



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Ninetieth session

### Summary record of the 2596th meeting\*

Held at the Palais Wilson, Geneva, on Wednesday, 11 May 2022, at 3 p.m.

*Chair:* Ms. Otani

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Consideration of reports of States parties (*continued*)

*Combined third to sixth reports of Cuba*

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\* No summary records were issued for the 2594th and 2595th meetings.

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

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

*Combined third to sixth periodic reports of Cuba* ([CRC/C/CUB/3-6](#); [CRC/C/CUB/Q/3-6](#) and [CRC/C/CUB/Q/3-6/Corr.1](#); [CRC/C/CUB/RQ/3-6](#))

1. *At the invitation of the Chair, the delegation of Cuba joined the meeting.*
2. **The Chair**, speaking on behalf of the Committee, expressed sympathy to the Government of Cuba in connection with the lives lost in the recent explosion at the Hotel Saratoga in Havana.
3. **Ms. Rodríguez Camejo** (Cuba), introducing her country's combined third to sixth periodic reports ([CRC/C/CUB/3-6](#)), said that the preparation of the reports had been preceded by in-depth consultations involving government institutions, the National Assembly of the People's Power, civil society organizations and children. Her country had undergone a process of legislative reform, adopting a new Constitution in 2019. In drafting the Constitution, the Government had engaged in extensive consultations, including with children aged 12 to 18 years. New legislation on the justice system had been introduced in early 2022, all of which was in line with the Convention. Further legislation providing for even greater protections for children had been presented to the parliament.
4. A family code was being drafted to strengthen protections for families. There had been consultations on the code, including with the United Nations Children's Fund (UNICEF) office in Havana. After further public consultations, the draft code would be put to a referendum.
5. The establishment of a higher-level and more effective national mechanism to protect the rights of children was under discussion. In the meantime, a deputy prime minister had been appointed to oversee all activities and policies related to children's rights. A comprehensive education policy that would take into account children's individual interests and needs was also being developed. A decree law on the Government's information system, which would facilitate the collection of disaggregated data for the development of policies for children and adolescents, had been adopted.
6. Sixty-nine per cent of the Government's 2022 budget had been set aside for meeting the social needs of the population. During the coronavirus disease (COVID-19) pandemic, the Government had continued its childhood vaccination campaign against 13 diseases. Cuba had also been one of the first countries to launch a COVID-19 vaccination campaign for children, who had returned to school at the end of 2021. The quality and inclusiveness of the education system had been maintained throughout the pandemic.
7. Cuba had an effective system of specialized care and education for children and adolescents with disabilities. The country's efforts had been recognized by the Committee on the Rights of Persons with Disabilities and the United Nations Educational, Scientific and Cultural Organization.
8. In 2019, the World Health Organization had confirmed that there had been no cases of mother-to-child transmission of HIV or congenital syphilis in Cuba for the previous five years. Sexual and reproductive health policies and plans were in place, and the Government would continue efforts to help young people enjoy the best possible sexual and reproductive health.
9. Child labour was illegal, and children were effectively protected from exploitation and trafficking. Article 86 of the Constitution provided for protection from all types of violence. In 2021, a comprehensive strategy to combat gender-based and domestic violence had been adopted for the period from 2021 to 2030. The Government would continue to raise awareness about those issues.
10. Comprehensive protection and rehabilitation policies were in place for children under the age of 16 who had committed crimes. The Government had made a commitment not to lower the age of criminal responsibility below 16 years. Justice for young people aged between 16 and 18 years of age was administered in full compliance with articles 37 and 40

(3) of the Convention. In line with the Committee's recommendations, greater use of alternative measures was made when sentencing minors.

11. Her Government had made progress towards compliance with almost all of the Committee's recommendations, despite the unprecedented tightening of the economic, commercial and financial embargo imposed by the Government of the United States of America on Cuba for more than 60 years. The embargo hampered access to medical supplies, technology and equipment that could improve some children's quality of life and save the lives of others. In addition, a media and political campaign had been launched to obscure the country's effective protection of children and adolescents.

12. **Ms. Marshall-Harris** (Coordinator, Country Task Force), acknowledging the embargo of more than 60 years imposed on the State party, said that she would like to know why the Government had not yet acceded to the Committee's request to withdraw its declaration on article 3 (2) of the Optional Protocol on the involvement of children in armed conflict. She also wished to know why the State party had not yet ratified the International Covenant on Civil and Political Rights. In addition, she wondered when legislative texts that drew on the rights enshrined in the 2019 Constitution, children's rights in particular, would be adopted.

13. As the family code had remained in draft form for some time, she would like to know whether the Government encountered obstacles when attempting to introduce new legislation related to children and whether anything could be done to speed up the process. She would like to know whether the First Vice-President of the Council of Ministers was still responsible for overseeing efforts to protect and promote the rights of the child and whether the Government would consider introducing a high-level interministerial body to coordinate all activities related to the implementation of the Convention. The delegation might also comment on the country's lack of a national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

14. She would appreciate more information on the amounts invested by the Government in children's issues. It would be interesting to know, for example, what measures were in place to ensure that equal amounts were available for girls and boys and that public funds were invested transparently. She wondered whether it would be possible to collect disaggregated data on the outcomes of measures taken for the benefit of children. Such data would be useful for the analysis of those measures.

15. She would welcome an explanation of the Government's efforts to establish a mechanism for the systematic monitoring of children's rights, as recommended in the Committee's previous concluding observations (CRC/C/CUB/CO/2, para. 13). It would be interesting to learn more about awareness-raising programmes and the dissemination of the Convention. Concrete examples of such programmes and of dissemination efforts would be particularly welcome.

16. She wondered whether, given the adoption of the new Constitution, the Government might consider rejoining the Organization of American States. In view of the importance of tourism to the Cuban economy and the related risks to children, she would like to know whether any regulations were in place to prevent child labour or the sexual exploitation of children.

17. **Mr. Mezmur** (Country Task Force), noting the commendable protections from discrimination under article 42 of the Constitution, said that he would nevertheless like to know what was done to ensure that discrimination against children on the basis of their parents' status was prohibited. He would welcome concrete examples of cases where article 295 of the Criminal Code, under which the violation of the right to equality was made a criminal offence, had been invoked in relation to children.

18. He would like to know the exact wording used in the Constitution in relation to the best interests of the child. He would also like to know what plans the Government had made to fulfil its stated commitment to developing and enhancing respect for the principle of making the best interests of the child a primary consideration in all actions concerning children, including law-making.

19. He wondered what progress had been made towards improving road safety in the State party, where road accidents were reportedly a major cause of death among children and other young people. He wished to know whether the procedural reforms that the National Assembly of the People's Power had been expected to approve in October 2020, which were intended to further strengthen the country's extensive guarantees of children's right to be heard, had in fact been approved.

20. He would like to know how the family code, once adopted, would change the legal landscape with regard to nationality and statelessness. He wondered whether the Government had any plans to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. He also wondered how a parent might be able to register the birth of a child outside the 30-day legal time frame for birth registration.

21. According to the State party's periodic report, freedom of expression was subject to certain restrictions. He would like to know more about those restrictions and when they might be applied.

22. He wished to know whether article 294 of the Criminal Code, under which the violation of the right to freedom of religion was made a criminal offence, had ever been invoked in cases involving children. He would like the delegation to explain the relevance to children's rights of the references in the periodic report to instances of positive collaboration with religious institutions.

23. He wondered when force could be used to break up an assembly and whether different procedures were followed when an assembly involved children. He would welcome an example of a website against which action had been taken because it encouraged or promoted behaviours that were harmful to the normal development of children and adolescents.

24. **Mr. Pedernera Reyna** (Country Task Force) said that he would like to know what measures the Government planned to take to reverse the significant recent increase in the percentage of households in which, according to data from a 2019 survey, corporal punishment was used. He wondered whether the Government would include an explicit prohibition of corporal punishment in all settings in the new family code. He also wished to know what measures were in place to respond to incidents of corporal punishment and whether the Government had a system of data collection and consolidation that would provide an overview of the prevalence of corporal punishment in the State party.

25. According to information from the Office of the Attorney General, 27 children under the age of 16 had received some sort of punishment for their involvement in anti-government protests in July 2021. In 10 cases, the children had been sent to institutions referred to as comprehensive development schools. The Office of the Attorney General had also confirmed that criminal proceedings had been instituted against 55 young persons aged 16 to 18, while some adolescents aged 16 or 17 had reportedly received custodial sentences ranging from 5 to 19 years. The Committee had also received information that those minors had been apprehended at night or early in the morning, often violently, and without being informed of the reason for their detention. Some had been subjected to more than 12 hours of interrogation by police or military personnel, as well as intimidation and physical abuse. They had not been permitted to contact their relatives, who had not been informed of their whereabouts.

26. In the light of those reports, he would like the delegation to explain what comprehensive training schools were and what they were for. He would also like to know whether the Government was aware of the alleged abuses, whether there had been an independent investigation of the allegations and, if so, what the outcome had been. In addition, he wondered what measures the Government took to guarantee that those young people were able to report the alleged abuses.

27. He would like to know what steps the Government was taking to develop a comprehensive system to protect children from violence. He would appreciate more detail on appropriate and accessible mechanisms that would enable children to report violence. In addition, he asked what action the Government had taken in follow-up to the reports of sexual abuse, of which there had been more than 2,000 in 2015, mentioned in the State party's report.

*The meeting was suspended at 4 p.m. and resumed at 4.15 p.m.*

28. **Ms. Saucedo Pérez** (Cuba) said that the adoption of the new Constitution had enabled Cuba to better harmonize its legislation with the Convention. In a further effort to bring its legislation into line with international human rights instruments, the Government had recently adopted a number of new laws – including the Procedural Code and the Criminal Procedure Act – which had entered into force in January 2022. In May 2022, the National Assembly of the People’s Power was expected to adopt a law on the protection of constitutional rights, a new criminal code and a sentence enforcement act.

29. The right of children to be heard in all cases affecting them was provided for in the Trial Code. Children’s testimony could be given outside the courtroom and in the presence of their representatives, the public prosecutor and any specialists deemed necessary. Court proceedings, which were usually public, could be made private to preserve the anonymity or dignity of a child. A child could be appointed a public defender when his or her interests differed from those of his or her legal guardian.

30. The Trial Code contained a wide range of measures designed to protect families and children. For example, if a young person was detained, he or she could be released to a relative with the approval of a judge. Multidisciplinary teams advised the courts in cases involving children. In the case of domestic violence, those teams could advise the courts on the psychological or physical damage caused to children or adolescents.

31. The Criminal Procedure Act provided for special treatment for young people aged 16 to 18. Pretrial detention was allowed only in exceptional cases. Young people had the right to a legal representative at all stages of criminal proceedings. Their parents were immediately informed of the charges and could accompany them to the court hearing. Sentencing guidance for persons aged 16 to 18 stipulated that deprivation of liberty should be avoided and that courts should focus on rehabilitation.

32. Cuba had no juvenile courts. Nevertheless, some judges were specialized in juvenile justice, and the law provided for the possibility of creating new judicial institutions.

33. **Ms. Rodríguez Camejo** (Cuba) said that the allegations of abuse and torture of minors following the July 2021 demonstrations were entirely false. The age of criminal responsibility, as she had already noted, was 16, and there were no minors under that age in detention in the country. Judicial proceedings involving children aged 16 to 18 in conflict with the law were held in strict compliance with the provisions of the Convention. The Criminal Procedure Act had introduced special treatment for all accused persons under the age of 18. Information on their whereabouts was provided to their parents or legal guardian as soon as they were detained. They would not be held in pretrial detention unless the crime was of a serious and violent nature, such as terrorism.

34. The young demonstrators who had been arrested had been prosecuted in strict observance of the law. The crimes they had committed had been extremely serious and had put the physical safety and lives of others in danger. They had communicated freely with their lawyers and relatives. The public prosecutors had been objective in their presentation of the cases, and the defendants had been presumed innocent. They also had the right to appeal their sentences. The legal proceedings were ongoing.

35. Actions and policies for the protection of the rights of the child were well coordinated, and the Government had been commended for its coordination efforts by a number of international organizations. However, the Government was still working to improve that coordination. To that end, all six pillars of the National Plan for Economic and Social Development placed a particular emphasis on the rights of children and adolescents. In addition, the Government was considering the establishment of a higher-level mechanism – a deputy prime minister, as she had noted previously, was responsible for the current mechanism – to monitor efforts to protect the rights of children.

36. **Ms. González García** (Cuba) said that the comprehensive system of care for children and adolescents was informed by an approach in line with the country’s specific circumstances. As the COVID-19 pandemic had thwarted plans to update the National Plan of Action for Children, Adolescents and Their Families, the 2015–2020 version of the Plan was still in force. Child protection services had been expanded during the pandemic, including by administering COVID-19 vaccines developed in Cuba to all children aged 2

years and over. Nearly 98 per cent of children had been vaccinated; half the children aged 12 to 18 years had received booster shots.

37. A comprehensive policy for children and adolescents, which set 10 strategic priorities in areas such as health, education, employment, housing, leisure and participation, had been developed. The policy drew on input from extensive consultations with children and adolescents. The child rights provisions contained in the new Constitution were directly applicable in the courts, and an act on the protection of constitutional rights would be adopted shortly. The draft family code, once adopted, would supersede the Child and Youth Code (1978).

38. Nearly all maternity hospitals had civil registry units where births could be registered free of charge. In the very rare cases where women gave birth outside hospitals, follow-up, including with regard to birth registration, was provided by community doctors. State support for mothers and newborn children was contingent on a birth certificate, which provided an additional incentive to register births within the 30-day deadline. The constitutional right of all children to be registered was also implemented in respect of Cuban children born abroad.

39. Both the draft family code and the new Constitution provided for protection from violence; two articles of the Constitution specifically addressed violence against children. The National Programme for the Advancement of Women, adopted in 2021, included a focus area on prevention of and protection from violence, and Ministerial Agreement No. 9231 of 2021 established a comprehensive strategy for the prevention of gender-based and domestic violence. Institutions had been tasked with developing relevant operational protocols, which were subject to monthly review by the Council of Ministers. The findings from public consultations on violence against children would be presented to the National Assembly shortly.

40. The draft family code contained specific provisions on violence in the family setting and established criteria for urgent intervention and redress. Children's rights were mainstreamed across the code, including by incorporating the principle that the best interests of the child must be a primary consideration in all actions concerning children, the concept of positive parenting and the right to live in a non-violent environment. The code contained an express prohibition of inappropriate forms of discipline and provisions on digital environments. It also provided for foster placement and respite care for child victims of violence.

41. **Mr. Quintanilla Román** (Cuba) said that options for ratifying additional international human rights instruments, including the International Covenant on Civil and Political Rights, were being evaluated as part of wider reform processes. By upholding the human rights of the Cuban people, the country's successive Governments had nonetheless complied with the spirit of international human rights instruments even if they had not ratified them.

42. The establishment of a national human rights institution in line with the Paris Principles did not necessarily produce better human rights outcomes. The absence of such a mechanism had not prevented the country from complying with its international human rights obligations. An extensive inter-institutional framework, which included complaints mechanisms such as that offered by the Attorney General's Office, was conducive to the promotion and protection of human rights. From 2017 to 2020, the Office had received and followed up on 63,348 complaints, 906 of which related to children's rights. Other resources included complaints hotlines, social media platforms and the government website [www.elciudadano.com](http://www.elciudadano.com), which offered comprehensive information relating to citizen's rights and avenues of complaint.

43. Freedom of expression was a constitutional right enjoyed by all citizens, including children. It was limited only by the rights of others, national security considerations and public order requirements. The same was true for freedom of thought, conscience, religion or belief, and freedom of association and peaceful assembly. Children's participation in matters that affected them was facilitated through their membership in the José Martí Pioneer Organization, which was for primary school pupils, or the Federation of Secondary School Students, which had 700,000 and 277,000 members, respectively. Representatives of those two organizations also sat on school boards.

44. **Ms. Triana Mederos** (Cuba) said that if children committed an offence, they were referred to councils for minors, which acted in the best interests of the child. The work of the councils, which currently served 1,328 children, 403 of them girls, consisted mainly of providing psychosocial and other support with a view to generating positive behavioural change in children with behavioural disorders. Only in exceptional circumstances were children sent to comprehensive development schools, which were only for minors who had committed serious crimes. Children in such schools continued their studies, engaged in leisure activities and were assisted by specially trained staff. Approximately 150 children aged 14 to 16 attended such schools every year. The Attorney General's Office conducted regular inspections – between 70 and 100 a year – to monitor compliance with the rules for the treatment of minors in conflict with the law. Additional detail on the treatment of such minors could be found in the country's periodic report ([CRC/C/CUB/3-6](#), paras. 295–313).

45. **Mr. Rodríguez Hernández** (Cuba) said that the country's economic situation limited the availability of budgetary resources for child protection. Spending on health and social services accounted for more than a quarter of the country's gross domestic product. Women with more than three children were eligible for food and housing benefits; children with chronic diseases were provided with medicines free of charge.

46. **Ms. González García** (Cuba) said that children were not recruited into the armed forces. Under the National Defence Act, the minimum age for entry into active military service was 18 years, and any violation of that provision was a prosecutable offence. As the country did not engage in armed conflict, young people performing military service were not involved in combat. A possible withdrawal of the declaration under article 3 (2) of the Optional Protocol on the involvement of children in armed conflict was currently being discussed.

47. Efforts to improve data collection had been stepped up. A population and housing census to be conducted in 2022 was expected to yield comprehensive data on issues such as violence, reproductive health and early childhood education.

48. **Ms. Rodríguez Camejo** (Cuba) said that Cuba would never return to an organization – the Organization of American States, as it happened – that, from its inception, had been an instrument of imperialist domination.

49. **Mr. Pedernera Reyna** said that he wished to know what steps the State party took to enforce the legal prohibition of ill-treatment and how it responded to allegations of ill-treatment by its officials. It would also be useful to know whether the State party planned to establish a comprehensive ban on corporal punishment. He would welcome additional detail on the comprehensive development schools and the behavioural disorders used to justify sending children to those schools.

50. **Ms. Aho** said that she was curious about the timeline for the issuance of birth certificates. How did the State party make sure that those certificates were actually collected?

51. **Mr. Rodríguez Reyes** said that he wished to know whether corporal punishment was expressly forbidden in all settings, whether the State party had conducted outreach concerning the prohibition of corporal punishment and whether parents and people who worked with children were advised on alternative, non-violent forms of discipline.

52. **Mr. Pedernera Reyna** said that he wondered whether the far-reaching legislative reforms designed to afford comprehensive protection to children and their families would be brought to a successful conclusion. He would welcome additional information on the steps taken to promote children's rights in the family environment, the budget allocations made to implement the changes provided for in the family code and the specific changes to existing legislation on adoption, alternative care settings and foster families that would have to be made when the code was adopted.

53. He wished to know whether children were still taken from their parents if the parents were financially insolvent, whether parents who had decided to work abroad were banned from visiting the country for at least eight years and, if so, whether the State party took any measures to facilitate family reunification in such cases. It would be helpful to learn about policies in place or envisaged to provide for non-custodial sentences for women with small children.

54. He also wished to know whether all children under the age of 18 in the State party, not simply those younger than 16, were protected under the Optional Protocol on the sale of children, child prostitution and child pornography, whether the State party had adopted a comprehensive legal definition of the sale of children that was in line with article 3 (1) of the Optional Protocol and whether it had expanded its definition of child pornography to bring it into line with articles 2 (c) and 3 (1). It would also be useful to know whether the State party had established extraterritorial jurisdiction over acts prohibited under article 3 and whether child victims of trafficking were exempted from criminal liability for offences they committed because they were victims of trafficking.

55. He asked whether any steps had been taken to criminalize the recruitment of children under 18 years of age into the armed forces, non-State armed groups and security companies. He also asked whether plans had been made to establish the recruitment of minors for use in armed conflict as a war crime, ratify the Rome Statute of the International Criminal Court, prohibit military training for minors and expressly prohibit the involvement of children serving in the Production and Defence Brigades in hostilities in the event of a national emergency.

56. **Mr. Nelson** (Country Task Force) said that he wondered whether the State party envisaged adopting comprehensive legislation on children with disabilities, whether there was an action plan for the promotion and protection of the rights of such children and, if so, what the plan involved and what time period it covered. An update on the progress made towards a fully inclusive education system would also be appreciated. He also wondered what type of training was provided to people who worked at special schools, whether children with disabilities wishing to pursue careers in sports, the arts or culture benefited from the same support as other children and whether any assistance was available to families of children with disabilities.

57. He asked what had been done to reverse the current rise in child mortality and low birthweight and whether the efforts to combat obesity, promote breastfeeding and address anaemia in breastfeeding mothers had had the desired results. If not, it would be helpful to find out whether any alternative measures were envisaged.

58. It was unclear what the State party did to ensure that the deployment of Cuban health professionals abroad did not lead to staff shortages in Cuba and whether it was true that the Government took a substantial share of their earnings and barred doctors who decided to stay abroad from visiting the country for years. The delegation might wish to elaborate on the reasons for the reported rise in teenage pregnancy and provide specifics on the availability of contraceptives and child-friendly counselling services.

59. The Committee was interested in the delegation's thoughts on actions that might help the State party overcome the economic and supply-related problems resulting from the embargo imposed by the United States of America.

60. **Mr. Mezmur** said that it would be useful to know how the State party sustained and built on its achievements in the field of education in the context of the pandemic. He wondered what measures had been taken to prevent gaps in education resulting from school closures and whether the pandemic had affected preschool and primary school retention rates. It would be interesting to find out whether special schools for children with disabilities had been given the same priority as regular schools, including in terms of reopening, and learn more about the specific impact of the pandemic on those children.

61. **Ms. Marshall-Harris** said that she wished to know whether the State party planned to ratify the Convention relating to the Status of Refugees and adopt relevant legislation. It would be useful to obtain updated statistics on the number of child refugees and asylum seekers in the State party. She wondered which services were responsible for those children and whether officials were adequately trained to address their specific needs.

62. Despite the apparent absence of child sexual exploitation and child labour, the State party would be well advised to monitor the situation, especially in the tourism sector, and develop relevant legislation as a precautionary measure. It should also make sure that the children who were reportedly taken to work on farms in the summer were not exploited for



their labour. In that connection, she wondered whether there were any exceptions to the minimum age for employment.

63. Additional information on procedural guarantees and exemption from pretrial detention for juvenile offenders aged 16 to 18 would be appreciated. Clarification of the precise nature of the special regime for handling criminal cases involving minors aged 16 and 17 would also be welcome. The Committee would be grateful to learn more about the reported detention and sentencing of minors in the wake of anti-government protests in July 2021. If the reports were true, could the State party explain how long prison terms for minors could be reconciled with its policies for the administration of juvenile justice?

64. **Mr. Van Keirsbilck** said that he would like to know whether children placed in comprehensive development schools were free to come and go and whether conditions in those facilities were monitored regularly by an independent monitoring mechanism. If not, he wondered whether the State party might consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and establishing a national preventive mechanism to monitor the conditions in places of detention. He would welcome updated information on the number and age of children in detention and on the sentences they were serving.

*The meeting rose at 6 p.m.*