organization (ILO). Given that the State party had ratified the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182), he wished to know when domestic legislation defining the worst forms of child labour would be enacted.
8. Given that the judge in charge of juvenile criminal penalties had begun work in 2007, he would appreciate an update on the outcome of that work to date. In particular, he wondered if it had resulted in fewer juveniles being deprived of their liberty.
9. He asked if the State party had criminalized the possession of child pornography. He also requested an update on the progress of the bill introduced in 2000 to establish extraterritorial jurisdiction for sex crimes against children that were committed outside the State party's territory.

10. **The Chairperson** asked if the delegation thought the Juvenile Criminal Justice Act was unduly flexible with regard to the presumption of innocence and recourse to deprivation of liberty. It would be useful to know whether the State party planned to lower the age of criminal responsibility, particularly as that would go against the spirit of the Convention. The Committee would appreciate additional information on Government programmes for street children in Costa Rica, apart from those concerning child labour and juvenile delinquency.
11. **Mr. Dengo** (Costa Rica), replying to questions raised earlier, said that the National Child Protection Agency had not been affected by the 20 per cent budget cuts. He confirmed that the Superior Family Court's ruling that direct adoptions were unconstitutional was now definitive.
12. **Mr. Lizano** (Costa Rica), also replying to questions raised earlier, said that the right to Costa Rican nationality was guaranteed for all children of Costa Rican parents and all children who were born in the country, regardless of their parents' nationality. Since most babies were born in hospitals or clinics, their births were registered immediately in those institutions. The few children born elsewhere had to be registered by their parents shortly after birth. Failing that, there were back-up mechanisms in place for them to be registered in any case.
13. Costa Rica was currently receiving significantly less technical cooperation and financial assistance from donor countries and international organizations than had previously been the case. Some South-South cooperation continued in the area of children's rights and had resulted, for example, in the establishment of a human milk bank in a rural area, thanks to Brazilian assistance.
14. A national plan to combat all forms of racial discrimination was currently being finalized and would aim to guarantee the rights of vulnerable groups such as indigenous communities, people of African descent and migrants. In addition, an inter-institutional committee was being set up to examine the recommendations of the United Nations universal periodic review and the treaty bodies. It would coordinate efforts to follow up on the recommendations and would be responsible for reporting back to the relevant bodies.
15. Abortion was not illegal in cases when the pregnancy put the mother's health at risk.
16. Under a 2007 amendment to the Criminal Code, the age of sexual consent had been raised from 13 to 15. Consequently, any adult who had sexual relations with a person under the age of 15, regardless of whether it was with the minor's consent, was subject to criminal sanctions.
17. The Chairperson asked if the relative simplicity of obtaining permission to marry from the age of 15 might not, in some cases, violate children's rights to a childhood and to health.
18. **Mr. Ching** (Costa Rica) said that, prior to the legislative reform, it had been possible for children as young as 13 to marry. The fact that several requirements had to be fulfilled before a person aged between 15 and 18 could marry therefore constituted progress. His Government would, however, reconsider that issue in the light of the Committee's comments.
19. **Mr. Cardona Llorens** requested clarification as to whether sexual relations with a consenting minor aged between 13 and 15 constituted a crime.

20. **Mr. Ching** (Costa Rica) said that any adult who had sexual relations with a minor up to the age of 13 was automatically subject to prosecution. An adult who had sexual relations with a minor up to the age of 15 was prosecuted only if a complaint was filed. If a young person aged 15 or over consented to sexual relations, no crime was committed.

21. **Mr. Lizano** (Costa Rica) added that, under the Criminal Code, any adult who had sexual relations with a consenting minor aged between 13 and 15 was subject to 2 to 6 years' imprisonment.

22. **Mr. Ching** (Costa Rica), replying to additional questions raised earlier, said that the intercountry adoption of Costa Rican children was only permitted in countries with which Costa Rica had a bilateral or multilateral agreement. To date, three members of the judiciary had been investigated on the grounds of improper financial gain for involvement in intercountry adoption, and one of them had been prosecuted. In order to prevent the kind of problems that had occurred as a result of lawyers submitting duplicate requests for intercountry adoption to different courts, the system had been centralized. All intercountry adoptions were now handled by the Juvenile Court.

23. The school curriculum included courses in ethics and citizenship and other non-academic subjects such as dance, drama and sports. The syllabuses of several other subjects were currently being revised. There were technical schools, bilingual schools and international schools in Costa Rica.

24. As explained in paragraphs 87 to 90 of the written replies, many measures were being taken to combat commercial sexual exploitation, under the leadership of the National Commission to Combat Commercial Sexual Exploitation. Steps were also being taken to provide comprehensive care for the victims of that crime. The National Child Protection Agency was part of a national coalition to combat human trafficking that coordinated the efforts of several different institutions.

25. He acknowledged the lack of disaggregated data on child abuse and neglect. Several entities would be able to address that problem, including the University of Costa Rica, which administered a statistical information system on children's and adolescents' rights, and the child rights observatory.

26. The national health plan included the provision of mental health care for young people. Mental health services were also available under several different programmes, including a national plan for young people that the Ministry of Health had recently adopted and programmes run by the Costa Rican Social Security Fund. General practitioners could refer young people with mental health problems to psychologists, who could then prescribe treatment at one of the specialized centres in the capital, either the psychiatric hospital or the children's hospital. There were specialist clinics for young people in some regions, staffed by a psychologist, a psychiatrist and a social worker.

27. The Costa Rican Social Security Fund conducted a programme to identify and assist young people who were in the initial stages of drug addiction or withdrawal. When necessary, referrals were made to the Institute on Alcohol and Drug Dependency, which treated young people at its clinic. There were also many NGOs that specialized in assisting people with alcohol and drug addictions.

28. **The Chairperson** asked whether specialist health services were available on a regional basis, or only in the capital.

29. **Mr. Ching** (Costa Rica) said that consultations were currently under way on decentralizing drug addiction services; many people believed that they should be available at the local level. The National Child Protection Agency was also conducting a study into how effective the Institute on Alcohol and Drug Dependency was in meeting its responsibilities to young people.

30. As detailed in the periodic report, corporal punishment had been prohibited by law, and that message was disseminated through a national plan to end corporal punishment. Awareness-raising campaigns were conducted in an effort to change the way children were disciplined in the home, care institutions, schools and elsewhere. Corporal punishment was also prohibited in schools and detention centres under other legislative instruments.

31. **Ms. Maurás Pérez** (Country Rapporteur) asked if corporal punishment was an offence and whether the relevant legislation defined the acts that constituted such punishment and established penalties for perpetrators.

32. **Mr. Ching** (Costa Rica) said that article 143 of the Family Code had been amended specifically to prohibit corporal punishment and all other forms of degrading treatment. Article 24 bis of the Children and Adolescents Code also prohibited the use of corporal punishment and degrading treatment by parents, guardians and alternative caregivers of a child or young person. While neither of the articles defined the acts that constituted such punishment, the courts referred to the Committee's general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment. Under the Criminal Code, parents who injured their children were punished with prison sentences and those who used corporal punishment, thereby abusing their parental authority, could be fined.

33. **The Chairperson** noted that the lack of definition of acts constituting corporal punishment in domestic legislation meant that perpetrators were punished only if they physically injured a child, whereas corporal punishment could take many other forms.

34. **Mr. Ching** (Costa Rica) said that the National Council on Children and Adolescents would take note of those comments. The Domestic Violence Act provided for protection measures on behalf of minors when the ill-treatment or violence was perpetrated by a family member.

35. **Ms. Maurás Pérez** asked whether the State party planned to criminalize domestic violence and establish punishments for perpetrators. She wished to know how the 2007 National Plan for the Prevention of Violence and the Promotion of Peace dealt with corporal punishment, domestic violence and the widespread presumption that children who were out on the streets were juvenile delinquents.

36. **Mr. Ching** (Costa Rica) said that the Government would consider criminalizing domestic violence in order to further protect children from that type of abuse. A new national plan for the prevention of violence and the promotion of peace for 2011 to 2014 was nearing completion. It included many national and international cooperation programmes, such as the "Window of Peace" plan, which aimed to prevent violence at the local level. The plan focused on preventing violence in the community and incorporated many elements relevant to children and young people in the home, school and family environments.

37. While the rights of children with disabilities were recognized by law, the Government acknowledged that much remained to be done to ensure the enjoyment of those rights. The National Council on Rehabilitation and Special Education had recently published a new disabilities policy, which set out the responsibilities of State institutions in guaranteeing the rights of all disabled people. Each institution would incorporate the provisions of the policy into its action plan.

38. **The Chairperson** asked if the disabilities policy took an inclusive approach or focused on placing children with disabilities in institutions or special schools.

39. **Mr. Ching** (Costa Rica) said that the disabilities policy and the plans each State institution drew up to implement it were all based on inclusion. Under the new policy, all persons with disabilities were provided with legal representatives and were recognized as rights-holders.

40. The Juvenile Criminal Justice Act defined minors as children between the ages of 12 and 15 years. Under the Act, the detention of minors was an exceptional measure to be taken in certain circumstances, such as when there was a risk that evidence might be destroyed or the victim was in danger. The Act also provided for pretrial detention. A judge's decision to order such a measure had to be reasoned and justified, and must observe the principle of proportionality. Indicted minors were subject to pretrial detention, whereas convicted offenders were sentenced to prison terms. Sentences could be appealed to the higher juvenile criminal courts.

41. **The Chairperson** wished to know how many persons under the age of 18 had been sentenced to deprivation of liberty and how many had been held in pretrial detention. He asked whether data were collected in the area of juvenile justice, including on detentions.

42. **Mr. Ching** (Costa Rica) said that roughly 3,000 minors had been brought to court in 2007. No data were available on the number of sentences handed down. Alternative sanctions were sometimes proposed in pretrial situations. His delegation would do its best to provide additional statistics at a later date.

43. **Mr. Kotrane** asked why there had been such a sharp drop in the number of criminal complaints filed against minors, from over 12,000 in 2006 to 3,000 in 2007.

44. **The Chairperson** said he would like to know the exact number of children in detention, whether in pretrial detention or otherwise; based on the statistics provided, it was very likely that many children in Costa Rica were deprived of their liberty.

45. **Mr. Ching** (Costa Rica) said that the 12,000 criminal complaints filed against minors in 2006 had led to a total of 644 convictions, not all of which entailed deprivation of liberty. He did not know the actual number of children held in detention, but ventured an estimate of 26.

46. **The Chairperson** asked whether there was a trend towards the adoption of hard-line juvenile justice policies in Costa Rica, especially in view of recent steps taken to lower the age of criminal responsibility.

47. **Mr. Ching** (Costa Rica) said that a bill calling for stiffer penalties for juvenile offences had recently been introduced in the legislature. As a result, a national campaign had been launched by NGOs and Government bodies to raise awareness of the bill; the National Child Protection Agency was attempting to prevent it from becoming law because it violated the Convention and other international instruments relating to children's rights.

48. **Mr. Kotrane** asked whether children were separated from adults and indicted offenders from convicted offenders in Costa Rican prisons.

49. **Mr. Ching** (Costa Rica) said that children were housed in separate quarters from adults, even if the prison was overcrowded. The Ombudsman paid regular visits to prisons to ensure that the provisions of the relevant international instruments were implemented.

50. **The Chairperson** asked for information on a case in which adults had been placed in a detention centre for juveniles. He wished to know whether the situation had been detrimental to the minors involved.

51. **Mr. Ching** (Costa Rica) said that the case in question related to a temporary transfer of women in 2009 from the Good Shepherd Penitentiary to the Zurquí Juvenile Training Centre because of dangerous conditions caused by mudslides.

52. In reply to a question by the Chairperson, he said that there were several programmes, including Window of Peace, which helped reduce the vulnerability of young people to crime. Measures to combat the trafficking of minors included an awareness campaign, a special programme and two helplines, which were sponsored by the National Child Protection Agency. The Agency had 41 offices staffed with experts to deal with young people's complaints.

53. Under current legislation, child pornography was punishable by imprisonment. The bill on extraterritoriality was still under consideration.

54. **Mr. Dengo** (Costa Rica) said that the Government and the International Telecommunication Union had set up a joint project in 2010 called "Child Online Protection" to develop protection guidelines for children and to heighten awareness of the risks they faced on the Internet. The Government encouraged young people to practise sport as a wholesome alternative to online recreation.

55. **Mr. Ching** (Costa Rica), in response to queries concerning domestic work performed by children, said that the amendment to the Children and Adolescents Code empowering labour inspectors to enter private homes where adolescents were working had improved protection of children's labour rights. Heretofore it had been difficult to do so because private homes were not viewed as workplaces.

56. **The Chairperson** asked whether the Government had defined the worst forms of child labour in accordance with ILO Convention No. 182.

57. **Mr. Ching** (Costa Rica) said that a legal framework defining hazardous child labour had been drafted by the Ministry of Labour and Social Security and was currently before the Legislative Assembly.

58. Interdisciplinary teams from the Ministry of Labour and Social Security, the Ministry of Justice and the National Child Protection Agency provided social and psychological help to victims of violence.

59. A sex education programme for adolescents had been approved by the Ministry of Health and another was under preparation by the Ministry of Education.

60. With regard to child and maternal health, the Government promoted breastfeeding, provided prenatal and post-natal check-ups and monitored health-care services. The Constitutional Chamber of the Supreme Court had handed down many rulings in favour of breastfeeding. Only minors with serious health problems such as drug addiction were not allowed to nurse their children; they could obtain breast milk from local human milk banks.

61. **The Chairperson** asked why breastfeeding was on the wane, although legislation favoured the practice. He wondered whether the decline was due to financial pressures on mothers to return to work or to pressure from companies promoting breast-milk substitutes.

62. **Mr. Ching** (Costa Rica) said that working mothers were allowed to breastfeed their babies for one hour during the working day and enjoyed three months' maternity leave.

63. With regard to the school dropout rate, the Ministry of Education offered children various incentives to stay in school, including recreational activities and a programme entitled *Avancemos* ("Let's get ahead") that offered subsidies and scholarships to pupils from poor families.

64. **Ms. Nores de García** (Country Rapporteur) asked about the reasons for children dropping out of school. She wished to know whether the scholarships and subsidies were considered to be prizes, since, according to her information, scholarships were not always awarded to children from needy families.

65. **Mr. Ching** (Costa Rica) said that the scholarships and subsidies were not prizes. Children dropped out of school for many reasons, including poverty, curricula that did not meet their needs, a lack of parental support and boredom. As a result, new programmes had been established to make school more attractive.

66. **Ms. Sandberg** asked whether it was possible to involve young people in decision-making regarding the choice of school programmes and curricula. Perhaps school authorities were turning a deaf ear to children when they should be listening to their needs.

67. **Ms. Wijemanne** said that the quality of education, child-centred learning and a family environment that favoured education were key to developing a child's learning capacities. It was necessary to conduct educational attainment studies. Much could be achieved by involving children in the choice of school curricula because it motivated them to study and enhanced the learning process.

68. **Mr. Ching** (Costa Rica) said that the Government had developed 10 strategic education guidelines for children. However, their implementation would require improvements in human resources, technology and infrastructure. Children did indeed have a right to be heard, not just at home, but at school. The Government would need to work harder to give them a greater voice in the educational system and develop appropriate local and national policies to that end. In addition, it was important to disseminate more broadly the Convention on the Rights of the Child.

69. Owing to the media's strong impact on the principle of presumption of innocence, the National Child Protection Agency had requested the United Nations Children's Fund (UNICEF) to draft an ethics code and take other measures regarding the media.

70. **Ms. Nores de García** asked whether direct adoption was still taking place in Costa Rica.

71. **Mr. Ching** (Costa Rica) said that the ban on direct adoption had been upheld by the Constitutional Chamber of the Supreme Court, but there had been reports of some deviations from the rule.

72. **Ms. Wijemanne** asked whether there had been any prosecutions for human trafficking in Costa Rica.

73. **Mr. Ching** (Costa Rica) said that he recalled one case of human trafficking involving an attorney who had been sentenced for bringing children from Guatemala to Costa Rica for adoption.

74. **Ms. Nores de García** said that Costa Rica had made commendable efforts to enact legislation and policies in compliance with the Committee's previous recommendations, but that more remained to be done in that respect.

75. **Ms. Maurás Pérez** said that another area where improvements needed to be made was in data analysis. With regard to the definition of the child, there were still issues to be resolved, in particular concerning the marriageable age. A national plan that addressed the pressing needs of indigenous children in Costa Rica in the areas of education and health was necessary. The legal framework concerning corporal punishment needed to be updated. Further, the high number of illegal abortions and the scant use of condoms were matters of concern. The use of judges' discretionary powers should be monitored more closely.

76. **Mr. Dengo** (Costa Rica) said that despite the economic recession affecting his country, the Government was making efforts to continue allocating funds to children's programmes. Although gross domestic product (GDP) was declining, the Government's aim was to devote 8 per cent of GDP to education in the long term. It would also focus on investing in children and young people. Additional resources would be provided to enforce

existing legislation. He invited the Committee to visit Costa Rica with a view to promoting the issues discussed at its fifty-seventh session, such as guidelines for judicial authorities.

77. **The Chairperson** said that such visits were generally very useful for both parties and thanked the delegation for its invitation.

The meeting rose at 5.40 p.m.