



Convention on the Rights of the Child

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Summary record of the 1626th meeting*

Held at the Palais Wilson, Geneva, on Wednesday, 8 June 2011, at 10 a.m.

Chairperson: Ms. Lee (Vice-Chairperson)

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* No summary record was issued for the 1625th meeting.

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (*continued*)

Second periodic report of Cuba (CRC/C/CUB/2; CRC/C/CUB/Q/2; CRC/C/CUB/Q/2/Add.1)

1. *At the invitation of the Chairperson, the delegation of Cuba took places at the Committee table.*
2. **Mr. Moreno** (Cuba) said that the periodic report, which had been drafted with the involvement of non-governmental organizations (NGOs) and children's associations, offered an objective overview of progress made on implementation of the Convention, to which Cuba had been a party since 1991.
3. Aware that much remained to be done to fulfil all the provisions of the Convention, Cuba continued to work towards harmonizing age thresholds with those set by the Convention. The authorities were also endeavouring to satisfy the statistics requirements, notably by the introduction in September 2009 of a national statistics system and a computer application for youth statistics, developed with the assistance of the United Nations Children's Fund (UNICEF).
4. In 2004, Cuba had adopted its national plan of action for children and adolescents 2004–2010, aimed at meeting the commitments set by "A world fit for children", a plan of action adopted by the General Assembly of the United Nations in 2002.
5. The year 2000 had been marked by the conclusion of a cooperation agreement between UNICEF and the Cuban Government to publicize children's and adolescents' rights. The aim of the project was to increase public awareness of children's rights and had led to the creation of some 15 child and adolescent rights information centres and the formation of cross-sectoral, multidisciplinary technical teams.
6. Cuba had also ratified the two optional protocols to the Convention on the Rights of the Child, the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption in 2007, the International Convention for the Protection of All Persons from Enforced Disappearance in 2009, and the Convention on the Rights of Persons with Disabilities and the United Nations Convention against Transnational Organized Crime in 2007. The authorities were currently considering ratification of the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) and the Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
7. Cuba had also reformed its Criminal Code in order to punish more severely the perpetrators of crimes that disrupted the normal development of children and adolescents, and had improved the protection of Cuban families by emphasizing the principle of both parents' shared responsibility and establishing specialized family law sections within municipal People's Courts. A preliminary draft amendment to the Family Code was currently under consideration. Cuba was a participatory democracy, thus allowing young people and the general public to express their views on matters directly affecting them, such as the main direction of the country's economic and social policy.
8. In its desire to guarantee equality of opportunity and the right to life and harmonious development for all, the State had introduced free schooling at every level of education and possessed an excellent free health-care system. Over 50 per cent of the State budget was allocated to health, education, assistance programmes, social security and culture.

Expenditure on education had more than tripled between 2000 and 2009, standing at 19.4 per cent of total expenditure in 2009.

9. The infant mortality rate — 4.5 per 1,000 live births in 2010 — had fallen significantly over the previous decade, mainly thanks to inoculation. Thus, Cuba had already achieved Millennium Development Goals 3 and 4 and had far surpassed the educational objectives of the United Nations Educational, Scientific and Cultural Organization (UNESCO): practically 100 per cent of children of all ages were in school, including those with special needs. The country had 396 special schools focusing on vocational training, which had enabled 41,146 children aged 0–21 to follow courses specially adapted to their needs in the 2009–2010 academic year. In addition, 203 diagnosis and counselling centres were on hand to guide students with special needs towards the appropriate services.

10. The entire population benefited from social welfare and the country had established a legal and institutional child protection framework accompanied by programmes to prevent ill-treatment and violence and to help victims. Economic exploitation of children was unknown in Cuba: no children were forced to work and there were no street children.

11. Nevertheless, children were the prime victims of the economic, commercial and financial embargo imposed on Cuba by the United States for over 50 years. The Cuban State had striven to overcome those difficulties and to promote the rights of children while developing links of cooperation and reciprocal assistance with other countries. A great many Cubans exported their skills, especially in the areas of health and education, and took part in mutually supportive development initiatives, such as “Yo sí puedo” (Yes I can), a literacy programme recognized by UNESCO and implemented in over 29 countries. Cuba also opened its doors to a large number of international students; it participated in a programme to identify and evaluate the needs of persons with disabilities in Latin America, and for some 20 years had been conducting a medical aid programme for victims of the Chernobyl disaster.

12. **Mr. Zermatten** (Country Rapporteur), noting that the second periodic report had been received 12 years after the consideration of the initial report, expressed regret that it did not adhere to the reporting guidelines, did not respond to all the concerns raised in 1997 and did not address follow-up to the recommendations made at that time.

13. He had taken note of Cuba’s new socio-economic policy, which marked the beginning of a more liberal approach, and welcomed Cuba’s ratification of a number of international instruments, including the two Optional Protocols to the Convention on the Rights of the Child. He also welcomed the progress achieved in health and education and congratulated Cuba for having achieved or being on the verge of achieving a number of Millennium Development Goals. The State party appeared to consider childhood ended at 16 years of age, whereas the Convention defined childhood as the period from 0 to 18 years. He was also surprised to learn that the recent legislative changes derived more from case law than from new legislation. He encouraged Cuba to ratify the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and to accede to the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182).

14. In order to gain a better understanding of the Convention’s place in the domestic legal framework, it would be useful to know whether domestic or international law took precedence in cases of conflict between the two. Information on the situation regarding draft amendments to the Family Code and their adherence to the provisions of the Convention would be valuable, as would information on how the activities of the different ministries and those of the central authorities and the provinces were coordinated.

15. He would also appreciate further information on the mandate and coordination of activities of the Standing Commission on Children, Youth and Equal Rights for Women and on the mandate and budget of the municipal and provincial councils. He would also like to learn which body oversaw the national network of social assistance centres offering shelter to orphaned or abandoned children and what role the Federation of Cuban Women played in the implementation of the Convention.

16. He would also like to know what progress had been made in implementing the plan of action designed to fulfil the commitments set forth in “A world fit for children”. It would also be useful to learn whether the State party had devised a new programme of action for the coming years, whether it formed part of a broader development strategy, and how the numerous sectoral plans and programmes referred to in the periodic report were linked. The State party was also invited to supply details of any independent, national NGOs existing in Cuba and state whether they had been involved in drafting the report, the role they played and their source of funding.

17. Since children did not seem to be considered independent rights holders, he wondered how respect for their best interests was guaranteed in judicial and administrative decisions, and for their right to be heard on all issues affecting them, and not simply on matters of custody and divorce. The age at which children could take independent legal action alone, set at 14, was too high.

18. **Ms. Al-Shehail** (Country Rapporteur) asked whether adequate financial resources were allocated for implementation of plans for children and whether such financing was guaranteed for the long term.

19. She would also like to know whether the State party conducted publicity campaigns against corporal punishment, which was still legal in the home and at school. It would also be useful to learn the status of the draft amendment to the Family Code, which would standardize the age of marriage in exceptional circumstances at 16 for girls and boys; how many such marriages were contracted; and on what grounds they had been authorized.

20. The Committee had been told that many young people were victims of fatal road accidents. What measures were being taken to raise public awareness of the problem and to pass strict laws to prevent them?

21. Supported by **Mr. Guráñ**, she wished to know whether there was an independent body to monitor children’s rights in the State party, in conformity with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles).

22. **Mr. Kotrane** expressed concern at the slow pace of legislative reform. Few new laws had been adopted since the consideration of Cuba’s initial report in 1997 and it was regrettable that directive 187/07, published in the Official Gazette on 15 January 2008, regarding the right of the child to be heard from the age of 7 in procedures relating to parental authority, had been so infrequently applied by the courts. The Cuban authorities could usefully reconsider their entire corpus of laws in order to bring them fully into conformity with the Convention, given that children’s civil liberties, such as freedom of expression, association and peaceful assembly, appeared to have been restricted to achievement of the goals of the socialist society. He wondered what action the Cuban authorities intended to take to enable children to express themselves freely on decisions affecting them and on society’s future options.

23. He also wished to know whether judges were aware of the provisions of the Convention, whether the Convention had been cited in any of their decisions and whether children had recourse to DNA testing to establish parentage.

24. He wished to point out that Cuba had ratified neither the Convention or the Protocol relating to the Status of Refugees, and the 1967 Protocol thereto, nor the Convention relating to the Status of Stateless Persons, nor the Convention on the Reduction of Statelessness. Also useful would be more information on the situation when a child lost its Cuban nationality because he or she had a non-Cuban parent through whom he or she acquired a different nationality.

25. **Mr. Pollar** asked what measures the State party was taking on international cooperation to implement article 11 of the Convention, particularly with regard to Cuban children who had been taken to a foreign country illegally by one parent, since Cuba had not ratified the Hague Convention on the Civil Aspects of International Child Abduction.

26. **Ms. Maurás Pérez** asked whether directive 187/07 of 2008 had entered into force, and if so, had it been possible to measure the impact of its application. Even if children were not directly affected, it would also be useful to know whether, following the agreement concluded with the Roman Catholic Church in 2010, the 52 political prisoners detained since 2003 had been released. It was a pity that the national and regional pioneers' organizations and children's congresses focused more on education than freedom of expression, and it was important to note that the indivisibility of human rights required that economic, social and cultural rights were advanced in tandem with civil and political rights. While the Constitution of the Republic of Cuba provided for freedom of expression, in article 62 it stated that freedoms could not be exercised contrary to the goals of a socialist society. The State's control of the media, particularly the Internet, limited children's enjoyment of their rights as defined in the Convention. She would like to know what action the State party had in mind to change the situation.

27. Although the opening of the Cuban market and the development of commercial links between Cuba and other countries, notably the European Union and China, was to be welcomed, it should be noted that commercial activities, in particular the activities of transnational corporations, could also have a negative impact on the exercise of human rights, as witnessed in a number of countries, including with regard to health and the environment, not to mention the risk of economic and sexual exploitation. It would therefore be useful to learn whether there were plans to regulate the activities of such corporations, for example in the hospitality industry. Information on the measures being taken for fuller implementation of the International Code of Marketing of Breast-milk Substitutes would also be appreciated.

28. **Ms. Varmah** asked whether domestic legislation allowed Cuban nationality to be conferred on children who, although born to Cuban parents, were for whatever reason, stateless. In the light of the Committee's general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, she wondered whether the Cuban Government planned to amend its legislation to impose total prohibition of corporal punishment everywhere, including in the home. Supported by **Ms. Wijemanne**, she would like to know whether a free telephone helpline for children to report ill-treatment was accessible around the clock to all children from both fixed and mobile telephone lines.

29. **Ms. Al-Asmar**, emphasizing that the State party continued to control the press and that there was not universal Internet access in Cuba, asked how much access children had to international news.

30. **Ms. Sandberg** asked whether the Cuban authorities had taken measures to raise public awareness of gender stereotyping, given that the Committee on the Elimination of Discrimination against Women, noting the persistence of patriarchal attitudes and gender stereotyping within the family, had requested the State party to redouble its efforts to

combat general acceptance of such stereotypes in its concluding observations on the fifth and sixth periodic reports of Cuba in 2006 (CEDAW/C/CUB/CO/6).

31. **Ms. Wijemanne** asked how the UNICEF-assisted DevInfo database functioned and whether data were collected on child victims of domestic violence and families in which children were particularly at risk. Details of programmes to disseminate the Convention and its provisions to children and to professionals working with them, such as teachers, doctors and social workers, would be appreciated.

32. **Mr. Cardona Llorens** asked what steps the authorities were taking to ensure privacy of access to the Internet and to social networks, and to prevent any interference in children's correspondence via those networks, in accordance with article 16 of the Convention.

33. **Mr. Guráñ** asked how activities to implement the Convention were vertically coordinated and if there were clear instructions at the regional, municipal and community levels for professionals who worked with children regarding compliance with the obligations of article 3 of the Convention on the child's best interests and article 12 on the child's right to be heard.

34. **Mr. Madi**, while welcoming the fact that refugee children had access to education and that children born in Cuba to refugee parents were granted Cuban nationality, asked why Cuba had not yet ratified either the Convention or the Protocol relating to the Status of Refugees. He would like to know whether the Cuban Government intended to reconsider its policy on the nationality of children born abroad to Cuban parents, which could lead to their becoming stateless.

35. **Ms. Nores de García** asked whether there was an independent institution that could answer children's questions and where children could express themselves freely without fear of reprisals, and whether children and adolescents enjoyed unhindered access to the Internet. He congratulated the Cuban Government on its progress on social security and, in particular, medicine.

The meeting was suspended at 11.20 a.m. and resumed at 11.40 a.m.

36. **Mr. Moreno** (Cuba) said that the term "political prisoners" was erroneous: nobody was detained in Cuba for holding or expressing their political beliefs. However, Cuba's legislation, like that of all countries, provided severe sanctions against persons found guilty of mercenary activities and who were paid by a foreign power to destabilize the country. All the persons referred to in the current discussion had been released; some had remained in the country, while those who so wished had left freely.

37. He condemned the manipulation of everything to do with Cuban immigration to the United States of America and the Cuban Adjustment Act, whereby Cuban immigrants to the United States were automatically granted refugee status, although they were mostly economic migrants. He also condemned the "wet foot dry foot policy" in which irregular Cuban migrants were welcomed if they had set foot on dry American land, but returned if intercepted at sea. As long as those irregularities, which encouraged irregular migration, existed, Cuba would ratify neither the Convention nor the Protocol relating to the Status of Refugees. Cuba nonetheless fully applied the provisions of those two instruments to refugees arriving in the country.

38. The difficulties of access to the Internet derived from the economic and financial embargo imposed by the United States of America. As elsewhere, restrictions were applied to the Internet for moral reasons and to protect children, as well as for reasons of national security.

39. **Ms. Audivert Coello** (Cuba) said that governmental and non-governmental institutions participated in the horizontal incorporation of the Convention both in the law and in practice and that any Cuban legislation that predated ratification of the Convention had already enshrined its basic principles. A number of measures had been adopted to strengthen children's protection, including Decree-Law No. 175 of 1997 amending the Criminal Code and imposing heavy penalties for procuring, trafficking and sexual assault and introducing heavier penalties for the corruption of minors.

40. Decree-Law No. 2/34 of 2003 on motherhood of working women redefined the role of the father in particular. Social security coverage was now universal: Act No. 105 of 2008 on social security protected mothers of young children — granting them parental leave — and orphans — enabling them to study.

41. **Mr. Zermatten** asked whether there were plans to rescind its declaration on article 1 of the Convention. While he welcomed the level of protection afforded children in Cuba, it would be useful to know how the status of child as subject of law was taken into consideration in the Family Code, the Children and Youth Code and the Decree-Law on adoption, children's homes and foster families. He wondered how the best interests of the child were integrated in the laws and applied in judicial and administrative decisions, and how the right of the child to be heard was respected.

42. **The Chairperson**, speaking as a member of the Committee, asked for details of the follow-up to the Committee's concluding observations (A/53/41) on the country's initial report (CRC/C/8/Add.30).

43. **Mr. Moreno** (Cuba) said that the authorities were still considering age harmonization and amendments to legal texts to incorporate the provisions of the Convention. He stressed the avant-garde nature of Cuban legislation, which had included the protection of children and adolescents 30 years before the international community had addressed the issue.

44. **Ms. Herrera Caseiro** (Cuba) said that, although the Convention took precedence over domestic law, the declaration would not be withdrawn until the age of majority had been set at 18 years.

45. **Ms. González Ferrer** (Cuba) said that article 9 of the 1976 Constitution set forth the range of civil liberties that were also enjoyed by children. The preliminary draft of the bill amending the 1975 Family Code had been submitted a few years previously by the Federation of Cuban Women and the Cuban National Union of Jurists — both NGOs entitled to initiate laws — and had been included in the Cuban State's Legislative Plan 2008–2012. Since its creation, the Family Code had taken the best interests of the child into consideration by introducing auxiliary judges for all family matters heard by the courts, such as cases concerned with adoption and to determine parentage. The preliminary bill envisaged consideration of children's opinions in accordance with their level of maturity. Two decisions handed down by the first chamber of the municipal court in Guanabacoa had expressly mentioned the Convention and confirmed that children were indeed heard from a specially adapted area, by family courts.

46. **The Chairperson**, speaking as a member of the Committee, asked whether there was a mechanism for coordinating child laws and programmes and if there was an independent monitoring body with which children could lodge complaints.

47. **Mr. Zermatten** asked whether the Standing Commission on Children, Youth and Equal Rights for Women played an operational and reflective role and whether it was responsible for coordination among the various ministries and among the national, regional, provincial and municipal bodies.

48. **Ms. González Ferrer** (Cuba) said that the Standing Commission was a body of the National People's Assembly composed of deputies who were specialists on matters relating to children and gender equality. The Commission met twice a year to consider particular issues and the ministries were required to report to it on their activities. A cross-sectoral approach was adopted: for example, the Ministry of Health coordinated health programmes, while each body concerned executed its own plan of action. Commission members were tasked with monitoring implementation on the ground.

49. **Mr. Zermatten** asked whether it was the Standing Commission on Children, Youth and Equal Rights for Women that granted the funds needed for implementing the projects or whether the budgets were released by the relevant ministry or the regions or municipalities.

50. **Ms. González Ferrer** (Cuba) said that each ministry had its own funds which it allocated to the different provinces and municipalities according to the initiatives planned. The local authorities also helped to fund some initiatives.

51. **Mr. Moreno** (Cuba) said that the Commission's role was to define State strategies and policies for young people and to monitor implementation of the relevant projects and plans. It was not, however, responsible for funding.

52. **Ms. Silot Navarro** (Cuba) said that the Office of the Public Prosecutor (*Fiscalía General de la República*) played a fundamental role, its mandate being to protect citizens, particularly minors. It fulfilled that role through its offices throughout the country, which addressed the complaints of persons who believed that their rights had been violated. All complaints received by these offices were thoroughly investigated and a ruling issued within 60 days. If the plaintiff was a child, the ruling must be handed down more rapidly. The Public Prosecutor also defended children in situations where their interests conflicted with those of their parents, and ensured that court rulings respected their best interests.

53. **Mr. Reyes Rodríguez** (Cuba) said that the country had numerous parliamentary commissions tasked with intervening in cases of violation of the law and with approaching the Public Prosecutor for payment of damages. The Standing Commission on Children, Youth and Equal Rights for Women was an intersectoral body outside Government control; and its membership included figures from many areas, including NGOs. Cuba had not established an independent human rights body in conformity with the Paris Principles, and the Convention did not oblige it to do so. The existence of such a body did not denote financial or political freedom. In Cuba, however, civil society was fully involved in policy development and ensured observance of the law.

54. **Mr. Zermatten** asked whether the Office of the Public Prosecutor had a special child service.

55. **Ms. Silot Navarro** (Cuba) said that there were specific bodies to protect children's rights within the services by the Office of the Public Prosecutor provided across the country.

56. **Mr. Zermatten** asked why the age of criminal responsibility was not 18; about the most severe sanction that could be imposed on a child aged up to 16 who had committed an offence; and whether a minor could be sentenced to life imprisonment. He would like to know whether minors were detained separately from adults and whether the Council for Minors was a judicial or administrative body; whether it could apply criminal law; what guarantees it offered to the minors concerned; and whether the law stipulated a minimum age at which children could be summoned to appear before the councils; and the nature of the comprehensive development schools referred to in paragraph 520 of the report under consideration.

57. He would like to know whether the sanctions imposed on adult women involved in prostitution on the ground that they disturbed public order were also applicable to young girls and whether minors in that situation were placed in rehabilitation centres. It would also be useful to learn whether any foreign nationals had been imprisoned for sex tourism and whether warnings reminding visitors that it was a crime were posted at airports.

58. Information on how judges were trained would be appreciated, as would data on the number of tribunals and correction centres, the scale of domestic violence, mistreatment and sexual abuse, and whether the perpetrators were prosecuted.

59. **Ms. Al-Shehail** said that, given the lack of independent judges, she wished to know whether the State party effectively guaranteed a fair trial for young people in conflict with the law and whether magistrates and lawyers specializing in children's issues received training in the principles enshrined in the Convention.

60. The delegation might say whether young women had free access to contraception or even the "morning-after" pill in order to reduce abortion rates; what measures the State party intended to take to promote higher education, which was losing ground to technical and vocational education; and what NGO programmes had been implemented in collaboration with the Cuban Government in order to encourage education in human rights and freedom of expression.

61. Further information on the lifting of restrictions on movement within the country to unite families scattered across Cuban territory would be welcome, as would statistics on population movement from small villages to urban centres, and on the measures taken to protect children's rights in that regard.

62. **Mr. Cardona Llorens**, noting that 70 per cent of children with disabilities were educated in special institutions and 30 per cent in the traditional education system, said that it was desirable for those proportions to be inverted, and wondered whether such children had the same access as other children to leisure and recreation programmes, particularly pioneer camps.

63. The delegation might describe organized State programmes to combat tobacco, alcohol and drug use, and to alert young people to the health risks posed by those substances.

64. **Ms. Varmah** asked what options were available to children who, having abandoned their studies, wished to resume their education, and whether the law prescribed the establishment of an inclusive education system based on such things as specialized teacher training and the development of special educational materials and programmes adapted to those children's specific needs. She also wondered whether the State party encouraged the learning of sign language inside and outside schools and whether undocumented children of Haitian origin, of which there were many in Cuba, enjoyed the same conditions and access to education as children with regular status.

65. **Mr. Koompraphant**, noting that the unemployment rate, which was 20 per cent, was particularly high in Cuba, asked what support was offered to unemployed heads of family and how the basic needs of children in those families were met. He would also like to know what measures the State party was taking to ensure that sexual abuse and sexual exploitation were reported and investigated, that the perpetrators of such offences were prosecuted, and that victims were monitored and awarded damages. He would also be interested to discover who was responsible for ensuring children's well-being when their parents had committed crimes, and what measures were in place to prevent child pornography and prostitution in Cuba.

66. **Ms. Herczog** asked how the State party helped parents to fulfil their parental duties, and what it did to prevent domestic abuse and other forms of violence. She also wondered whether the parents of children with special needs received social and financial support.

67. Noting that virtually all children under 6 were enrolled in infant schools, she expressed concern that the quality of teaching might not be up to standard and that widespread preschool care was more to enable mothers to work than to provide infant education. Data on the pupil-teacher ratio and teacher qualification would therefore be useful.

68. Noting with regret that 6 out of 18 weeks of maternity leave had to be taken before the birth, she asked whether it was possible for one or other of the parents to take unpaid parental leave following maternity leave and, if so, whether that parent was entitled to financial support. Lastly, the delegation might indicate what measures had been taken to favour exclusive breastfeeding.

The meeting rose at 1 p.m.