



**Convention on the
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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-fourth session

SUMMARY RECORD OF THE 1201st MEETING

Held at the Palais Wilson, Geneva,
on Monday, 15 January 2007, at 3 p.m.

Chairperson: Mr. DOEK

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

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Costa Rica under the Optional Protocol on the involvement of children in armed conflict (continued) (CRC/C/OPAC/CRI/1 and CRC/C/OPAC/CRI/Q/1)

Initial report of Costa Rica under the Optional Protocol on the sale of children, child prostitution and child pornography (continued) (CRC/C/OPSC/CRI/1 and CRC/C/OPSC/CRI/Q/1 and Add.1)

1. At the invitation of the Chairperson, Mr. Garbanzo, Ms. Allen, Ms. Segura, Mr. Varela Quirós and Mr. Víquez Jiménez (Costa Rica) resumed places at the Committee table.
2. Mr. KOTRANE said that, in its concluding observations on the third periodic report of Costa Rica (CRC/C/15/Add.266), the Committee had made a number of recommendations concerning Costa Rica's implementation of the Optional Protocol on the sale of children, child prostitution and child pornography, and he wished to know what measures had been taken to implement those recommendations.
3. The legislation cited in paragraphs 59 and 60 of the initial report (CRC/C/OPSC/CRI/1) did not make it clear whether the acts set out in article 3 of the Optional Protocol on the sale of children, child prostitution and child pornography were punishable under Costa Rican law. Act No. 7899 of 1999, which amended the Criminal Code, did not appear to be consistent with the Optional Protocol; for example, article 160 was not fully in line with article 3 of the Optional Protocol, and article 173 on the manufacture or production of pornography did not punish the possession of child pornography. He was pleased that the Optional Protocol took precedence over Costa Rica's domestic law.
4. Since proceedings could be instituted in Costa Rica for offences committed against a Costa Rican national abroad, he wished to know whether the Criminal Code punished acts committed by a Costa Rican national abroad when a child was involved, as well as acts perpetrated against a child by a person residing in Costa Rica. Costa Rica should intensify its efforts to bring its domestic legislation fully into line with the requirements of the Optional Protocol with regard to the criminal liability of legal entities, such as companies that benefited from the sale of pornographic material.
5. Ms. VUCKOVIC-SAHOVIC said that Costa Rica's initial report (CRC/C/OPSC/CRI/1) focused mainly on sexual exploitation and did not provide information on other areas covered by the Optional Protocol, such as the sale of children, the sale of children's organs, the sale of children for adoption and other forms of exploitation. Moreover, Costa Rica's written replies did not contain any information on how perpetrators were punished. The delegation should consult the Committee's guidelines for reporting under the Optional Protocol on the sale of children, child pornography and child prostitution (CRC/OP/SA/1).
6. Costa Rican legislation seemed to treat commercial sexual exploitation and prostitution as though they were synonyms, whereas in fact the two phenomena were not identical.

According to information that the Committee had received, child prostitution and child pornography were not covered by the Children and Adolescents Code of 1998. If that was true, the Code was not in line with the relevant articles of the Optional Protocol.

7. Mr. ZERMATTEN asked how the work of the National Commission to Combat the Commercial Sexual Exploitation of Children and Adolescents, the National Child Welfare Agency and the National Council on Children and Adolescents was coordinated. He enquired whether the functions of the National Child Welfare Agency were clearly separated from those of the police and the National Commission.
8. He asked whether adults and children were aware of the new law against the commercial sexual exploitation of minors and whether the text of the law had been widely disseminated. The Committee had received information that the commercial sexual exploitation of young girls was still widely tolerated in Costa Rica. He wished to know whether Proposal No. 14568, which would criminalize the possession of child pornography, had been adopted.
9. The delegation should explain how budgetary allocations were distributed among the National Commission to Combat the Commercial Sexual Exploitation of Children and Adolescents, the National Child Welfare Agency and the National Council on Children and Adolescents and for what purposes such allocations were made.
10. He enquired how child victims of sexual exploitation were cared for when they were foreign nationals. He wondered whether they were allowed to remain in Costa Rica or if they were sent back to their country of origin, and whether Costa Rica had shelters for such children. He wished to know whether Costa Rica had taken any measures to prevent international adoption from being used for trafficking in children.
11. Mr. LIWSKI said that the Costa Rican delegation should provide further information on whether prevention policies took into account such problems as extreme poverty, family break-up and regional migration in connection with the commercial sexual exploitation of children.
12. The delegation should provide more information about the “cyclical model of joint response” currently being introduced and, if possible, a preliminary assessment of its results.
13. The repatriation of children who found themselves in a foreign country as a result of regional migration flows was a growing problem. He asked whether any special measures were being taken to ensure that such children were not placed in danger when they were sent back to Costa Rica.
14. He was still uncertain whether Costa Rica’s domestic legislation covered the whole range of offences under the Optional Protocol on the sale of children, child prostitution and child pornography. It appeared that a number of gaps in Costa Rican legislation still enabled perpetrators to go unpunished.

15. Mr. KRAPPMANN said that there was a need to identify the groups of children and adolescents most vulnerable to sexual exploitation and to determine what factors, such as poverty, placed them at risk. Prevention policies would not be very effective if it was not clear which groups had to be targeted.

16. He requested additional information on the extent to which family members were involved in such crimes as rape and the sale of children. The delegation should provide more information about the role of schools in preventing those crimes. The Committee needed more statistics on violations of children's rights, and he wondered whether Costa Rica had considered conducting an in-depth study of such violations.

17. Mr. SIDDIQUI asked what steps were being taken to overcome the scarcity of disaggregated data on the sale of and trafficking in children, child prostitution and child pornography. Since such offences were to a large extent conditioned by poverty and inequality, the delegation should indicate whether poverty and inequality in Costa Rica had increased or decreased over the past several years.

18. Ms. ORTIZ expressed concern that a number of preventive measures, such as regulating access to pornographic material in Internet cafes, were not being implemented and that violations were not being punished. Prevention campaigns seemed to be sporadic and did not raise public awareness of the problems involved.

19. She asked whether anything was being done to teach children to defend themselves against perpetrators. It appeared that reports of violations of children's rights were often not followed up; as a result, citizens had lost faith in Costa Rica's institutions. She had met with representatives of a number of NGOs, who had informed her of the difficulty of bringing cases involving violations of children's rights to trial. For example, it had been difficult to help girls who had been abducted to Mexico and forced into prostitution because the prosecutor's office and the police in both Costa Rica and Mexico had not responded appropriately. She wished to know whether the police and the judicial authorities were dealing with that issue and whether Interpol had any role in that regard.

20. She enquired whether the National Commission to Combat the Sexual Exploitation of Children and Adolescents was involving Costa Ricans in its efforts to address such questions as international adoption.

21. The CHAIRPERSON said that one of the reasons that there were so few convictions in cases involving violations of children's rights was that often the only witness was the victim. He asked whether the rules and procedural guarantees, as presented in the report and contained in the Children and Adolescents Code, were applicable in criminal procedures. According to article 114 of the Code, proceedings must be oral and must be held in public. However, when a child was a victim of sexual exploitation, it was essential to ensure that the child's privacy was protected so that he or she was not subject to retaliation or other acts of revenge. Such proceedings should be held in camera unless there was a compelling reason for a public hearing.

22. The delegation should explain whether Costa Rica and other States parties had afforded one another "the greatest measure of assistance in connection with investigations or criminal or extradition proceedings", pursuant to article 6, paragraph 1, of the Optional Protocol.

23. Mr. VÍQUEZ JIMÉNEZ (Costa Rica) said that, since the term “prostitution” implied some form of consent between adults, Costa Rica preferred to use the term “commercial sexual exploitation” in the cases involving relations between an adult and a minor. By contrast, in article 169 of the Criminal Code, “prostitution” was used to refer to all paid sexual relations, including those between adults.
24. Under the new national plan to combat the commercial sexual exploitation of children and adolescents in Costa Rica, the Government had requested the National Commission to Combat the Commercial Sexual Exploitation of Children and Adolescents to define the responsibilities of each of its component parts. Corrective measures had also been taken to ensure that the National Child Welfare Agency assumed a clearer leadership role, in particular in integrating the different policies on the sale of persons, trafficking, commercial sexual exploitation and adoption into a single national policy.
25. As the lead agency in the area of the rights of the child in Costa Rica, the National Child Welfare Agency protected minors in cases involving the lack or arbitrary exercise of parental authority. The Agency was also legally empowered to uphold the rights of children not only before their families but also before public institutions, private companies, the press and the general public. The National Council on Children and Adolescents was composed of representatives from the relevant ministries and NGOs that promoted and protected children’s rights. The Council had already defined its priorities for the next four years.
26. Costa Rica did not yet have a unified statistical database for all institutions involved in the protection of children’s rights. The University of Costa Rica had conducted research in that area with the United Nations Children’s Fund. The Office of the Ombudsman had its own database, and all actions taken by the National Child Welfare Agency were recorded on another system. The Agency’s database was being modernized to facilitate the accessibility of data on institutional interventions to protect and promote the rights of the child by its 41 offices throughout the country.
27. Costa Rica believed that NGOs should not only be consulted but also integrated into the decision-making process. More than 100 NGOs were cooperating with the National Adoption Council and the national protection system.
28. The new plan to combat the commercial sexual exploitation of children and adolescents included a strategy to assist victims and to address sophisticated forms of crime, including the use of the Internet and cellular telephones.
29. A bill to regulate the use of the Internet was being considered in the Legislative Assembly. Consideration was also being given to the abolition of corporal punishment, the minimum age for marriage, and adoption procedures.
30. With regard to the training of public officials, he noted that the Cultural Centre for Adolescents and Children disseminated information about children’s rights among public officials, police officers and teachers, and organized activities for children. The Centre had already organized some 300 activities and trained between 3,000 and 4,000 people, mostly public officials.

31. Mr. VÍQUEZ JIMÉNEZ (Costa Rica) said that, while articles 173 and 174 of the Criminal Code criminalized the manufacture and dissemination of pornography involving minors, there were no provisions concerning the possession of pornographic material. The second paragraph of article 174, which did not appear in the report, explicitly prohibited the dissemination of pornographic material involving minors to both adults and minors. A bill relating to the possession of pornographic material was being drafted.
32. The Children and Adolescents Code encouraged the reporting of violations of children's rights; under the Code, teachers, social workers and doctors were obliged to report such violations and were subject to sanctions if they did not. The Government had also adopted legislation that made it possible to report violations against children solely on the grounds of reasonable suspicion.
33. Costa Rica had worked with NGOs, the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, foundations and university programmes in order to reduce the double victimization of minors in court proceedings. The National Child Welfare Agency was included in all administrative and jurisdictional proceedings to avoid the double victimization of minors and ensure the protection of victims.
34. Since child trafficking did not pose a significant problem in Costa Rica and since there had been no reported cases involving the sale of children in the past 20 years, the initial report focused primarily on the issue of commercial sexual exploitation.
35. In 2002, a bill had been introduced to amend a provision of the Family Code that allowed the biological mother of a child who was being put up for adoption to hand the child over to a lawyer, with a judge's approval, without the intervention of the National Child Welfare Agency. The bill was currently under consideration by the Legislative Assembly, and the National Child Welfare Agency, the Ombudsman and the Office of the Procurator-General were actively promoting its adoption. Over the past two years, only two adoptions had been carried out using the direct adoption procedure.
36. The National Child Welfare Agency had recently approved new regulations aimed at facilitating adoption. However, the Agency had decided not to approve intercountry adoptions requested by United States citizens, since the United States had not signed the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, or any bilateral agreements with Costa Rica pertaining to intercountry adoptions.
37. The National Child Welfare Agency had developed a campaign for 2007 to prevent violence against children. The campaign focused on discouraging corporal punishment in the family, promoting change in child-rearing methods (particularly by encouraging fathers to play a greater role in their children's upbringing) and raising awareness of violence in the media and in video games. Parents would be offered courses on the media, the Internet and video games in order to provide better guidance for their children. Efforts would be made to reduce the level of violence on television.

38. The issue of police corruption fell within the remit of the Ministry of Public Security, which intervened quickly when it received complaints of corruption. Although he did not have any information concerning the case of girls who had been abducted and taken to Mexico, he stressed that the Government had adequate procedures for dealing with such complaints.

39. The US\$ 2 million mentioned previously was not the general budget of the National Child Welfare Agency but rather the budget of a specific programme for disadvantaged and street children. The Agency's 2007 budget had been increased from 8 million colones to 12 million colones, representing a 25 per cent increase over the previous year.

40. In keeping with the shift in focus of the recently elected Government from specific to general public policies, proposals had been made to increase public investments in health and education from the 6 per cent stipulated by the Constitution to 8 per cent. The Avancemos programme had been set up to assist teenage dropouts. The provision of basic education and living conditions was considered to be the best deterrent to sexual exploitation. A coordinated strategy had been developed to address the problem of poverty in Costa Rica, the level of which had not changed significantly over the past 20 years.

41. The fact that nearly 10 per cent of the population in Costa Rica was made up of migrants placed a burden on the country's health-care system. Under the Children and Adolescents Code, all children were eligible to receive health care. Cases of child repatriation usually involved the neighbouring country of Nicaragua. The National Child Welfare Agency worked in close coordination with its Nicaraguan counterpart, sharing medical, social and psychological information concerning the children in question.

42. Ms. KHATTAB asked whether refugee children received health-care services, and whether children were returned to their countries of origin if there was a risk that they would be exposed to armed conflict there.

43. Mr. VÍQUEZ JIMÉNEZ (Costa Rica) said that refugee children in Costa Rica were entitled to State health care. Children were not returned to countries where they would be exposed to armed conflict. In a case involving 12 children from Guatemala who had been trafficked for the purpose of adoption, the perpetrators had been convicted and sent to prison, and Costa Rica had begun to return the children to their families. The Costa Rican authorities had requested assurances that the children would not be subjected to armed conflict; sufficient assurances had not been provided for two of the children, who had consequently not been returned. In another case, involving a child who had remained in Costa Rica after her mother had been deported to Colombia, a lawyer had accompanied the child back to Colombia only after the Costa Rican authorities had ascertained that the mother was in a position to care for the child.

44. The CHAIRPERSON requested additional information on efforts being made to prevent sexual exploitation.

45. Mr. VÍQUEZ JIMÉNEZ (Costa Rica) said that a great deal of research had been conducted into the causes of sexual exploitation; as a result, sufficient information was available to enable officials to take appropriate action. There was a clear link between poverty and commercial sexual exploitation, particularly when poverty deprived people of education and access to culture. Public policies, such as programmes to help keep children in school, had been

implemented to address those problems. Moreover, the National Child Welfare Agency had allocated US\$ 1.5 million to an education programme, which was being carried out jointly with the Ministry of Education, to assist teenage mothers. The programme included funds for books, transport and day-care services intended to enable teenage mothers to attend school. It also included a public-awareness campaign to promote the right of teenage mothers to education.

46. Information campaigns had been conducted to help prevent the abuse of children under the age of 12. The campaigns were aimed at encouraging children to defend themselves against abuse, particularly sexual abuse. He hoped that the shortcomings in sex education in schools would soon be corrected, since the current Minister of Education had pledged to develop a more effective policy on sex education and HIV/AIDS prevention in schools over the next few years.

47. Mr. FILALI (Country Rapporteur) said that the Government's willingness to implement the many projects and initiatives that it had developed, and its efforts to identify problems and find solutions for them, demonstrated that Costa Rica was on the right path. However, Costa Rica should endeavour to disseminate the Optional Protocol on the sale of children, child prostitution and child pornography in remote areas of the country and train staff responsible for implementing the Protocol. Further efforts were required to reduce sex tourism, improve reporting mechanisms and ensure the thorough processing of complaints.

48. Mr. VÍQUEZ JIMÉNEZ (Costa Rica) said that the Committee's questions and comments would help the Government to improve its efforts. Costa Rica was currently focusing its efforts on creating a culture of children's rights, which it hoped would lead to positive changes in the way in which children were treated.

The meeting rose at 5.15 p.m.