



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Thirty-ninth session

### Summary record of the 1044th meeting

Held at the Palais Wilson, Geneva, on Monday, 30 May 2005, at 10 a.m.

*Chairperson:* Mr. Doek

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*The meeting was called to order at 10.10 a.m.*

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

*Third periodic report of Costa Rica (CRC/C/125/Add.4; CRC/C/Q/CRI/3 (list of issues); CRC/C/RESP/81 (written replies by the State party); HRI/CORE/1/Add.104 (core document))*

1. *At the invitation of the Chairperson, the delegation of Costa Rica took places at the Committee table.*
2. **Ms. Gil Fernandez** (Costa Rica) said that the Government of Costa Rica had been continuing with the action that had begun with the adoption of the Children and Adolescents Code to amend the country's legislation and institutions in order to create the conditions for implementing the Convention, under the auspices of the National Council on Children and Adolescents. It had also taken measures to promote participation by all bodies dealing with children's issues in the preparation of children's policies and programmes, to improve data-gathering systems in different fields and to enhance the training of professionals concerned with children's rights. The National System for the Comprehensive Protection of Children and Adolescents had been strengthened and was now based on 40 Children and Adolescents Protection Boards and 175 local Tutelary Committees.
3. In its actions, the Government had placed the stress on equality between the sexes and on the effort to combat discrimination based on national origin or ethnicity and on disabilities, among other things. It had designated priority groups as part of the "New Life" anti-poverty plan and had set up mechanisms to assist disadvantaged families. Substantive measures had been taken on behalf of indigenous groups and ethnic minorities, particularly as part of the Development Plan for Indigenous People prepared by the High-level Inter-institutional Committee for Indigenous People. The National Children's Trust now had offices in all parts of the country, including those inhabited by indigenous groups. New school facilities (22 preschool education centres, 22 primary schools and 6 secondary schools) had been opened in these areas and indigenous-language education was provided there.
4. The educational situation had improved greatly, particularly owing to the increase in budgetary allocations to the sector. Of particular note was an increase in the enrolment rate at every level, made possible chiefly by the proliferation of single-class schools and increased use of information technology. Appreciable progress had also been made in the area of health: 90 per cent of inhabitants had access to basic health care and the vaccination rate for under-ones was 90 per cent. Costa Rica had also registered a decline in infant and maternal mortality and a drop in the number of early pregnancies. Note should be taken of the implementation of a programme of comprehensive care for adolescents and the creation of Battered Children's Committees in all the country's hospitals.
5. The abolition of child labour, the struggle against commercial sexual exploitation and sexual violence and the effort to combat trafficking in children were among the very highest priorities of the Government. A national plan to combat commercial sexual exploitation had been put in place and the position of prosecutor with responsibility for cases of sexual violence had been created. Specialist groups had also been set up within the judicial police and the Ministry of Public Security. Lastly, measures had been taken to enhance inter-institutional coordination on crime prevention and suppression and assistance for victims, and likewise international cooperation, which was indispensable in combating human trafficking networks, for which Costa Rica had unfortunately become a hub.
6. The general goals of the Government were now to achieve the passage of a large number of child-related bills that were before the Legislative Assembly, to strengthen the

Ministry for Children and Adolescents, to consolidate the reform process at the National Children's Trust and to consolidate the National Agenda.

7. **Ms. Ortiz** observed that data on children and adolescents in Costa Rica were fairly plentiful but not disaggregated by age, sex, ethnicity or region to a level that would allow an idea to be formed of any inequalities. The Committee lacked accurate indicators of phenomena such as commercial sexual exploitation, ill-treatment of children, street children and direct adoption. The school enrolment rate was 100 per cent at the primary level but fell progressively at the secondary level, and 30 per cent of pupils would not in fact complete their nine years of compulsory schooling. Although social investment was so important, prevention and care programmes in the area of health remained inadequate and the Committee would like to have details of the difficulties encountered by the Government and the measures envisaged to cope with them.

8. While saluting the efforts made by Costa Rica to implement the previous recommendations of the Committee, attention should be drawn to the work that remained to be accomplished, particularly when it came to improving the coordination and participation of all interested parties within the National System for the Comprehensive Protection of Children and Adolescents, carrying through the institutional reform necessary for full application of the Children and Adolescents Code and aligning domestic legislation with the provisions of the Hague Convention on Intercountry Adoption. Recalling that in its previous concluding observations the Committee had expressed concern about the impact of debt on children's rights, Ms. Ortiz asked what that impact was at the present time and what effects measures deriving from the free trade agreement with the United States might have on the effective implementation of the fundamental rights of the Costa Rican people.

9. The commitment of Costa Rica to children was encouraging, but problems remained with the application of the new rules, as the internal regulations of the different institutions had not yet been fully aligned with the new Children and Adolescents Code or with the Convention. Furthermore, the national system of protection did always seem to be fully operational, especially at the local level, or the role of the Protection Boards and Tutelary Committees appeared still to be limited. The delegation might thus describe the problems impeding the implementation of this system and preventing it from operating to full effect, and indicate what measures were being taken to strengthen the Protection Boards and Tutelary Committees. Details of the procedures whereby the population in general, and children in particular, could participate in locally implemented activities would also be desirable.

10. Lastly, it would be helpful to have details about the progress made in reforming the National Children's Trust and about the operations of the National Council on Children and Adolescents, with details of its budget, relationship with government bodies and other national institutions, and what it had achieved to date.

11. **Mr. Parfitt** noted that the budgetary resources needed to finance the activities of the National Children's Trust and set up Children and Adolescents Protection Boards in each of the country's 81 cantons in addition to 459 Tutelary Committees had not been released and wondered where the agencies responsible for implementing child-related programmes obtained the funding they needed to operate. He also wished to be apprised of the main features and timetable of the reform to the National Children's Trust.

12. It would be interesting to know how the State party assisted the poorest families, whether it had put in place mechanisms for estimating what portion of the national budget went on child-related policies and what volume of funding had been invested in this area by private-sector bodies and NGOs, for evaluating the impact of these different investments on children and for verifying whether services for children were easily accessible, of high quality and effective. The Committee would additionally like to know how the State party

was managing to “achieve greater community participation in administration and decision-making in the area of human resource development spending”.

13. The delegation might indicate whether a lower age limit had been set for children to take advantage of health services and care without their parents’ permission and whether there was any plan to consolidate provisions on the different age limits applying to minors (for criminal liability, marriage, full- or part-time employment, the end of compulsory schooling, consent to sexual relations, imprisonment, obtaining a driving licence and consuming alcohol) into the Children and Adolescents Code, and how it intended to make this information known to those affected.

14. The delegation could also specify what measures the State party was taking to ensure that indigenous children and the children of immigrants had the same rights and services as other children living on the territory of Costa Rica, how many of them benefited from a study grant and whether immigrants’ children could sit on student councils.

15. It would also be helpful to know what policies and laws the State party had adopted to compel policymakers to take systematic account of children’s best interests and what measures had been taken to change the mindset of adults on the subject, and in particular to ensure that children’s views were heard on any decision concerning them within the family or community and that children participated more at every level. Lastly, the delegation could say whether the State party had consulted minors who were victims of sexual exploitation when formulating laws, policies and programmes to combat this.

16. **Ms. Vuckovic-Sahovic** asked whether non-Catholic children or those with no religion could opt out of the apparently compulsory religious education classes that formed part of school curricula and whether or not minors were entitled to carry out political activities at the local level.

17. The delegation could also indicate what stage had been reached in the criminal law reform procedure whose aim was to criminalize and proscribe torture in the State party.

18. **Mr. Zermatten** wished to know how the State party apprised children and adolescents of the contents of the voluminous legislation governing children’s rights in Costa Rica and wondered in this connection whether the 32 laws listed in the report should not be recast into just one piece of core legislation, which could be the Children and Adolescents Code, for example.

19. It would be very helpful for the delegation to provide more accurate information on the respective functions of the different bodies named in the report and explain to what extent the activities of the National Council on Children and Adolescents, which had set up Children and Adolescents Protection Boards at the canton level and Tutelary Committees at the municipal level, duplicated the activities of the National Children’s Trust, which also operated at the local level through its local offices, and which of these two institutions was responsible for implementing the National Agenda for Children and Adolescents 2000-2010.

20. **Ms. Aluoch** asked when the Responsible Parenthood Act had come into force and whether children born outside wedlock could be duly registered under both parents’ names in the same way as children born in wedlock, so that both the father and the mother were held responsible for these children’s development and growth in accordance with the obligations incumbent upon them.

21. **Ms. Smith** wondered whether fiscal policy and corruption were not responsible for the divide between the richest and the poorest and could not understand why the State party was not able to attenuate these glaring inequalities even slightly.

22. **Ms. Anderson** asked whether it was true that the budget allocated to the telephone helpline for children and adolescents had been cut in 2003 and the service had had to reduce its staffing and hours as a result.

23. It would be helpful to know the age of criminal responsibility and the legal age for purchasing tobacco and alcohol.

24. **Mr. Siddiqui** asked whether there was any link between the system of statistical information on children's and adolescents' rights and the national system of statistics.

25. **The Chairperson** asked how staff at the National Children's Trust had reacted to the announcement of the reform to their institution and how extensively they were involved in the process. He also wished to know the nature of the main cultural obstacles that children and adolescents came up against when seeking recognition for their rights within the family.

*The meeting was suspended at 11.20 a.m. and resumed at 11.35 a.m.*

26. **Ms. Gil Fernandez** (Costa Rica) acknowledged that the multitude of rules, laws and programmes relating to the rights of children and adolescents could create confusion but emphasized that the activities of the different agencies did not overlap in any instance. Two bodies were responsible for coordination: the Ministry for Children and Adolescents, which represented children and adolescents in the office of the President, and the Social Council, whose mandate was to reduce social divisions and combat poverty.

27. Poverty, which still affected 18 to 20 per cent of the population, was a major concern and the Government was sparing no effort to combat it, as was shown by the "New Life" solidarity plan for the poor, which involved special measures for children in the health and education sectors.

28. The National Council was responsible for coordinating children's policies but not for implementing them. This intersectoral, inter-institutional body was composed of representatives of the State, NGOs, employers and unions. The National Children's Trust had been created by virtue of the 1948 Constitution and, as the body responsible for implementing all policies for children, had acted ever since through its local offices. The Trust, the Children and Adolescents Protection Boards and the Tutelary Committees between them constituted the National System for the Comprehensive Protection of Children and Adolescents. It was the Executive Chairperson of the National Children's Trust (the current Minister for Children and Adolescents) who chaired the National Council on Children and Adolescents.

29. **Ms. Lazarus** (Costa Rica) said that the ongoing institutional reform, whose main thrust was decentralization, would lead to the opening of 13 local offices of the National Children's Trust by the year's end, bringing the Trust into closer contact with people, particularly the indigenous and migrant populations, and enabling it to collaborate with the Tutelary Committees and the Children and Adolescents Protection Boards. This reform, which was supported by UNICEF, placed the stress on prevention and the promotion of rights, on measures to improve child-related information systems and the infrastructure and equipment available to the institutions responsible for upholding children's rights, and on human resources and training.

30. **The Chairperson** asked which authority the Tutelary Committees and Protection Boards set up at the canton level reported to, and what their relationship with the National Children's Trust was.

31. **Mr. Zermatten** wished to know who controlled the budgetary resources in this system.

32. **Ms. Gil Fernandez** (Costa Rica) explained that the Protection Boards, whose membership included a representative from the Ministry of Public Education, a member of the municipality, young people and civil society representatives, were chaired by a staff member from the local office of the National Children's Trust, which was the coordinating agency, and played a prevention and implementation role. The Tutelary Committees were responsible for safeguarding children's and adolescents' rights at the canton and region level and could file complaints. The Protection Boards received allocations through the National Children's Trust, to which they reported, while the Tutelary Committees were set up by development partnerships (civil society organizations active at the commune level). The National Council on Children and Adolescents represented the highest level of coordination. All allocations came from the Children and Adolescents Fund, which was managed by the National Children's Trust.

33. **Ms. Chaves** (Costa Rica) explained that the Children and Adolescents Fund, which financed the budget of the Protection Boards, had been set up in application of the Children and Adolescents Code and that its resources represented a certain percentage of the budget of the National Children's Trust, to which they were charged. The programmes implemented by the Protection Boards were determined on the basis of need, and their impact on the life of beneficiary communities was periodically evaluated by the Planning Office, at the request of the National Children's Trust.

34. **Ms. Gil Fernandez** (Costa Rica) said that adolescents could participate in the deliberations of the 43 Protection Boards and in the Youth Council, where they were very active, as well as in other associative arrangements within the educational system and the forums of NGOs dedicated to them.

35. The bill banning corporal punishment that had been prepared by the Ombudsman's office had been submitted to the Legislative Assembly and was expected to come into force that year. Costa Rica was a party to international instruments banning torture and an anti-torture bill was at the review stage, even though there had been no reports of torture, in prisons in particular.

36. The Children and Adolescents Code included a great many provisions aimed at combatting the form of torture constituted by the abuse and ill-treatment to which certain children were subjected within their families.

37. The government commission against paedophilia examined all cases of sexual abuse and paedophilia and the National Children's Trust took all necessary measures to protect children at risk whose cases called for a judicial ruling.

38. **Ms. Vuckovic-Sahovic** wished to know whether Costa Rican law allowed a group of minors to found an association or whether there necessarily had to be adults in their number.

39. **The Chairperson** asked whether minors could join a union or a political party without their parents' written permission.

40. **Ms. Gil Fernandez** (Costa Rica) replied that minors could create student associations. Where unions were concerned, nothing was settled as yet because further legislative work was needed on the issue of working adolescents aged over 15.

41. The sale of alcohol and cigarettes to under-eighteens was prohibited.

42. **Ms. Lazarus** (Costa Rica) said that under article 18 of the Children and Adolescents Code, anyone under 18 was entitled to associate freely with others for legitimate activities (which may not be political or undertaken solely for the purpose of gain). If there were adults in this association, children under 12 could participate in deliberations but not vote. Adolescents aged over 15 could participate in deliberations and vote or form part of the

governing bodies of the association, but could not represent it or accept obligations on its behalf. They could found and register associations authorized under the said article and prepare documents for this purpose, but a legally competent representative had to take on the liability deriving from them.

43. The National Children's Trust ran a programme to combat abuse and ill-treatment and was thereby empowered to bring official complaints in cases of this type. The Children and Adolescents Code made it obligatory for all adults to report such cases, even in the absence of evidence, and released them from liability if abuse or ill-treatment could not be proven. Awareness-raising campaigns were currently being run for parents, chiefly through the schools for parents. The need to avoid putting children back into the position of victims by bringing them face to face with their abusers during court proceedings was another major topic of concern.

44. **Mr. Parfitt** asked whether certain bodies or individuals (doctors, social workers or professionals working with children) were obliged to report cases of abuse or ill-treatment as part of their duties.

45. **Ms. Gil Fernandez** (Costa Rica) said that any citizen could report cases of this kind to the National Children's Trust, the public prosecution services or the services responsible for judicial investigations. The Battered Children's Committees that were embedded in all hospitals reported such cases to the first two of these whenever an ill-treated child was admitted. Article 49 of the Children and Adolescents Code provided that the management and staff of medical centres, education centres and day-care centres, among others, had an obligation to notify the public prosecution service of any suspected ill-treatment of a minor. In accordance with the directives of the National Council on Children and Adolescents, the Ministry of Public Education now had an office that centralized all complaints coming out of the education system.

46. The 911 telephone hotline could be called 24 hours a day and went directly through to the Ministry of Public Security, which would call in the police if ill-treatment, domestic violence or other abuses were notified. Cases of this type could also be reported by telephone to the local office of the National Children's Trust. Any notification of a case of marital violence using the 911 number was relayed to the National Women's Institute. Another hotline, likewise operating around the clock, alerted the organizations responsible for matters relating to adolescents. The people responsible for dealing with the cases (some 1,200 a year) that were reported to the National Children's Trust after being called in using the 911 number were properly trained to deal with sexual abuse and ill-treatment cases, examples being the experts at the Ser y Crecer Foundation, who guaranteed that all conversations would remain completely confidential. These people gave advice and routed calls to the different services capable of providing the necessary assistance, depending on the nature of the problem (sexual exploitation, attempted suicide, abuse, ill-treatment). The local offices of the National Children's Trust had an immediate protection service connected to a helpline open until 10 p.m.

47. Criminal legislation relating to minors made a distinction between children under 12, children aged 12 to 15 and children aged over 15, while the criminal law laid down different penalties for adults having sexual relations with a minor depending on the age of the latter and whether the sexual act was carried out for payment or not; any adult having a sexual relationship with a minor under 15 was committing a criminal offence, even if the minor consented.

48. Employment legislation made it illegal for children under 15 to work and legal for those aged 15 and over in certain cases.

49. **Ms. Ortiz** asked whether it was true that 80 per cent of public investment in the health-care sector went on curative medicine and just 17 per cent on health promotion and disease prevention.

50. She would like to have additional information on the “management agreements” mentioned in the report, which were an original way of consulting the local population to identify health-care priorities but apparently had the perverse effect that the priority identified was focused on to the exclusion of other problems.

51. The delegation could indicate whether dietary supplementation programmes had been put in place to combat iodine and fluoride deficiencies among children aged 7 to 12 and whether child obesity was a problem in the country.

52. Early pregnancies constituted 20 per cent of all pregnancies, and access to health care was problematic for people lacking personal documents considered valid, while there still seemed to be disparities between urban and rural areas in access to health care.

53. It would be helpful to know whether progress had been made with access to education for migrants and adolescent mothers.

54. According to a study conducted in the country, the issues of health, education and poverty were virtually absent from the columns of newspapers, which addressed the problems of childhood from a sensationalist angle, chiefly relaying cases of sexual exploitation and crime. The Committee therefore wished to know whether agreements had been concluded with the media with a view to their performing the social function assigned to them by article 20 of the Convention.

55. **Mr. Parfitt** wished to know how careful the judicial system was to prevent children whose rights had been violated from being traumatized anew. Measures that could be taken for this purpose included installing two-way mirrors in courtrooms and recording depositions on video cassettes.

56. Since the State party had acknowledged in its report that health services could be hard to access in certain remote areas and for indigenous people or immigrants, it needed to explain what was being done to remedy the situation.

57. Given that child labour was much more prevalent in the informal sector than in registered businesses, the delegation might indicate what measures were being taken to deal with this doubly illegal working practice.

58. **Ms. Lee** asked whether a prenatal diagnosis programme, involving amniocentesis in particular, had been put in place in view of the alarming rise in genetic malformations and whether dietary and medical follow-up came into play when a diagnosis such as phenylketonuria was made at birth. The delegation would also kindly indicate how many “baby-friendly” hospitals Costa Rica had and whether it had signed the International Code of Marketing of Breast-milk Substitutes.

59. It would be helpful to have some details of the difficulties encountered by the education system in coping with children who had special needs, something the Ombudsman had become concerned about. On this subject, the delegation might also provide details of the different categories of disabilities recognized, particularly autism and learning difficulties. Another point on which information was needed was whether the support services section had or was going to have a presence throughout the country.

60. **Mr. Krappmann** noted with regret that less than a third of pupils entering secondary education completed it and obtained their secondary school leaving diploma, in addition to which there were disparities between boys and girls and between urban and rural areas that the State party was having trouble eradicating, a point that merited explanation. The question arose as to whether the hidden costs of education, such as

transport costs and the price of school textbooks or school meals, contributed to the high dropout rate and, if so, whether disadvantaged families benefited from special financial assistance.

61. It would be helpful for the State party to provide further information on education projects for children who were not in school and indicate what follow-up had been given to the Committee's earlier recommendation advising an expansion of vocational education.

62. **Ms. Khattab** asked whether the upgrading of the Family Department to the rank of Ministry of Child Welfare in May 2002 had been matched by a wider remit and increased resources. There was also a need to know whether employees at health-care establishments admitting adolescents with problems were properly trained, as some sources claimed that adolescents had fallen victim to abuse and ill-treatment there.

63. Preventive measures were needed to limit the number of adolescent pregnancies, just as there was a need to improve early detection and follow-up of disabilities, while preventing stigmatization of the disabled and providing them with access to special education, as recommended by the Ombudsman.

64. It would be good if the delegation could describe the measures taken against sex tourism and state whether the Interministerial Group against Human Trafficking was equipped with adequate human and financial resources, while also explaining the relationship between the Group and the National Children's Trust. The immediate and systematic expulsion of trafficking victims to their countries of origin should stop.

65. The Committee would also like to know what measures had been taken by the State party to deal with the phenomenon of street children, about 76 per cent of whom were estimated by some sources to be drug addicts, with 29 per cent practising prostitution.

66. **Ms. Anderson** asked how many orphans had been left by HIV/AIDS and whether generic drugs were offered to AIDS sufferers.

67. She also wished to know whether Costa Rica had parental guidance services and facilities for small children (aged 0 to 6).

68. **Mr. Filali** said that certain sources had reported manifestations of racism and xenophobia against minority groups in the media, and wished to have further information on this point. It appeared that health-care coverage was good for general medicine but inadequate for specialist medicine, and that the consequences were felt by disabled people, as they could not get their problems dealt with at the local or regional level.

69. Measures should be taken to protect children against paedophile teachers and priests.

70. It would be helpful to know what mechanisms had been put in place to enable restorative justice to be dispensed and to what extent judges had been made aware of this positive form of justice. It was worrying that minors could be tried in absentia, as this was contrary to children's right to be heard on matters concerning them.

71. **Ms. Vuckovic-Sahovic** wished to know exactly what became of juvenile offenders who had not reached the age of criminal responsibility, set at 12, as it seemed that they could be deprived of liberty by the juvenile courts. It would be good for the delegation to say what the community service that could be substituted for detention consisted in and what age groups could benefit from it. The delegation was also asked whether minors alleged to have committed offences were placed in police custody before trial or sent directly to a juvenile rehabilitation centre.

72. **Ms. Smith** asked whether there were any plans to increase the budgetary appropriations for children's affairs.

73. **Ms. Ouedraogo** wished to know what supporting measures were in place for deprived families living below the poverty threshold.

74. She also wondered in which cases foster homes were used as a provisional solution and in which cases children were placed their permanently. In these latter cases, the procedure should be reviewed to bring it into line with the adoption procedure.

75. The delegation was asked to state whether the centres for juvenile drug abusers had been reopened as had been planned in 2003, and whether they were adequately resourced.

76. The Committee also wished to know what measures were planned to deal with the difficulties identified in the report with regard to family welfare and alternative care.

*The meeting rose at 1.00 p.m.*