

**ADVANCE UNEDITED VERSION**

**COMMITTEE ON THE RIGHTS OF THE CHILD**

**Fifty-second session**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE  
44 OF THE CONVENTION**

**Concluding Observations: The Plurinational State of Bolivia**

1. The Committee considered the fourth periodic report of Bolivia (CRC/C/BOL/4) at its 1430<sup>th</sup> and 1431<sup>st</sup> meetings (see CRC/C/SR.1430 and 1431), held on 17 September 2009, and adopted, at the 1452<sup>nd</sup> meeting, held on 2 October 2009, the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the fourth periodic report as well as the written replies to its list of issues (CRC/C/BOL/Q/4/Add.1) which gave a better understanding of the situation of children in the State Party. It also appreciates the presence of a high-level delegation and the frank and open dialogue with the delegation.

**B. Follow-up measures undertaken and progress achieved by the State Party**

3. The Committee welcomes a number of positive developments in the reporting period, including the adoption of legislative and other measures taken with a view to implementing the Convention, such as:
  - a) The adoption of the new Constitution in 2009, which includes a chapter on child rights;
  - b) The adoption of new legislations such as the law on DNA testing in criminal cases against children, the law for search and registration procedures for lost children as well as regulations concerning HIV and Breastfeeding;
  - c) The enactment as law of the United Nations Declaration on the Rights of Indigenous Peoples; and
  - d) The creation of the National Council for Childhood and Adolescence, as well as the Commissions for Childhood and Adolescence both at departmental and municipal levels.
4. The Committee further welcomes the ratification by the State Party of the Convention for the Protection of All Persons from Enforced Disappearance in 2008 and the Optional Protocol to the Convention against Torture in 2006.

## C. Main areas of concern and recommendations

### 1. General measures of implementation (arts. 4, 42 and 44, paragraph 6 of the Convention)

#### The Committee's previous recommendations

5. The Committee notes that several concerns and recommendations made upon the consideration of the State Party's third periodic report have been addressed, but regrets that many others have been insufficiently or only partly addressed.
6. **The Committee urges the State Party to take all necessary measures to address those recommendations from the concluding observations of the third periodic report (CRC/C/15/Add.256) that have not yet been implemented or sufficiently implemented, notably those related to the adoption of a national plan of action for children, the low and unequal legal minimum ages for contracting marriage, corporal punishment, children without parental care, police brutality, juvenile justice and children deprived of their liberty together with adults, and to provide adequate implementation and follow-up to the recommendations contained in the present concluding observations on the fourth periodic report.**

#### Legislation

7. The Committee welcomes the new Constitution which includes a section on child rights. However, it regrets that national legislation is not in conformity with the Convention in certain areas, for instance the Child Code (*Código del Niño, Niña y Adolescente*) and civil and penal laws concerning the prohibition of corporal punishment, raising the minimum age for marriage and bringing the alternative care of children and juvenile justice system. The Committee also notes difficulties with the dual legal system and certain incompatibilities between positive law and the indigenous customary law.
8. **The Committee recommends that the steps taken towards legislative reforms should be part of a comprehensive analysis of the legislative system in order to ensure that both positive law and indigenous customary law meet the obligations under the Convention, in particular regarding the Child Code, the regulations on marriage, corporal punishment, alternative care and juvenile justice. The Committee also recommends that a clear division of the different competencies is established between the judicial bodies and the indigenous local authorities in civil, criminal and administrative matters, and that the State Party promote awareness of legislation, in particular among communities which continue to apply customary laws.**

#### Coordination

9. The Committee notes the establishment of new institutions relevant to the rights of the child, including the Vice-Ministry for Equality of Opportunities (*Viceministerio de Igualdad de Oportunidades*), the Office for Childhood and Adolescence (*Dirección de Niñez y Adolescencia*), the National Council for Childhood and Adolescence (*Consejo Nacional de la Niñez y Adolescencia*), the Commissions for Childhood and Adolescence (*Comisiones de la Niñez y Adolescencia*) and the Municipal Child Defence Offices (*Defensorías Municipales de Niñez y Adolescencia*). However, it is concerned at the weakness of the institutions created, and

that the new strategy of decentralization poses a number of difficulties in the coordination between national, departmental and municipal levels. Also, the Committee is concerned that the institution in charge of coordination has lost status by moving from a Vice-Ministry to an Office, and will not be able to achieve effective coordination at all levels and in the different sectors given the low level of resources it is likely to obtain.

10. **The Committee recommends that the State Party ensure a high level of authority and adequate resources for the Office for Childhood and Adolescence in order for it to carry out its functions of coordination across sectors, and in this regard draws attention to its General Comment no. 5 on general measures of implementation for the Convention on the Rights of the Child (CRC/GC/2003/5). The Committee further recommends the progressive setting up of Municipal Child Defence Offices, including in rural communities, and that they be provided with adequate human, financial and technical resources. The Committee also recommends strengthening the multisectoral institutions created at different levels (the National Council and Commissions for Childhood and Adolescence) with the purpose of collaborating in the elaboration of culturally sensitive policies, assisting in monitoring their application and ensuring participation by all concerned, including children.**

#### **National Plan of Action**

11. The Committee welcomes the new National Human Rights Action Plan (adopted in 2008) and the Plan for Economic and Social Development adopted after the new National Constitution (2009) as well as the Plan for Eradication of Poverty and several sectorial plans directed at childhood, but regrets that the draft National Plan of Action for Children has not yet been approved, and that the draft text does not cover all the areas of the Convention or all children up to the age of 18.
12. **The Committee recommends that the State Party revise and adopt the National Plan of Action for Children covering all aspects of the Convention and in line with the outcome document of the 2002 Special Session of the General Assembly of the United Nations “A World Fit for Children” and its Mid-Term Review in 2007. The Committee strongly recommends that this National Plan of Action for Children is time-bound and that it is linked with the National Human Rights Action Plan, the Plan for Economic and Social Development and the Plan for Eradication of Poverty, ensuring its multisectoral and coordination nature. It further recommends that the State Party provide the necessary human and financial resources for this plan, and carry out the necessary monitoring and evaluation efforts to regularly assess progress across sectors and identify gaps and remedial actions.**

#### **Independent Monitoring**

13. While noting the work undertaken by the office of the Ombudsman (*Defensor del Pueblo*) for the defence of children’s rights, the Committee reiterates its concern that there is no national independent mechanism accessible at all levels with a specific mandate to receive complaints from children and regularly monitor and evaluate progress in the implementation of the Convention.
14. **The Committee recommends that the State Party establish a Children’s Ombudsman either separate or as part of the existing office of the Ombudsman (*Defensor del Pueblo*), accessible to children and their representatives at the national and local levels for the**

reception and processing of complaints, making sure it conforms to the Paris Principles and taking into account General Comment no. 2 (2002) on the role of independent human rights institutions (CRC/GC/2002/2). Furthermore, the Committee recommends that in addition to investigating complaints, the Children's Ombudsman have the responsibility to monitor the implementation of and promote the Convention. The Committee also recommends that the Ombudsman's office continue reinforcing the local institutions such as the Municipal Child Defence offices (*Defensorías Municipales*) and the Municipal Child Commissions (*Comisiones Municipales de Niñez y Adolescencia*) and possibly adapt these to the indigenous communities or establish community leaders (*Defensores Comunitarios*) working closely with the Ombudsman.

#### **Allocation of resources**

15. The Committee welcomes the efforts to improve the allocation of resources for children, such as the conditional cash transfers in the areas of health and education, but is concerned that budget allocations for children may need a longer term perspective provided to it by a comprehensive and time-bound National Plan of Action as part of the national development strategy, as stated earlier, and an open and transparent process. It is also concerned at the difficulty to track investment on children across sectors, departments and municipalities in order to monitor and evaluate performance, as well as at the fact that areas such as child protection and justice are not yet prioritized.

16. **The Committee strongly recommends that the State Party:**

- a) **Allocate adequate resources for children at both national, departmental and municipal levels in accordance with article 4 of the Convention, and ensure transparent and participatory budgeting through public dialogue and participation, especially that of children;**
- b) **Utilize a child right's approach in the elaboration of the State budget by implementing a tracking system for the allocation and the use of resources for children throughout the budget, thus providing visibility to the investment on children. The Committee also urges that this tracking system is used for impact assessments on how investments in any sector may serve "the best interests of the child", ensuring that the differential impact of such investment on girls and boys is measured;**
- c) **Establish clear resource allocations for the departments of the State Party that progressively address the disparities reflected in the indicators related to children's rights implementation, and ensure proper accountability by local authorities in an open and transparent way;**
- d) **Define strategic budgetary lines for those situations that may require affirmative social measures (such as birth registration, chronic malnutrition, indigenous children education, violence against children) and make sure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies;**
- e) **When possible, follow UN recommendations to start budgeting-by-result to monitor and assess the effectiveness of resource allocation and, if necessary, seek**

**international cooperation to this effect from UNICEF, UNDP and other stakeholders as is being provided to other State parties in the region; and**

- f) Take into account the Committee's recommendations following its 2007 Day of General Discussion on "Resources for the Rights of the Child - Responsibility of States."**

### **Child rights and the business sector**

17. The Committee is concerned that as the State Party improves its ability to attract private foreign and domestic investment, in addition to increasing State investment, among others in the mining, forest and soya sectors, the regulatory environment on social and environmental responsibility of business is not yet in place to prevent possible negative impact on children.
18. **The Committee suggests that the State Party undertake efforts to ensure that foreign and domestic investment through private and State business is mindful and responsive to child rights and operates in a socially and environmentally responsible way to safeguard local communities and their children.**

### **Data collection**

19. The Committee notes efforts made to further improve data collection mechanisms as demonstrated by recent surveys on children in school. Nevertheless, the Committee is concerned at the lack of a comprehensive system of data collection and analysis and at inadequate data on specific groups of children, particularly indigenous children, children with disabilities, children out of school, working children, children in emergency situations and other children in need of special protection.
20. **The Committee recommends that the State Party strengthen its efforts to develop a comprehensive system of data collection on the implementation of the Convention. The data should respect the age definition of childhood set at below 18 years and be disaggregated by sex, age, ethnicity and other relevant characteristics of children and their life situations.**

### **Dissemination, training and awareness raising**

21. The Committee is concerned at the lack of a national strategy to promote the rights of the child, and reiterates its concern about the low level of awareness of the Convention among professionals working with and for children, including the role of the media, and among the general public, especially among children themselves.
22. **The Committee recommends the reinforcement of systematic training of all professional categories working for and with children, including teachers, police, lawyers, judges, health personnel, the media, social workers and personnel of childcare institutions and judicial facilities, and also the inclusion of the Convention in the school curriculum at all levels.**
23. **The Committee recommends that the media, both private and public, should treat children with respect, disseminate the rights of the child taking into account the cultural diversity, and include in its programmes the expressions and points of view of children. The Committee further recommends that the State Party encourage the media sector to establish professional codes of ethics, taking into account the rights of the child.**

### **Cooperation with civil society**

24. The Committee takes note with appreciation of the importance that the State Party gives to the participation of civil society. However, it is concerned at the lack of a strategy to ensure civil society participation in relation to the rights of the child, and it regrets that the State Party report was not prepared on the basis of a wide consultation with organisations which contribute to the implementation of the Convention, as well as the children themselves.
25. **The Committee recommends that the State Party systematically involve communities and civil society, as well as multisectorial institutions which have been created (the National Council and the departmental and municipal Commissions) and children's organisations in all aspects of elaboration of policies, plans, laws and regulations in the field of child rights, and especially in the reporting process, including follow-up, to the Committee.**

## **2. Definition of the child**

### **(Article 1 of the Convention)**

26. The Committee reiterates its concern at the low legal minimum age for contracting marriage, as well as the discrepancy between the minimum age for girls (14 years) and for boys (16 years).
27. **The Committee reiterates its recommendation that the State Party set the minimum age for marriage for girls and for boys at a higher and equal level. It further recommends that the State Party adopt a comprehensive legal reform to uniform the definition of the child and their rights in the civil, family and criminal code.**

## **3. General Principles**

### **(arts. 2, 3, 6 and 12 of the Convention)**

#### **Non-discrimination**

28. The Committee welcomes the broad definition of discrimination in the new Constitution, the creation of the National Office for the Prevention of Any Form of Violence due to Gender or Generational Differences and the National Plan for Equal Opportunities for Women (2008). It is however concerned about the non-existence of coherent institutional and legal mechanisms to respond to the challenges of discrimination, and about reports of increase in acts of racism against indigenous peoples and afro-descendants, often leading to violence, and about how this affects children. The Committee is further concerned about the significant disparities in the State Party in the implementation of the rights enshrined in the Convention, reflected in a range of social indicators such as enrolment in and completion of education, infant mortality rates and access to health care, indicating persistent discrimination against indigenous and afro-descendant children, girls, children with disabilities, children living in rural and remote areas and children from economically disadvantaged families.
29. **In light of article 2 of the Convention, the Committee recommends that the State Party intensify its efforts to implement the National Plan for Equal Opportunities for Women, strengthening the National Office for the Prevention of Any Form of Violence due to Gender or Generational Differences, and develop awareness-raising campaigns to prevent and eliminate all forms of de facto discrimination against indigenous and afro-descendant children, children with disabilities, girls, children living in rural and remote areas and children from economically disadvantaged families. The Committee would also like to draw the State Party's attention to the principles of the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the outcome document adopted at the 2009 Durban Review Conference.**

### **Best interests of the child**

30. The Committee notes with appreciation that the principle of the best interests of the child is incorporated in the State Party's legislation, notably in article 60 of the new Constitution. However, the Committee is concerned that children are not fully treated as subjects of rights and regrets that the principle of the best interests of the child is still not reflected as a primary consideration in all legislative and policy matters affecting children. The Committee is further concerned that this principle is not adequately implemented by all professionals, including the judiciary.
31. **The Committee recommends that the State Party take all appropriate measures to ensure that children are treated as subjects of rights and that the principle of the best interests of the child, in accordance with article 3 of the Convention, is adequately integrated in all legal provisions and implemented in practice in judicial and administrative decisions and in programmes, projects and services which have an impact on children.**

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

32. The Committee notes that the principle of the respect for the views of the child is incorporated in the State Party's legislation and that the Children's Plurinational Legislative Assembly is an interesting process of democratic elections by children themselves. The Committee, however, is concerned that the views of the child are sometimes not duly solicited or taken into account in various settings affecting the child, including in judicial proceedings, in matters concerning school administration and classroom education, and in public debates. The Committee is also concerned that the participation of children is weak, especially at the departmental and municipal levels.
33. **The Committee reiterates its previous recommendations that, in accordance with article 12 of the Convention, the State Party incorporate, facilitate and implement, in practice, within the family, schools, and the community as well as in institutions and in administrative and judicial proceedings, the principle of respect for the views of the child. It also recommends the support of the State Party to every form of national and decentralized initiatives for participation. Furthermore, the Committee draws the attention of the State Party to the Committee's General Comment no. 12 (2009) on the right of the child to be heard (CRC/C/GC/12).**

## **4. Civil Rights and Freedoms**

**(arts. 7, 8, 13-17 and 37(a) of the Convention)**

### **Birth registration**

34. The Committee welcomes that article 97 of the Child Code establishes that all children should be inscribed in the civil register, and that the first birth certificate is free. The Committee is however concerned that not all children are registered, especially those in rural areas and from indigenous communities.
35. **The Committee recommends that the State Party continue to take all necessary measures to ensure registration of all children, especially in rural areas, and that it take steps to identify all children who have not been registered or obtained an identity document. The Committee further recommends that the State Party implement a specific strategy for the indigenous communities based on respect for their cultures and taking into account the Committee's General Comment no. 11 on indigenous children and their rights under the Convention**

(CRC/C/GC/11).

### **Access to appropriate information**

36. The Committee is concerned that the State Party lacks systematic media-monitoring mechanisms to protect children from being exposed to harmful information, such as violence and pornography, transmitted through the media and Internet.
37. **The Committee recommends that the State Party consider adopting specific legislation and develop mechanisms and appropriate guidelines to protect children from information and material injurious to their well-being.**

### **Torture and other cruel, inhuman or degrading treatment or punishment**

38. While welcoming the prohibition of torture in the new Constitution, the Committee is concerned about reports of torture, cruel and inhuman treatment by the police, including sexual violence, of children in street situations, and at reports of adolescents being harassed due to their physical appearance, ethnicity or poverty.
39. **The Committee recommends that the State Party adopt appropriate measures to combat torture and cruel, inhuman or degrading treatment and arbitrary detentions, including systematic training programmes at the national and local level, addressed to all professionals working with and for children on prevention of and protection against torture and other forms of ill-treatment. The Committee further recommends that the State Party investigate the allegations of torture and ill-treatment of children, including harassment of adolescents due to their appearance, ethnicity or poverty, and take all necessary measures to bring the alleged perpetrators to justice and avoid impunity.**

### **Corporal Punishment**

40. While welcoming that the new Constitution of 2009 prohibits all violence against children, both in the family and society, the Committee is concerned that corporal punishment remains lawful in the home and in residential or institutional care settings, and that there is no explicit prohibition of this form of “discipline” in all settings.
41. **The Committee recommends that the State Party expressly prohibit corporal punishment by law in all settings, taking into account the Committee’s General Comment no. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/C/GC/8). The Committee further recommends that the State Party carry out public education campaigns, including through media, about the negative consequences of corporal punishment of children, and promote positive, non-violent forms of discipline.**

### **Follow-up to the UN Study on Violence against Children**

42. **With reference to the United Nations Study on violence against children (A/61/299), the Committee recommends that the State Party:**
  - a) **Take all necessary measures for the implementation of the recommendations contained in the report of the independent expert for the United Nations study on violence against children while taking into account the outcome and**



**recommendations of the regional consultation for Latin America held in Buenos Aires between 30 May and 1 June 2005. In particular, the Committee recommends that the State Party pay particular attention to the following recommendations:**

- i. Prohibit all violence against children, including corporal punishment in all places;**
  - ii. Prioritize prevention, including inter-family violence;**
  - iii. Ensure accountability and end impunity; and**
  - iv. Develop and implement systematic national data collection and research.**
- b) Use these recommendations as a tool for action, in partnership with civil society and in particular with the involvement of children, to ensure that every child is protected from all forms of physical, sexual and psychological violence and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.**
- c) Seek technical cooperation in this respect from the Special Representative of the United Nations Secretary-General on violence against children, OHCHR, UNICEF and WHO and other relevant agencies, as well as NGO partners.**

#### **5. Family Environment and Alternative Care**

**(arts. 5; 18 (paras. 1-2); 9-11; 19-21; 25; 27 (para.4); and 39 of the Convention)**

##### **Family environment**

43. While welcoming the efforts made to strengthen the families through cash transfers for education and health, the Committee is concerned at the institutional weakness of the Municipal Child Defence Offices when it comes to preventive measures and psychosocial support to the families. It is further concerned that the lack of financial resources is still accepted as a reason to separate children from their families.
44. **The Committee recommends that the State Party introduce preventive measures at community level to support and strengthen the families, including family education and awareness through, for example, accessible training opportunities for parents, and prevent the placement of children in institutions. To this effect, the State Party should prioritize and target social services and family support at all levels, and provide the Municipal Child Defence Offices with an adequate mandate and resources to enforce and monitor the regulations on children's rights.**

##### **Children deprived of a family environment**

45. The Committee welcomes that the Child Code gives preference to family type care over institutional care, but is concerned at the increasing process of institutionalisation in residential care and the collapse of the reception centres (*centros de acogida*). The Committee is concerned that the SEDEGES (*Servicios Departamentales de Gestión Social*), at departmental level do not have the institutional capacity or human or financial resources to take on sufficiently their responsibility for the alternative care. The Committee is also concerned that the regulations for alternative care are inappropriate.

**46. The Committee recommends that the State Party:**

- a) Undertake a study to assess the situation of children placed in institutions, including their living conditions and the services provided;**
- b) Take all necessary measures for children placed in institutions to return to their families whenever possible and consider the placement of children in institutions as a measure of last resort and for the shortest period possible;**
- c) Strengthen the SEDEGES with the necessary human and financial resources, as well as the required regulations to prioritize family-type care, prevent institutional mistreatment and establish appropriate mechanisms which allow children to make proposals or complaints without risking their physical or mental integrity; and**
- d) Set clear standards for existing institutions and ensure a comprehensive mechanism of periodic review of children placed in, in light of article 25 of the Convention and the recommendations emitted after the General Day of Discussion on children without parental care in 2005.**

**Adoption**

47. The Committee welcomes the measures taken by the State Party, including the promotion of domestic adoptions, but is concerned that there are no systematic strategies which guarantee transparent adoption processes, and that mechanisms to monitor the post-adoption process are weak. The Committee is further concerned that the limited capacity of the Vice-Ministry for Equality of Opportunities does not permit it to carry out its functions as central authority for inter-country adoptions.

**48. The Committee recommends that the State Party:**

- a) Adopt a strategy to ensure a process which takes into account the best interests of the child and the other general principles of the Convention for domestic as well as inter-country adoptions;**
- b) Prevent and prosecute irregularities in the process of adoption;**
- c) Respect the principles of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Inter-country Adoption; and**
- d) Provide the necessary human, financial and technical resources for these purposes.**

**Abuse and Neglect**

49. The Committee is concerned about the high rate of domestic violence against children, which is often considered as an educative measure. It also reiterates the concern of the Committee on Economic, Social and Cultural Rights at the high incidence of children in the State Party subjected to physical and mental abuse (E/C.12/BOL/CO/2 para. 14(c)).

**50. The Committee urges the State Party to:**

- a) **Strengthen public awareness campaigns and provide information, parental guidance and counselling with a view, inter alia, to prevent child abuse and neglect including through the Municipal Child Defence Offices and the municipal commissions for childhood and adolescence, media and traditional community leaders;**
- b) **Ensure that professionals working with children (including teachers, social workers, medical professionals, members of the police, the Municipal Child Defence Offices and the judiciary) receive training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children taking into account the cultural diversity of the distinct indigenous and rural autonomies; and**
- c) **Strengthen support both for victims of abuse and neglect and the offenders in order to ensure their access to adequate services for physical and psychological recovery and social reintegration.**

## **6. Basic Health and Welfare**

**(arts. 6; 18, para. 3; 23; 24; 26; 27, paras. 1-3 of the Convention)**

### **Children with disabilities**

51. The Committee notes with appreciation initiatives to ensure the rights of children with disabilities, such as the new Constitution of 2009 which recognizes their right to universal education without discrimination. Nevertheless, the Committee is concerned that children with disabilities continue to experience discrimination, that most teachers are not properly trained to work with children with disabilities, and at the lack of collection and analysis of data concerning children with disabilities.

52. **The Committee recommends that the State Party:**

- a) **Conduct research on the extent and causes of disabilities;**
- b) **Establish systems of early identification and early intervention as part of their health services;**
- c) **Undertake greater efforts to make available the necessary professional (i.e. disability specialists) and financial resources, especially at the local level and to promote and expand community-based rehabilitation programmes, including parent support groups to ensure that all children with disabilities receive adequate services;**
- d) **Proceed to ratify the International Convention on the Rights of Persons with Disabilities and its Optional Protocol, signed on 13 August 2007; and**
- e) **Take into account art. 23 of the Convention, General Comment no. 9 (2006) on the rights of children with disabilities (CRC/C/GC/9) and the UN Standard Rules for**

**Equalizing the Possibilities for Persons with Disabilities (General Assembly resolution 48/96).**

**Health and health services**

53. While welcoming the Strategic National Plan to improve maternal, perinatal and neonatal health, promoting an Intercultural Community Family Health Model, the Committee is still concerned at the high number of maternal deaths, and that there has been no real reduction of the infant mortality rate in rural areas, especially in indigenous communities where the institutional attended childbirth is less than 50%.

54. **The Committee recommends:**

- a) **That the health budget be increased in order to make more effective the implementation of different health care delivery models;**
- b) **To conduct systematic evaluation and impact assessment of the effect of the programmes in place;**
- c) **To strengthen initiatives that give a stronger role to the community in raising awareness and developing culturally sensitive health care for pregnant women; and**
- d) **That more emphasis be placed on the implementation of neonatal mortality reduction initiatives.**

**Adolescent health**

55. While welcoming the National Programme for sexual and reproductive health, and the programme currently being elaborated by the Ministry of Education and Sports dealing with prevention of alcoholism, tobacco use, sexually transmitted infections and HIV/AIDS, the Committee reiterates its concern at the high number of teenage pregnancies, sexually transmitted infections and the high incidence of drug, tobacco and alcohol abuse in the State Party.

56. **The Committee recommends that the State Party:**

- a) **Undertake a comprehensive study in order to understand the nature and extent of adolescent health problems, with the full participation of adolescents, and use this as a basis for the formulation of adolescent health policies and programmes, with particular attention to female adolescents;**
- b) **Take effective measures to prevent drug, tobacco and alcohol abuse;**
- c) **Seek partnerships with relevant organizations to carry out awareness-raising campaigns on, for example, the health risks for both baby and mother of teen pregnancies, and the importance of vaccination;**
- d) **Promote and ensure access to reproductive health services for all adolescents, including sex and reproductive health education in schools, community and health facility levels; and**

- e) **Take into account the Committee's General Comment no. 4 (2003) on adolescent health and development in the context of the Convention (CRC/GC/2003/4).**

### **Breastfeeding**

- 57. While welcoming the Law no 3460 on Breastfeeding Encouragement (2006), the Committee is concerned at the insufficient financial and human resources for the implementation of this law.
- 58. **The Committee recommends that the State Party allocate adequate financial and human resources to the implementation and dissemination of the law to the general public, especially women, provide training on the law to health personnel and set up a monitoring process to ensure that the law's objective is attained and fulfilled.**

### **Malnutrition**

- 59. While welcoming the programme "Desnutricion cero", the Committee is concerned at the high level of chronic malnutrition among children in the State Party, and that the prevalence is much higher in rural areas and among indigenous populations.
- 60. **The Committee recommends that the State Party deal with child nutrition as a national priority through, inter alia:**
  - a) **Establishing a time-bound plan of action to reduce chronic malnutrition;**
  - b) **Allocating adequate human and financial resources;**
  - c) **Coordinating the activities of relevant stakeholders including government entities and line ministries and civil society;**
  - d) **Raising awareness of parents and caregivers of healthy nutrition;**
  - e) **Establishing a nutrition surveillance system and ensure periodical screening of infants and school children and adolescents;**
  - f) **Targeting as a priority poor and rural areas; and**
  - g) **Evaluating the effectiveness of existing strategies.**

### **Standard of living**

- 61. The Committee is concerned that 70% of the children in the State Party live in poverty, of which 45% live in extreme poverty. The Committee is also concerned at the extremely low level of sanitation coverage in the State Party, the high discrepancy between urban and rural areas and that the National Plan of Basic Sanitation remains inoperative. The Committee is further concerned at the lack of social housing and the negative impact of forced evictions on children, especially of indigenous and rural (*campesino*) families, and reiterates the concern stated by the Committee on Economic, Social and Cultural Rights in 2008 (E/C.12/BOL/CO/2, para.14(h)).
- 62. **The Committee recommends that the State Party transform its social sector initiatives such as cash transfers into a comprehensive social protection system guaranteeing the children in the State Party an adequate standard of living. The Committee further recommends that the State Party expand the capacity of the departmental and municipal services to implement integrated water, sanitation and hygiene programmes for isolated rural communities. The Committee also recommends the application and extension of the Programme for Social and Supportive Living as well as an integrated policy of social**

**housing, and to consider the situation of families with children when decisions on evictions are prepared.**

## **HIV/AIDS**

63. While welcoming the draft law on HIV/AIDS of 2007, the Committee is concerned that HIV/AIDS is becoming a prevalent problem in Bolivia.
64. **The Committee recommends, with reference to its General Comment no. 3 (CRC/GC/2003/3) on HIV/AIDS and the rights of the child, that the State Party strengthen its efforts to combat HIV/AIDS, including through ensuring availability of contraceptives throughout the country and through awareness-raising campaigns.**

## **Children with an imprisoned parent**

65. The Committee is concerned about the high number of children living in prison due to the imprisonment of one of their parents, as well as the safety, healthy development and living conditions of these children.
66. **The Committee recommends that the State Party develop and implement clear guidelines on the placement of children with their parent in prison, in instances where this is considered to be in the best interests of the child, and ensure safety and living conditions, including health care, adequate for the child's development as required by article 27 of the Convention. It further recommends that the State Party develop and implement adequate alternative care for children who are removed from prison and without care in the extended family and that these children are supported to maintain personal contact and relationships with the parent remaining in prison.**

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

**(arts. 28, 29 and 31 of the Convention)**

### **Education, including vocational training and guidance**

67. The Committee welcomes the new Constitution which establishes free and compulsory primary and secondary education. It also welcomes the “Juancito Pinto Bonus Programme” which has reduced dropout and increased school attendance, and takes note of the planned new educational law “Avelino Sinani” which deals with the cultural diversity in the country. The Committee is however concerned that not all children, particularly indigenous children, attend primary school despite the introduction of compulsory education, and that some primary school fees continue to be charged despite the constitutional guarantee of free education. The Committee is further concerned at the lack of preschools, the poor quality of education in consequence of insufficient teacher training, the low transition rate from primary to secondary school and the marked gender disparity in secondary school.
68. **The Committee recommends that the State Party:**
- a) Ensure free primary education by abolishing fees and any other costs in all schools;**
  - b) Strengthen measures to keep children in school and facilitate the transition from primary to secondary school;**
  - c) Ensure that also girls and indigenous children fully realize their right to education;**

- d) **Improve the quality of teacher training, particularly with regard to inter-cultural and bilingual education;**
- e) **Expand the vocational training facilities, including for children who have left school before graduation; and**
- f) **Make parents aware of the importance of early childhood development and education, establish holistic early childhood development programmes and train caregivers and teachers to adequately implement the new child-centred and holistic curricula of early childhood development in a culturally sensitive manner.**

### **Play, leisure and cultural activities**

- 69. The Committee welcomes the information given in the dialogue that all new and renovated educational institutions must be equipped with play and sports facilities, but is concerned that children's right to play is not adequately recognized in community and urban development planning.
- 70. **The Committee recommends that the State Party duly take into account the children's right to play and to ensure that children's institutions provide time and space for play and children's social and cultural activities.**

## **8 Special Protection Measures**

(arts. 22; 30; 38; 39; 40; 37 (b)-(d); 32-36 of the Convention)

### **Asylum-seeking and refugee children**

- 71. While welcoming the establishment of the National Refugee Commission and the strengthening of the refugee status determination procedure, the Committee reiterates its concern at the lack of specific procedures for providing special care and assistance to unaccompanied and separated children.
- 72. **The Committee recommends that the State Party take measures to ensure that asylum claims submitted by children are analyzed under a refugee status determination procedure that takes into consideration the specific needs and rights of child asylum seekers in accordance with international refugee and human rights law, and take into account the UNHCR Guidelines on determining the best interests of the child. In this regard, the Committee draws attention to its General Comment no. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6).**

### **Economic exploitation including child labour**

- 73. The Committee expresses its concern and shares the concern of the Committee on Economic, Social and Cultural Rights at the persistence of economic exploitation of children, especially indigenous children (E/C.12/BOL/CO/2 para. 14(d)). The Committee is in particular concerned at the situation of the Guarani children living in conditions of servitude, forced labour and victims of abuses in the Chaco region, as well as children engaging in hazardous work in mining.

**74. The Committee recommends that the State Party take urgent measures to address and monitor exploitative forms of child labour by:**

- a) Taking measures to prevent children under the minimum age from working in the formal and informal sector, sugar cane and brazil nut harvesting and mining industry;**
- b) Improving monitoring mechanisms in order to enforce existing labour laws and protect children from economic exploitation;**
- c) Creating and implementing norms to regulate apprenticeships;**
- d) Ensuring that children and their families living in particularly vulnerable areas have access to better opportunities for human and economic development, and that efforts to eradicate extreme poverty put children at the centre of all initiatives; and**
- e) Seeking technical assistance from ILO-IPEC, UNICEF, relevant NGOs and development partners for the development of reintegration programmes for exploited children.**

#### **Children in street situations**

75. The Committee is concerned about the high number of children in street situations in urban areas, who are constantly exposed to violence, sexual exploitation, discrimination, drug consumption and police brutality.

**76. The Committee recommends that the State Party take urgent steps to address the issue of children in street situations in cooperation with the children themselves, such as the elaboration of a national plan of action which should include prevention and response programmes and services linked to extreme poverty eradication efforts. The Committee recommends that the authorities work closely with the Municipal Child Defence Offices to facilitate contact with their families or provide alternative care solutions if this is not possible, and ensure access to health care, school programmes and preparation for work, as well as legal and psychological services.**

#### **Sexual exploitation and abuse**

77. The Committee is concerned at the scarcity of data available on the number of children victims of sexual exploitation or abuse, or on cases of perpetrators of these crimes who have been prosecuted and convicted. The Committee is further concerned at the sexual abuse of Guarani girls and other indigenous groups serving in landowners' homes or living in conditions that make them vulnerable to being sexually exploited.

**78. The Committee recommends that the State Party:**

- a) Develop a data collection and analysis system on sexual exploitation and abuse of children and the prosecution and conviction of perpetrators;**
- b) Implement adequate legislation, policies and programmes for prevention, investigation, prosecution, recovery and social reintegration of child victims of sexual abuse and exploitation, taking into account the outcome documents from the First, Second and Third World Congresses against Sexual Exploitation of Children,**



**held in 1996, 2001 and 2008 respectively, and the Optional Protocol to the CRC on Sale of Children, Child Prostitution and Child Pornography;**

- c) Train law-enforcement officials, social workers, judges and prosecutors on how to receive, monitor and investigate complaints in a child-sensitive manner that respects confidentiality; and**
- d) Secure funds, exchange experiences and extend collaboration to other countries for the tasks of investigation and prosecution of perpetrators.**

### **Sale, trafficking and abduction**

79. The Committee welcomes the adoption of Act no. 3325 from 2006 on trafficking in persons, the integral law project designed to facilitate criminal prosecutions and promote the prevention, protection and assistance to victims, and the establishment of the inter-ministerial commission for a national strategy against trafficking 2006-2010, but is concerned that the integral law project does not take into account the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, and that the State Party continues to be a source and destination country for victims of trafficking, particularly of people of African and Asian origins. The Committee is further concerned at the information of a high number of children registered by the Police as disappeared persons.

**80. The Committee recommends that the State Party:**

- a) Approve and promulgate the new integral law on the sale of children, sexual exploitation and trafficking, and ensure that it takes into account the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography;**
- b) Elaborate a national plan of action for prevention, social reintegration of the victims and prosecution of the perpetrators;**
- c) Adopt measures to prevent refugees and asylum seekers, including children, from falling victim to trafficking, and create a mechanism to promptly identify victims of trafficking and ensure the referral of those who might have protection needs to the asylum procedure; and**
- d) Ratify the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction.**

### **Administration of juvenile justice**

81. The Committee welcomes the fact that present legislation sets the minimum age of criminal responsibility at 16 years, but is concerned at the fact that deprivation of liberty is not used as a measure of last resort and at the wide use of preventive detention for children between 16 and 18 years. While welcoming the establishment of the national committee on juvenile justice, the Committee is concerned at the lack of an effective implementation of socio-educational measures directed towards children in conflict with the law, and that children above 16 years serve sentences in adult prisons in precarious conditions.

**82. The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the**

**United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular, the Committee urges the State party to take into account the Committee's general comment No. 10 on the administration of juvenile justice (CRC/C/GC/10, 2007). It also recommends that:**

- a) The State Party ensure that both the positive legal system and the traditional indigenous system respect the Convention, and introduce a clear separation of competencies between the two systems;**
- b) The State Party take preventive measures, such as supporting the role of families and communities in order to help eliminate the social conditions leading children to enter into contact with the criminal justice system/ the traditional indigenous system, and take all possible measures to avoid stigmatization;**
- c) Children in conflict with the law are always dealt with within the juvenile justice system and never tried as adults in ordinary courts;**
- d) The institution of specialized judges for children is introduced in all the regions and that such specialized judges receive appropriate education and training;**
- e) Detention is applied as a measure of last resort and for the shortest possible period of time and is reviewed on a regular basis with a view of withdrawing it;**
- f) Alternatives to the deprivation of liberty be developed in both the positive legal system and the traditional indigenous system, such as probation, mediation, community services orders, or suspended sentences, wherever possible;**
- g) Children deprived of liberty have access to education, including in pre-trial detention; and**
- h) The State Party seek technical assistance in the area of juvenile justice from the United Nations Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.**

### **Victims and witnesses**

83. The Committee notes that there are no specific provisions in the criminal law and procedure for the hearing of child victims of crime, including sexual exploitation and sexual abuse, and it is concerned at the lack of access to adequate medical and psycho-social services for children who are witnesses or victims of crime.
84. **The Committee recommends that the State Party incorporate a child-rights focus in justice and law enforcement institutions and increase the budgetary allocations for the administration of justice and ensure child rights restitutions. In this respect it recommends that the State Party take into account the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).**

## **Indigenous children**

85. While welcoming political, legal and institutional reforms with the aim of reversing the situation of exclusion and marginalization of the indigenous peoples, the Committee shares the concerns of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people at the illegal appropriation of indigenous lands by farm operators, the pollution of soils and waters traditionally used by the indigenous communities, situations of servitude or forced labour, the failure to adapt the national education system to the traditional indigenous cultures, the indigenous population's limited access to health services and the persistence of manifestations of racism against indigenous people.
86. **The Committee recommends that the State Party take all necessary measures to protect the rights of indigenous children and to guarantee their enjoyment of the rights enshrined in the national constitution, domestic law and in the Convention. In this regard, the Committee refers the State Party to its General Comment no. 11 (2009) on Indigenous Children and their rights under the Convention (CRC/C/GC/11) and to the recommendations issued by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, contained in his report (A/HRC/11/11, 2008).**

## **Children in emergency situations**

87. The Committee notes that the State Party is prone to disasters and emergencies, both of human and natural origins, and is concerned that children and pregnant mothers, who represent half of the population affected, do not receive the attention they require in situations of emergency.
88. **The Committee recommends that the State Party develop a comprehensive policy, provide adequate resources and intense training, including for children, for prevention and effective responses to emergencies required especially with regard to the most vulnerable victims like children and pregnant women. The Committee further recommends that the State party take into account the recommendations of the Committee's Day of General Discussion 2008 "The right of the child to education in emergency situations".**

## **9. Ratification of international human rights instruments**

89. **The Committee recommends that the State Party ratify the core United Nations human rights treaties and their Protocols to which it is not yet a party, namely the Convention on the Rights of Persons with Disabilities and its Optional Protocol, Optional Protocol to the Covenant on Economic, Social and Cultural Rights and Second Optional Protocol to the Covenant on Civil and Political Rights.**
90. **The Committee encourages the State Party to submit its initial reports under the two Optional Protocols to the Convention on the Rights of the Child which were due in July 2005 (Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography) and January 2007 (Optional Protocol on the involvement of Children in Armed Conflict).**

## **10. Follow-up and dissemination**

### **Follow-up**

91. **The Committee recommends that the State Party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to**

**the Parliament, Courts, relevant ministries and local authorities for appropriate consideration and further action.**

**Dissemination**

**92. The Committee recommends that the fourth periodic report and written replies submitted by the State Party and related recommendations (concluding observations) it adopted be made widely available to the public at large, civil society organizations, youth groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.**

**11. Next report**

**93. The Committee invites the State Party to submit its combined 5<sup>th</sup> and 6<sup>th</sup> periodic reports, by 1 September 2015. This report should not exceed 120 pages (see CRC/C/118).**

**94. The Committee also invites the State Party to submit an updated core document in accordance with the requirements of the common core document in the “Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents”, approved at the fifth Inter-Committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).**

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