



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Fifty-eighth session

### Summary record of the 1651st meeting

Held at the Palais Wilson, Geneva, on Monday, 26 September 2011, at 3 p.m.

*Chairperson:* Mr. Zermatten

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*The meeting was called to order at 3 p.m.*

**Consideration of reports of States parties** *(continued)*

*Combined third and fourth periodic reports of Panama on the implementation of the Convention on the Rights of the Child (continued) (CRC/C/PAN/3-4; CRC/C/PAN/Q/3-4 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Panama took places at the Committee table.*
2. **Ms. Lee** asked how many children aged between 14 and 18 were of African or indigenous descent. She wished to know why those children were more affected by poverty than others and why they had only limited access to education, especially in remote areas.
3. The Committee wished to know what the State party was doing to address the increase in the number of teenage pregnancies, in particular among the indigenous population. Since indigenous children who went to Costa Rica for the seasonal coffee harvest had no access to education during that period, the Committee would like to know what their living conditions were there. The Committee was concerned that only 85 per cent of pupils reached the fifth grade, whereas education was normally compulsory for children aged between 4 and 15. It further noted that the enrolment rate for indigenous children was lower than that of other children and that their dropout rate was higher. She would like to know whether children who had dropped out of school had access to vocational training.
4. **Ms. Aidoo** asked what the State party was planning to do to strengthen the National Programme for HIV/AIDS Prevention, which was ineffective despite the assistance received from UNICEF and UNAIDS, in particular. Noting that children living with HIV/AIDS without access to a family environment were placed in an institution, she wondered whether they might become stigmatized. She would also like to know how long those children stayed in the institution and what services were provided.
5. How did the State party monitor implementation of its cash transfer programme to prevent corruption and to ensure that it benefited those most in need? It would be interesting to know whether Panama was planning to adopt a multidimensional approach to child poverty reduction that took into account not only family income but also relevant cultural, social and geographical factors and gender equality.
6. **Mr. Gastaud** requested further details on the age of criminal responsibility, which had been lowered to 12 years.
7. **Ms. Al-Asmar** asked why some parents opted for private education and would like the delegation to provide information on teacher-pupil ratios and the number of levels per class. Did children have a say in the running of their school and the curriculum? Lastly, she asked the delegation to provide more details on the inclusion of children with disabilities in society and their access to recreational and cultural activities.
8. **Mr. Guráñ**, noting the high number of international adoptions, asked what measures Panama was taking to encourage national adoptions.
9. **Ms. Al-Shehail** expressed concern at the large number of children convicted of criminal offences and the increase in the length of pretrial detention. Independent experts should check that children in detention had access to health services, including mental health care, in particular in Basilio Lakas prison, where such services were sorely lacking. She would also like further information on the exercise of the right of children in detention to receive visits from family members and their right to education.

10. **Ms. Lozano de Díaz** (Panama) said that there were plans to lift the curfew shortly. When children and adolescents were found out of doors during the curfew, the children's unit attempted to find their family. If that was not possible, the minors were taken into care by the National Secretariat for Children, Adolescents and the Family, who in turn made every effort to contact the family. The children were then taken home or placed temporarily in a welfare centre until a family member was found to look after them.
11. **Ms. Maurás Pérez** (Country Rapporteur) said that the explanations provided by the delegation only added to the Committee's concerns about the curfew. Under the measure, which was still in place, the police were authorized to arrest children for nothing more than being outdoors alone. They were also authorized to hold minors at a police station until the morning if they were unable to locate their family immediately, which was probably what happened in most cases in view of the difficulties involved. Detaining a minor at a police station was a clear violation of the Convention, since children could not be held in protective custody. She wished the delegation to indicate when exactly Panama was intending to lift the curfew.
12. **Mr. Cardona Llorens** (Country Rapporteur) asked whether Panama was aware that it was criminalizing children in the eyes of public opinion. Panamanians were under the mistaken impression that juvenile delinquency had increased, which further harmed children's rights in the State party.
13. **Ms. Palacios** (Panama) said that Panama was committed to lifting the curfew.
14. **Ms. de Allen** (Panama) said that the public prosecution service had opened an investigation to determine who was responsible for the events that had occurred at the Tocumen youth detention centre. Members of the national police force, prison personnel and adolescents were facing criminal proceedings.
15. **The Chairperson**, welcoming the fact that an investigation had been opened and that those responsible were being prosecuted, asked what measures the State party planned to take to ensure that such events did not reoccur, particularly in that facility where there had been three fires in less than a year.
16. **Ms. Lee** asked whether the State party had taken steps to combat the use of tear gas in youth detention centres.
17. **Ms. Maurás Pérez** asked how many prison warders and adolescents were facing criminal prosecution and how the State party ensured that victims were not punished.
18. **Mr. Kotrane** asked whether it was true that, under Act No. 74 of 2010, law enforcement officials could not be suspended for acts committed in the course of their duties, but only transferred to another post. Were they liable to stiffer penalties for events such as those that had occurred at Tocumen?
19. **Ms. de Allen** (Panama) said that Panama had suspended the use of tear gas in youth detention centres. Nine police officers and two prison officials were being prosecuted following the events at Tocumen. If found criminally liable, they would be sent to prison. In order to improve conditions for adolescents in detention, Panama was conducting a thorough review of the prison service, aimed in particular at providing rehabilitation programmes for minors.
20. **Mr. Cuéllar** (Panama), referring to the impact of economic development on vulnerable population groups, in particular indigenous peoples, said that there were five indigenous regions (*comarcas*) in Panama that owned their land. When a hydroelectric development project or a mining project, for example, had an impact on those regions, the company overseeing the project was required to negotiate with the local authorities. The

State ensured that the project complied with environmental standards, impact assessments were conducted and an environmental mitigation plan was prepared if necessary.

21. **The Chairperson** noted with concern that the negotiations took place directly between the company and the territorial authorities, without State involvement.

22. **Ms. Nores de García** said that it was the State's duty to defend the rights of the communities concerned.

23. **Ms. Maurás Pérez** said that the State should assess not only the environmental impact of projects, but their social impact as well.

24. **Mr. Cuéllar** (Panama) said that the fact that negotiations took place directly between companies and the traditional authorities did not prevent the State from guaranteeing the rights of the population concerned. Social impact assessments were not currently carried out, but environmental impact assessments indicated whether populations had to be displaced; their effects were therefore similar to social impact assessments.

25. **The Chairperson** asked about the legislative framework governing those negotiations, which involved the interests of the local community, the State and the company, bearing in mind that, in some cases, the State owned the company or was its main shareholder. Power relationships could therefore be unequal.

26. **Mr. Cuéllar** (Panama) said that companies had to comply with all the country's laws relating not only to trade and industry but also to the environment. Projects served not only private interests but also national priorities, for example power generation. All those companies had to follow public procurement procedures and respond to calls for tender in order to obtain an operating concession.

27. **Ms. Aidoo** asked for further details on poverty, inequalities and the situation of indigenous populations and whether civil society and NGOs were involved in drafting policies, budgetary decisions and assessing and monitoring projects. Was the State party working with representatives of indigenous communities and communities of African descent?

28. **Ms. Lozano de Díaz** (Panama) said that an adoption bill was currently under consideration. The future law would comply with all the obligations contained in the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

29. **The Chairperson** said that the Committee was concerned about the bill.

30. **Mr. Cardona Llorens** said that he had read the text of the bill carefully. He asked the Government of Panama to undertake to revise the bill with the assistance of experts in children's rights. In that regard, he asked whether there were plans to involve UNICEF and other bodies, such as the Committee on the Rights of the Child, in the redrafting of the bill so as to take into account the Hague Convention and the Committee's recommendations on the issue over many years.

31. **Ms. de Allen** (Panama) said that the Government had been forced by circumstances to take firm action against violent organized gangs that used children to commit serious offences, and to lower temporarily the age of criminal responsibility to 12 years. Children aged between 12 and 15 were never placed in detention, but were cared for by the National Secretariat for Children, Adolescents and the Family. The length of trials, sentencing practices, visiting rights and medical examinations were being reviewed as part of a new protocol for the care of adolescents in detention centres.

32. **The Chairperson** pointed out that lowering the age of criminal responsibility was a form of punishment imposed on children who were recruited by criminal gangs and who

were first and foremost victims. The measure could not be justified by the crime figures, which were stable, and was not accompanied by any prevention or rehabilitation measures. The Committee considered that the lowering of the age of criminal responsibility was not in line with the spirit of the Convention or general comment No. 10 on children's rights in juvenile justice.

33. **Ms. Palacios** (Panama) said that the Government would work to strengthen prevention strategies for children and adolescents.

34. **Ms. Maurás Pérez** said that, rather than relying on primarily punitive measures, the Government might perhaps organize a genuine public dialogue with parents and children to explain their rights to them and to formulate a comprehensive policy and a care, protection and prevention strategy.

35. **Ms. Palacios** (Panama) said that the results of the census would make it possible to establish the exact number of persons with disabilities in Panama. The National Secretariat for Persons with Disabilities was implementing policies and strategies to promote the social inclusion of children with disabilities.

36. **The Chairperson** asked how, in practice, children with disabilities were integrated into the school system and society.

37. **Ms. Palacios** (Panama) said that laws had been passed to ensure access to public places for persons with disabilities.

*The meeting was suspended at 4.15 p.m. and resumed at 4.30 p.m.*

38. **Mr. Gantes Castillo** (Panama) said that, in 2000, Panama had ratified the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138) and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182). The minimum age for admission to employment in Panama was 14 for most sectors. Businesses employing children were subject to labour inspections.

39. The Labour Foundation, established in 1992, was made up of workers' and employers' representatives. It was going to be reorganized and would become a tripartite organization with the inclusion of Government representatives. Henceforth, it would be responsible for harmonizing the minimum working age for children.

40. In view of the alarming number of working children, particularly in the agricultural sector, the Ministry of Labour had taken steps to eradicate child labour, including in *comarcas*, where the child employment rate was particularly high.

41. A project launched in February 2010 in cooperation with ILO — through the executive body of the International Programme on the Elimination of Child Labour in Central America, Panama and the Dominican Republic — had already had an impact, because in March 2011 the relevant employment rates had fallen. It was hoped that the trend would continue and lead to the elimination of the worst forms of child labour by 2013 or 2014.

42. **Ms. Herczog** asked what specific steps the Government planned to take to achieve that goal.

43. **Mr. Kotrane** said that the goal was ambitious and would be difficult to achieve. He would like to know what plans the State party had for ending the practice of employing young girls as domestic workers.

44. **Mr. Cardona Llorens** asked whether the State party might consider raising the legal minimum age for admission to employment to 15 to bring it into line with the age for the completion of compulsory education.

45. **Mr. Gantes Castillo** (Panama) said that, as part of labour legislation reform, the Government was endeavouring to comply with the relevant international standards requiring it to eliminate the worst forms of child labour by 2015 and child labour by 2020. In the *comarcas*, where it was customary for children to work, that would require a major commitment on the part of the Government to bring about a change in the behaviour and way of life of the indigenous people.

46. Panama received financial assistance from Spain to cover the travel costs of teams visiting indigenous regions to raise awareness among children, parents and traditional leaders.

47. A number of meetings had been held with coffee, oil and sugar producers in order to combat child labour in agriculture.

48. **Mr. Koompraphant** asked to what extent the State party could monitor children's working conditions, given that their work was usually undeclared.

49. **Mr. Gantes Castillo** (Panama) said that labour inspectors and members of NGOs and other civil society organizations carried out awareness-raising activities in the field among business leaders. The Ministry of Labour had also replaced the office responsible for eliminating child labour with a national directorate, reflecting the importance it attached to the issue. Specific measures to ensure that children enjoyed their right to education and health included making payment of social benefits to parents conditional upon their children attending school and receiving vaccinations. The scheme was particularly important in indigenous regions, where children were often tempted to cross the border to work in neighbouring countries.

50. **Ms. Lozano de Díaz** (Panama) said that the Attorney-General's Office had established a technical secretariat responsible for implementing, with the technical assistance of UNICEF, the National Plan for the Prevention and Elimination of the Commercial Sexual Exploitation of Children and Adolescents. An agreement had also been reached with the Panama hotel and gaming association, which, after two years of hesitations, had led to the drafting of a code of conduct, which had been signed by 86 hoteliers. It had also been decided to levy a tax of \$1 on all tickets for flights to and from Panama to be paid into a fund for the victims of commercial sexual exploitation.

51. With the support of the ILO International Programme on the Elimination of Child Labour and the National Network for the Protection of Children and Adolescents, comprising over 50 NGOs, Panama had been able to set up a care centre for the victims of sexual exploitation. Two prosecutors had been tasked with working on cases involving sexual exploitation and trafficking in persons, and it was hoped that those measures would lead to the dismantling of criminal networks. Since June 2010, the prosecutors had dealt with 57 applications relating to such offences and two sentences had been handed down. A draft framework law on combating trafficking in persons and similar practices which provided for the integration of the United Nations Convention against Transnational Organized Crime (Palermo Convention) into domestic law was currently being given its first reading by the Legislative Assembly.

52. **Ms. Lee** asked whether the airline ticket tax had already been introduced and, if so, how the revenue generated had been used and with what results.

53. **The Chairperson** said that the impressive range of measures introduced to fight the commercial sexual exploitation of children suggested that those offences were common. He therefore failed to understand why there were so few convictions.

54. **Ms. Palacios** (Panama) said that the airline ticket tax was already being levied and that the money raised was allocated to public information campaigns. She was unable to explain why there were so few convictions in trafficking and commercial sexual

exploitation cases; the public prosecution service would be better able to comment on that issue.

55. As part of efforts to fight poverty, the Opportunity Network had developed programmes for families, based in particular on the payment of social benefits and the distribution of food vouchers to families whose children attended school and were vaccinated. Indigenous peoples and people of African descent were among the main beneficiaries of those programmes. Families also received assistance in setting up microenterprises and kitchen gardens.

56. The Government had introduced a complementary food programme whereby primary school pupils were provided with a daily lunch and snack that took into account the traditional diets of the region concerned. At the start of the school year, parents received vouchers to buy shoes, school bags and school supplies. Pupils also received vitamin A and iron supplements. The “Guardian Angel” programme, recently launched by the Government, provided for financial assistance to the parents of children with severe disabilities.

57. As a result of two major Government campaigns to regularize their status, 20,000 asylum-seekers had received residence and work permits in 2010.

58. The literacy campaigns conducted over the previous decade had been effective, as shown by the fact that the illiteracy rate among indigenous people had fallen from 37.5 per cent in 2000 to 27 per cent in 2011. The competent authorities were currently studying ways of harmonizing teaching standards in public and private schools.

59. **Ms. Nores de García** said that it was her understanding that some 70,000 families – and not the entire population – benefited from Opportunity Network programmes. She would like information on the eligibility criteria and the duration of the aid.

60. **Ms. Palacios** (Panama) said that the aid programmes had a lasting impact in that they enabled members of families that had been living in poverty for several generations to appreciate the benefits of schooling as a way of fighting poverty. Those families who, following a review of their situation at the end of four years, appeared to need no further support from the Opportunity Network would be taken off assistance programmes and would be able to play their role in the economic life of the country. However, not all families in need benefited from the aid provided by the network, and that issue would have to be addressed.

61. The Government had established a secretariat for the black ethnic community, which was responsible for developing a strategy for the inclusion of black children and adolescents.

62. In view of the high number of teenage pregnancies, the Government had asked for a sex education programme to be developed for use in primary and secondary schools and health centres.

63. **The Chairperson** asked whether, in order to reduce the teenage pregnancy rate, the Government might consider raising the legal age of marriage for girls, which was set at 16, to bring it into line with that for boys (18).

64. **Ms. Palacios** (Panama) said that the issue was being discussed with civil society, religious authorities and Government bodies. The constitutional reform process currently under way could provide an opportunity for serious consideration of the possibility of raising the age of marriage for girls.

65. **Ms. Maurás Pérez** asked whether refugee and asylum-seeking children had an automatic right to attend school and whether they could follow diploma courses on the same basis as young Panamanians.

66. **Ms. Palacios** (Panama) said that no record of previous schooling was required for enrolling children in school, but proof of studies completed and diplomas obtained in their country of origin had to be provided in order to enrol on a diploma course.

67. **Ms. Lozano de Díaz** (Panama) said that follow-up to the Committee's recommendations would include consultations between all the Government entities, civil society organizations and international bodies that had been involved in preparing the report under consideration so as to identify a comprehensive strategy for reaching agreed targets.

68. **The Chairperson** asked what had been done to explicitly prohibit corporal punishment.

69. **Ms. Palacios** (Panama) said that no legislative provision allowed corporal punishment. Furthermore, a hotline (147) was available for children or any other person to report cases of abuse.

70. **Mr. Cardona Llorens** said that, under article 319 of the Family Code and article 188 of the Civil Code, parents were still allowed to spank children in a moderate manner. The Committee had already asked the State party to explicitly prohibit by law all forms of corporal punishment, but, clearly, that had not been done.

71. **Ms. Maurás Pérez**, noting that Act No. 38 on domestic violence also authorized parents to spank children provided that there was no physical injury to the child, said that that law should also be amended.

72. **Ms. Lozano de Díaz** (Panama) acknowledged that those provisions were a cause for concern. Panama was committed to undertaking necessary legislative changes in due course, but campaigns to change attitudes would have to be conducted beforehand.

73. **Ms. Lee** said that, in order to enhance the impact of campaigns to promote children's rights, it would also be useful to focus on an approach to education based on positive discipline.

74. **The Chairperson** asked whether there was an independent authority empowered to receive and address complaints from children. He would also like to know to which body callers to the 147 hotline were referred and how their calls were followed up.

75. **Ms. Lozano de Díaz** (Panama) said that complaints were received by the National Secretariat for Children, Adolescents and the Family, which sent competent officials to assess the situation. If the complaint was justified, it was referred to the national department responsible for judicial investigations in the public prosecution service, which carried out a thorough investigation in order to establish the nature of the incidents reported and the responsibility of the persons involved.

76. **Ms. Lee** asked how many complaints had been received in 2010 and whether they had led to prosecutions and convictions. According to some sources, girls in border areas had been raped by police officers. Had they been able to lodge complaints?

77. **Ms. Palacios** (Panama) said that in 2009 there had been 518 convictions for child sexual abuse, and that 1,772 children had been recognized as victims of physical and psychological abuse, 57 as victims of abandonment and 781 as victims of family negligence. In total, nearly 4,900 cases had been brought before the courts. The figure represented a sharp increase compared with 2008, when only 1,236 such cases had been recorded.

78. **The Chairperson** asked why the State party had not yet submitted reports under the two Optional Protocols to the Convention.



79. **Ms. Lozano de Díaz** (Panama) said that the Government was endeavouring to obtain the information it needed to prepare those reports.

80. **Mr. Pollar** asked whether the State party had set a minimum age for voluntary enlistment into the police force and the armed forces.

81. **Ms. Palacios** (Panama) said that young people could volunteer for service in the National Police, the Border Police and the Air Force from the age of 18.

82. **The Chairperson** asked whether journalists enjoyed complete freedom of expression and whether they were subjected to any pressure or interference by the State.

83. **Ms. Palacios** (Panama) said that freedom of expression was respected in Panama. The media, like members of civil society and the Government, had the right to express their opinion freely.

84. **Ms. Maurás Pérez** said that the discussion had been very constructive and had enabled the Committee to gain a better understanding of the situation of children's rights in the State party. She regretted that it had not been possible to consider some issues in greater detail, in particular the problem of the recruitment of Colombian children in border areas, the issue of domestic workers, education and the bill on sexual and reproductive health. She trusted that the State party would submit, without delay, its two initial reports under the Optional Protocols.

85. **Mr. Cardona Llorens** said that he welcomed the candidness of the delegation. Panama's record in the field of children's rights was generally encouraging, as indicated by the progress achieved. However, some gaps remained, such as the lack of a law on the comprehensive protection of children and adolescents.

86. **Ms. Palacios** (Panama) said that the discussion had been highly informative and she assured the Committee members that their recommendations would be taken into account. Panama was determined to strengthen its legal framework by adopting the international instruments to which it was not yet a party and to move forward by focusing on results-oriented strategies in order to achieve the Millennium Development Goals. The State would take steps to reduce social disparities between different population groups and to strengthen inter-institutional cooperation and civil society participation. Through its cooperation agreements with UNICEF and ILO, Panama had every intention of fighting effectively against child labour and breaking the vicious circle of poverty. It undertook to provide regular updates on the situation of children's rights so as to enable the public authorities to take informed decisions to advance children's rights, as recommended by the Committee.

*The meeting rose at 6 p.m.*