



Convention on the Rights of the Child

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Committee on the Rights of the Child

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Summary record of the 1042nd meeting

Held at the Palais Wilson, Geneva, on Friday, 27 May 2005, at 10 a.m.

Chairperson: Mr. Doek

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (agenda item 5) (*continued*)

Third periodic report of Nicaragua (CRC/C/125/Add.3; CRC/C/Q/NIC/3 (list of issues); CRC/C/RESP/83 (written replies by the State party, in Spanish only))

1. *At the invitation of the Chairperson, the delegation of Nicaragua took places at the Committee table.*
2. **Ms. Frech** (Nicaragua) said that the third periodic report of Nicaragua had been prepared, with financial support from UNICEF, by the Inter-institutional Technical Committee of the National Council for the Comprehensive Care and Protection of Children and Adolescents (CONAPINA), comprising representatives of executive, legislative and judicial agencies of the State and representatives of civil society, the Federation of NGOs Working with Children and Adolescents (CODENI) and the private sector. The report had been drafted in accordance with Committee guidelines and with due regard for the concluding observations formulated by the Committee following its consideration of the previous report of Nicaragua.
3. Despite the persistent difficulties encountered in effectively applying the provisions of the Convention, Nicaragua wished to reaffirm its political commitment to protecting and improving the living conditions of Nicaraguan children.
4. **Mr. Liwski** noted that almost half the Nicaraguan population was under 17 and that the four main obstacles to implementing the Convention in Nicaragua were structural poverty, social and regional inequalities, the aftermath of the 1980s civil war and natural disasters.
5. He asked whether the recommendations drawn up following the Committee's consideration of the previous report had been taken into account when the National Action Plan for Children and Adolescents 2002–2011 was formulated. Any additional information on the financial resources mobilized to implement the Plan, on any procedures for evaluating its results and on the system for gathering information on children and adolescents put in place in March 2005 and its budgetary allocations would be welcome.
6. Despite the adoption of the Enhanced Economic Growth and Poverty Reduction Strategy (ERCERP), the share of the budget devoted to social spending had increased only slightly, from 24.6 per cent in 1998 to 25.7 per cent in 2002, and it would be helpful to know the exact proportion of budgetary appropriations set aside for applying the Convention. Nicaragua was one of the beneficiary countries of the Heavily Indebted Poor Countries Initiative, and the Committee would therefore like to know what programme the State party intended to implement for children once the burden of debt had been reduced. The delegation could also indicate what Nicaragua expected from the negotiations over the Dominican Republic-Central America-United States Free Trade Agreement, particularly as regards intellectual property rights relating to the production and purchase of generic drugs.
7. The delegation might also explain how the National Council for the Comprehensive Care and Protection of Children and Adolescents related to the office of the President of the Republic and different ministries, as well as its exact attributions in respect of coordination, since the Council was sometimes defined as the body responsible for developing national child and adolescent welfare policy and coordinating its implementation, and sometimes as an advisory body. Any further information about the real independence of the Ombudsman for Children and Adolescents, who had apparently resigned recently while working on a project to enhance the office's independence, would be welcome.

8. The non-discrimination principle was enshrined in the Constitution and in the Code on Children and Adolescents, and the Convention had been translated into Miskito, certainly a cause for celebration, but the Committee would like to know whether services aimed at indigenous and disabled children, particularly in the areas of health and education, met non-discrimination requirements and were appropriately funded.

9. **Mr. Pollar** asked whether the State party had any near-term plans to revise the Civil Code, which dated to 1879, whether the adoption law had been passed, whether court rulings based on the principles and provisions of the Convention had now been handed down in the country, whether arrangements had been made to carry out a periodic evaluation of the progress achieved and problems encountered in applying the Convention, for example in the form of annual reports to the Parliament prepared in partnership with civil society, whether, given the number of complaints recorded, training programmes and codes of conduct for professionals, especially the police, included modules dealing with children's rights and whether the report of the State party, the concluding observations of the Committee and the records of meetings had been translated and widely disseminated among the population, particularly indigenous minorities. It would also be helpful to know the overriding priorities of Nicaragua at the present time where the realization of children's rights was concerned.

10. The delegation might indicate whether it would be possible to envisage raising the number of years of compulsory schooling from six to nine and harmonizing legal minimum ages, particularly those for entering employment and leaving school, and the age of marriage for boys and girls.

11. It would also be helpful to know whether the principle of the best interests of the child was taken into consideration in formulating policies, particularly those relating to housing, transport and environmental protection, whether it could currently be invoked before the courts in civil, criminal or administrative cases, whether children had the opportunity to express themselves in judicial or administrative proceedings concerning them, if necessary through a representative, and whether actions had been undertaken to make professionals, the public and families aware of children's right to participation and the other civil rights conferred upon them by the Convention.

12. It would be advisable to make the procedures for registering births more widely known, as large groups of children still went unregistered in the country, whether for administrative, legal or cultural reasons.

13. It would be helpful to have statistics available on the registration of deaths and their causes and to know what preventive measures were being taken against suicide and sexually transmitted diseases among children.

14. **Ms. Khattab** asked whether in the present context it would be possible to follow up on the concluding observations the Committee would formulate at the end of the session and what measures were being taken by the authorities to combat violence against women in general and domestic violence in particular.

15. **Mr. Zermatten**, noting that six policies and action plans for implementing the Convention in different domains were cited in the report, asked how these connected up with the National Action Plan for Children and Adolescents 2002–2011, how they were evaluated and what financing they received.

16. He wondered about the practical implications of the distinction made between people aged under 13, defined as children, and those aged 13 to 18, defined as adolescents, as it did not match the different age limits set for entitlement to certain rights or protection of those rights. In particular, he noted with concern the risk that adolescents might be less well protected because of this distinction.

17. He would like details of the effects that reforming the Civil Procedure Code and the Penal Code had had on the treatment of juvenile offenders and on the application of the Code on Children and Adolescents.

18. Some further details on the situation of the Ombudsman for Children and Adolescents and on the steps the Government planned to take to ensure the future independence of the role would also be welcome.

19. **Ms. Aluoch** asked whether stateless children living in Nicaragua could acquire Nicaraguan nationality and whether child asylum seekers or refugees could benefit from legislative provisions authorizing dual nationality.

20. **Mr. Filali** asked whether Nicaragua was a party to the Hague Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption. Recalling the Rosa affair of 2003, in which a nine-year-old Nicaraguan girl who had been raped in Costa Rica had been unable to obtain authorization for an abortion in Nicaragua, he asked what impact this affair had had on mindsets and legislation in Nicaragua, and how the authorities would react now if a case like this were to recur.

21. **Mr. Siddiqui** asked the delegation to specify the amount and evolution of budgetary appropriations for children's affairs and to state how many times the National Council for the Comprehensive Care and Protection of Children and Adolescents had met the previous year. The frequency of meetings could be increased by instituting as required an executive committee responsible for drawing up a timetable, laying down appropriate agendas and ensuring that the application of National Council decisions was followed up.

22. **Ms. Anderson** asked whether measures had been taken to combat discrimination against Miskito and Afro-Caribbean communities, and particularly whether these communities had access to the human rights promotion and protection mechanisms put in place in recent years, and by what means they were informed about their rights. The delegation might give examples of programmes or campaigns conducted in rural areas along the Atlantic coast among these population groups. It would also be interesting to know whether cases concerning people from these communities had been referred to the Ombudsman for Human Rights, and if so, how many.

23. **Ms. Ortiz** wished to know why the delegation did not include any representative of the education, health, justice or social affairs ministries, which were so important for the application of the Convention. The numerous institutional changes of recent years and the adoption of an array of new plans and programmes for children required a certain adaptability on the part of the different ministries. It would therefore be interesting to know to what extent the ministries and government bodies already in place supported the new institutions responsible for promoting and protecting children's rights, and more particularly what links there were between the National Council for the Comprehensive Care and Protection of Children and Adolescents and the different ministries.

24. The delegation could indicate what measures were being taken at the local level to cope with the consequences of family breakdown, which was resulting in a rise in the number of children falling victim to exploitation and violence, street children and juvenile offenders, and what services existed for children at the local level. The Committee would like further details on the resources available to local authorities for providing these services and on the role of the municipal commissions for children and adolescents and the results of their action. Lastly, there was a need to know how far families and children participated in the programmes implemented locally and whether there were mechanisms for ascertaining their views on the services available to them and those they might require.

25. It would also be helpful to know whether institutions other than civil registries were authorized to register children, and if so how they operated, and whether civil registries had

the funding they needed to discharge their duties. Further details on the factors impeding registration of births, on the percentage of births outside of hospitals and on the mechanisms that could be used to register births, particularly in indigenous communities, would also be welcome.

26. **Mr. Parfitt** asked whether the provisions of the Convention prevailed if they conflicted with domestic legislation and wanted to obtain further details on the procedures for civil society participation in the preparation of the third periodic report and on the lessons learned from this, and to know whether the document had commanded a genuine consensus.

27. **The Chairperson** asked for clarification regarding the system put in place to compile a register of children at risk, and particularly on the criteria applied to define this category of children and the mandate of the Ombudsman for Human Rights and the three special ombudsmen. He also wished to know whether the Government had any plans to provide a free emergency telephone helpline for children.

The meeting was suspended at 11.10 a.m. and resumed at 11.25 a.m.

28. **Ms. Frech** (Nicaragua) said that the membership of the National Council for the Comprehensive Care and Protection of Children and Adolescents included two children, who had a full mandate and voting rights. Because of its very broad composition, the National Council played a key role in coordinating implementation of the Convention. It met on average eight or nine times a year and was chaired by the President of the Republic or the President's representative, in this case the First Lady, who played what was primarily a facilitating role. To prepare the third periodic report, the National Council had created an inter-institutional technical committee, representative of all its components, which had set out to work as transparently as possible.

29. The Ombudsman for Children and Adolescents, Mr. Carlos Emilio López, had recently ceased to exercise his functions and been replaced on an interim basis pending the appointment of the new Ombudsman for Human Rights, who was responsible for appointing the special ombudsmen. The Ombudsman's office had always worked in close collaboration with the National Council and the Federation of NGOs Working with Children and Adolescents. Between them, they had implemented major awareness-raising campaigns in all regions of the country, including the Caribbean coast, while a document setting out the principles and provisions of the Convention in Miskito had been widely distributed.

30. The Nicaraguan Government lacked the resources and infrastructure to implement the provisions of the Convention in full. Appreciable progress had nonetheless been made since the adoption of the Code on Children and Adolescents, which had given the Government the legal framework necessary for effective application. In any event, the difficulties encountered could not shake the Government's political will and commitment to the promotion and protection of children's rights. The plan had been for the Minister of the Family and the Minister of Health to form part of the delegation. Unfortunately, they had been kept in Nicaragua because a crisis unit had had to be set up following the announcement of the approach of tropical storm Adrian.

31. The case of Rosa, the nine-year-old girl who was raped and became pregnant in Costa Rica, had sparked a real controversy in Nicaragua. The doctors were divided over the advisability of carrying out an abortion, with its potential dangers to her health, or of allowing the pregnancy to go to term. An interministerial committee appointed by the President and a medical team from the Ministry of Health were asked to review the case, which was also considered by the Federation of NGOs Working with Children and Adolescents, the National Council and the Network of Women against Violence. The

National Council had pressed for the decision to be left not to the Government, but to the girl's parents, who opted for a therapeutic abortion.

32. The National Council had only a modest budget but made unceasing efforts to publicize the Convention, with support from UNICEF, Save the Children and other international agencies. With the help of private-sector firms, 10,000 copies of a colour-illustrated, easy to understand book on the rights of children had been distributed in all the country's schools, municipalities and even hospitals. The plan was to invest 493.3 million córdobas that year in the two autonomous regions, enabling a drinking water supply to be established there and thus improving their unsatisfactory sanitary conditions.

33. The study on the implementation of the National Action Plan for Children and Adolescents would be sent to the Committee. The study on violence against children undertaken in collaboration with NGOs and the National Council would be published on 7 June as part of Children's Week.

34. **Ms. Perez Perez** (Nicaragua) said that all the institutional members of the National Council and of CODENI had participated in the preparation of the report, whose content thus commanded a wide consensus. The National Action Plan for Children and Adolescents 2002–2011 took account of the recommendations formulated by the Committee following its consideration of the second periodic report of Nicaragua, and the intention was to update it over the course of the year to align it with the National Development Plan by strengthening the rights aspect and incorporating into it whatever recommendations the Committee might make after considering the third report. Training activities relating to the Convention, the Code on Children and Adolescents and children's rights generally were undertaken at all government institutions. Three children's rights programmes had been carried out with journalists, and another goal of the ten-year Action Plan was to familiarize these with the issue.

35. The amount of resources the State devoted to applying the Convention in the fields of education, health care and social services had been rising substantially at both the State budget and the local authority level, partly thanks to foreign debt relief and human resource development.

36. **Mr. Liwski** asked for details of the specific consequences of the cut of almost 25 per cent in allocations to social welfare programmes and services between 2001 and 2002, leaving them lower now than they had been in 2001 despite an increase in 2003.

37. **Ms. Perez Perez** (Nicaragua) explained that a number of social welfare programmes had been implemented as part of the reconstruction projects after the damage caused by Hurricane Mitch and that this budgetary item had declined when these were wound up, although this was partially offset by increased support from the international community during the period concerned, particularly the Inter-American Development Bank and the Norwegian Government.

38. Funding to implement the National Action Plan was not yet assured. There was a mechanism for monitoring progress, providing for biennial reports, of which the one covering the 2002–2003 period had just been finalized, and a progress report after five years of implementation. The National Council was working with the presidential secretariat responsible for strategy and coordination to put a figure on the cost of attaining the Millennium Development Goals, which were integrated into the Action Plan, as well as other goals laid down in the Code on Children and Adolescents.

39. UNICEF had given its support to the creation of the Information System on Children and Adolescents (SINAN) within the executive secretariat of the National Council. This was supposed to work with national and local institutions, but the funding needed to collect

disaggregated statistical data on children (indispensable if progress in applying the Convention was to be measured) was lacking.

40. The problem of discrimination was a challenge for the whole Caribbean coast, and enhanced measures were required.

41. There was no special budget for disabled children and adolescents, but a variety of programmes and activities of relevance to them were being implemented in different areas (integration into general primary education, a community-based rehabilitation strategy, the National Council for Disabled Children and Adolescents, early childhood stimulation centres, etc.).

42. **Ms. Ortega Plath** (Nicaragua) said that under article 71 of the Constitution, the Convention on the Rights of the Child applied automatically.

43. Children born on Nicaraguan territory to unknown parents were Nicaraguan nationals.

44. The definition of a child given in the legislation did not yet fully match the definition in the Convention, but the draft Family Code currently before the Parliament should incorporate all the minimum age provisions of the Convention. The Code on Children and Adolescents set the minimum age for employment at 14, as did the Labour Code.

45. The Constitution provided that primary education was free and compulsory and an initiative launched in the Parliament for a new education act was expected to lead to a very far-reaching national consultation regarding the age at which school started.

46. Nicaragua had not ratified the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, but the debate over reform of the adoption law that had now begun should lead to a conclusion on whether or not ratification was advisable.

47. The principles of the Convention were invoked before the courts and a whole range of new family laws (the Mother, Father and Child Relations Act and the Adoption Act, among others) enshrined children's right to be heard and have their views taken into account by judges. In addition, the Supreme Court was currently training all judges to ensure that all family laws were interpreted in a way that served the best interests of the child.

48. The new Criminal Procedure Code was based on modern principles enshrined in the Constitution. In all cases where adolescents were in conflict with the law, and in the administration of the juvenile criminal justice system, account was taken of children's right to be heard and have their views taken into account.

49. The proportion of children not registered at a civil registry office at birth was estimated at 23 per cent and numerous measures had been taken to remedy this situation, in particular the passage of a law aimed at facilitating the process by making the procedure easier and swifter. A project supported by UNICEF had recently led to the registration of some 30,000 children in the autonomous regions.

50. **Ms. Ortiz** observed that it was essential for the institutions responsible for registration to have the resources they needed to carry out their mission without having to depend on one-off measures.

51. **Ms. Aluoch** asked whether it was true that municipalities fined parents who registered their children after the time prescribed, with the consequence that they were discouraged from fulfilling this obligation.

52. **Ms. Ortega Plath** (Nicaragua) said that no provision in the Code on Children and Adolescents provided for sanctions or fines on parents who were late in declaring their children to the civil registry. On the contrary, the procedure was free of charge, including the delivery of the first birth certificate. Once a year had elapsed, there was a judicial procedure for registering births.

53. **Ms. Campbel** (Nicaragua) said that since 1990 Nicaragua had been engaged in a trade liberalization process, as part of which it had modernized its institutions, in particular its investment law, and had concluded the Dominican Republic-Central America-United States Free Trade Agreement, with those countries now providing its main export markets.

54. Regarding access to generic drugs, Nicaragua had adopted an opening position and brought all actors in society into the negotiations on the subject—representatives of the Ministry of Health, civil society, Nicaraguan pharmaceutical firms and Nicaraguan importers of medicines. This liberalization process would encourage investment and competition, and the Nicaraguan Government expected it to have positive effects on the whole economy.

55. **Mr. Liwski** asked what specific effects the General Health Act had had on children's and adolescents' access to the various health services since its implementation in 2002, what measures the Government had taken to ensure that the decline in the infant mortality rate seen over the previous 10 years or so continued, and in particular what policy it had implemented to help the 32 per cent of Nicaraguan children, most of them in the Caribbean region, who were not covered by the Integrated Management of Childhood Illness Strategy and were thus still excluded from vaccination and food supplementation campaigns.

56. It would be interesting to know whether the Government was actively working to promote breastfeeding, whether it had undertaken an evaluation of reproductive and sexual health programmes with a view to further reducing the number of early pregnancies, and whether it had put in place a special HIV/AIDS programme specifically targeting border and port areas and the Pacific region, where the virus was spreading faster than in the rest of the country.

57. It would likewise be helpful to obtain further information on the nature of the programmes implemented by the National Council for Mental Health, on the origin and quantity of resources available to it to carry out its work, and on the actions undertaken by mental health workers as part of the "Return of Happiness" project put in place after the ravages of Hurricane Mitch.

58. **Mr. Krappmann** asked whether the Government envisaged making preschool education free of charge and compulsory and whether, in this connection, it had any plans to set up training programmes for teachers and those responsible for the care of children in the age group concerned.

59. It would be interesting to know the main features of the programmes implemented to encourage school attendance and reduce dropout rates in primary school, how many pupils benefited from public-sector study grants, whether there was a monitoring mechanism to ensure that children completed primary education, whether the Government meant to do away with the "hidden" costs of primary education and why it was so difficult to reduce regional disparities in primary school enrolment rates.

60. It would also be desirable to know how many pupils completed their secondary education at the regulation age of 17 and how many were studying under the traditional curriculum ("day school"), in evening classes or by distance learning. Lastly, it would be helpful to know how much attention the Government paid to the demands of adolescent

workers' unions and to what extent it acted upon them, in particular by providing these workers with the opportunity to attend classes outside working hours.

61. **Ms. Khattab** asked what budget had been allocated to the National Plan of Action for the Prevention of Domestic and Sexual Violence 2001-2006 and what stage had been reached in its implementation. The delegation might indicate whether the National Commission for the Progressive Elimination of Child Labour and the Protection of Adolescent Workers had adequate human and financial resources available to it and what measures it meant to take to stem the rise in the number of children and adolescents in the labour market.

62. **Mr. Zermatten** asked whether it could be expected that all the provisions of the Code on Children and Adolescents would be applied systematically throughout the country in the near future, and in particular that juvenile courts would be set up in all districts of the country, multidisciplinary teams created within these courts, the work of staff in the judicial system, police and social services be better coordinated, and the special centre for juvenile offenders provided for by the Code actually opened.

63. The delegation might also indicate whether, in practice, the Ombudsman's service defended juvenile offenders as systematically as its mandate enjoined.

64. **Ms. Ouedraogo** asked what measures the Government envisaged taking to strengthen agencies responsible for combating child exploitation, drug addiction and child abandonment, since these were not well enough resourced for effective operation, and to provide children from indigenous populations of African origin, who made up 15 per cent of the child population, with access to the basic social services they lacked.

65. It would also be interesting to learn what actions the Government was planning to take to solve the problem of insecurity and to reintegrate street children, who were often in trouble with the law, back into their communities of origin.

66. **Mr. Siddiqui** asked whether Nicaragua had any plans to enhance the teaching profession by restoring pay and fast-tracking promotions and to put in place mechanisms to combat teacher absenteeism with a view to improving education quality.

67. **Ms. Smith** asked whether there were any plans to create a checklist for police personnel to put an end to illegal arrests, police brutality and other widespread human rights violations committed by members of that institution.

68. It would be interesting to know whether juveniles in detention had access to certain forms of recreation, to education and to libraries, whether deprived children and children in rural areas benefited on the same basis as the country's other children from the measures taken by the Government to implement article 31 of the Convention on recreational activities, and whether sporting facilities had been created so that disabled children could play sports.

69. **Ms. Ortiz** asked what measures had been taken to assist single-parent families, which constituted 25 per cent of the population, in particular by providing them with housing and guaranteeing their right to maintenance payments.

70. The delegation could state whether the Government had taken measures to protect the numerous adolescents leaving the country from human trafficking and exploitation.

71. The Committee would like to know what rules governed the placement of minors in institutions (especially if this occurred as the result of a court order), whether they were monitored and whether or not such placements were time-limited, and whether more funding had been allocated for the psychosocial treatment from which every child in an institution was supposed to benefit.

72. Lastly, it would also be helpful to know whether snacks were provided to children at primary schools to combat malnutrition.

73. **Mr. Parfitt** asked what sanctions parents, teachers and staff at detention centres for juvenile offenders were subject to if they inflicted corporal punishment on minors.

74. **Mr. Filali** asked whether the membership of the prevention committees set up by the police to combat crimes committed by youth gangs contained, in addition to members of the police force, people from civil society or representatives of the clergy, and whether the activities of these committees were subject to evaluation.

75. The delegation might confirm or refute reports from a number of sources that suspects were sometimes held for as long as a week in police custody, even though in theory there was a time limit of 24 hours.

The meeting rose at 1.05 p.m.