



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Fifty-fifth session

### Summary record of the 1546th (Chamber A) meeting

Held at the Palais Wilson, Geneva, on Tuesday, 14 September 2010, at 3 p.m.

*Chairperson:* Ms. Lee

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports of States parties** (continued)

*Third and fourth periodic reports of Guatemala* (continued) (CRC/C/GTM/3-4; CRC/C/GTM/Q/3-4 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Guatemala resumed places at the Committee table.*

2. **Ms. Aidoo** requested information on a number of adolescent health issues that had not been addressed in the third and fourth periodic reports and the written replies thereto. The Committee on the Rights of the Child in its previous concluding observations had expressed concern about early pregnancy, mental health, sexually transmitted diseases, drug use and the lack of systematic sexual or reproductive health programmes, particularly in schools. What had been accomplished in those areas to date?

3. Although children under 5 benefited from programmes aimed at stemming acute malnutrition, it was not clear what steps, if any, had been taken to tend to the needs of acutely malnourished girls aged 11 to 19, representing 24 per cent of those suffering from the condition. The Committee welcomed the enforcement in 2009 of the Act on Universal and Equitable Access to Family Planning Services and Their Integration in the Reproductive Health Programme and a new strategic adolescent health plan. However, she wished to know whether progress had been achieved in providing young people with access to family planning services under the Act. The Government had taken further promising steps by signing a declaration in 2008 adopted by regional health ministers to improve sex education and sexual reproductive health services for adolescents by 75 per cent by 2015. Nonetheless, it was important to know what measures had been taken to ensure that such laws were being enforced, whether accounts of difficulties encountered or evaluations of progress achieved had been drawn up and whether coordination between the Ministry of Education and the Ministry of Health and Welfare was satisfactory.

4. She also wished to know how children outside the school system obtained information regarding their health, particularly preventive health, and whether funding and technical support were available for adolescents. Did they have confidential access to those services? Although HIV prevalence in Guatemala was below 1 per cent — the country ranked third in terms of HIV infections throughout Latin America — the problem would reach epidemic proportions if that figure were exceeded. She asked whether adolescents had access to technical support and HIV testing, whether their confidentiality was respected and how they were protected from HIV infections. If adolescents were not in a position to obtain voluntary counselling and HIV testing because the consent of parents or legal guardians was required, how were they protected from such infections? Did the national AIDS programme and the Government work with NGOs in areas such as adolescent health and HIV prevention and testing?

5. While the Committee welcomed the adoption in February 2009 of the Act on Sexual Violence, Exploitation and Trafficking in Persons, as well as the establishment in August 2009 of a secretariat designed to follow up on the implementation of the Act, in particular through coordination and awareness-raising campaigns, she wished to know whether the secretariat was adequately funded and whether it collected data, along with other organizations, disaggregated by gender, exploitation and abuse of adolescents.

6. The State party's periodic report also failed to provide information on the punishment of the perpetrators of children's rights violations. It would be interesting to know how the cases were investigated, whether social and health workers, teachers and lawyers, for example, received training enabling them to recognize cases of sexual exploitation, while remaining sensitive to affected adolescents and respecting their rights.

Was research being carried out to determine the root causes of sexual exploitation and trafficking in order to help formulate policies and strategies and additional laws to prevent the abuse of children's rights?

7. **Mr. Citarella** said that the extrajudicial killing of children and adolescents in Guatemala appeared to be linked to a commonly held view that children, and adolescents in particular, were a danger to society. He wished to know what social and legal measures were being taken to remediate the problem. Since many improvements to the juvenile justice system were necessary, perhaps a review of the entire system should be considered. There had been accounts of children being detained alongside adults while awaiting trial, and he wished to know whether steps were being taken to provide separate detention facilities for youths. He suggested setting up specialized courts for children with properly trained judges, who were familiar with the Convention on the Rights of the Child.

8. **The Chairperson**, drawing attention to paragraph 196 of the State party report, where it was stated that the dropout rate approached 40 per cent in primary and secondary schools, wished to know what percentage of children completed their schooling. That trend appeared to be linked to a rise in the number of working children aged 7 to 14, a serious concern to the Committee. Therefore, every effort should be made to eliminate child labour so that all children could have the opportunity to attend school.

9. She requested other missing statistics, including comprehensive education data on children with disabilities. In addition, the implementation of the Committee's concluding observations to the optional protocols to the Convention did not appear in the current periodic report. She wished to know whether they had been disseminated, and if so, by what means.

10. **Ms. Al-Asmar** wished to know what means were available to monitor and prevent the exploitation of child labourers, particularly those aged 7 to 10.

11. **Mr. Puras** asked whether the Government had followed up on the Committee's recommendation of 2007 that resources be set aside for the psychosocial recovery and rehabilitation of child victims of sexual abuse and exploitation by means of interdisciplinary assistance and child-friendly programmes.

12. **The Chairperson** asked what steps had been taken to provide access to safe, clean water, since a recent Universal Periodic Review of Guatemala had revealed that 65 per cent of people living in rural areas had no such access.

13. **Ms. del Valle** (Guatemala) said that since 2008 the Council for HIV/AIDS Prevention and Control (CONASIDA) had drawn attention to the need for reforms to improve the legal protection of people living with HIV. The National AIDS Programme was working with other bodies to review the programme that had been submitted to the Guatemalan Congress for consideration. The reform required that parents or legal guardians give their consent for minors to receive HIV testing. Under the proposed reform, parents would be informed early on to give their consent to such tests unless youths were in a condition to express their views freely, in which case, age and maturity would be taken into account.

14. The identity of children and adolescents charged with an offence was protected by article 152 of the Comprehensive Protection Act ("*Ley Pina*") and their right, as well as that of their families, to privacy was ensured under article 153 of that Act and article 13 of the Constitution.

15. The Ministry of Health and Welfare had instituted a health policy for children and adolescents that had served as a model for comprehensive and specialized care since 2008. It had been used with technical and interdisciplinary experts in coordination with an intersectoral children's and adolescents' health commission. The Ministry of Health and

Welfare had set strategic health goals running from 2010 to 2015, that were aimed at institutionalizing the comprehensive and specialized health care of adolescents, and promoting the widespread use of contraceptives, new family planning methods and better reproductive health education to reduce adolescent fertility rates. Expected results included the steady improvement of adolescent health and reduced mortality rates, and universal provision of comprehensive and specialized care, including the establishment of child-friendly centres, information centres, interactive spaces, a comprehensive health clinic and health posts that would foster the participation of children and adolescents. Indicators for monitoring and evaluating those strategies would also be established.

16. A national AIDS programme featuring the massive distribution of information to promote increased condom use among young people had produced good results, with usage rising from 4.5 per cent in 1995 to 81 per cent by 2005, the goal being 100 per cent usage by 2015. Another goal was greater access to treatment and drugs for persons in advanced stages of HIV, aiming at full treatment of all infections by that year. There were some 139 adolescent-friendly spaces, with 29 new centres opening each year. By 2015 it was to be expected that all Guatemalan municipalities would benefit from such facilities. Also it was expected that by 2015 all health personnel would have received training in comprehensive and specialized care for children and adolescents and that all health centres would launch awareness campaigns specifically for those categories.

17. **Ms. Aidoo** asked whether parts of the country other than Guatemala City provided adolescent-friendly centres offering information on HIV/AIDS.

18. **Ms. del Valle** (Guatemala), turning to earlier queries regarding national and international adoption of children in her country, said that there were two institutions for children in Guatemala City and one in the outskirts of the city. Child protection and psychiatric centres had been set up in Chimaltenango and Zacapa. The Government was working with the United Nations Children's Fund (UNICEF) to enhance the foster homes system and launch an intercountry pilot adoption programme. New efforts were being made to focus on children with special needs. However, much remained to be done to cater for international adoption services in Guatemala, while improving national adoption. The Public Prosecutor's Office had played a special role in investigating charges against officials involving violations of children's and adolescent's rights, although the presumption of innocence prevailed until proof to the contrary was forthcoming.

19. The Ministry of Education provided incentives to encourage teachers to learn indigenous languages, and fast-track promotion was available to bilingual indigenous teachers. Nonetheless, there were still insufficient numbers of bilingual teachers to fill all the available posts, and the Ministry was currently reviewing its entry requirements in an attempt to attract more teachers with a suitable cultural background. In order to ensure that indigenous children's rights were respected, several measures had been implemented, such as improving the provision of intercultural bilingual education, distributing handbooks on children's rights to teachers in rural areas, disseminating support materials among bilingual teachers and promoting respect for the Mayan, Garifuna, Xinca and Ladino identities and their cultural events. Under the programmes of the Council for Social Cohesion, many indigenous children had benefited from improved access to food, health care and education.

20. While in theory the State provided primary education free of charge, only in recent years had such education been truly free, after the Government had increased its funding to schools in order to stop school authorities requesting supposedly voluntary contributions from pupils' parents for school refurbishments, materials or services. That had resulted in a significant growth in the number of children enrolling in schools, which in turn had posed a major challenge to the Government in terms of resources. It continued to reinforce its school building programme, while investing in repairs to schools damaged by natural

disasters. Under the *Mi Familia Progresá* cash transfer programme, families were required to show that their children attended school in order to benefit from the welfare payments.

21. **Ms. Ortiz** (Country Rapporteur) asked whether the State party had introduced any mechanism to prevent children who did not have birth certificates from being expelled from school. She also wished to know whether pregnant schoolgirls faced any difficulties attending school throughout their pregnancy. To what extent were schools preparing young people for their entry into the labour market?

22. **Ms. del Valle** (Guatemala) said that pregnant schoolgirls were allowed to continue their education in all State schools. Some private schools had attempted to restrict access to girls who became pregnant, but the Government had taken action to oppose that practice through anti-discrimination legislation. The Government had also passed legislation to enable families to register their children's births late, thereby resolving the danger of children being expelled from school for lack of a birth certificate.

23. Efforts to prevent children being recruited by gangs and thus becoming involved in violence centred on the Open Schools (*Escuelas Abiertas*) Programme, under which schools were kept open for all children and young people at the weekend, and offered recreational and training activities. Where possible, access to certain areas within schools was restricted to protect children from gang members. Campaigns had been run to enforce legislation prohibiting the carrying of guns in public places and efforts were being made to prevent children and young people from coming into contact with light weapons. In addition, under the Office of the Executive Secretary of the Committee against Drug Addiction and Drug Trafficking (SECCATID), steps were taken to prevent drug addiction among young people. Young people's participation in public life was encouraged. Youth commissions were set up at national and local level, giving young people a role to play in policy decisions that affected them.

24. The Civic Service Act was due to be introduced in November 2010, offering young people aged between 18 and 24 the opportunity to undertake training courses and community service. Other measures to prevent violence among young people included a police outreach programme in primary schools aimed at reducing antisocial behaviour and drug abuse in several regions, a pilot project being conducted on the outskirts of Guatemala City to prevent children becoming involved with gangs and having recourse to violence, and measures to prevent domestic violence. By law, the National Security Council was supposed to have a budget of 5 million quetzales, designed in part to implement measures to prevent child exploitation and trafficking in children. To date, it had been impossible to allocate the full amount, however, owing to a lack of resources at the national level.

25. The Government had provided training to Guatemalan consular staff in Central America on the repatriation of child victims of human trafficking. On their return to Guatemala, children were collected from the airport and housed in temporary shelters until they could be reunited with their families.

26. Turning to the issue of criminal responsibility, she noted that the assertion, in paragraph 231 of the periodic report, that girls aged over 12 could be detained at the Gorriones Centre, was incorrect. Under the relevant legislation, young persons in conflict with the criminal law could not be punished until they reached 13 years of age. The maximum period of deprivation of liberty for minors aged between 13 and 15 was two years, and six years for those aged between 15 and 18. The death penalty could not be applied to minors, since under article 20 of the Constitution, they were not considered criminally responsible.

27. Young people in pretrial detention could not be held in police custody or with adults. There were currently 231 young people in pretrial detention and some 333 who had been sentenced, of whom 44 were girls. Under the law, pretrial detention should last not more

than two months, but in reality, the justice system was overburdened and unable to bring people to trial quickly enough. There were 20 children's courts throughout the country and in general judges tended to favour social and educational measures rather than deprivation of liberty for minors.

28. The Government would try to ensure that it collected disaggregated data on children with disabilities in future. The National Council for the Support of Persons with Disabilities had been created in 2002, to promote the right to education of all children, regardless of any disabilities.

29. Replying to the comments on the lack of a legal framework to tackle chronic malnutrition, she drew attention to the fact that Guatemala had passed a Food and Nutritional Security Act and had established both the National Food and Nutrition Security Council and the Secretariat for Food and Nutritional Security. Under the 2009 Contingency and Food Emergency Plan, some 3,302 children suffering from acute malnutrition had received care in hospitals in several regions of the country, and their families had been given nutritional advice. A national policy on early childhood was being finalized and would be submitted for approval in October 2010. Parents were also provided with advice on caring for the physical and mental health of their children.

30. **Ms. Ortiz** (Country Rapporteur) requested additional information on the care available to victims of child exploitation and trafficking, in particular concerning existing programmes, cooperation with civil society and the level of resources available. It would be useful to know whether the Public Prosecutor's Office and the Office of the Procurator-General had sufficient capacity to undertake the necessary investigations to ensure that perpetrators of those crimes were appropriately punished.

31. **Mr. Kotrane** asked which legislative instrument provided that the maximum sentence for juvenile delinquents was six years. He remained concerned by reports of the high number of children in pretrial detention, and of the number of adolescents aged between 13 and 18 who were detained together with adults.

32. **Mr. Puras** asked what stage had been reached with the *Hogar Solidario* (solidarity home) project, according to which one institution would house 1,000 young people who had been in conflict with the law. It would be useful to know what arguments had been put forward in support of the project and whether there had been any public debate on the issue. He asked whether the Government had foreseen any potential problems with that project.

33. **Mr. Citarella** asked whether adolescents and adults ever shared the same detention facilities. He also asked whether children and adolescents in conflict with the law were sent to ordinary or specialized courts and whether judges were given any training on the Convention and its Protocols.

34. **Ms. Ortiz** (Country Rapporteur) requested further information on the promotion of breastfeeding in hospitals, including private hospitals.

35. **Ms. del Valle** (Guatemala) said that no minors ever shared detention facilities with adults. The Guatemalan courts had a heavy caseload and had been unable to ensure that judicial proceedings for minors were completed within the specified time limits, but it was not true that there were more minors in detention awaiting trial than minors who had been sentenced. The maximum sentence for minors was prescribed by law and no minor had been given a sentence that exceeded the legal maximum. The Constitution of Guatemala established that children aged under 13 were immune from prosecution and could not appear in front of a judge, even in cases such as murder. That law was facing challenges from new forms of organized crime, which used children to commit crimes they could not legally be convicted for. Children aged between 13 and 15 could receive a sentence of up to

two years and the maximum sentence for those aged between 15 and 18 was six years. Those aged over 18 were judged as adults.

36. Psychologists assisted victims of rape and human trafficking. The Public Prosecutor's Office and the Office of the Procurator-General worked together to investigate such crimes. The Public Prosecutor's Office was responsible for criminal prosecution and investigation in Guatemala and it worked with the judicial authorities to prevent impunity. Only one prosecutor's office dealt with trafficking in persons, and it was relatively new and had a very heavy caseload. The law against trafficking aimed to prevent, suppress, sanction and eradicate trafficking in persons and sexual violence and exploitation. It focused on protecting victims by safeguarding their identity and interests. Five convictions had already been obtained under that law. The citizen of the United States of America mentioned by Ms. Ortíz had been sentenced for abusing four children. The sentence had not yet been finalized and the defendant was appealing it, while the prosecution was calling for it to be increased. The investigation into his abuse of nine other children was still continuing.

37. A school of judicial studies had recently been created in Guatemala to train judges. Training was offered on human rights and the rights of specific groups such as indigenous persons and persons with disabilities. The school also coordinated the training of juvenile court judges.

38. The National Plan for Healthy Schools had been launched, which focused on children in grades one to six in vulnerable areas. Reproductive health programmes provided services, support and education for teenage mothers. *Espacios amigables* (friendly health spaces), which offered information on reproductive health and the prevention of sexually transmitted diseases to adolescents, were available in 28 of the 29 health districts of Guatemala.

39. Infant mortality had decreased, with the biggest drop occurring in rural areas. Vaccination coverage had improved at the national level and in four departments it had reached 100 per cent. The Social Welfare Secretariat was working with the Ministry of Health to achieve even wider coverage.

40. The Government acknowledged that specific challenges existed in education, but advances had been made. The *Mi Familia Progresá* programme aimed to encourage all children to attend school and was helped by the fact that pre-primary, primary and secondary education were free in Guatemala. The delegation did not have specific data on school dropout rates and the number of children who repeated grades; the Ministry of Health and the Ministry of Education had been unable to send representatives to the meeting, so that the delegation had to rely on information provided earlier by those ministries. Any information requested by the Committee that the delegation was unable to provide would be submitted in due course.

41. Regulations on child labour existed and, with the assistance of the International Labour Organization (ILO), the Government was preparing a road map for the eradication of its worst forms by 2020, in particular in domestic work and dangerous occupations. The road map was a strategic document that set out a series of policy measures in the areas of: poverty and child labour, health and child labour, education and child labour, the institutional legislative framework for the integrated protection of rights, awareness-raising and social mobilization, and knowledge generation and follow-up mechanisms to combat the worst forms of child labour. Children aged 14 years and over were allowed to work in private enterprises, but their employment had to conform to certain standards established by law.

42. Monitoring the quality of drinking water took place as part of a fairly widespread Government programme called Water for Peace. The Government was working to extend drinking water services to poor communities, improve the monitoring and quality of

drinking water for human consumption and strengthen the management of drinking water services by authorities and communities.

43. **Ms. Aidoo** asked whether child and adolescent health and nutrition was a major component of any poverty reduction programmes in Guatemala.

*The meeting was suspended at 4.55 p.m. and resumed at 5.15 p.m.*

44. **Ms. del Valle** (Guatemala) said that a Government agreement had been drawn up on the application of the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) and on the prohibition of the types of work listed in article 3 (b) of that Convention. It established sanction mechanisms to assist in eliminating those forms of child labour and inter-institutional coordination mechanisms to guarantee effective application.

45. Although Guatemala's history had not always favoured the enjoyment of human rights, a number of policies and systems had been established to improve the protection of children's rights in particular and progress was being made in that regard. Emphasis was being placed on child protection, social cohesion and poverty reduction, with particular focus on the promotion of education. A coordination unit had been established to improve drinking water supplies and to raise the quality of sanitary services throughout the country.

46. **The Chairperson** said that while the establishment of so many units, initiatives and programmes was admirable, they were not being allocated sufficient funds from the national budget to function effectively. She wished to know why that was the case and whether other funding options such as international cooperation were being considered.

47. **Mr. Kotrane** asked whether the State party's joint initiative with the International Labour Organization (ILO) was intended to eliminate just the worst forms of child labour, or all forms of child labour.

48. **Ms. Aidoo** also wished to know what obstacles stood in the way of increasing budgets for social welfare programmes, in particular those to address sexual violence, sexual exploitation and trafficking in persons. She wondered when the Social Welfare Secretariat, which had been established to tackle those issues, might be expected to receive the financial resources it needed to fulfil its mandate.

49. **Ms. Ortiz** (Country Rapporteur) asked whether international cooperation could be used as a means of funding programmes and measures for the implementation of the Convention and the Committee's recommendations. While she welcomed the Government's initiatives to draft legislation, embark on joint ventures with international organizations, and establish units and secretariats to address important issues, those initiatives should be reflected in the national budget.

50. **Ms. del Valle** (Guatemala) said that while the Government had intended to address the situation of low income due to high taxation by instituting a fiscal reform, that reform had not been approved by Congress, owing to disagreements between political parties. Certain political forces were attempting to restrict the success of some government programmes, and as a result the Government had been forced to function with a small budget. In that regard, Congress had not approved the budget allocations to the Social Welfare Secretariat for the implementation of the National Plan of Action to Combat Commercial Sexual Exploitation of Children and Adolescents, and policymakers in that secretariat were therefore working with very limited resources, which was severely impeding their activities. Other government units were able to function without additional funds. Greater coordination was required between the many units and institutions in place.

51. Turning to the question of child labour, she explained that the International Programme on the Elimination of Child Labour of the International Labour Organization



(ILO-IPEC) road map for making Central America and the Dominican Republic a child labour-free zone set a number of goals and the time frame in which those goals should be met. In accordance with that road map, Guatemala intended to eliminate the worst forms of child labour by 2015, and all forms of child labour by 2020. Efforts were being made to achieve those goals through international cooperation, not only in respect of financial matters, but also through support for the work of the Secretariat for Social Welfare provided by organizations such as the United Nations Children's Fund (UNICEF). Greater coordination was required between social cohesion programmes. More improvements were required to school facilities, and education coverage needed to be extended to the remotest areas. Efforts were also being made to educate parents about nutrition, in order to improve the health of children. In spite of the challenges to meeting the Millennium Development Goals, including natural and environmental disasters, progress was being made.

52. **The Chairperson** requested further information on the *Ciudad de los Niños/Hogar Solidario* project, and said she particularly wished to know why the Government of Guatemala planned to establish such large institutions.

53. **Ms. del Valle** (Guatemala) explained that the *Hogar Solidario* project was intended to provide better conditions for children in care homes. The Government's ultimate goal was not so much to develop the system of children's shelters, but rather to develop foster care, since it was deemed preferable to keep children in a family environment. The *Hogar Solidario* project was an interim measure to provide protection for children in need of shelter while the fostering system was being developed. Training and education were being provided for foster families, in order to guarantee protection for children placed in foster homes.

54. **Mr. Guran** asked how the Government ensured that those who worked in childcare received proper training. He drew the delegation's attention to models for childcare training, which had been developed by the Council of Europe.

55. **Ms. del Valle** (Guatemala) said that the old system of care homes for children had encouraged bad practices. The new *Hogar Solidario* project aimed to eliminate impunity and apply good practices. As part of the reform of the childcare system, around 300 civil servants involved in crimes, including ill-treatment of children and adolescents, had so far been removed from office. Efforts were being made to provide human rights training at all levels of the security and police forces. Assistance from the international community had been crucial in ensuring the success of efforts to combat impunity and ensure that public servants found to have violated children's rights were brought to trial.

56. **Ms. Ortiz** (Country Rapporteur) said that the Committee welcomed the efforts made by the State party and acknowledged the difficulties it faced. The Committee was ready to assist the Government of Guatemala in addressing urgent matters regarding the protection of children's rights.

57. **Mr. Martínez** (Guatemala) assured the Committee members that his Government would do its utmost to take account of the Committee's observations and fulfil its recommendations.

*The meeting rose at 6.05 p.m.*