



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-ninth session

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

Concluding observations: Nicaragua

1. The Committee considered the third periodic report of Nicaragua (CRC/C/125/Add.3) at its 1042nd and 1043rd meetings (see CRC/C/SR.1042 and 1043), on 27 May 2005, and adopted the following concluding observations at its 1052nd meeting, on 3 June 2005.

A. Introduction

2. The Committee welcomes the submission of the State party's third periodic report, prepared in a participatory way, as well as the timely responses to the list of issues, which allowed the Committee to have a better understanding of the situation of children in the State party.

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

3. The Committee welcomes:

(a) The establishment, in 1999, of the National Council for Economic and Social Planning (CONPES) aimed at advising the Government on a wide range of economic and social policies, including the country's development policy, "Enhanced economic growth and poverty reduction strategy" (ERCERP);

(b) The creation of the National Council for the Comprehensive Care and Protection of Children and Adolescents (CONAPINA), responsible for formulating and coordinating implementation of the national policy for children, and which include among its members a representative of children;

(c) The entry into force of a new Criminal Procedure Code in 2002;

- (d) The entry into force of the General Health Act in May 2002;
- (e) The establishment of the Ombudsman Office for Human Rights in June 1999 and of a Special Ombudsman Office for Children, in 2000;
- (f) The creation of the National Commission on Violence against Women, Children and Adolescents in 2000;
- (g) The following programmes and plans of actions:
 - National Plan of Action 2002-2011 for Children and Adolescents;
 - National Plan of Action 2001-2006 for the Prevention of Domestic and Sexual Violence;
 - National Strategic Plan of Action for the Prevention and Eradication of Child Labour and Protection of Child Workers 2001-2005 with the setting up, in 2002, of the National Commission for the Eradication of Child Labour and the Protection of Young Workers (CNEPTI);
 - National Education Plan 2001-2015.

4. The Committee also wishes to welcome the ratification of:

- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 2 December 2004 and of the Optional Protocol on the involvement of children in armed conflict on 17 March 2005;
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime 2000, on 12 October 2004;
- ILO Convention No. 182 (1999) concerning the prohibition and immediate action for the elimination of the worst forms of child labour, on 6 November 2000;
- The Rome Statute of the International Criminal Court 1998, on 8 September 2000;
- The Inter-American Convention on the Return of Children on 20 October 2004;
- The Protocol to the American Convention on Human Rights to abolish the death penalty, on 24 March 1999.

C. Factors and difficulties affecting the implementation of the Convention

5. The Committee notes that the State party is one of the poorest countries in Latin America and that a large part of the population lives below the poverty line. The Committee also notes that the country still suffers from the effects of the 1980s civil war and that it is often exposed to serious natural disasters, such as hurricanes, floods, volcanic eruptions and earthquakes.

D. Main subjects of concern and recommendations

1. General measures of implementation

Committee's previous recommendations

6. The Committee notes with satisfaction that some concerns and recommendations (CRC/C/15/Add.108) made upon the consideration of the State party's second periodic report (CRC/C/65/Add.4) have been addressed. However, it regrets that other concerns and recommendations have been insufficiently addressed, particularly those contained in paragraph 22 (the need to allocate substantial financial resources for the benefit of children); paragraph 24 (the persistent disparities between the Atlantic/Caribbean and Central/Pacific regions as well as between urban and rural areas); paragraph 33 (need to reinforce measures and raise awareness to prevent and combat cases of abuse and ill-treatment of children, including sexual abuse, both within and outside the family); paragraph 34 (regional disparities in access to health care, high rates of malnutrition in children under 5 and in school age and low access to health care in rural and remote areas); paragraph 39 (children belonging to indigenous groups); paragraph 40 (child labour and economic exploitation); and paragraph 43 (conditions of detention for children). The Committee notes that those concerns and recommendations are reiterated in the present document.

7. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the second periodic report that have not yet been implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations on the third periodic report.

Legislation and implementation

8. While the Committee welcomes the fact that the direct application of the Convention is constitutionally guaranteed under article 71 of the Constitution, and also welcomes the progress made by the State party in the legal, political and administrative realms, it remains concerned that children are in general not considered and treated as subjects of rights.

9. The Committee recommends that the State party increase its efforts to guarantee the full implementation of the approved laws, policies and plans protecting and promoting the rights of children and to promote attitudes and practices fully respecting the child as a subject of rights.

National Plan of Action

10. While the Committee welcomes the National Plan of Action 2002-2011 for Children and Adolescents, it notes that it lacks adequate human and financial resources to effectively function and that its activities are not sufficiently taken into account by the authorities and institutions dealing with children's issues. The Committee also notes that several other specific plans of actions and programmes (para. 3 (g) above) have been adopted in the last years, but it does not have much information on their level of coordination with the National Plan of Action for Children and Adolescents.

11. **The Committee recommends that the State party implement the National Plan of Action for Children and Adolescents with the aim of realizing the principles and provisions of the Convention, and taking into account, inter alia, the outcome document “A world fit for children” adopted by the General Assembly special session on children in May 2002. The Committee also recommends that all the other programmes and plans which may have impact on children be adequately coordinated with the National Plan of Action for Children and Adolescents as well as with the Code on Children and Adolescents.**

Coordination

12. The Committee welcomes the creation of the National Council for the Comprehensive Care and Protection of Children and Adolescents, responsible for formulating and coordinating implementation of the national policies for children.

13. **The Committee recommends that the State party give adequate support to the National Council for the Comprehensive Care and Protection of Children and Adolescents and enhance coordination - both at national and at local levels - between the different governmental bodies responsible for the implementation of the Convention.**

Independent monitoring

14. The Committee notes that the Special Ombudsman for the Protection of Children and Adolescents resigned recently, following some changes in the institution which would have allegedly undermined its autonomy and independence. In this regard, the Committee is concerned that the Ombudsperson office could lose the elements of objectivity and impartiality that are necessary for an effective protection of children's human rights.

15. **In the light of its general comment No. 2 (2002) on national human rights institutions and the Paris Principles (General Assembly resolution 48/134, annex), the Committee recommends that the State party ensure that the Special Office of the Ombudsman remain an independent monitoring body for the implementation of the Convention and that it is provided with adequate human and financial resources. The Committee further recommends that the Special Office of the Ombudsman deal with complaints from children in a child-sensitive and expeditious manner and provide remedies for violations of their rights under the Convention.**

Resources for children

16. The Committee notes the current effort of the State party, together with other countries, to achieve debt relief, as well as the 2002 study undertaken by the Economic Commission for Latin America and the Caribbean and UNICEF, which reached the conclusion that one of the major causes of poverty in Nicaragua was the unequal distribution of income. The Committee - also taking into account that social expenditure does not seem to be proportional to the economic growth reported by the State party - expresses concern at the reported insufficient political will to increase the budget for programmes and policies for children, who suffer severely from the consequences of budgetary constraints and from the uneven distribution of income. In addition, the Committee is concerned that the free trade agreements currently under negotiation may negatively impact on the allocation of budget for social services.

17. **The Committee recommends that the State party, in accordance with article 4 of the Convention, increase budget allocations for the implementation of the rights recognized in the Convention, ensure a more balanced distribution of the income throughout the country and prioritize budgetary allocations to ensure implementation of the economic, social and cultural rights of all children, including those belonging to economically disadvantaged groups, such as indigenous children, “to the maximum extent of ... available resources and, where needed, within the framework of international cooperation”. Furthermore, the Committee recommends that the State party ensure that free trade agreements do not negatively affect the rights of children, e.g. in terms of access to affordable medicines, and that - if debt relief efforts are successful - it should invest the money saved in the adequate implementation of child rights and in other social services.**

Data collection

18. While the Committee welcomes the information that the State party is developing a national information system with the support of UNICEF, it remains concerned that, so far, insufficient data are available on the situation of children. The Committee notes in this regard that the State party does not yet collect statistical data on indigenous groups and other national or ethnic minorities.

19. **The Committee recommends that the State party continue to strengthen its efforts to develop a comprehensive system of collection of comparative and disaggregated data on the implementation of the Convention, in particular by providing adequate financial and other resources for the development and implementation of the above-mentioned national information system. The data should cover all children below the age of 18 years and be disaggregated into those groups of children who are in need of special protection, including indigenous children and children belonging to minority groups.**

Training/dissemination of the Convention

20. While the Committee welcomes information provided in the report on the dissemination of the Convention and human rights education in Nicaragua, it is concerned that there is still not adequate access to and information on human rights, including the rights of the child, especially in the rural and remote areas.

21. **The Committee recommends that the State party continue to strengthen its efforts to disseminate the Convention throughout the country and to raise public awareness, in particular among children themselves and parents, about its principles and provisions.**

22. **Furthermore, the Committee encourages the State party to continue to strengthen its efforts to provide adequate and systematic training and/or sensitization on children’s rights for professional groups working with and for children, in particular law enforcement officials, as well as parliamentarians, judges, lawyers, health personnel, teachers, school administrators and others as required.**

Cooperation with NGOs

23. The Committee notes with appreciation the involvement of non-governmental organizations, including children's organizations, in several relevant activities, including the preparation of the periodic report.

24. **The Committee encourages the State party to continue, and where possible strengthen, the fruitful and constructive collaboration with non-governmental organizations in the development and implementation of programmes and activities aimed at improving children's rights.**

2. Definition of the child

25. While the Committee notes that the new draft Civil Code contains measures aimed at solving this problem, it continues to be concerned at the current discrepancies between the minimum legal age for marriage of boys and girls. Furthermore the Committee considers that the minimum legal age for marriage with parental consent is too low (15 for boys and 14 for girls).

26. **With reference to its previous recommendations, the Committee recommends that the State party rapidly adopt and implement the new draft Civil Code in order to increase the minimum age for marriage and set it at the same age for boys and girls.**

3. General principles

Non-discrimination

27. The Committee is concerned that the country's adult-centred culture and the high poverty levels, concentrated especially in rural, indigenous and Caribbean areas, prevent the full enjoyment of rights by children belonging to vulnerable groups, such as children with disabilities, indigenous children and children living in rural or remote areas.

28. **The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups throughout the country.**

29. **The Committee also requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, also taking into account general comment No. 1 (1996) on article 29 (1) of the Convention (aims of education).**

Respect for the views of the child

30. The Committee notes that both the Code on Children and Adolescents, and the Parent-Child Relatives Act, contain provisions protecting the principle of respect for the views of the child, but it is concerned at the limited implementation in practice, in particular in the family and in schools, of the right of the child to express his/her views.

31. The Committee recommends that the State party continue to promote, facilitate and implement, within the family, schools, other institutions as well as in judicial and administrative procedures, the principle of respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention, with special attention at the development and implementation of programmes related to child labour, street children, sexual exploitation and other situations where children are involved.

4. Civil rights and freedoms**Birth registration**

32. While the Committee welcomes the massive campaigns for birth registration undertaken, it continues to be concerned that there is still a lack of institutional capacity in the Civil Registry System and that a quite consistent group of children are still not legally registered due to administrative, legal and cultural causes.

33. The Committee reiterates its previous recommendation urging the State party take all possible steps to ensure immediate registration of the births of all children, and to promote and facilitate the registration of those children who were not registered at birth, in the light of article 7 of the Convention. In particular, the State party should modernize and ensure the proper operation and maintenance of the Civil Registry System, including by providing it with the necessary resources.

Torture and other cruel, inhuman or degrading treatment or punishment

34. The Committee notes that torture and other cruel, inhuman or degrading treatment or punishment is prohibited in the State party. However, the Committee is concerned by allegations of instances of ill-treatment of children by law enforcement officials, especially in police establishments.

35. In the light of article 37 (a) of the Convention, the State party should take all necessary measures to address the causes and to prevent incidents of ill-treatment of children while in State care, including by adopting a prevention strategy against institutional violence.

5. Family environment and alternative care**Family care and parental responsibilities**

36. While the Committee notes with appreciation that strengthening the family is an important strategy within the national policy for the comprehensive care of children and

adolescents, it is concerned that insufficient financial and other resources have been provided for the implementation of this strategy. Furthermore, while noting that various legislative initiatives are currently under debate in this respect, the Committee is concerned at the lack of an appropriate and comprehensive regulation of family relations, e.g. via a comprehensive Code, as well as at the lack of specialized family courts.

37. The Committee recommends that the State party:

(a) Promote and support responsible parenthood, inter alia by providing families with financial allowances when needed;

(b) Approve and implement appropriate regulations of family relations that reflect and incorporate international standards ratified by the State party, such as the Convention on the Rights of the Child, preferably by developing a comprehensive code;

(c) Establish specialized family courts with trained judges and other professionals involved, and ensure that family law practice is accessible to everybody and that family law procedures are conducted without undue delay.

Alternative care and adoption

38. The Committee notes with concern the difficulties that some parents and families encounter - such as unemployment, malnutrition and lack of adequate housing - which may cause abandonment or abuse resulting in placement of children in institutions or in adoption.

39. **The Committee recommends that the State party undertake - in cases where a child is deprived of her/his family environment - maximum efforts to return the child to the family of origin. If that action is not in the best interests of the child, efforts should be undertaken to place the child in a family-type form of alternative care, with preference for kinship care and to use institutional placement only as a measure of last resort. In case adoption is in the best interests of the child, preference should be given to domestic over inter-country adoption. The Committee recommends in this regard that the State party ensure that its legislation and practice regarding adoption is brought in line with article 21 of the Convention and that it become a party to the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Inter-country Adoption.**

Violence, abuse, neglect and maltreatment

40. While the Committee welcomes the National Plan of Action 2001-2006 for the prevention of domestic and sexual violence and the fact that children who are victims of abuse can directly file a complaint, it is concerned that domestic violence and abuse of children is an increasing phenomenon in Nicaraguan society.

41. **The Committee, reiterating its previous recommendation, urges the State party to strengthen its efforts in order to address ill-treatment of children within the family and reinforce the mechanisms monitoring the extent of the forms of violence, injury or abuse, neglect, maltreatment or exploitation considered by article 19, including within the family,**

schools, in institutional or other care, of a welfare, educational or penal nature. The Committee also recommends that the State party ensure adequate protection of child victims of abuses and avoid re-victimization of children who are involved in legal procedures, inter alia, by accepting videotaped testimony of children as admissible evidence in court.

42. Furthermore, the Committee encourages the State party to establish a toll-free child helpline service, which would give easy access to children in need of care and protection to counselling and support, and to provide it with adequate means in order to be able to give appropriate follow-up to the requests made.

Corporal punishment

43. While the Committee notes that there is legislation in place prohibiting all forms of violence against children, including corporal punishment, it expresses concern that this legislation does not seem to be interpreted as prohibiting all forms of corporal punishment and that corporal punishment is still widely accepted in society.

44. The Committee recommends that the State party introduce - and enforce where applicable - legislation explicitly prohibiting all forms of corporal punishment of children in the home, schools and all other institutions and forms of childcare. The State party should also conduct awareness-raising and public education campaigns against corporal punishment and promote non-violent, participatory forms of discipline.

6. Basic health and welfare

Children with disabilities

45. While the Committee welcomes the measures taken for disabled children, including the adoption of the Disabled Persons Act No. 202, it expresses concern about the general situation of disabled children in the country, who continue to face discrimination, and at the information that only a small percentage of disabled children receive adequate support. Furthermore, the Committee expresses concern that there is no specific allocation of resources for the care of children with disabilities.

46. The Committee encourages the State party to actively pursue its current efforts and to continue to:

(a) Ensure that policies and practice in relation to children with disabilities take due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities and of the Committee's recommendations adopted at its day of general discussion on "Children with disabilities" (see CRC/C/69);

(b) Pursue efforts to ensure that children with disabilities may exercise their right to education to the maximum extent possible and facilitate inclusion in the mainstream education system;

(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;

(d) Strengthen public awareness campaigns to change negative public attitudes.

Health and standard of living

47. The Committee is extremely concerned about the persistence of a high degree of poverty in the State party, especially in the Caribbean/Atlantic region and in rural areas, which create grievous gaps in access to health and health services between rural and urban zones and the Caribbean/Atlantic region. Serious concern is expressed at the State party's information that about 2.38 million people (out of a total of about 5.37 million) are in a condition of poverty, while 15.1 per cent of the population is in a situation of extreme poverty.

48. **Furthermore, the Committee is concerned that:**

(a) Only about two thirds of the population have access to clean drinking water and that there is a huge discrepancy between the rates of urban and rural population having access to clean drinking water;

(b) One out of every three children suffers some degree of chronic malnutrition and that about 10 per cent of them are said to suffer from severe malnutrition;

(c) While the Committee notes the progress made in the reduction of infant and child mortality, including the National Plan for the Reduction of Maternal, Perinatal and Infant Mortality of March 2000, it continues to be concerned at the level of infant and child mortality as well as at the high rate of maternal mortality.

49. **The Committee recommends that the State party:**

(a) Take all possible actions to reduce poverty and equalize living conditions throughout the country, and ensure access to basic goods and services, such as clean drinking water, especially in remote and rural areas;

(b) Ensure basic health care and services to all children throughout the country and urgently address the problem of malnutrition, with special emphasis on rural and remote areas;

(c) Strengthen its efforts to urgently tackle the grievous issue of infant, child and maternal mortality throughout the country.

HIV/AIDS

50. While the Committee welcomes the enactment of Act No. 238 on the Protection and Defence of Human Rights in the presence of AIDS, as well as the Strategic National Plan against STDs and HIV/AIDS and it is concerned that antiretroviral treatment is not yet guaranteed to the

newborn from seropositive mothers and that post-natal care is not provided to the seropositive mother. Furthermore, the Committee is concerned that the presence of HIV/AIDS is particularly high in frontier and harbour zones and that the potential of its spread represents a high, latent risk, despite the fact that official data show a low number of cases.

51. **The Committee recommends that the State party:**

(a) **Increase its efforts to prevent the spread of HIV/AIDS, taking into account the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37);**

(b) **Strengthen its measures to prevent mother-to-child transmission, inter alia, through coordination with the activities aimed at reducing maternal mortality;**

(c) **Guarantee antiretroviral treatment to newborns from HIV/AIDS seropositive mothers as well as post-natal monitoring of seropositive women;**

(d) **Pay particular attention to children infected by HIV/AIDS or who have become orphans due to the death of HIV/AIDS parents, through providing adequate medical, psychological and material support and by involving the community;**

(e) **Strengthen its efforts by conducting campaigns and programmes to raise awareness about HIV/AIDS among adolescents, particularly among those belonging to vulnerable groups as well as the population at large, so as to reduce discrimination against children infected and affected by HIV/AIDS;**

(f) **Ensure the provision of adequate financial and human resources for the effective implementation of the Strategic National Plan against STDs and HIV/AIDS;**

(g) **Seek further technical assistance from, inter alia, the United Nations Joint Programme on HIV/AIDS (UNAIDS) and UNICEF.**

Adolescent health

52. The Committee is concerned at the high rate of teenage pregnancies and at the lack of adequate sexual and reproductive health services. In this regard, the Committee is also concerned at the information that the authorities reportedly prohibited in 2003 the publication of a manual elaborated by experts on sexual education and reproductive health ("Manual for life").

53. **In the light of the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention (CRC/GC/2003/4), the Committee recommends that the State party ensure access to reproductive health services to all adolescents and immediately adopt a manual on sexual education and reproductive health which would take into account the above-mentioned general comment of the Committee.**

7. Education, leisure and cultural activities

54. The Committee is concerned about:

- (a) The still low literacy rate (76.7 per cent of adult and 86.2 per cent of children in 2002);
- (b) Socio-economic and regional disparities - e.g. between urban and rural areas and between the Central/Pacific and Caribbean/Atlantic regions - in the access and enjoyment of the right to education, including lack of facilities in isolated and remote areas;
- (c) The lack of adequate training of teachers, teachers' low salaries, which may lead to loss of motivation, high turnover rates, migration abroad and little interest in professional development.

55. Furthermore, the Committee expresses concern at lack of adequate resources for education and at the information that annually, an average of more than 850,000 children between 3 and 16 years of age remain outside the school system, and that only a small part of enrolled children complete the six years of primary schooling.

56. **The Committee encourages the State party to:**

- (a) Increase the efforts to eliminate any discrepancy in access to education between urban and rural areas and between the Central/Pacific and Caribbean/Atlantic regions;**
- (b) Emphasize the quality of education and devote more resources to education in the national budget;**
- (c) Strengthen measures aimed at increasing enrolment and completion rates and reducing dropout rates in pre-primary, primary and secondary education;**
- (d) Consider expanding the years of compulsory education with a view to eliminating the existing gap between the legal age for access to work and for compulsory education;**
- (e) Expand public provision of early childhood education and raise awareness amongst parents about the value of early childhood education;**
- (f) Strengthen efforts at teacher training, address the issue of teachers' salaries and expand recruitment of qualified ones;**
- (g) Include human rights education as part of the curriculum;**
- (h) Provide more demand-driven technical and vocational training and organize vocational counselling for children;**

(i) Provide opportunities for children outside schools and working children so that they can get as much education as possible by specific programmes tailored to their life conditions;

(j) Ensure the provision of adequate financial and human resources for the effective implementation of the educational programmes and expand scholarship and other programmes of assistance to students;

(k) Seek technical assistance from the United Nations Educational, Scientific and Cultural Organization (UNESCO) and UNICEF.

57. Furthermore, the Committee expresses concern at the information that the majority of public schools require students to pay a “voluntary quota” for their inscription fee, which, added to the expenses incumbent on families for clothing, food, school supplies and transportation, makes education of children for poor families virtually impossible.

58. In the light of article 28 of the Convention, the Committee recommends that the State party ensure primary education for all children free of cost - including payment of a “voluntary quota” and/or school books or other school material - and provide support to families with financial problems for an adequate educational development of their children.

8. Special protection measures

Children of migrant families

59. The Committee is concerned at the high number of families migrating abroad and at the possible negative consequences resulting from this phenomenon on the full enjoyment by children of their rights.

60. The Committee recommends that the State party carry out a comprehensive study on the situation of children of migrant families with the aim of developing adequate strategies to ensure their protection and the full enjoyment of their rights.

Economic exploitation, including child labour

61. The Committee expresses concern at the information that child labour has increased consistently in the last years owing to, inter alia, migration from the countryside and intensification of poverty.

62. The Committee further notes that domestic legislation does not seem to contain provisions punishing the sale and trafficking of children for the purpose of economic exploitation.

63. The Committee recommends that the State party:

(a) Undertake a survey of the number of children working, including as domestic servants and in the agricultural sector, in order to design and implement comprehensive strategies and policies to prevent and combat economic exploitation;

(b) Secure the prohibition of the sale and trafficking of children for the purpose of economic exploitation;

(c) Ensure the implementation of legislation fully covering article 32 of the Convention, and ILO Conventions No. 138 (1973) and No. 182 (1999);

(d) Ensure the implementation of the National Strategy Plan for the Prevention and Eradication of Child Labour and Protection of Young Workers (2001-2005);

(e) Undertake awareness-raising campaigns to prevent and combat the economic exploitation of children;

(f) Seek technical assistance from the International Programme on the Elimination of Child Labour (IPEC/ILO) and UNICEF, among others.

64. The Committee is also concerned that the National Commission for the Eradication of Child Labour and the Protection of Young Workers (CNEPTI), which is the coordinating body between the Government, the NGOs and the organizations of employers and workers, lack the necessary financial resources for carrying out its monitoring activities for the eradication of child labour.

65. The Committee recommends that the State party take all feasible measures - including by providing CNEPTI with the necessary financial and human resources - in order to enable it to carry out its important functions.

Street children

66. The Committee is concerned at the growing number of street children living in the State party, especially in Managua, as well as at the increasing emergence of street youth gangs (*pandillas*) in the country, of which over 100 are believed to operate in the capital.

67. The Committee recommends that the State party:

(a) Carry out a comprehensive study to assess the scope, nature and causes of the presence of street children and youth gangs (*pandillas*) in the country in order to develop a comprehensive policy for their prevention and reduction;

(b) Provide street children with recovery and social reintegration services and provide them with adequate nutrition, housing, necessary health care and educational opportunities; and

(c) Seek assistance from, inter alia, UNICEF.

Substance abuse

68. The Committee is concerned at the endemic abuse of substances among street children and members of youth gangs (*pandillas*).

69. **The Committee recommends that the State party establish programmes to prevent and combat substance abuse by street children and members of youth gangs (*pandillas*), including the provision of psychosocial assistance for addicts. The Committee also recommends that the State party seek technical cooperation from, among others, the World Health Organization (WHO) and UNICEF.**

Sexual exploitation and trafficking

70. While welcoming the measures taken by the State party to combat and raise awareness about the problem of sexual exploitation and trafficking in persons, the Committee is concerned at the information that a consistent number of children are victims of sexual violence, pornography, paid sexual activity and sexual tourism in Nicaragua and that sexual abuse and exploitation in its various forms, including trafficking, pornography and sexual tourism, have not been classified yet as crimes in the Penal Code.

71. **The Committee recommends that the State party:**

(a) **Rapidly adopt the proposed new Nicaraguan Penal Code, which classifies sexual exploitation as a crime in its various forms;**

(b) **Undertake a study on the sexual exploitation of children in order to assess its scope and causes, enable effective monitoring of the problem and develop measures and programmes, including social reintegration programmes, to prevent, combat and eliminate it;**

(c) **Approve and implement a national plan of action against sexual exploitation and trafficking of children, taking into account the Declaration and Agenda for Action and the Global Commitment adopted, respectively, at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;**

(d) **Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints, in a child-sensitive manner that respects the privacy of the victim;**

(e) **Seek technical assistance from among others, UNICEF and the International Labour Organization (ILO).**

72. **The State party is also encouraged to become a party to the Inter-American Convention on International Traffic in Minors and to the Inter-American Convention on the Return of Children. Furthermore, the State party is encouraged to consider becoming a party to the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

Administration of juvenile justice

73. While the Committee notes some progress in the juvenile justice system in the country, including the creation of a number of juvenile criminal courts in the main departmental capitals, it is concerned at the insufficient human and financial resources that are devoted to a proper

administration of juvenile justice, including the appropriate implementation of the Code on Children and Adolescents. It is also concerned at the remaining gaps in issues of defence, prosecution and the definition and implementation of measures or sanctions alternative to deprivation of liberty for persons below 18. Furthermore, it is also concerned about:

(a) The fact that no special places for deprivation of liberty exist for persons below 18 in conflict with the law;

(b) The poor conditions of detention - especially in police detention centres - including inappropriate cell space and lack of sufficient light and ventilation, inadequate hygienic standards and overcrowding.

74. The Committee reiterates its previous recommendation that the State party bring the system of juvenile justice fully in line with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in the field of juvenile justice, including 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), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System; and the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238). In this regard, the Committee recommends that the State party in particular:

(a) **Allocate sufficient resources and increase the efforts in order to adequately implement the Code on Children and Adolescents in all departments, including by creating juvenile courts throughout the country;**

(b) **Take all necessary measures to establish separate detention facilities for persons below 18, in accordance with articles 111 and 214 of the Code on Children and Adolescents and with article 37 (c) of the Convention;**

(c) **Ensure that deprivation of liberty is used only as a measure of last resort and improve the conditions of detention of persons below 18 - especially in police detention centres - notably by complying with the international standards as to surface area, ventilation, fresh air, natural and artificial light, proper food, drinking water and hygienic conditions;**

(d) **Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prison guards, and establish an independent child-sensitive and accessible system for the reception and processing of complaints by children;**

(e) **Ensure that children deprived of their liberty remain in regular contact with their families while in the juvenile justice system, notably by informing parents when their child is detained;**

- (f) **Provide training for penitentiary staff on children's rights and special needs;**
- (g) **Request technical assistance in the area of juvenile justice and police training from, inter alia, OHCHR and UNICEF.**

Children belonging to indigenous groups

75. The Committee notes with concern that, despite constitutional recognition of indigenous customary rights, indigenous communities still suffer from institutional neglect, historic abandonment and indiscriminate pillaging of natural resources, especially in the Caribbean region.

76. **The Committee recommends that the State party pursue measures to effectively address the gap in life opportunities of indigenous children, and take adequate measures in order to provide protection for the rights of indigenous children as protected in the Constitution, taking due account of the recommendations adopted by the Committee at its day of general discussion on the rights of indigenous children in September 2003.**

9. Follow-up and dissemination

Follow-up

77. **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 members of the Council of Ministers or the Cabinet or a similar body, the Parliament, and to provincial or state governments, when applicable, for appropriate consideration and further action.**

Dissemination

78. **The Committee further recommends that the third periodic report and written replies submitted by the State party and related recommendations (concluding observations) that it adopted be made widely available, including (but not exclusively) through the Internet, 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.**

10. Next report

79. **The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States' responsibilities to children under the Convention includes ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. The Committee appreciates the State party's performance in this regard and invites the State party to submit its fourth periodic report, which should not exceed 120 pages (see CRC/C/148), by 3 November 2007, as foreseen by the Convention.**
