



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Thirty-sixth session

#### Summary record of the 951st meeting

Held at the Palais Wilson, Geneva, on Wednesday, 19 May 2004, at 10 a.m.

*Chairperson:* Mr. Doek

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

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

*Second periodic report of Panama (CRC/C/70/Add.20; CRC/C/Q/PAN/2; CRC/C/RESP/62 (distributed at the meeting, in Spanish only); HRI/CORE/1/Add.14/Rev.1)*

1. *At the invitation of the Chairperson, Ms. de Adames, Ms. Arosemena, Mr. Beliz, Ms. López de Lobo and Ms. Vergara (Panama) took places at the Committee table.*
2. **Ms. Vergara** (Panama) said, in introducing the second periodic report of Panama, that since the entry into force of the Convention Panama had moved from a concept of the child as an object of protection to one of the child as a subject of law. Consequently, with regard to the general measures of implementation of the Convention, it had engaged in a substantial reform of its child-related legislation, institutions and policy that had given rise to a law on juvenile justice, a law against domestic violence and ill-treatment of children, the Office of the Ombudsman and a national plan of action for children and adolescents.
3. The institutions responsible for implementing the Convention included the Ministry of Youth, Women, Children and the Family, the Institute for Interdisciplinary Studies, the Delegation for Children and Adolescents, the National Council for Children and Adolescents, the juvenile courts, the Office of the Public Prosecutor for Children and Adolescents and the Directorate of Social Affairs. Policies and programmes in support of street children and against commercial sexual exploitation of children and child labour had been instituted. The country's hosting in 2000 of the Tenth Ibero-American Summit of Heads of State and Government, which had been devoted to matters concerning children and adolescents, was proof of its interest in the issue of children's rights.
4. Panamanian law reflected the general principles set forth in the Convention, particularly those of non-discrimination, the best interests of the child and participation by children, as well as children's right to life, survival and development. The Family Code defined a minor as any human being from conception to the age of 18. The age of criminal responsibility was 14; the minimum age for admission to employment was 14, except in the agricultural sector, where it was 12; the marriageable age was 16 for boys and 14 for girls, and the age of sexual consent was 18.
5. Socio-economically, Panama was a country with marked disparities in income and wealth distribution: almost 40 per cent of the population lived below the poverty line, including 19 per cent in extreme poverty. Three quarters of the poor lived in rural areas and 95 per cent of them were of indigenous origin. Children and adolescents comprised 55 per cent of the total population. Since 2000, the principal objectives of national policy had been the promotion of sustainable human development, the systematic and definitive reduction of poverty and the fairer distribution of wealth.
6. With respect to health and well-being, children with disabilities were now the subject of special provisions.
7. Panama had the third highest rate of AIDS in Latin America. The early-pregnancy rate was 20 per cent and maternal mortality had stood at 70 per 100,000 women for the previous decade. There had, however, been some progress since mortality among under-fives had been reduced and vaccination coverage was good, with poliomyelitis and tetanus having been eliminated and measles under control since 1996. The percentage of the population with access to drinking water had risen over the previous five years.
8. The primary-school enrolment rate was 91 per cent, or 65 per cent on the national scale, and the dropout rate was steady at 2 per cent overall and 5 per cent in indigenous communities.

9. The juvenile justice system introduced in 1999 was based on the principles of the Convention. Young offenders were therefore able to continue their studies and had the benefit of socio-educational measures. Legal advances included the adoption of legislation on commercial sexual exploitation, responsible parenting and care for pregnant adolescents and the ratification of the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182).

10. **Ms. Ortiz**, rapporteur for Panama, remarked that the uneven distribution of wealth and advantages was a structural problem that was not without effect on the respect and realization of children's rights. Unemployment was endemic and principally affected women and young people and 40 per cent of children were still excluded from secondary education.

11. The Committee could only welcome Panama's ratification of a large number of international instruments, including the two Optional Protocols to the Convention, the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, the Inter-American Convention on International Traffic in Minors and the Inter-American Convention on Conflict of Laws concerning the Adoption of Minors. It wished to know, however, whether the country intended to ratify the Hague Convention on the Civil Aspects of International Child Abduction, which it had already signed, and the Hague Convention on the Law Applicable to Maintenance Obligations.

12. The Committee could also only welcome the drawing-up in 2003 of a national plan of action for children and adolescents, the establishment of the National Council for Children and Adolescents and the development of a system of indicators and a data-collection system. Although the recent establishment of a delegation for children and adolescents within the Office of the People's Ombudsman was also encouraging, the authorities seemed still not to have heeded a number of the Committee's recommendations, particularly those relating to non-discrimination, the situation of refugee children, the training of professionals working with children and juvenile justice. It would be of interest to know what problems had been encountered in those areas.

13. The absence of a children's code was a real problem because it left the relevant rules too widely dispersed. Nor did the recent adoption of a long list of laws such as the law amending the Family Code with respect to the recognition of paternity or the law against domestic violence and the ill-treatment of children offer any guarantee that policies and programmes in support of children would be implemented. The situation seemed indicative of a certain lack of political will on the part of the Government.

14. It would be helpful to have information on the budget allocations for implementation of the Convention and on changes in them, especially as concerned education and social affairs, and to know whether Panama had decentralized child rights promotion and protection agencies to which children could turn in the event of difficulty. Information on the role played in that regard by the Ministry of Youth, Women, Children and the Family and on the body responsible for monitoring implementation of the Convention would be welcome. It would also be interesting to know how the National Council for Children and Adolescents operated, whether there was an organized civil society in Panama and, if appropriate, how the various State bodies responsible for children cooperated with non-governmental organizations.

15. That children were generally little respected or heeded, that they could not assemble freely and express their identity as adolescents without the police suspecting them or depriving them directly of their liberty and that large numbers of them continued to be placed in institutions showed that Panama clearly found it difficult to recognize the child as a subject of law. It was particularly regrettable that many children who were already victims of poverty or marginalization found themselves victims of repression.

16. **Ms. Khattab**, co-rapporteur for Panama, said that, in the absence of any itemized breakdown of the national budget, it would be helpful to know what share of the income the State derived from operation of the Panama Canal was used for social affairs, especially children, and how much money was allocated to the Office of the Ombudsman.

17. No action had been taken on a number of the Committee's recommendations in its concluding observations on the initial report: the principle of non-discrimination was not applied in practice because women were still treated unequally in terms of remuneration and legal protection; male-female stereotypes still drove some girls to leave school to get married; the marriageable age for girls had not been raised, and the minimum wage was too low for families to meet their basic needs. The delegation should indicate what measures the State party intended to take to remedy that situation.

18. It was also regrettable that complaints of rape could be dropped if the culprit married the victim and that neither the national plan to develop bilingualism and intercultural education, nor the framework legislation on childhood and adolescence had been implemented.

19. It was, in addition, to be feared that children would be allowed to participate only in the preparation of specific events and that the children of minorities living in remote areas on the borders of Colombia or Costa Rica would not obtain Panamanian nationality because logistic problems prevented their being registered at birth.

20. While it seemed that children's right of assembly was respected in school, the curfew to which children and adolescents were subject was extremely worrying. As there seemed to be difficulties with the concept of responsible parenthood, it would be helpful to have information on the activities aimed at making parents aware of it and encouraging them to play their role and on the human and financial resources devoted to that.

21. **Mr. Kotrane** asked whether the National Committee for overseeing compliance with the Convention was truly independent, as the Paris Principles required, and whether it was competent to receive and examine complaints from individuals. He would like the delegation to say whether the Convention had been widely distributed, including in the vernacular languages, and whether adolescents were free to consult a doctor or lawyer without having to ask for their parents' consent.

22. **Ms. Lee** wished to know why many legislative instruments and action plans remained unimplemented once adopted. She wondered whether the reason was unwillingness to move things forward on the part of the people in power or on the part of the population, in which event she wished to know what the authorities intended to do to bring about a change of attitude.

23. **Mr. Filali** asked what was done to disseminate the text of the Convention, to teach it in schools and in training centres for professionals and to combat traditional attitudes.

24. He wished to know what the National Committee for overseeing compliance with the Convention had achieved in its six years of existence and how it functioned in practice. He requested more information on coordination between institutions, the collection and analysis of statistics and the measures taken to resolve the serious problems experienced by indigenous peoples, first and foremost the great difficulty they had in registering births. He asked whether it was intended to reverse what was in essence an incitement to the corruption of minors, namely the decriminalization of sexual acts with minors aged from 14 to 18.

25. **Mr. Citarella** observed that the State party's figures were far from comparable with each other or with those of other countries. It was impossible for the Committee to gain an overall view of the State budget and the only figures that had been provided, which concerned funding for the education sector, showed, without any explanation, a decline by

comparison with the previous year. It was incomprehensible that the marriageable age should be 14 when the age of sexual consent was 18. He wondered whether the failure to apply the laws defining new criminal procedures that had been adopted in 1999 was attributable solely to financial factors and whether traditional attitudes were not also to blame.

26. **Ms. Smith**, regretting that very little information had been supplied on implementation of the very important article 12, said she would like the delegation to state in particular what had been done to safeguard children's participation in schools, from what age children could be heard in cases, including adoption cases, concerning them and what special rules, if any, there were for taking testimony from children in judicial proceedings.

27. **Mr. Krappmann** wished to know more about the means employed to change attitudes.

28. **Ms. Sardenberg** remarked that Panama's written replies said more about the progress that had been made than its report. In them, the Government gave a clear picture of the country's situation and highlighted the central problem of inequalities; there remained the question of the strategies employed against those inequalities and the assessment of their results. It would, for example, be good to know more about the Pact for Children launched by the Office of the First Lady of the Republic and the role and functions of that Office or about what the creation of the indigenous territories, the *comarcas*, meant for indigenous peoples.

29. Act No. 40, Act No. 4 and article 491 of the Family Code represented significant progress towards implementation of the principle of non-discrimination, but the fact that they were not fully applied was regrettable and warranted explanation. It would also be helpful to know why Panama was a party to all the Inter-American Conventions except that on the international return of children.

30. **Ms. Chutikul** invited the delegation to detail the makeup, mandate, achievements and relationships of the national mechanisms for the protection of children's rights. She inquired what kinds of complaint had been filed with the Office of the Ombudsman, what had been done about them, whether the Office had a good public image and whether inhabitants of remote areas had easy access to it. She asked whether there had been studies to determine the degree of acceptance of the Convention.

31. **Mr. Liwski** inquired whether the action of the technical coordination unit for the implementation of special programmes in indigenous territories had been assessed and whether the unit still existed. He also wished to know the outcome of the literacy project for indigenous women and whether the national plan for the development of bilingual intercultural education had been implemented since the date of the report.

*The meeting was suspended at 11.15 a.m. and resumed at 11.40 a.m.*

32. **Ms. Vergara** (Panama) said that her Government's active efforts against discrimination included the establishment of *comarcas* that benefited from reforms aimed at integrating indigenous peoples in the life of the nation. Displaced children could return to Panama for the purpose of family reunification and could obtain Panamanian nationality if they had been born in the country. There were shortcomings in the registration system, but the Office of the Ombudsman was currently implementing a project to register indigenous peoples and inhabitants of rural areas who did not yet appear in civil status registers.

33. The draft children's code, which would, inter alia, redefine the currently conflicting legal ages of marriage and sexual consent, would be put before the Legislative Assembly as soon as the consultation of civil society was complete. The funding for the new posts as juvenile judges had been voted in 2003 and Act No. 40 had come into force in the current year, after penalties in it had been made more severe.

34. Specialized teaching staff had been appointed in two indigenous territories to provide bilingual education there. The text of the Convention had been distributed to members of the border and juvenile police forces and to staff of the Ministry of Health and the Ministry of Education. In addition, several books about, and guides to children's rights had been published, including in vernacular languages.

35. **Ms. Lopez de Lobo** (Panama) said that the Family Code prohibited minors under 18 from marrying without the consent of their parents or guardians and that in any event boys under 16 and girls under 14 could not marry.

36. **The Chairperson**, speaking as a member of the Committee, asked whether all minors under 18 could marry after obtaining parental consent or whether they had to put forward special reasons.

37. **Ms. Lopez de Lobo** (Panama) said that the marriage of a girl aged from 14 to 18 could be justified if, for example, she was pregnant. The written replies, which covered a later period than the report, were of vital importance because the Government had adopted numerous laws concerning minors in recent years.

38. Those replies also contained a considerable amount of disaggregated statistical data that had not been available at the time of writing of the report. Panama now had a large database from which it could be seen that, even if inequalities persisted, particularly between urban and rural areas, its statistical indicators were better than those of other countries in the region. The National Child and Family Information Centre collected information on the Latin American countries' programmes, projects, laws and institutions and the Directorate of Social Affairs monitored social indicators relating to children and to other sectors of society.

39. From 2001 to 2003 the Government had implemented a number of targeted policies concerning in particular the problem of street children and the commercial sexual exploitation of children. They had led to results including the adoption of the policy against commercial sexual exploitation and the Act on the Prevention and Punishment of Offences against Sexual Integrity and Freedom. The penalties for sexual exploitation of a child were now much heavier than before.

40. All the components of society, including children, had participated in the drawing-up of the national plan of action for children and adolescents and the National Council for Children and Adolescents monitored the measures taken under it.

41. The Office of the Ombudsman was fully independent and one of its staff, the Delegate for Children and Adolescents, had taken part in the drafting of a variety of laws and policies relating to children. Children could contact the Office in person, by telephone or email, to report any infringements of their rights.

42. **Mr. Fernandez** (Panama) said that the income from the Panama Canal was used mainly to improve operation of that facility. The education budget had declined, but measures had been taken to increase it in the coming years.

43. **Ms. Vergara** (Panama) said that major efforts had been made in the education sector in support, in particular, of rural communities, indigenous children and children with disabilities.

44. **The Chairperson**, speaking as a member of the Committee, inquired what was the explanation for the general reduction in the national budget.

45. **Mr. Citarella** requested information on the changes in spending on child-related social activities.

46. **Ms. Vergara** (Panama) said that the Ministry of Economy and Finance was forecasting that the country's financial situation would improve. The budget figures were at the Committee's disposal.
47. **Ms. Lopez de Lobo** (Panama) said that children's views were frequently sought, for example through the medium of the Children's Club, which had been open since 1999 to 8-13 year-olds from disadvantaged backgrounds. The World Youth Festival held in Panama in 2001 had enabled young people from all over the world to make their voices heard and the Art and Culture Festival had given large numbers of children the opportunity to demonstrate their talents.
48. The National Council for Children and Adolescents had local branches where children could file complaints of infringement of their rights. The draft code for the full protection of children also provided for local-level offices.
49. **Mr. Filali** asked whether children could themselves file complaints for infringement of their rights and apply for protection, whether there were evaluations of the efficiency of the complaints system and what body was responsible for making them.
50. **Ms. Vergara** (Panama) said that children could file complaints with the competent organs, which were represented in every region and in all the indigenous territories.
51. **Ms. Ortiz** asked whether it was intended to involve children's organizations in drafting the children's code.
52. **Ms. Vergara** (Panama) said that children were consulted through the medium of festivals and other activities. Their views were also collected year-round in their schools or communities.
53. **The Chairperson**, speaking as a member of the Committee and noting that children could file complaints of ill-treatment with the Ministry of Youth, the National Council and the Ombudsman, asked whether those three bodies coordinated their complaint-related activities.
54. **Ms. Vuckovic-Sahovic** asked where children living in remote rural areas could file complaints.
55. **Ms. Vergara** (Panama) said that there was coordination, but it was not perfect. The Ministry of Youth had branches in the regions and had recently established others in a number of indigenous territories. Those branches were in contact with the local authorities. The Ministry worked together with civil-society organs, especially the Council on the Family and Children, which monitored implementation of the Family Code and had its own local branches to facilitate countrywide coordination.
56. The responsible-parenting programme prepared engaged couples for married life and for the exercise of their parental responsibilities in accordance with the rights of the child. The Ministry of Health carried information on its website about its programmes and projects and the services it provided, including in the sphere of reproductive health.
57. **Ms. Lopez de Lobo** (Panama) said that the legislation on the protection of pregnant teenagers made provision for teaching arrangements suited to the girls' situation so that they could continue their education and guaranteed them access to health care such as prenatal checkups and to legal advice. Far from being penalized, the girls received substantial help.
58. **Ms. Ortiz** asked what the State party did to: facilitate schooling of street children; help parents who had separated to reach agreement on child custody without going to court; prevent the separation of refugee children from their families when the parents were deported, and limit the numbers of children placed in institutions. The written replies stated

that 36 children had been placed in foster families; it would be interesting to know why that number was so low and who monitored the children. The delegation should also explain why, at 24 in 2003 and 13 in 2002, the number of children adopted in Panama was so low.

59. **Ms. Khattab** wished to know how children and adolescents exercised their right to form associations at and outside school and what Panama was doing to improve access to drinking water, to reduce child mortality, particularly neonatal mortality in indigenous groups, where it was four times as high as in the rest of the population, and to combat HIV, drug addiction, malnutrition, smoking, alcoholism and environmental degradation.

60. **Ms. Ouedraogo** requested information on the procedure whereby, as she understood it, persons aged over 18 could change their name. It would also be of interest to know what was done to enable the registration of newborns whose parents lived in rural areas, belonged to indigenous communities or were refugees. The delegation should also report what was done to: incorporate the principle of the best interests of the child in domestic law; prevent children from accessing harmful information; combat juvenile delinquency, and help poor families, especially single-parent families.

61. It would also be helpful to know if adopted children were monitored and had the right to know their biological parents and whether the authorities intended to give preference to fostering over placement in institutions.

62. **Mr. Liwski**, noting that in Panama there was a total of 3,800 children and adolescents in the 35 child protection institutions, wished to know what the institutions were like, whether they were open or closed, whether staff members received in-service training and were subject to assessment, and how long on average the children stayed there.

63. It would also be of interest to know what obstacles there were to improvement of the public health situation, particularly in rural regions and indigenous communities.

64. **Ms. Al-Thani** inquired whether corporal punishment was still practised in schools and homes, what help there was for children with disabilities, especially in rural areas and indigenous communities, and what was done to bring down mortality, combat malnutrition and promote breast-feeding, which did not seem common.

65. The delegation should provide details of the national plan for adolescents' reproductive health and state what was done to combat drug and alcohol abuse among adolescents and prevent teenage pregnancies, what success there had been in combating HIV/AIDS and whether infected persons had free access to antiretroviral treatment. It would also be interesting to know whether children whose parents did not have social security coverage had access to health care.

66. **Mr. Krappmann** asked what measures were taken to facilitate access to education for children from disadvantaged backgrounds.

67. **Ms. Chutikul**, referring to the large number of women bringing up children on their own, asked what the Government did to get men to shoulder their parental responsibilities.

68. **Mr. Filali** asked whether it was intended to set up a national fund empowered to make child maintenance payments to lone mothers in the event of the father's default and then perhaps seek redress from the delinquent males. He also wished to know whether courts had already adjudicated complaints filed pursuant to Act No. 27 of 16 June 1995 criminalizing domestic violence and ill-treatment of children.

*The meeting rose at 1 p.m.*