



Convention on the Rights of the Child

Distr.: General
4 February 2010

Original: English

Committee on the Rights of the Child Fifty-third session

Summary record of the 1481st (Chamber A) meeting

Held at the Palais Wilson, Geneva, on Thursday, 21 January 2010, at 3 p.m.

Chairperson: Ms. Aidoo (Vice-Chairperson)

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The meeting was called to order at 3.05 p.m.

Consideration of reports of States parties (continued)

Third and fourth periodic reports of El Salvador (continued) (CRC/C/SLV/3–4, CRC/C/SLV/Q/3–4 and CRC/C/SLV/Q/3–4/Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of El Salvador resumed their places at the Committee table.*
2. **The Chairperson** said that Ms. Villarán de la Puente (Country Rapporteur) still had a number of questions.
3. **Ms. Villarán de la Puente** (Country Rapporteur) said that the figures on investment, health and education were very general and needed to be broken down to make it clear which costs were borne by the State rather than by families. She asked whether El Salvador intended to increase the current low level of investment in health care and education and sought clarification on the Government's rights-based approach. She also wondered whether any measures were in place to care for children whose parents left the country and who were most at risk of dropping out of school and joining gangs.
4. As she saw it, in some cases the 1951 Convention relating to the Status of Refugees might also cover victims of trafficking and gang violence. In that connection, she asked whether El Salvador intended to ratify the 1954 Convention relating to the Status of Stateless Persons. It would be interesting to learn what measures had been taken in the private sector to ensure that children had access to education, health care and food. Noting that services to assist street children were in place but not sufficient, she asked whether any policies had been introduced to discourage such children from joining gangs.
5. **Mr. Urquilla** (El Salvador) said that the Government had introduced a rights-based approach, which the recently created social inclusion secretariat had been mandated to monitor in the context of national poverty reduction initiatives, in close cooperation with the office of the President. El Salvador was working to introduce poverty reduction follow-up mechanisms in needy rural and urban communities, with special emphasis on the rights of children, and to train social workers as part of the new social assistance programme.
6. On the question of teenage pregnancy, he said that a recently established inter-ministerial technical group had called for a review of national legislation on abortion after the Constitutional Court had ruled that the rights of the mother must also be taken into account. The ruling had given rise to considerable debate on how sexual and reproductive health should be taught in school.
7. **Ms. Carrillo de Reyes** (El Salvador) said that the Government was giving close attention to the problem of teenage pregnancy. The Ministry of Education had been instructed to prohibit discrimination against pregnant teenagers and to promote human rights education throughout the school system. An agreement had been signed with the Inter-American Institute of Human Rights for technical assistance in that area. The Ministries of Education and Health were working together to devise a comprehensive sex education programme that focused on prevention of adolescent pregnancy and did not simply promote abstinence. A 2008 cooperation agreement with Mexico on combating HIV/AIDS was being revised so that it, too, would place greater emphasis on prevention.
8. The Government also intended to give priority to the issue of gender. School curricula, textbooks and teacher manuals were under review at all levels to ensure the inclusion of the gender perspective. The Minister of Education had recently established an inter-ministerial commission on human rights education to see to it that all departments in the ministry incorporated a human rights approach. It was also planned to disseminate

information on the Convention and other international human rights instruments which El Salvador had ratified.

9. An inter-agency network made up of representatives of non-governmental organizations (NGOs), human rights defenders and government bodies was studying ways of preventing gender-based violence, sexual harassment and abuse, including in schools, after a number of teachers had been prosecuted for such offences. The focus was again on prevention, as well as on psychological counselling for victims. El Salvador was working to increase cooperation with NGOs active in the country. An educational council composed of representatives of NGOs had been set up to conduct public awareness initiatives.

10. Despite the constraints resulting from an economic crisis of great magnitude, the rights of children to health and education continued to have top priority in investment decisions. Free compulsory education for the first 11 years of schooling would be generalized in the course of 2010 and the Government was investing heavily in educational infrastructure to meet increased demand. Free compulsory schooling was regarded as a protective measure, because children who dropped out of school were vulnerable to abuse.

11. An initiative was under way to introduce modern technology in poor communities and close the gap between rural and urban education. One such programme, initially launched for the benefit of children in poor rural communities of Chalatenango, was being expanded throughout the national territory.

12. **The Chairperson** asked whether El Salvador was considering community-based approaches to early childhood education, since they were often less expensive than classroom models and could cover not only education, but also care, nutrition, play and the social adjustment of young children. She also enquired whether El Salvador had any initiatives to prevent mother-to-child transmission of HIV/AIDS.

13. **Ms. Carrillo de Reyes** (El Salvador) said that, following a recent study of educational policy, which had criticized schools for being too isolated from the surrounding neighbourhoods, measures were being taken to ensure that they took account of the social context and interacted with families and the community. Progress was being made in reducing mother-to-child transmission of HIV/AIDS, thanks to information campaigns and screening initiatives.

14. **Ms. Sayes** (El Salvador) said that the Government and society were very concerned about the rise in juvenile crime. Current policy was to focus on prevention. Information campaigns aimed to ensure that children did not fall victims of domestic violence or trafficking or become involved in the sale or use of drugs. Recreational, cultural and sports programmes conducted in the larger municipalities were to be extended to communities throughout the country. Rehabilitation camps for members of youth gangs provided education, vocational training, health care, sports activities and family counselling. An initiative was under way to encourage the voluntary removal of tattoos, which stigmatized gang members and made them social outcasts. An office had been set up to investigate crimes involving children, including Internet pornography, disappearances and trafficking, and a centre had also been established to care for such victims.

15. Following isolated cases of torture and ill-treatment committed by members of the National Civil Police, the Government had taken measures to provide better training for law enforcement officials, conduct a more careful selection of candidates, improve the monitoring of internal disciplinary measures taken by the National Civil Police and give greater powers to prosecutors and judges in dealing with cases of ill-treatment by members of the police. Officers could if necessary be dismissed from the service, which helped combat impunity. The police were trained to treat victimized children in a dignified manner that respected their rights. A network was being set up of police officers specialized in the rights of children.

16. **Ms. Espinoza** (El Salvador) explained that the work of several bodies in the State party was related to the protection of children's right to rest and leisure, including the Secretariat for Social Inclusion and the Secretariat for Culture. Such bodies were trying to implement more comprehensive and holistic policies in that respect and were striving to reduce inequalities in terms of access to enjoyment of the right, for example among children and adolescents in rural and poorer areas. In February 2010, a programme would be launched to give more than 1,800 children aged between 4 and 12 from rural and poor areas free access to museums designed especially for children. The National Sports Institute was also trying to improve access to sport for all children.

17. Under the Salvadoran Constitution, military service was obligatory for all Salvadoran citizens aged between 18 and 30. Eligible persons had to register for it from the month following their 17th birthday, but in practice the law was not applied and there was no penalty for children that failed to register. Children between the ages of 16 and 18 could also volunteer to do military service, but only over-18s could be called up.

18. **Mr. Kotrane** said that he hoped reform would take place so that no one could volunteer for the armed forces before the age of 18.

19. **Ms. Villarán de la Puente** (Country Rapporteur) asked if it was compulsory to present an identity document when registering for the armed forces.

20. **Mr. Urquilla** (El Salvador) said that an identity document was not required, although the registration itself was compulsory by law. The State party would appreciate a recommendation from the Committee to help it implement reform to prohibit children from participating in armed conflict.

21. **Ms. Espinoza** (El Salvador) said that children were currently allowed to live with their mothers in two prisons in El Salvador. The National Institute for the Comprehensive Development of Children (ISNA) had established a child development centre in one of them, the Women's Rehabilitation Centre in Ilopango, to ensure that the children living there had access to primary education. The Secretariat for Social Inclusion had visited both centres and was working, in cooperation with the Ministry of Public Health and Social Welfare and the General Directorate of Prisons, to provide access to appropriate health care and medicines, mental health checks and self-esteem courses.

22. El Salvador had adopted a road map to rid the country of the worst forms of child labour, for example by fighting against poverty, which was both a cause and an effect of child labour. Charity grants would not be paid until it had been established that no children were working in the recipient families. If children were found to be working, they were removed. As well as increasing targeted measures to combat child labour, the State party was seeking family and community support in order to eradicate the practice, and it would be very grateful for the Committee's advice on the design of its National Plan against Child Labour.

23. **Mr. Salazar** (El Salvador) said that El Salvador had multidisciplinary psychosocial support centres, which provided additional support within the family justice system, in particular during legal proceedings. ISNA offered psychological and social support to children and adolescents, as well as to parents and families, but the demand for such services was much greater than the supply available. The number of open protection files, which stood at 5,000, was likely to increase substantially in the future. He admitted that deficiencies existed in psychosocial care and the accompanying protection measures.

24. In theory, the Family Code had established a family protection system, offering children institutional and social support, but the system had never worked in practice and it required considerable improvement.

25. The issue of children in institutions was a matter of concern and the Procurator for the Protection of Human Rights had yet to develop an appropriate monitoring or internal supervision mechanism. The State party had received some support and had examined various models, but needed financial and technical support to set up methods of detecting mistreatment of children in institutions and violations of their rights.

26. Under an agreement that it was soon going to sign with the Secretariat for Culture, ISNA would be made responsible for disseminating information on the rights of the child. It planned to implement relevant programmes that would reach as many children as possible.

27. No up-to-date statistics existed on street children, but the State party was in the process of planning a census to survey the situation. A new approach to dealing with street children was required, as the current system did not work and lacked suitably trained staff. The State party had asked for assistance from NGOs in that area.

28. El Salvador still did not have an appropriate administrative process for admitting juvenile offenders into the justice system and not enough police officers were trained to work with children. The State party's principal weakness in the area of juvenile justice was the rehabilitation of young offenders, but it was revising its approach and the training given to staff. It was also examining alternatives to detention.

29. **Mr. Urquilla** (El Salvador) said that he would communicate the Committee's recommendation that El Salvador ratify the Convention relating to the Status of Stateless Persons to the relevant authorities. The State party was working to produce relevant migration policies that took into account the practical circumstances of the people most affected.

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/SLV/1 and CRC/C/OPSC/SLV/Q/1)

Initial report of El Salvador

30. **Ms. Ortiz** (Country Rapporteur) emphasized the importance of the Optional Protocol because, although articles 34 and 35 of the Convention covered the prevention of the sexual exploitation and sexual abuse of children, the use of children in pornographic performances and materials and the sale or traffic of children, they did not do so in enough detail. She noted that El Salvador was a source and transit country for migration, including that of children, who frequently fell victim to crimes covered by the Optional Protocol.

31. She asked which institution had prepared the report, who had participated in the drafting process, which authorities had been consulted and whether NGOs and children's organizations had been invited to take part. How was information transmitted to the public and to authorities regarding the scope of the Optional Protocol, and what level of training, not including ad hoc courses, was given to the bodies directly involved in giving it effect? She also asked whether the Optional Protocol was a compulsory subject in public and private universities.

32. She wanted precise information on whether children, their parents and the broader public were aware of the Optional Protocol and its status as a valuable child protection instrument, and whether people knew how and where to obtain information and lodge complaints on the sale of children, their sexual exploitation and their use in pornography. For example, did El Salvador have a telephone helpline, or run a website, or conduct television or radio campaigns or hold talks in schools on those topics? Also was training available to parents on preventing their children falling victim to the offences referred to in the Optional Protocol?

33. She asked whether the State party had legislation prohibiting and penalizing the sale of children for sexual exploitation. It appeared that Salvadoran legislation on the use of

children in pornography and on the possession of child pornography was in line with the Optional Protocol. However, the Committee had received information that investigations and prosecutions were hampered by a lack of specialized staff and adequate technical means. She asked for clarification on that issue.

34. She said that it was unclear whether the Victim and Witness Protection Act also protected children and whether it covered offences under the Optional Protocol. Was appropriate, specialized assistance to avoid further victimization and psychological damage available to children from the time a complaint was lodged until judgement was passed?

35. **Ms. Villarán de la Puente** (Country Rapporteur) said that the National Action Plan was coming to an end and she wondered how it would be followed up or whether a new plan was in the offing. She also wondered whether the National Institute for the Comprehensive Development of Children (ISNA) had the necessary resources to implement the Optional Protocol. If it already had 5,000 cases on its books, many more were bound to arise. She asked whether the Office of the Procurator for the Protection of Human Rights monitored offences under the Optional Protocol and issued reports containing recommendations. She also wondered whether there was a complaints system under which children, parents and others could apply to the Office for protection.

36. The State party was a country of origin, transit and destination for the sale of children and women. According to a United States State Department report, Salvadoran officials responsible for children had been involved in such sales and she asked what measures had been taken to investigate and sanction criminal activities among police officers, immigration officials and others.

37. **Mr. Kotrane** said that, at the previous meeting, the delegation had stated that the Convention was applied directly under the country's domestic law. It could not be thus applied, however, unless it was incorporated into domestic law and he requested further information in that regard. He also wondered whether the forced labour of children was punishable. Notwithstanding the provisions set out in paragraph 14 of El Salvador's report on the Optional Protocol, there seemed to be no penal provisions concerning the sale of children. Forced labour was a violation both of the labour laws and criminal law and the recent developments set out in paragraphs 17 to 21 of that report were interesting in that regard, but they related only to the Labour Code. The Committee would prefer to see forced labour characterized as sale. He welcomed the statement in paragraph 31 of the report that corporations implicated in pornography or prostitution incurred civil liability, but he sought an assurance that such corporations were also criminally liable. The report made no reference to such a possibility.

38. He noted that, in some cases, officials could not be prosecuted abroad because they had diplomatic immunity, for example, or extradition was denied by the other country because the offence was punishable under that country's laws. He wondered, however, what the procedure was where the victim was foreign and the offender a Salvadoran national or a foreigner living in Salvadoran territory. Extradition was a solution only where the other country treated the offence in question as punishable. Under the Salvadoran Constitution, extradition was reciprocal between the signatory States, but he asked what measures the State party would take to make the Optional Protocol a sufficient basis for extradition from countries with which it had no extradition agreement. He asked whether there had been any actual cases of extradition and what sanctions were faced by persons committing offences under the Optional Protocol.

39. **Mr. Puras** said that the plight of child victims was a matter not just of legal measures but also of attitudes that might lead to double victimization or revictimization. Children might suffer from negative reactions by institutional staff or by their peers. He wondered what measures were planned to prevent stigmatization and promote the reintegration of victims. He understood from the report and other sources that special services were available for child victims, including shelters, but there were not enough such

shelters and they were not evenly distributed around the country. Lastly, he asked what efforts were made to reach victims who had not sought legal redress in the courts.

40. **Mr. Citarella** requested clarification of the difference, in Salvadoran law, between the sale and trafficking of children. If, for example, a woman gave birth to a child that she sold to a foreign couple, he wondered whether that qualified as an offence and, if so, how it was punishable. Secondly, he requested an assurance that prostitution really was illegal for persons under 18, in all cases. Lastly, he asked what measures existed to check the content of Internet sites and, if necessary, to take action.

41. **The Chairperson**, speaking as a member of the Committee, asked what institutional arrangements existed for the implementation of the Optional Protocol. She wondered whether ISNA, which had responsibility, had the financial or human capacity to do so. She also asked which body received complaints from child victims of offences under the Optional Protocol and how such complaints were followed up. She asked whether the State party had studied or would study the root causes of such offences in Salvadoran society, particularly where those affected made up large segments of the population, such as children living in poverty, indigenous children or children living in remote areas. She asked what measures were taken, particularly at the local level, to prevent the perpetration of such offences. Lastly, she wished to know the extent of child sex tourism in El Salvador.

42. **Ms. Al-Asmar** asked whether El Salvador had systematized its data collection. She also requested further information on the prosecution of offences under the Optional Protocol and the protection of victims.

43. **Ms. Urquilla** (El Salvador) said, with regard to the issue of transnational criminality, that El Salvador operated on the principle of territoriality. As a rule, therefore, investigations and trials were related to crimes committed in Salvadoran territory. Salvadoran law also, however, recognized exceptions, as in paragraphs 8 and 9 of the Criminal Code, the classic one being cases in which the perpetrator or victim of a crime was a Salvadoran national abroad. There was also the so-called “protective principle”, whereby a State exercised jurisdiction outside its territory if its security, investments or interests were at stake. Paragraph 10 of the Code recognized the principle of universality, which it applied to offences committed by any person located in a place not subject to Salvadoran jurisdiction, the offences were covered by a specific international covenant or other standards or constituted a grave violation of universally recognized human rights. That principle of universality, together with the provisions of the Optional Protocol, could provide the necessary legal tools with which to combat transnational crimes like the sale or exploitation of children or child pornography. In such cases, however, all judges should be familiarized with the procedure, thus enabling it to become more widespread.

44. As had been noted, extradition generally required a reciprocal agreement, but the Supreme Court of Justice had recently delivered a landmark judgement concerning a case of sexual abuse against a child by a Salvadoran in the United States who had since fled to El Salvador. The judgement was based on a treaty dating back to 1911, under which the State could reserve to itself the power to extradite one of its nationals. The Supreme Court had determined that the treaty should be interpreted in the light of modern conditions, which included transnational crime and offences against children. It had determined that the 1911 treaty was sufficient to develop a constitutional principle facilitating extradition.

45. As for the question of the possible prosecution of groups or institutions, the Salvadoran legal system recognized the principle of acting on behalf of a third person, which was derived from common law. It was therefore possible to initiate the criminal prosecution of a person who participated in decisions while hiding behind the activities of a corporation. With regard to the situation of the young girl who had conveyed one of her children abroad, no criminal liability arose; otherwise, the Government would be forced to criminalize certain types of migration. If, however, it was shown that the underlying

intention of such a transaction was to hide or alter a child's affiliation — which would make the action a form of trafficking — sanctions could be applicable. It depended on the other factors involved.

46. **Ms. Sayes** (El Salvador) said that, in a bid to combat child pornography, the Government had, since 2008, been running a project called "Prevention of information technology crime" in 500 classrooms, financed with a budget of US\$ 140,000 by the United Nations Children's Fund (UNICEF) and the Italian Government. Generally speaking, however, the police until recently, had insufficient technological tools or trained personnel to mount prosecutions of such offences. Help had been received from the International Criminal Police Organization (INTERPOL) in prosecuting producers of Internet pornography and an INTERPOL office had been established in El Salvador, so some progress had been made. As for child sex tourism, she said that the national police had set up a unit 425-strong across the country — the "tourism police" — who were trained to identify paedophiles.

47. **Ms. Espinoza** (El Salvador) said that the report had been prepared as detailed in paragraph 4 of the initial report. She had no knowledge of whether NGOs or children had been consulted in the process. While there was currently little awareness of the Optional Protocol, several measures were being taken to include it in the training given to judges, prosecutors and the police. Reference was made to the Optional Protocol in university courses on criminal law, particularly with reference to the crimes of pornography, prostitution and human trafficking. State and civil society bodies were taking steps to raise the public's awareness of the dangers of child pornography. Campaigns had been run explaining that it was a criminal offence and publicizing the helpline available for reporting cases of child pornography. There was currently a need to train the police in the appropriate steps to take when such reports were received.

48. The Public Prosecutor of the Republic was responsible for registering all offences relating to prostitution, child pornography, human trafficking, people smuggling and sale of persons and for ensuring they were properly investigated.

49. **The Chairperson** asked whether children nationwide had easy access to the Office of the Public Prosecutor of the Republic.

50. **Ms. Espinoza** (El Salvador) said that the Public Prosecutor of the Republic had regional offices throughout the country. However, children and young people were not aware that they could bring complaints before the Public Prosecutor themselves. Complaints could also be brought to the National Civil Police, which was much more decentralized than the Office of the Public Prosecutor and thus available in all areas. She recognized the need to raise public awareness that complaints could be reported to members of the Community Policing Unit.

51. The Office of the Public Prosecutor was currently preparing a handbook and a protocol on the correct psychological and social treatment of child victims of sexual exploitation and sexual violence. With assistance from the International Labour Organization, it was also preparing a handbook on investigations in order to harmonize practice and increase the number of cases brought to trial and convictions for those offences. The United Nations Children's Fund (UNICEF) had helped the Supreme Court to install a Gesell Chamber and prosecutors were being trained in its use in order to ensure that children were not doubly victimized in the process of giving evidence. The Inspectorate-General of the National Civil Police was responsible for investigating all offences committed by members of the police, including cases in which police officers failed to investigate offences committed by others.

52. **Ms. Villarán de la Puente** (Country Rapporteur) asked whether any cases had been brought against police officers for offences under the Optional Protocol, and if so, what sentences had been passed.

53. **Ms. Espinoza** (El Salvador) said that investigations were under way into the involvement of police officers in corruption of minors and organized crime. No sentences had been passed to date.

54. **Mr. Salazar** (El Salvador) said that up to September 2009, ISNA had provided care for 41 victims of commercial sexual exploitation and 6 victims of human trafficking. However, the Institute recognized that it had to increase coordination with other relevant bodies, including the courts, the police and the authorities in charge of protecting victims and witnesses, in order to help victims resettle in society. The Institute ran a shelter for girl victims of trafficking, while NGOs provided care for boy victims. The Office of the Procurator for the Protection of Human Rights had not yet implemented any system for monitoring the services provided by the Institute or other bodies. With assistance from the police, migration organizations and Save the Children, efforts were under way to identify the main routes through which children became caught up in commercial sexual exploitation and human trafficking, in order to be able to extend preventive measures on a larger scale.

55. **The Chairperson** asked whether the State party planned to establish a data collection system for all the offences under article 3 of the Optional Protocol, rather than focus exclusively on commercial sexual exploitation and human trafficking.

56. **Mr. Urquilla** (El Salvador) said that efforts were being made to reorganize the institutions in charge of all the offences under the Optional Protocol, including the sale of children, in order to increase their efficiency and coordination. The new system would include data collection and the enactment of specific legislation, which would enable the authorities to truly combat those offences, given that they usually involved cross-border activity.

57. **Mr. Salazar** (El Salvador) said that the Institute was working on establishing an early warning system to prevent the offences under the Optional Protocol. The Institute's budget currently stood at US\$ 14.5 million, which was insufficient to carry out its mandate. Under the Constitution, it had been impossible to amend the budget for 2010, but current projections were that the Institute's budget needed to be at least twice as much. The Institute had established a department to manage international cooperation and obtain funding from other sources.

58. **Ms. Ortiz** (Country Rapporteur) said that the main challenge currently facing the State party in relation to children's rights was establishing the institutions required to implement the Act for the Comprehensive Protection of Children and Young Persons. In that regard, she recommended that the State party consult the Committee's general comment No. 5 on general measures of implementation for the Convention (CRC/GC/2003/5), particularly its focus on cross-sectoral coordination of all State institutions working to uphold the rights of children, as opposed to the establishment of a single body responsible for implementing the Convention. A national council to coordinate all the measures currently being implemented would be beneficial, provided that it had a high-level executive secretariat and sufficient resources. The Committee would recommend not postponing the entry into force of the Act. Other legislative amendments were necessary in order to bring the State party's laws into line with the Convention, since adequate investment in children's rights was imperative. Dialogue with NGOs should be improved and the conditions created so that children could truly participate in decisions that affected them at all levels.

59. **Mr. Urquilla** (El Salvador) said that the Committee's recommendations would be implemented in the restructuring of children's rights. The Government would continue to make every effort to fulfil its obligations under the Convention and the Optional Protocol. It would also focus on improving its dialogue with NGOs. He was grateful for their reports to the Committee, which had proved extremely useful in the examination of the current situation of children's rights in his country.

60. **The Chairperson** said that the Committee appreciated that the Government was creating a new vision for Salvadoran society, particularly its children. There was a clear need for international financial and technical assistance in that undertaking.

The meeting rose at 6.05 p.m.