



## Convention on the Rights of the Child

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### COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-eighth session

### SUMMARY RECORD OF THE 1020th MEETING

Held at the Palais Wilson, Geneva,  
on Tuesday, 25 January 2005, at 3 p.m.

Chairperson: Mr. DOEK

### CONTENTS

#### CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

##### Third periodic report of Bolivia (continued)

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Third periodic report of Bolivia (continued) (CRC/C/125/Add.2; CRC/C/Q/BOL/3; CRC/C/RESP/73; HRI/CORE/1/Add.54/Rev.1)

1. At the invitation of the Chairperson, Mr. Moscoso Blanco, Ms. Patiño Durán, Ms. Fernández Jáuregui, Ms. Muñoz and Mr. Poggi (Bolivia) took places at the Committee table.
2. Ms. PATIÑO DURÁN (Bolivia) said that Bolivia had signed and ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. In that connection, she pointed out that intercountry adoptions generally involved children from poor countries that did not have the resources to set up the infrastructure and institutions required under the Convention; the receiving countries must therefore bear their share of the burden.
3. Bolivia had not signed the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Since capital punishment was already prohibited under Bolivian legislation, the protocol was not regarded as a priority. Bolivia had signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and all other relevant international conventions had been signed and ratified.
4. Bolivia's Code for Children and Adolescents had been drafted following intensive consultations between civil society and national institutions and with the help of the United Nations Children's Fund (UNICEF), which had worked for many years to ensure that Bolivian legislation was consistent with the Convention on the Rights of the Child. However, the Code, which had been adopted in 1999, had to be amended in a number of areas, including its provision on the right to an identity. Although the Code already referred to the free issue of birth certificates to all children and adolescents in Bolivia, the wording of the provision was very vague and needed to be made consistent with Bolivian legislation adopted in December 2003.
5. In the past, policy-making in Bolivia had been centralized and hierarchical, and norms, regulations and institutions dealing with children had focused on vulnerable or dangerous children. That mindset had been overcome, and the Code for Children and Adolescents supported all Bolivian children, giving priority to children who were most excluded from society or whose rights were most vulnerable. The Government, the judiciary, the legislature and the municipalities all played a part in protecting children's rights. The Vice-Ministry of Gender, Generational and Family Affairs was responsible for implementing national policies affecting children, setting guidelines and monitoring follow-up. However, institutional structures needed to be strengthened in other sectors.
6. The municipalities had gradually become involved in protecting children's rights and interests. It was important to distinguish between the National Ombudsman and the Local Ombudsmen for Children and Youth. The National Ombudsman was appointed by Parliament

and was independent but did not have coercive power, while the Local Ombudsmen for Children and Youth could intervene directly in matters relating to the protection of children's rights. There were currently more than 220 offices of the Local Ombudsmen for Children and Youth in 209 municipalities; in La Paz, there were five Local Ombudsmen, one for each district. The offices cooperated with the juvenile courts and other judicial bodies, and worked with experts investigating cases of sexual abuse of children.

7. At the local level, the Government was represented by a number of entities responsible for ensuring children's right to health care, education and family. However, funding remained insufficient, because human development was rarely given priority, and it was often difficult to obtain the investments needed for local services. It was therefore important to convince regional and municipal authorities of the need to promote human development and respect for children's rights.

8. Ms. SARDENBERG asked whether the National Ombudsman could hear complaints of violations of children's rights even if he had no authority to take action, and whether he was in close contact with the Vice-Ministry. She wondered whether children were aware that they could turn to Local Ombudsmen and whether any efforts had been made to draw attention to that institution. She asked whether the Government, political parties and NGOs planned to raise issues concerning children's rights at the Constitutional Assembly to be held in 2005.

9. Mr. KOTRANE asked whether the Local Ombudsmen were independent and whether they could intervene with the local authorities in order to protect or restore children's rights.

10. Ms. ORTIZ asked whether Bolivia would consider organizing international cooperation to help municipalities strengthen the offices of the Local Ombudsmen.

11. Ms. PATIÑO DURÁN (Bolivia) said that local governments were autonomous. In December 2004, new governments had been elected in the 320 municipalities in Bolivia. The Government funded the municipalities, which also had their own revenues. However, since municipalities often did not give priority to human development, resources for the activities of Local Ombudsmen were often inadequate. Another difficulty was that, whenever a new mayor was elected, the staff of the office of the Local Ombudsman was replaced and new staff had to be trained. By contrast, the National Ombudsman was independent and had no ties to any political parties.

12. There had been very few cases in which children had complained directly to the National Ombudsman. The National Ombudsman was responsible for carrying out investigations, and making recommendations, which were not binding. In his annual report to Congress, the National Ombudsman stated whether or not his recommendations had been fulfilled.

13. With assistance from UNICEF, the Government and civil society were working on a draft provision on the inclusion of the rights of children and adolescents in the Constitution. The Vice-Ministry had taken measures to ensure that proposals concerning children and adolescents were taken duly into account.

14. Political instability in recent years had had a negative impact on Bolivia's institutional structure and had hampered progress in the implementation of children's rights. However, the Code for Children and Adolescents provided a solid legal framework and the participation of civil society institutions guaranteed a degree of continuity in times of political change. With a view to institutional capacity-building, the Code provided for the creation of permanent posts for public officials working in the area of child rights. In 2004, such institutional reforms had been undertaken in the departmental social services units of four out of nine prefectures; in the remaining prefectures, matters pertaining to children had been entrusted to experts in the field.

15. Ms. KHATTAB asked the delegation to comment on the nature of the relationship between the Government and civil society.

16. Ms. PATIÑO DURÁN (Bolivia) said that the Government recognized the important role of civil society institutions in the formulation and effective implementation of public policies and held regular round-table discussions with civil society representatives.

17. Bolivia's authoritarian, adult-oriented culture constituted a major obstacle to the implementation of child-friendly policies. Moreover, the use of corporal punishment as a disciplinary measure was widely accepted. Awareness-raising activities that fostered a culture of respect for children's rights were therefore a fundamental element of policy implementation. The implementation of children's rights depended on changes in attitude and required the active involvement of the community.

18. In an effort to reduce the number of children placed in childcare institutions, the Government had prohibited the construction of new childcare facilities and had encouraged national adoptions. However, adoption was viewed negatively in Bolivian society and the success of adoption programmes would depend on the effectiveness of awareness-raising campaigns in that area.

19. Ms. SARDENBERG asked whether the Code for Children and Adolescents explicitly prohibited the use of corporal punishment in childcare institutions. She wondered whether any research had been undertaken on corporal punishment, and what measures were being taken to overcome the cultural acceptance of that practice.

20. Ms. PATIÑO DURÁN (Bolivia) said that the Code strictly prohibited all forms of psychological or physical ill-treatment. A number of campaigns had been launched to eradicate the use of violence as a disciplinary measure. The Ministry of Education, Culture and Sport and the Ministry of Health and Social Security had prepared information materials on the prevention of violence and respect for children's rights.

21. Instead of establishing children's representative bodies that played a merely decorative role, the Government sought to promote children's effective participation in decision-making processes. The Code for Children and Adolescents provided for children's participation in municipal commissions, departmental council commissions and in the National Council for

Children and Young Persons. The National Council, which would be established in February or March 2005, would have two child representatives. A number of municipal youth councils composed exclusively of young persons over 15 had been established.

22. Ms. SMITH asked whether State party legislation guaranteed children's right to be heard on issues, such as adoption, that were of direct concern to them.

23. Mr. LIWSKI asked the delegation to describe the functions of the National Council for Children and Young Persons and its status in relation to the Vice-Ministry of Gender, Generational and Family Affairs.

24. Ms. PATIÑO DURÁN (Bolivia) said that, under the Code for Children and Adolescents, the authorities must take account of children's views on issues such as custody, guardianship and adoption. Similarly, children were granted the right to participate in decision-making concerning family affairs. However, the traditional lack of respect for children's opinions made the implementation of those provisions difficult.

25. The National Council for Children and Young Persons would be a consultative body responsible for the formulation and promotion of policies relating to children. The Vice-Ministry would assume the presidency. The Council would hold biannual meetings, and a technical unit would be entrusted with the task of policy formulation and promotion.

26. Mr. LIWSKI asked what measures the Government was taking to reduce the number of children in existing childcare institutions. While the introduction of the Universal Mother and Child Health Insurance that covered children up to the age of 5 was commendable, he was concerned at the lack of health care for older children. User fees for health-care services constituted the main obstacle to 6- to 18-year olds' access to health care, and he wondered whether the Government planned to extend health insurance coverage to children over 5.

27. He asked whether the Government intended to allocate additional resources to improve health-care services in rural and remote areas. He wondered whether the National Programme for Assistance to Children (PAN) was financially sustainable and could be extended to respond to the real demand. He was concerned at the detention of 12- to 15-year olds in institutions that lacked adequate resources, staff and capacity to meet the needs of the juvenile prison population. The detention of children between 15 and 18 years of age in adult facilities was also cause for concern. He wished to know whether the Government consulted with NGOs concerned with juvenile justice and whether non-custodial measures were offered as alternatives to imprisonment. The delegation should explain why young people who worked made almost no use of the social security provisions guaranteed by law. He wished to know measures the State party had taken to combat trafficking in children.

28. Ms. SARDENBERG requested further information on institutional capacity-building, particularly regarding the Vice-Ministry of Gender, Generational and Family Affairs and on human rights training for professionals working in the field of youth issues. She asked what progress had been made in the implementation of the National Plan of Action for the Promotion and Protection of Human Rights in the Medium and Long Term and whether NGOs actively participated in that process.

29. Ms. VUCKOVIC-SAHOVIC asked whether criminal sentences imposed on children between the ages of 16 and 18 were the same as those imposed on adults for similar offences. The delegation should explain the reasons for the large number of children held in detention with their parents, and indicate the progress made in the training of professionals concerned with juvenile justice. She wondered whether the Government planned to increase research on minors in conflict with the law. Bolivia had not yet ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and she wished to know what measures the Government was taking to monitor and prevent the recruitment of children into the armed forces.

30. Ms. AL-THANI requested additional information on the situation of children with disabilities in the State party. She asked what measures would be taken to step up research and data collection on such children.

31. The Universal Mother and Child Health Insurance programme posed a number of problems, including significant regional disparities in access to services and discrimination based on ethnic origin. She asked why vaccination coverage had decreased and what measures were being taken to control malaria and tuberculosis, promote breastfeeding and ensure the implementation of the International Code of Marketing of Breast-milk Substitutes. In the light of the increase in HIV/AIDS and the persistent problem of malnutrition, she wondered whether the existing programmes reached the appropriate target groups. She requested additional information on strategies to prevent and combat HIV/AIDS.

32. Ms. ANDERSON wished to know the exact number of children currently in institutions, since there seemed to be a discrepancy in the figures provided in the written replies (CRC/C/RESP/73). According to paragraph 269 of the report (CRC/C/125/Add.2), a large number of children had been placed in institutions without a judicial decision, and she wondered whether their situation would be reviewed. She asked which body was primarily responsible for protecting child victims of abuse - the departmental social services or the Local Ombudsmen for Children and Youth.

33. Ms. ORTIZ asked whether children were placed in institutions by judicial decision only, and what alternative forms of care were available. She wished to know what measures were being taken to protect children employed in domestic service and to guarantee their right to health and education. She enquired whether Bolivia cooperated with neighbouring countries to halt the large influx of migrant children and to prevent them from being exploited for sexual purposes or on the labour market.

34. While she welcomed Bolivia's ratification of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, she suggested that the State party should cooperate with fewer international adoption agencies in order to ensure better results. She wished to know more about national adoption procedures, including who advised the mothers and adoptive parents on the implications of adoption, and who was responsible for training judges dealing with adoption cases and for tracing biological parents. She asked whether the bill dealing with the trafficking of children would make child pornography an offence under the Penal Code.

35. Mr. KRAPPMANN asked whether the comprehensive education programme for early childhood benefited children from the most vulnerable sectors of society. In view of the high dropout rate, he enquired whether dropouts had an opportunity to complete their education, for example through evening classes.

36. Ms. LEE said she was concerned by the lack of data on children with disabilities. She requested additional information on the 300 experimental educational establishments for the disabled; according to the United Nations Educational, Scientific and Cultural Organization (UNESCO), only 1 per cent of disabled children in Bolivia received assistance or special education. She requested clarification concerning the bill on disabled adolescent workers; she wondered whether the bill was in any way connected with the problem of *criaditos*, who were minors, usually from marginalized sectors of society, employed as domestic workers.

37. Mr. KOTRANE asked whether Bolivian families might be willing to provide temporary foster care. He wished to know what efforts were made by childcare institutions to create a family environment. He wondered whether there were any plans for cooperation between trade unions and employers' associations to combat the problem of the large number of children exploited in hazardous occupations.

38. Ms. SMITH requested clarification of the term "social liability" used in connection with adolescents. She wished to know more about the conditions of adolescents in prisons and whether minors were separated from adults. She wondered whether adolescents had access to free legal aid.

39. Ms. OUEDRAOGO said she was concerned at the increasing number of street children and the absence of policies to ensure their reunification with their families and their reintegration into society. She asked what steps were being taken to guarantee the right to health and education for the more than 1,000 children living in prisons with their families.

40. Mr. FILALI asked what was being done to combat the serious problem of child abduction. Under article 317 of the Penal Code, rapists apparently went unpunished when they married their victims; that was particularly worrisome since girls in Bolivia could marry at the age of 14. Since prisons were overcrowded and adults were not always separated from minors, he wondered whether any alternative to the imprisonment of minors had been considered.

41. Ms. KHATTAB asked whether the Government saw any connection between the low school enrolment rates and child labour. She wondered what measures the Government was taking to protect children exploited by the worst forms of labour. The delegation should explain what was being done to prevent drug abuse among young people.

The meeting was suspended at 4.50 p.m. and resumed at 5.05 p.m.

42. Ms. PATIÑO DURÁN (Bolivia) said that the inconsistencies in data on the situation of children in Bolivia were mainly due to the fact that an effective data collection system had been introduced only a few years earlier. A database was gradually being compiled from reports

received by the Local Ombudsmen for Children and Young People, and a register of all children's homes was kept. There were plans to set up a database on national and intercountry adoptions.

43. A study issued in December 2004, had shown that the Programme of Care for the Under-Sixes had not benefited the more remote municipalities, and that most of the funds allocated to the Programme had been used to pay experts' fees. Over the past eight years, the costs of the Programme had been covered largely by contributions from the National Treasury, the municipalities and families, as well as donations from the World Food Programme and Italy. In accordance with a decree issued in December 2004, the Vice-Ministry of Gender, Generational and Family Affairs had assumed responsibility for the Programme and was endeavouring to establish priorities and make optimum use of resources in order to ensure that children most in need would benefit.

44. Surveys of childcare institutions conducted in 2004 indicated that more than half of the children in institutions had relatives, and steps had been taken to return as many children as possible to their families. In some parts of Bolivia, children were being placed temporarily with foster families pending reunification with relatives or adoption. Although the decision to place children in care should be taken by a Juvenile Court judge, and the necessary documentation should be prepared by social or health workers to facilitate the judge's decision, children were sometimes placed in care without recourse to those procedures.

45. The number of children living in prisons with their parents varied according to the time of year. Studies had shown that some children were better off in prison in terms of health, education and safety because they were supervised and had the emotional security of being close to their parents. In the coming weeks, a survey would be conducted in several penal institutions in La Paz with a view to seeking innovative solutions that would take the best interests of the child into account.

46. The Code for Children and Adolescents established a clear distinction between criminal and social liability. Children between the ages of 12 and 16 had social liability, and those in conflict with the law appeared before the Juvenile Court. Young people between the ages of 16 and 18 had criminal responsibility and were not differentiated from adults under the Criminal Code. There were juvenile detention centres for children between 12 and 16 throughout Bolivia. Improvements in living conditions and educational opportunities had been made in some juvenile detention centres.

47. Steps had been taken to find alternatives, such as community work and mediation, to depriving young people of their liberty. The Government had delegated some of the work on such programmes to specialized institutions.

48. Mr. LIWSKI asked whether the Government planned to increase the number of Juvenile Court judges. He requested information on the reported reopening of La Granja de Los Espejos.

49. The CHAIRPERSON asked whether the figure of 58,758 persons under 18 held in adult prison facilities in 2002 was accurate.



50. Ms. PATIÑO DURÁN (Bolivia) said that that number was not accurate; the true figure was about 500. Studies had shown that fewer young people had been deprived of their liberty since the implementation of the Code for Children and Adolescents. The Government had issued guidelines to regional authorities to ensure that juvenile detention centres accommodated only small numbers of young people.

51. Parliament had decided not to reopen La Granja de Los Espejos in Santa Cruz owing to the negative image associated with the centre.

52. Although the provisions on children with disabilities in the Code for Children and Adolescents recognized disability only in relation to health care, the Government had realized the need to address disability in all policy areas. Only approximate statistics on the high number of children with disabilities were available. Discussions with the Ministry of Health and other stakeholders were under way to develop programmes for children and adolescents with disabilities.

53. The Government planned to amend legislation to extend health-care insurance to 5- and 6-year-olds.

54. Members of the Catholic Church had voiced reservations about the Government's legislation on sexual and reproductive rights. Adolescents would be encouraged to debate the issues involved, and their views would be taken into account by legislators. The Government's objective was to adopt legislation that protected young people's sexual and reproductive rights and responsibilities. While the Government currently had no strategy on HIV/AIDS, the topic of HIV/AIDS prevention had begun to be included in sex education classes.

55. Although drug consumption among young people had increased, it had mostly involved marijuana. The Government's policy had been to focus on the causes of drug consumption among young people, rather than on prosecuting producers.

56. Ms. SARDENBERG asked what measures the State party had taken to control the violence associated with the cultivation of coca crops in the Chapare region. In particular, she wished to know how children in that region were being protected.

57. Ms. PATIÑO DURÁN (Bolivia) said that the deaths in the Chapare region had been the result of repressive measures taken by the State. The region was currently calm, and coca cultivation had been minimized. Since young people consumed far more marijuana than cocaine, the Government had chosen to focus its efforts on that drug.

58. The 1994 Educational Reform Act made alternative education available to sectors of society that had previously not enjoyed the right to education. There had been proposals to harmonize the academic year with agricultural activities in order to allow children who worked on the land to have access to education. Night schools for children and young people who worked during the day were also being considered. No decisions had been taken, although the advisability of decentralizing education to allow for different regional needs had been recognized.

59. Educational advisers provided guidance to teachers and facilitated the process of change required for the effective implementation of the Educational Reform Act. The Act would be debated at a conference in March 2005 in which children, adolescents, parents and teachers would participate.

60. Mr. LIWSKI, Country Rapporteur, said that the State party had made significant progress in implementing the Convention. In its concluding observations, the Committee would highlight ways in which Bolivia could strengthen children's rights, which included the implementation of constitutional and other reforms and measures to improve application of the Code for Children and Adolescents.

61. Ms. PATIÑO DURÁN (Bolivia) thanked the Committee for its comments and recommendations, without which it would be difficult for Bolivia to make the changes necessary to improve the situation of children.

The meeting rose at 6.05 p.m.