



ngo group for the crc

## STATE PARTY EXAMINATION OF THE COSTA RICA'S 4TH PERIODIC REPORT

57th SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD  
30 May - 17 June 2011

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*Costa Rica ratified the Convention on the Rights of the Child (CRC) on 21 August 1990. On 10 June 2011, the Committee on the Rights of the Child (the Committee) examined the fourth periodic report of Costa Rica. It was last examined in May 2005.*

### Opening Comments

The delegation of Costa Rica was led by Mr. Manuel B. Dengo. He was supported by a small delegation consisting of representatives from the National Children's Board and government institutions, although the specific titles were not given. Mr. Dengo assured the Committee that Costa Rica wanted to use the constructive dialogue to improve the situation of children within the country. Mr. Dengo said that in the period of 2002-2007 Costa Rica had seen progress in bringing its laws in line with the CRC. He said that the general Law on Childhood, passed on 15 November 2002, reaffirmed that adolescents were subject to full rights and no discrimination of any kind. Mr. Dengo said that on 20 October 2005, an additional juvenile penal law had been passed which provided for holistic protection for minors and alternative sentences other to prison. On 1 September 2008 corporal punishment had been banned by law in Costa Rica. On 13 August 2010, law number 8824, an amendment to the Code on the Rights of Adolescents, had entered into force, and subsequently gave power to the Minister of Labour to stop children from being employed as domestic workers and prohibited certain types of work for children, such as taking care of younger children or older people. Mr. Dengo also discussed laws that the State had passed, which strengthened protection for children against sexual exploitation and gave benefits to those with disabilities, as well as other general measures of protection for minors.

Mr. Dengo said that despite the progress the State had made in implementing the CRC, there were still significant challenges. One of the major challenges had been to provide an appropriate amount of funding for effective implementation. Mr. Dengo stated that in order to overcome these obstacles, the State had made several roadmaps and action plans that promoted children's

wellbeing and provided a structure for the government to follow. He said that currently, laws were being reviewed in the National Council that would enable the government to collect data and information that would help the State to determine what still needed to be done in the area of children's rights.

Mr. Dengo said that Costa Rica had made progress in the area of vaccinations and other healthcare services for children. Child mortality had fallen from 11.15 per cent in 2002 to 9.46 per cent in 2010, which was one of the lowest rates in Latin America. He said that abortion was unlawful and that there was a national strategic health plan for adolescents which covered strategic areas of healthcare.

Mr. Dengo said that the budget for education had been to 7.2 per cent of GDP in 2010. He said that there was also a new bill pending that would require 8 per cent of GDP to be set aside for education purposes. He also stated that there was a declaration by the Superior Council that set up a framework for education and provided development between human beings and nature with respect for diversity and a sense of responsibility towards the older generation.

Mr. Dengo, in conclusion, said that there was a road map that addressed the issue of protection for adolescent workers. He said that the tourist industry was working very hard to address expressed Costa Rica's willingness to work with the UN to make further progress in the implementation of children's rights.

Ms. Marta Mauras and Ms. Pilar Nores, the Co-Rapporteurs, welcomed the delegation and thanked them for the update on the status of children in Costa Rica. They said that they would like to see what vision of sustainability Costa Rica had, to establish a sustainable child protection system. They also noted that inter-institutional coordination is carried out by the Patrona Nacional De La Infancia (PANI) and asked for information on how this body is funded. Ms. Mauras also asked what kind of monitoring tools were available to PANI for it to evaluate implementation of child rights programmes and policies. Both rapporteurs enquired about the national plan to protect vulnerable children in Costa Rica, especially those of migrant workers. Ms. Nores asked about how the economic crisis had affected the country and thus how the fulfillment of human rights had been affected.

## **General Measures of Implementation**

### ***Budget***

The Committee wanted to know how Costa Rica had managed the impact of the economic crisis on its national budget. The Committee noted the increase in budget allocation education but wanted to know what steps would be taken to ensure sufficient funding for other areas such as health. The delegation replied that the State does not have the necessary resources to implement all the rights set out in the CRC. The delegation said that the State would need to reflect on more cost-efficient ways to implement laws protecting children's rights. The delegation explained that the PANI had not been impacted by the budget cuts.

### ***Coordination***

The Committee asked how the implementation of laws and policies was coordinated vertically from the national to the municipal level. The Committee was interested in what had been an on-going process in Costa Rica of decentralisation of governance to the municipal level. The delegation replied that four years ago the State had worked with UNICEF and various NGOs to apply national programmes at the local level. The delegation explained that a local diagnosis had been made, which had subsequently been used as a basis for which each municipal body defined a plan of action for that area. The delegation said that it was being implemented in 14 cantons and would eventually spread to all 18 cantons of the Republic.

### ***Dissemination and Training***

The Committee wanted to know whether judges working within the juvenile justice system had systematically received training in order to ensure that the CRC was applied in the deliberation of cases concerning children. The delegation replied that judges had met with certain difficulties in applying the rights of the individual child in relevant cases but that there were programmes available for judges where they were taught about the rights of the child and how best to apply it in court cases.

### ***International Cooperation***

The Committee noted the comments made in the State report concerning international cooperation, which the State had described as not yet having been fulfilled satisfactorily. The Committee asked whether steps had been taken to further cooperate with neighboring and other States.

### ***Monitoring***

The Committee said that Costa Rica was a model for child protection with a tradition of guaranteeing the child's right to be heard, but wanted to know whether the staff of the Ombudsman's office was specialised in working with children.

### **Definition of the Child**

The Committee said that the delegation mentioned that the earliest age of marriage was 15, with the permission of the parents. It was also noted that the age of sexual consent in Costa Rica is 13, which was of concern to the Committee. The Committee said that girls who are pregnant under the age of 18 have higher rates of maternal mortality, so the age of sexual consent and marriage is critical. The delegation replied that the criminal code is undergoing reform but that the present code had sanctions on it for any adult who had sexual relations with a minor, regardless of consent. The delegation also said that it would take note of the Committee's recommendations to raise the age of sexual consent and marriage.

## **General Principles**

### ***Non-discrimination***

The Committee noted that according to young people, there were over 70 per cent that said that they had been victims of discrimination, especially among disabled and migrant children. The Committee wanted to know if the State had reacted to this. The delegation replied that there was a national plan against discrimination and that it was in line with the UPR recommendations made to Costa Rica for fighting against discrimination. The delegation said that this national action plan would include indigenous populations, migrant populations and those of African descent. The delegation expressed the hope that they would be able to implement this plan soon.

### ***Best interest of the child***

The Committee asked the delegation how they were going to ensure that the interests of the child were above public interests.

### ***Respect for the views of the child***

The Committee said that in individual cases there seemed to be an impressive number of provisions that state the right of the child to be heard in all decisions. The Committee asked if there is evidence of children not being heard in practice and what Costa Rica planned to do to implement laws that gave children the right to be heard.

The Committee also asked about the participation of minors and whether they had actual influence over the course of events. The delegation replied that minors do not participate in commission within the social sector but that they participated in legal committees. The delegation stated that there are legal provisions in place that ensure minors representation.

## **Civil Rights and Freedoms**

### ***Child Abuse***

The Committee noted that the largest number of complaints about corporal punishment came from students about their teachers and asked how the Committee was addressing this. The delegation replied that the reforms that took place outlaw corporal punishment and that in education centres, corporal punishment is banned by law. The delegation replied that they also have a code on juvenile justice, which also prohibits corporal punishment.

The Committee asked whether the State had defined corporal punishment in its laws and texts that prohibit it. The delegation replied that corporal punishment is defined in the laws. The Committee then asked whether the perpetrator of corporal punishment could be persecuted for harming a child. The delegation replied that any person harming a child could be brought to justice.

## **Family Environment and Alternative Care**

### ***Adoption***

The Committee asked why there was debate in Costa Rica over ratification on the Hague Convention and why there is so little regulation on international adoption. The delegation clarified that the Hague Convention was ratified and it was the Convention on Migrant Workers that was not yet signed.

The Committee asked about international adoption and wanted to know if there was any financial gain for those that adopt Costa Rican children from a different country. The delegation replied that they only allow international adoption when they had a bilateral treaty with the country. The delegation said that there is one trial lawyer and an investigative judge for each case to make sure that the adoption is legal and in the best interest of the child.

## **Basic Health and Welfare**

### ***Children with disabilities***

The Committee recognized that Costa Rica had ratified the Convention on the Rights of Persons with Disabilities but also noted that implementation was very slow, with many barriers in the way of rights for disabled children. The Committee asked what the State Party was doing to integrate those with disabilities into everyday life. The delegation replied that they recognised that the national efforts as of right now are insufficient, but that three weeks ago, the National Council for Special Education drafted a new policy towards those with disabilities, for which a plan was currently being formed. The delegation explained that this policy would ensure that those with disabilities had the right to be heard.

### ***Health services***

The Committee noted that there was not a mention of mental health within the State report. The Committee asked for more information, such as the situation of depression and suicide and also asked for an update on what sort of preventative services and health services are available to those afflicted with mental illness. The delegation replied that there was a national action plan from 2006-2010 that provided for adolescents and gave them access to care. The delegation stated that even though the plan had now ended there were services still in place to help counsel adolescents with mental illness. The Committee asked for more detail of the programmes in place and wanted to know how cases of depression were treated versus cases of substance abuse. The delegation replied that there were many levels, with call centres as the first level that worked to refer patients up to the second level, which included mental health centres all around the country. The delegation said that patients with serious cases could be referred up to the third level, which was the national psychiatric hospital with social workers and pediatric specialists for children. The delegation also said that they had a special centre for those with drug addictions and a programme called New Horizons, which treats patients in the first level of addiction. The delegation said that after this stage, patients who need more care were put into specialised centres or NGO organised addiction clinics.

The Committee noted with concern that most of the specialised centres were only in one area of the country, that the national level institutions were the most effective. The Committee said that it wondered whether this type of decentralization really met the needs of children within Costa Rica.

The Committee asked about breastfeeding, finding that exclusive breastfeeding rates are initially very high but decline rapidly after the first three months, down to about 54%. The Committee asked the delegation about the status of breastfeeding in Costa Rica. The delegation replied that there is a pre-natal and post-natal assessment programme in place along with a child growth programme. The delegation stated that the status of babies is followed up in many different capacities once the baby is born. The delegation went on to say that there had been many campaigns to promote breastfeeding and that breast milk bank had been established to further breastfeeding in the state. The Committee said that even though the state had provisions, there was still a fall in the number of cases of breastfeeding and asked why this was. The delegation replied that legally, working mothers are given an hour for breastfeeding and that maternity leave is three months. The delegation said that these two legal provisions are always offered to working mothers so the cause of the drop in the rate of breastfeeding is unknown.

The Committee asked whether there were any programmes in place that aimed to prevent the spread of STD's among adolescents.

### ***Teenage pregnancy***

The Committee noted that since abortion is not legal, the abortions that are taking place must be illegal. The Committee then asked what support there is for those who have abortions, even if the abortions are illegal, and whether sexual education programmes were being conducted. The delegation replied that it supposed those who had undergone an illegal abortion were given the necessary care but since the operation was illegal, no data was available on the subject. The Committee also asked if teenagers had access to contraceptives, such as condoms.

The Committee noted that one out of five births were to a mother under the age of 15 and that illegal abortions are extremely common. The Committee asked whether there were any plans to reform article 121 of the criminal code to create stronger guidelines for hospitals to follow when asked to perform an illegal abortion.

### ***Birth Registration***

The Committee asked whether there was a system set up for declaration of birth. The Committee also noted that there the State party said that there was a minimal number of children who were not registered, but wanted to know what happened to those children who were not registered and therefore unable to obtain a birth card, passport and other official documents. The delegation replied that there was a public official in all health centres who registers birth and there are two procedures in place for those not registered at birth, one for children under nine and one for children over nine years of age.

The Committee asked whether there was a birth registration system that covered marginalized groups of children, such as migrants. The delegation replied that it was important to stress that the right to register was given to every child born in Costa Rica and that even if a child was born in a household in a rural area, the parent of the child can very easily register the child. The delegation also noted that Costa Rican nationality was absolute and could not be renounced.

## **Education, Leisure and Cultural Activities**

### ***Education***

The Committee asked a question that was a follow up to a recommendation made to Costa Rica during the last session about education and religion. The Committee noted that Catholic education was part of the curriculum in the schools of Costa Rica and wanted to know if non-Catholics had access to education that was not based on the Catholic religion.. The delegation replied that it had concerns in applying this recommendation and efforts were being made and the government was cooperating with the University of Costa Rica. The delegation stated that there are still difficulties to fully implement this recommendation in the country but that positive steps are being made.

The Committee asked about the rate of dropout in schools, noting that since going from primary to secondary school is rather difficult in Costa Rica and that schools do not guarantee employment. The Committee asked what policies were being implemented to keep children in school. The delegation replied that the Education Ministry has a programme which integrates recreation and culture within school in order to make it more attractive to young people, and also mentioned that there were some programmes that would subsidise the child's education. The Committee asked whether this type of programme decreased the educational level of the schools, and what the official reasons were for the high rate of dropout. The delegation replied that the official reasons were many and varied and said that poverty was one cause, but not the sole cause. The delegation stated that many students are simply bored and that is why the Ministry of Education is implementing programmes that incorporate theatre, dance, music and other related programmes into the curriculum.

The Committee asked whether bi-lingual education was available. The delegation replied that there were bi-lingual schools.

The Committee noted that the infrastructure should change so that the curriculum shows input from the children themselves, since their input would be invaluable to changing the system and lowering dropout rates.

## **Special Protection Measures**

### ***Migrants***

The delegation first made a statement about why they had not yet ratified the Convention on Migrant Workers and said it conflicts with their neighboring country. The delegation went on to

say that the right time had not yet come for Costa Rica to ratify the document but that new migration laws covered many of the topics in the Convention.

The Committee asked if a migrant mother could register her child in Costa Rica. The delegation replied that the mother must register her child if the child was born within the country and that children born outside the country could also be registered if their parents were Costa Rican.

The Committee then asked about migrant children and asked how these who did not have an obligation to register were registered with the government. The delegation replied that all children born in Costa Rica had the right and obligation to be registered.

The Committee noted that Costa Rica was the second largest country that hosts refugees and asylum seekers in Latin America. The Committee asked how the fee that the government is asking for, approximately 125 US dollars, is a fair fee, since migrants and refugees may not be able to pay any amount of money.

### ***Data Collection***

The Committee noted that Costa Rica has numerous policies and action plans and that all of them depend on comprehensive data collection and analysis of trends. The Committee asked how Costa Rica planned to obtain this data and analyse it when there was so much information lacking, especially in the area of indigenous populations and the disabled. The Committee also wanted to know where the resources to analyse the data would come from. The delegation responded that the domestic survey that had been currently circulating would yield much information that was missing and enable the government to make public policy decisions. The delegation said that the data that had at the moment was qualitative not quantitative and that the government hoped to remedy that as soon as possible with the efforts being carried out by the Observatory. The delegation clarified further that the Observatory was a different institution than the National Statistic Office (INIC) and that they both had different sources of information which helped officials form their data and make policy decisions.

### ***Child labour***

The Committee noted that 2002 figures found 1.1 million children working, which was over 10% of children in Costa Rica. The Committee asked if updated figures were available. The Committee also asked about the fact that many children were working in situations which were considered undesirable and asked what the State was doing to remedy this. The delegation replied that two draft laws had been adopted, one addressing domestic work and one addressing dangerous work. The delegation also mentioned the road map they had established which addressed the sex trade, trafficking and ideas for implementing laws against them. The delegation said that the roadmap would be distributed at a local level so that local institutions can take note of its contents. The delegation also mentioned that a protocol had been implemented, in conjunction with UNICEF, to identify all child workers and give them social security coverage. The delegation stated that the effort to do so had started four months prior and specific actions have already been carried out.



The Committee asked about the implementation of Resolution 182 of the ILO on the Eradication of the Worst Forms of Child Labor. The delegation replied that there were labor inspectors that were supposed to inspect the different workplace areas but that there had been trouble with them gaining access. The delegation said that reforms were taking place and that there were steps taken to define the workplace and what the law for labor inspectors applied to. The Committee followed up by asking the delegation whether Costa Rica had managed to define what the worst types of child labor were. The delegation replied that there was a law and an executive decree which regulated dangerous forms of work and established safety criteria a minor must fill in order to hold a job.

### ***Sexual Exploitation***

The Committee said that reference had been made to the roadmap but wanted to know if anything had been done train judges, officials and other people responsible for dealing with the victims. The delegation replied that the national body was developing programmes at local levels to address cases of sexual exploitation and to bring the perpetrators to justice.

### ***Trafficking***

The Committee noted that the delegation only mentioned one case of trafficking in the report and said that this case resulted in a conviction. The Committee asked whether the delegation could prove this to be true and asked what system is in place to monitor prostitution and trafficking. The delegation replied that there are a number of public institutions working in the field and a road map which refers to sexual trafficking and a plan to stop it. The delegation said that there was a hotline as well, which allowed children to come and report cases of trafficking and sexual exploitation. The delegation also said that there were some health centres which provided psychological assistance to victims of trafficking and that this service must be provided to victims until the legal proceedings for prosecuting the perpetrator occur.

### ***Juvenile Justice***

The Committee asked about witness protection and whether the law upholding it, Witness Protection with Minors and Victim Protection in the Case of Minors, was linked to the penal law. The Committee also wanted to know if this law was respected by the courts. The delegation replied that this law was geared toward police protection and that judges of the court were obligated to apply it. The delegation admitted that there were still some steps to be made in the application of the law but that the government was aware of this and still working on the implementation.

The Committee asked for data on the number of people that were detained and deprived of liberty. The delegation replied that according to approximate data from 2007, there were 3000 cases total and that data involving the number of sentences handed out would be provided later. The Committee then asked how many minors were in jail to which the delegation replied that there were approximately 26 in 2007 and that more up to date and exact data could be provided later.

The Committee asked about the criminal age of responsibility and whether there was any legislation to raise it. The delegation replied that there is legislation moving forward with this purpose and that many groups were working toward its passage including the National Committee in Juvenile Justice which was asked to put input into the legislation.

The Committee asked the State party whether children were separated from adults when held in detention before and after judgment. The delegation replied that those in the legal process are separated from those that are sentenced and that children and young adults were in the same prison but that there was no mingling of age groups whatsoever within the complex. The delegation stated that the ombudsman gives regular visits to the prisons and reports any abuse of children occurring.

The Committee asked if Costa Rica had a policy of prevention in place. The delegation replied that there are programmes in place to protect vulnerable populations and other programmes that promote community peace run by the Ministry of Justice.

The delegation made a statement about the recent developments in the juvenile criminal code. The delegation said that in the future, the government would work with the media for how to correctly portray minors and stop newspapers and magazines from printing a picture of a minor in court.

## **Concluding Remarks**

The Co-Rapporteurs expressed gratitude toward the efforts made by Costa Rica to implement children's rights. Ms. Mauras said that she wanted to stress the importance of data in implementation and that there appears to be much work to be done in Costa Rica with gathering and organizing data. She also stressed that the age of marriage and sexual consent should be a priority for the country. Ms. Mauras also said that national debate over disabilities and sexual abuse needs to occur. She also mentioned that some justice laws needed clarification and were too flexible and open for judges discretion.

Mr. Dengo thanked the Committee and assured the members that Costa Rica came to the council to be as transparent as possible about the status of children's rights within his country. He said that Costa Rica must invest in children because they were the future and that the session would greatly help them in implementation of children's rights. He invited members of the Committee to visit Costa Rica and see the situation for themselves and too participate in training the judiciary to be sensitive to the rights of children. He indicated that there is much work to be done in terms of the treatment of minority population. He thanked the Committee for their comments and their questions.