



# Convention on the Rights of the Child

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

### Summary record of the 1544th (Chamber A) meeting

Held at the Palais Wilson, Geneva, on Tuesday, 14 September 2010, at 10 a.m.

*Chairperson:* Ms. Lee

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*The meeting was called to order at 10.10 a.m.*

### **Consideration of reports of States parties**

*Third and fourth periodic reports of Guatemala (CRC/C/GTM/3-4; CRC/C/GTM/Q/3-4 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Guatemala took places at the Committee table.*
2. **Mr. Martínez Alvarado** (Guatemala) thanked the Committee for giving Guatemala the opportunity to present its third and fourth periodic reports after their consideration had been postponed from May 2010 due to the devastation caused by natural disasters in Guatemala. He introduced the members of the delegation of Guatemala.
3. **Ms. Del Valle** (Guatemala) said that the third and fourth periodic reports of Guatemala covered the period from 2002 to 2007, outlining the current situation of children and adolescents in Guatemala and institutional and governmental efforts to protect their human rights. Guatemala had restructured its inter-institutional human rights forum, through the Presidential Human Rights Commission (COPREDEH), in order to provide an effective follow-up system for measures taken by the State on human rights issues based on the recommendations made by the monitoring mechanisms of the United Nations and the inter-American human rights systems. The follow-up system included a database that would enable the relevant institutions to review the status of implementation of the recommendations and identify appropriate measures to be taken to ensure that all of the recommendations would be fully implemented.
4. She recalled that it had been only 12 years since Guatemala had signed peace agreements to bring domestic armed conflict to an end and the underlying causes had yet to be addressed. It was basically a rural country with a young population and a high level of poverty; indeed, 21.5 per cent of the population lived in extreme poverty. The main victims of poverty were the rural population, indigenous peoples, women and persons under 18 years of age. Nevertheless, Guatemala had made significant progress over the past two years in improving the situation of children and adolescents by strengthening the regulatory and institutional framework, increasing social spending and implementing child-oriented measures. A number of laws relevant to children's issues had been adopted, including the Act on Sexual Violence, Exploitation and Trafficking in Persons (2009), which harmonized domestic legislation with the Convention and its Optional Protocols; the Act on the AlbaKeneth Alert System (2010), which coordinated institutional measures to locate and provide emergency care to abducted, kidnapped and disappeared children; and the Act on the Comprehensive Protection of Children and Adolescents (2003), which provided for the creation of specialized courts for children, adolescents and young people in conflict with the law. Three specialized courts had already been established in Guatemala City and another 10 in the country's 22 departments.
5. To combat the chronic malnutrition suffered by Guatemalan children, the National Strategy for the Reduction of Chronic Malnutrition had been implemented in 2008 and 2009 in a third of the country's municipalities, covering 13 of the 22 departments, and focusing on children aged between six months and three years and pregnant and breastfeeding women.
6. Turning to adoption, she said that Guatemala had established the National Adoption Council to act as a central authority in line with the provisions of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. The Council had authorized 79 foster institutions to care for the 4,200 children eligible for adoption and had overseen the 3,075 cases of adoption left pending by the Office of the Procurator-

General, which was the body formerly responsible for adoptions, while inquiries were made into possible irregularities in the applications.

7. Children and adolescents featured high on the Government's list of priorities, as reflected in the 356 per cent increase in the 2009 budget allocation to the Social Welfare Secretariat, which was tasked with formulating and coordinating policies to protect children, adolescents and vulnerable groups. Unfortunately, Guatemala had the second lowest level of tax revenue in Latin America, after Haiti, meaning that limited funds were available for social investment, which had an impact on Guatemalan children and adolescents. The Government had therefore drafted a fiscal reform programme to create a mechanism to optimize State funds and increase social spending.

8. The Social Welfare Secretariat had introduced a number of successful programmes to address the major issues affecting children and adolescents. For example, the social investment programme known as *Mi familia progresa* aimed at improving health care and nutrition among low-income families with children aged 0 to 15 years and pregnant and breastfeeding women, and raising school attendance levels among 6- to 15-year olds. A system of conditional cash transfers was in place to reward families who fulfilled certain obligations as part of their commitment to accept joint responsibility for their health and education. The programme had been launched in 177 municipalities and would be extended to a further 100 by the end of 2010. There had already been a marked rise in the number of school dropouts returning to school, especially girls, and of children enrolling in school for the first time. In addition, more people were using health services, food quality had improved and, as a consequence, there had been fewer cases of illnesses requiring medical attention.

9. Other successes included three presidential programmes, namely an emergency food programme (*Bolsas Solidarias*) to distribute food packages containing basic nutritional foodstuffs in order to reduce the high risk of food insecurity among low-income families; a low-cost meal programme aimed at children from low-income families, street children, workers with special needs, single mothers and the elderly; and an "open schools" (*Escuelas Abiertas*) programme, which was a scheme to allow schools in deprived inner-city areas where violence was prevalent to remain open during the weekend so that children and adolescents could participate in leisure, sports and educational activities and receive advice and free meals in a risk- and violence-free environment. By August 2010, 192 schools had participated in the programme, and it was planned to extend the scheme nationwide. A parallel scheme had been established by the Ministries of Education and Governance, known as the "safe schools" programme, to ensure that State schools were safe and free from violence and drugs and to provide an all-round education that would develop the whole child. To date, 49 safe schools had been established in cities, which were equipped with alarms and CCTV cameras and had regular police patrols of school buildings and grounds and the surrounding neighbourhoods.

10. Finally, with regard to adolescents in conflict with the law, she said that most had either been victims of or witnesses to violence or abuse during their childhood years. Added to that, it was not widely understood that the disintegration of the nuclear family had left many children bereft of the security of living in a family where they were loved and accepted, which was a basic need. Government action was therefore needed to address the underlying issues, taking into account the relationship between poverty and inequality and focusing on providing comprehensive care rather than solely on imposing repressive measures. The Social Welfare Secretariat, through the Undersecretariat for Reintegration and Social Rehabilitation, was currently implementing two programmes to ensure that adolescents in conflict with the law not only submitted to legal sanctions imposed on them but also received comprehensive care. The first was an integrated programme delivered in special detention centres to provide comprehensive care to adolescents in conflict with the

law serving custodial sentences, with emphasis on helping adolescents to reintegrate in society, their families and the labour market. There were three types of juvenile centres: pretrial detention centres for boys; detention centres for boys; and detention centres for girls. The second programme included a series of social and educational measures to care for adolescents serving non-custodial sentences. A multidisciplinary team of professionals helped such adolescents in the community to reintegrate in their families and society, foster a sense of responsibility and respect for the law and the fundamental rights of others, and acquire skills and knowledge to enable them to develop personally and socially.

11. **Ms. Ortiz** (Country Rapporteur) said that the Committee was aware of the numerous difficulties faced by Guatemala in implementing the Convention and its Optional Protocols, including violence, organized crime, armed conflict, racial discrimination and recurrent natural disasters. She commended Guatemala for its resilience and determination to overcome the problems and on the progress it was making towards implementation. She expressed the Committee's concern, however, about the country's inequitable distribution of resources, the high number of homicides, particularly the high incidence of femicide, which accounted for more female deaths than maternal mortality, and of child homicides, with over 500 cases recorded per year. She also expressed concern at the treatment of adolescents in conflict with the law. Adolescents were the main perpetrators of violence and the problem was currently dealt with through harsh measures, often involving a military response, rather than through programmes to address the root of the problem and promote social inclusion.

12. Although the Committee welcomed legislative progress made by the State party over the past few years in response to its observations, such as the passing of the recent Act on Sexual Violence, Exploitation and Trafficking in Persons, and the Act on the AlbaKeneth Alert System, it still had some concerns as to whether domestic laws were in total conformity with the three treaties.

13. The Committee's main and often repeated concern related to problems in implementing those laws. There was still no evidence of a comprehensive strategy specifically aimed at implementing the Convention with clear objectives for improving the lives of children in Guatemala.

14. The Committee recommended the appointment of a high-level coordination body with the ability to influence public policies in order to benefit children. One of the underlying purposes of the Convention had been to abolish the notion that children should be dealt with only when they had a problem and to recognize children as citizens with full rights, whose exercise was guaranteed by the State. That had represented a quantum leap, implying that children's issues should be incorporated in the State's public policy, budget, development plans and poverty reduction strategies. By means of the Act on the Comprehensive Protection of Children and Adolescents (LEPINA), the State party had established a National Commission on Children and Adolescents that was charged with developing specific policies for children and ensuring their incorporation in public policy; however, the Commission had not been granted the authority, resources or political support it needed to fulfil its functions. She recalled that the Committee always recommended that the coordination of children's policy should not be carried out by bodies that provided direct care to children.

15. The changes encouraged by the Convention were the promotion of children's rights, programmes for children that kept them in their families and communities and the healthy development of children through education, health services and leisure activities that were suited to their needs and cultural backgrounds – not additional and larger State-run institutions for the placement of children. In that connection, she was concerned at the large number of children who had been declared eligible for adoption, as it revealed the lack of the State's presence in their lives prior to their attaining that status. She asked how the

Government planned to address that situation with an eye to promoting children's civil, economic, social and cultural rights. She wished to know what means were used to evaluate the implementation of the Plan of Action on Children and Adolescents and whether the Plan included locally-run programmes that delivered services to children and their families.

16. With regard to public spending for children, she asked how the State party ensured long-term budgetary funding as part of its national development strategy. She enquired whether the Government was undertaking a tax reform to allow for the introduction of an income tax. The Committee recommended the designation of certain strategic budget items as untouchable, including birth registration, chronic malnutrition, indigenous children, education, violence against children and early childhood care.

17. **Mr. Kotrane** asked whether, in order to complete the range of human rights protection it offered, Guatemala planned to ratify the Rome Statute of the International Criminal Court. He wished to know what progress had been made in implementing the Committee's recommendations as contained in its most recent concluding observations (CRC/C/15/Add.154). He enquired whether a commission had been set up with a view to bringing Guatemala's domestic legislation into conformity with the Convention and the two Optional Protocols. Had steps been taken, for example, to define the recruitment of children in armed conflict as a criminal offence in the Criminal Code? The same question applied to any of the other acts prohibited by the two Optional Protocols which had not yet been defined as offences under Guatemala's criminal legislation.

18. He would appreciate an explanation of the distinction made by the State party between the functions of coordination and independent monitoring. He understood that both the Presidential Human Rights Commission (COPREDEH) and the National Commission on Children and Adolescents were coordinating bodies: the former for general human rights and the latter for children's rights in particular. There did not, however, appear to be a genuinely independent human rights monitoring body in Guatemala that adhered to the Paris Principles. He asked whether steps had been taken to establish such a body.

19. He requested more detailed information concerning the definition of the child in Guatemala's legislation and the civil rights arising therefrom. He wished to know the precise nature of the law concerning the minimum age for marriage, irrespective of the practice in that regard. He asked whether the State party envisaged the prohibition of marriage before the age of 18 for boys and girls alike. He would appreciate knowing whether children were allowed to express their views and have those views taken into account in decisions affecting them. He asked what measures the Government envisaged taking to ensure that children were regarded as fully-fledged subjects of law.

20. **Ms. Aidoo** welcomed the establishment of the Office of the Human Rights Procurator and the fact that it had been granted "A" status by the International Coordinating Committee of National Human Rights Institutions. She wished to know the level of public resources allocated to the Office of the Human Rights Procurator for the performance of its functions, in particular independent monitoring and the investigation of violations of children's rights. She asked what degree of independence was exercised by the Office, as there were reports that it was often subject to political bias. She wondered whether children from all backgrounds (including rural, urban, indigenous and poor) had access to the Office. Lastly, she requested clarification of the relationship between the Office of the Human Rights Procurator and the Presidential Human Rights Commission.

21. She was concerned that the collection, disaggregation and analysis of data on children remained a major institutional weakness in the State party and believed that the efficiency and effectiveness of social policies and laws for children, and by extension their implementation, depended on how well such policies responded to the everyday realities of children. While she welcomed the existence of the National Statistical Institute, the latter

did not seem to have the capacity or resources systematically to collect data on children and adolescents, nor did it dispose of appropriate rights-based data-collection instruments that would enable it to develop a coordinated approach to the collection and analysis of data on children among all relevant State institutions. It would be useful to have information on the incidence, distribution and socio-economic characteristics of child poverty, as well as data reflecting children's health status and access to health services, broken down not only by sex but also by age, since the responses would differ accordingly. As the Committee was concerned about the issue of equity in health, it would also be useful for such health data to be broken down according to the various categories of children (rural, urban, indigenous, etc.). She was concerned that the existing data-collection system primarily covered Guatemala City and other urban areas, despite the fact that more than one half of the population lived in rural areas. She asked what steps were being taken to ensure that the collection of data relating to children took into account the essential elements of a strategy designed to tailor laws, policies and programmes to the needs of all children in Guatemala.

22. **Mr. Gurán** requested additional information on the mandate and composition of the independent monitoring mechanism and the number of complaints it had received. He wished to know how well equipped it was, in terms of staff and other resources, to resolve the serious problems facing the State party. He would also appreciate additional information on intercountry adoption procedures in Guatemala, including an account of the status, structure and responsibilities of the competent national authority.

23. **Mr. Citarella** said that, although the State party had made progress in amending its legislation in specific areas, no concerted action had been taken for the review of Guatemala's domestic legislation in order to bring it into line with the Convention and the two Optional Protocols. Once the Convention had become part of the law of the land, he asked how the judiciary would deal with potential conflicts between domestic law and the Convention that arose in court proceedings.

24. Judging by the scarcity of information in the report on the practical implementation of the provisions of the Convention, there appeared to be a number of obstacles to the full implementation of Guatemala's domestic legislation. He wondered whether those were due to financial constraints.

25. There was evidence of a widespread tendency in Guatemala to regard children, in particular adolescents, as representing a danger to society. That sometimes resulted in the odious practice of social cleansing, as could be seen from the large number of homicides in Guatemala, some of which were reportedly carried out by private individuals, security forces and the police as a means of ridding society of criminal gangs, whose members often included minors. He wished to know the precise definition of the child in domestic legislation and whether it was consistent with that contained in the Convention.

26. **Mr. Puras** said that he would appreciate an account of the challenges encountered in giving effect to children's civil rights and freedoms in schools, families, neighbourhoods and institutions. While, according to the report, there were ostensibly no restrictions on those civil rights and freedoms, the high level of violence and the prevailing paternalistic culture and attitudes towards children in Guatemala could, in practice, entail certain restrictions. He asked what were the results of the Building Citizenship programme described in paragraph 101 of the report.

27. The delegation should comment on the debate surrounding HIV-testing of minors, as that issue directly concerned their civil right to medical confidentiality. Although the proposed amendment to the relevant legislation on the matter, as detailed in paragraph 115 of the written replies (CRC/C/GTM/Q/3-4/Add.1) was considered to be an improvement over the current situation relating to the right of children to confidentiality, in his view, the amendment reflected the Government's reluctance to accept and give effect to children's

civil rights and freedoms. He enquired about the rights to privacy and access to information enjoyed by children in State-run homes. He would appreciate additional information on the protection of the civil rights of the children involved in the *Ciudad de los Niños* project, which was described in paragraph 110 of the written replies.

28. The deaths of children caused by violence and chronic malnutrition were two serious problems relating to children's rights to life, survival and development. He asked what results the State party had achieved through the use of intersectoral and public health approaches in dealing with those problems. What, for example, was the health sector doing to combat violence as a public health problem and what were other sectors doing to combat chronic malnutrition as a cross-cutting issue linked to poverty? He suggested that measures aimed at breaking the vicious cycle of violence could include building trust between parents and children, in particular through the elimination of corporal punishment.

29. **Ms. Al Asmar** asked whether the Convention and its Optional Protocols had been translated into indigenous languages, especially Maya. She enquired whether the State party had evaluated the results achieved by teacher training in those instruments. While there were laws that ensured respect for the views of the child, the implementation of that principle seemed to be lacking in Guatemala. She asked what steps the Government envisaged taking to remedy the situation. She wished to know whether indigenous peoples were consulted in determining how best to provide them with services. She requested an explanation as to why they had limited access to birth registration and wondered whether financial constraints or linguistic issues were to blame.

30. **The Chairperson** said that she supported requests by other members of the Committee for clarification on measures being taken to mitigate low levels of birth registration. She also asked what proportion of the country's gross domestic product (GDP) was spent on children's issues, above and beyond education. Paragraph 31 of the periodic report gave a figure, but it applied only to education. Moreover, it had been reported that budgetary allocations were subject to cuts.

31. She also requested clarification concerning corporal punishment. She understood that it was lawful in the home but not in schools. She wondered, however, whether it was lawful in institutions for children, as some reports suggested. Lastly, she noted the contradiction referred to in paragraph 50 of the periodic report, which was itself at odds with a previous report, where it had been stated that the maximum age of basic education was 15 and the minimum working age 14.

*The meeting was suspended at 11.35 a.m. and resumed at 11.50 a.m.*

32. **Ms. Del Valle** (Guatemala) said that, with regard to the ministries most closely involved with children's issues, the delegation was unable to specify the proportion of the budget that was allocated to children. Overall, however, she could inform the Committee that the budgets of the Ministry of Health and Welfare, the Ministry of Labour and the Ministry of Education had risen substantially. The Social Welfare Secretariat of the Office of the President had received 244 million quetzals, part of which was destined for the National Commission on Children and Adolescents.

33. The National Adoption Council, which was separately funded, was responsible for 5,370 children in 83 institutions who were eligible for adoption.

34. Guatemala had ratified nearly all the international human rights instruments, with the exception of the International Convention for the Protection of All Persons from Enforced Disappearance. The Inter-American Convention on Forced Disappearance of Children, the second Optional Protocol to the International Covenant on Civil and Political Rights and the Rome Statute of the International Criminal Court — which the

Constitutional Court of Guatemala had ruled to be constitutional — had all been signed but, owing to parliamentary procedures, not yet ratified.

35. With regard to the question of difficult young people and members of juvenile gangs, the Government's policy was to promote their self-esteem while ensuring security. In the areas most affected, integrated programmes had been set up in cooperation with the churches, NGOs and community leaders. A total of 15 million quetzals had been allocated for such programmes, aimed at the prevention of violence and the maintenance of security. The sustainability of the project was assured by the involvement both of elected mayors and of the traditional authorities in areas with large indigenous communities.

36. In its efforts to dismantle the structures of organized crime, the Government had decided to extend the mandate of the International Commission against Impunity in Guatemala to cover also such institutions as the police and the civil authorities. To that end, it was trying to develop methods and procedures to deal with outstanding cases of impunity. The Commission's monitoring powers had been extended and human rights training was being given to police officers, some of whom had been accused of taking the law into their own hands.

37. **Ms. Ortiz** (Country Rapporteur) asked, in relation to measures against impunity, whether action was being taken to punish people responsible for trafficking in children — the Committee was informed that there were still authorities operating illegally in that regard — and to recover the identity of children who had been abducted or sold. What measures were being taken to identify such children? She also asked whether international adoptions that were pending would be blocked. It was essential that checks should be carried out before any adoption was permitted; all remedies must be exhausted before a given adoption was permitted.

38. **Ms. Del Valle** (Guatemala) said that a number of procedures had been adopted with a view to identifying and dealing with criminal elements involved in adoption and an alert system had been set up under the Act on the Comprehensive Protection of Children and Adolescents (Comprehensive Protection Act).

39. **Mr. Velasquez** (Guatemala) said that, under the Comprehensive Protection Act, adoption cases initiated before the entry into force of the Act continued to follow the previous procedure, but new cases must be processed in line with the Act. Most of the cases under the old procedure had been dealt with and only 270 cases were still pending, relating to adoptions not accepted by the National Adoption Council on the grounds that corrupt practices had been identified. In those cases, criminal proceedings would be taken against the individuals concerned. Some children had been declared eligible for adoption when that was not the case, owing to the fact that, for example, no attempt had been made to identify their biological parents. The Council was trying to assess all existing declarations of adoptability by various means, including psychological tests. Families that applied for their status of replacement family to be formalized could expect such an application to be granted only a temporary basis. The judge in charge of a case was required to exhaust all the possibilities of finding the child's biological family.

40. **Ms. Del Valle** (Guatemala) said, in reply to an earlier question, that the definition of children and adolescents was set out in article 2 of the Comprehensive Protection Act: children were defined as being aged up to 13 and adolescents as aged 13 to 18. With regard to underage marriages, the Civil Code permitted girls to be married at 14 and boys at 16 with the permission of the parents or a judge. A minor was permitted to work at the age of 14, but such work must be regulated; some work was prohibited if it was dangerous or unhealthy. Article 57 of the Comprehensive Protection Act stipulated that minors could not be recruited into the armed forces.

41. With regard to the question of listening to children's views, she said that, with the support of the Inter-American Children's Institute, participatory councils for children had been set up in rural areas, enabling them to express their needs. The Government was also working with the Institute on a project to register the birth of every child, a requirement that was not always fulfilled. Offices for the registration of births and marriages were being set up in all municipalities and additional information on racial origin was being requested so that the country's ethnic diversity could be reflected in the census.

42. With regard to public health, a new report was being compiled on maternal and child health, with a breakdown into various categories. With regard to other questions put by the Committee, it was difficult to adapt Guatemalan law to international human rights legislation and, in particular, to eliminate the culture of impunity. Progress was being made in that regard, albeit slowly. Advances had also been made in international cooperation on such issues as trafficking in human beings. The Government was building up a monitoring system to comply with the recommendations of United Nations treaty bodies. It was also working to ratify human rights instruments and to bring Guatemalan law into line with international standards. Article 46 of the Constitution specifically stated that international law took precedence where human rights were concerned.

43. Judges were encouraged to rule on difficult cases and thus create a body of case law reflecting an emphasis on the best interests of the child. As for the differences between the various structures mentioned by the Committee, the National Commission on Children and Adolescents, established by the Comprehensive Protection Act, had the role of monitoring public policy and allocating budgetary resources, but it was hoped that its mandate could be made broader. Meanwhile, the Social Welfare Secretariat of the Office of the President had ministerial status and implemented policies that had been decided. The Office of the Children's Procurator within the Office of the Procurator-General had transferred its powers relating to adoption to the National Adoption Council, which had its own budget and legal personality and had become the body that identified children who were eligible for adoption. The Presidential Human Rights Commission coordinated human rights policy.

44. **Ms. Ortiz** (Country Rapporteur) said that it appeared that the National Commission on Children and Adolescents received much less funding than the National Adoption Council, despite dealing with a very great number of children placed in institutional care. She was concerned to note that, within the systems available, less attention was given to prevention and more was devoted to adoption and placing children in care. Although there was a single body responsible for women's rights in Guatemala, there did not appear to be a single body responsible for children's rights.

45. **Ms. Del Valle** (Guatemala) said that there was no single body that coordinated implementation of the Convention on the Rights of the Child at the national level. The Social Welfare Secretariat of the Office of the President generated and implemented policies on children's rights but it was not a monitoring body. The National Commission on Children and Adolescents was a body that held joint responsibility for monitoring of policy implementation as well as playing a coordinating role at State level. The Commission was responsible for promoting and monitoring implementation of the National Plan of Action for Children. In response to the Committee's 2001 recommendation, the question of which national body would be best placed to monitor implementation of the Convention was still under review.

46. Concerning corporal punishment, all forms of mistreatment of children and adolescents were forbidden by law; children and adolescents had the right to be protected from them and any person accused of mistreatment was prosecuted.

47. The Office of the Human Rights Procurator was an independent body which, with the Office of the Children's Ombudsman, was mandated to monitor implementation of

legislation relating to children's and adolescents' rights. The budget of the Office of the Human Rights Procurator devoted to children's rights had increased significantly in recent years.

48. The Government of Guatemala had created the Secretariat for Human Rights and Peace in order to improve the standing of human rights and peace agreements in the country. As mentioned in paragraph 32 of the report (CRC/C/GTM/3-4), it had been suggested that a human rights policy monitoring and follow-up unit should be established in the new Secretariat, but unfortunately, the proposal had not yet been approved by the Congress of Guatemala.

49. **Ms. Ortiz** (Country Rapporteur), noting that the Social Welfare Secretariat was carrying out valuable work and that the Office of the Children's Ombudsman, which was part of the Office of the Human Rights Procurator, was undoubtedly playing a role in receiving complaints, disseminating information on human rights and making recommendations to the public authorities on future action to ensure children's rights, expressed concern that there appeared to have been a reduction in budgetary allocations for children's issues.

50. **Ms. Del Valle** (Guatemala) said that a representative of the Office of the Human Rights Procurator was not present, but she undertook to obtain information on the level of allocations to the Office of the Children's Ombudsman within the budget of the Office of the Human Rights Procurator.

51. With respect to earlier comments on the subject of HIV, she said that minors were allowed to undergo testing provided that they had received authorization from their parents.

52. The Convention and its Optional Protocols as well as the latest report submitted by Guatemala to the Committee on the Rights of the Child had been transmitted to the various ministries and were being translated into the national languages. The Convention would be disseminated throughout the education system.

53. **Ms. Ortiz** (Country Rapporteur) said that, concerning the right of the child to privacy, children should have the right to undergo a test to find out whether they had contracted HIV/AIDS even if their parents were not aware that the test had been carried out. She wished to know whether there was a law in Guatemala safeguarding the right of the child to privacy and whether the media were obliged to respect the right of the child to privacy. She was concerned at the high number of children living in institutions and the excessive concentration of those institutions in the capital city. It was accepted that institutions, and in particular large institutions, were not the best places for children to flourish and develop. Preferably, institutions should be temporary places of residence for children; they should provide an environment that resembled family life as far as possible and children should live as close as possible to their families. Removing children to live in the capital was contrary to their right to family life.

54. Turning to cases of illegal international adoption, she emphasized the importance of investigating and punishing such crimes and asked what penalties and what controls existed in that area. International adoption could be highly undesirable since it could lead to a child being placed with a family that was completely alien and to the child being treated as something of a trophy.

55. Finally, she wished to learn how the public authorities worked with indigenous communities to promote the rights of the child.

56. **Ms. Al Asmar** asked whether a sufficient number of teachers were qualified to teach indigenous children in the bilingual schools and whether the self-management schools were adequately regulated in terms of such matters as the ratio of pupils to teachers. She also wished to learn whether there were any studies on the reasons for the high school drop-out

rate after the completion of primary education. She asked whether there was legislation to prevent violence and corporal punishment in schools.

57. **Mr. Kotrane**, commending the Government of Guatemala, which had ratified the 1951 Convention relating to the Status of Refugees and aligned its domestic laws with the thrust of that Convention, asked what would be done to prevent child refugees from being recruited by criminal gangs. He asked what action would be taken to disseminate information on the rights of child refugees to the civil servants applying national laws.

58. Concerning the rights of migrant children, he noted that Guatemala was a country of origin, destination, transit, and, sometimes, return: he wished to know what measures had been taken to reunite children who had become separated from their families and to ensure that they enjoyed their full rights.

59. Finally, he requested clarification as to the minimum age of criminal responsibility for a child or adolescent and under what circumstances they would be brought before the criminal courts. He noted that paragraph 231 of the fourth periodic report (CRC/C/GTM/3-4) mentioned that girls aged 13 could be detained at the Gorriones Centre. He had been surprised to learn from paragraph 241 that it was “not expressly stated that the death penalty shall not be imposed on minors” although “in practice, the death penalty is not applied to minors”. He sought confirmation that children under the age of 18 would not receive the death penalty and enquired what would be the maximum period of imprisonment to which a minor could be subjected. He had been concerned to read that over 300 young people had been imprisoned, most of them before they had come to trial. Children should benefit from the presumption of innocence and should not be imprisoned until they had been judged guilty of a crime.

60. **Mr. Puras** said that, while the State party had made commendable efforts to provide modern services for children with disabilities, there were still significant gaps in services, in particular outside the capital. Since the Government of Guatemala had ratified the United Nations Convention on the Rights of Persons with Disabilities it would be timely for it to strengthen its political will to address disability issues. He asked what concrete measures the Government had taken recently to improve services in respect of: data collection; early intervention services for young children with disabilities and their families; support for families and support for non-governmental organization partners; and inclusive education services for children with disabilities. In his view, those measures were not a luxury, but could, on the contrary, prove to be cost-effective.

61. He asked whether the recommendations of the Committee made in 2001 concerning the introduction of programmes to combat malnutrition had been put into effect and, if so, what the outcome had been. Not only growing malnutrition, but deaths from respiratory infections, intestinal parasites, anaemia and other health problems also gave cause for concern.

62. The emotional well-being of children and child mental health were particularly important topics in a country seriously affected by youth violence; he asked whether a national policy had been developed to help affected children and to promote education and prevention in schools. There was good evidence to suggest that violence could be addressed by educating parents. He wished to learn what progress had been made in setting up a helpline for children.

63. He echoed the concern expressed by the Country Rapporteur regarding the rights of adolescents to confidential advice on living with HIV as well as on mental and reproductive health problems.

*The meeting rose at 1 p.m.*