



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

Fifty-fifth session

13 September-1 October 2010

### Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

#### Concluding observations: Nicaragua

1. The Committee considered the initial report of Nicaragua (CRC/C/OPAC/NIC/1) at its 1572nd meeting (see CRC/C/SR.1572), held on 24 September 2010, and adopted at its 1583rd meeting, held on 1 October 2010, the following concluding observations.

#### Introduction

2. The Committee welcomes the submission of the State party's initial report. It further welcomes the written replies (CRC/C/OPAC/NIC/Q/1/Add.1) to the list of issues, however, it regrets that the State party's replies do not follow the established reporting guidelines. The Committee appreciates the constructive dialogue with the high-level delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations on the State party's fourth periodic report (CRC/C/NIC/CO/4), adopted on 1 October 2010, and the concluding observations on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/NIC/CO/1), adopted on 1 October 2010.

#### I. Positive aspects

4. The Committee welcomes the abolition of compulsory military service by constitutional amendment (1995), and the regulation by the military service authorities (*normativa de organización para la prestación del servicio militar activo*) establishing the minimum age of 18 years for voluntary military service. It further welcomes the establishment of the minimum age of 18 years for exceptional conscription. The Committee also notes that Nicaragua has been declared a mine-free country in 2010.

## II. General measures of implementation

### Coordination

5. The Committee regrets that the National Council for the Comprehensive Care and Protection of Children and Adolescents (CONAPINA), established by the Children and Adolescents Code, with civil society participation, at the presidential level, and which previously was in charge of coordinating child policies, has lost its authority by virtue of Law 290 (2008) and is under the Ministry of Family, Adolescence and Childhood (MIFAN), thereby affecting overall coordination, including with civil society. It is further concerned that a new National Social Welfare System (*Sistema Nacional de Bienestar Social*) has taken over the overall coordination of social policy, including that related to children, and consequently, the promotion and protection of children's rights in general, not only of those at risk, have lost specificity and transparency.

6. **The Committee recommends that the State party consider strengthening the leadership and coordinating functions of CONAPINA as set out in the Children and Adolescents Code, and, in that respect, streamline the roles and activities of both MIFAN and the National Social Welfare System to ensure a comprehensive and well articulated system of promotion and protection of children's rights.**

### Independent monitoring

7. While welcoming the active involvement of the Office of the Ombudsperson on Human Rights (*Procuraduría Nacional de Derechos Humanos*) and the Office of the Special Ombudsperson for the Protection of Children and Adolescents (*Procuraduría Especial de la Niñez y la Adolescencia*) in the promotion, protection and investigation of violations of children's rights, the Committee is concerned at the inadequacy of human, technical and financial resources available for this important work. It is also concerned about undue delays in the designation of the Ombudsperson.

8. **The Committee recommends that the State party assign greater human, technical and financial resources to the Office of the Special Ombudsperson for the Protection of Children and Adolescents to ensure full exercise its functions to oversee and defend the rights of children and adolescents. It further recommends that independence in the designation and operation of the Human Rights Ombudsperson be guaranteed. The Committee recommends that the State party take into account the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child.**

### Dissemination and training

9. While welcoming the fact that the Convention and the Optional Protocol are included in the curriculum of military academies, the Committee is concerned that awareness of the Optional Protocol among the public and professional groups working with and for children, in general, and the military, in particular, seems to be low.

10. **The Committee recommends that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated to the general public, in particular children. It further recommends that the State party strengthen human rights training for members of the armed forces with specific training on the provisions of the Optional Protocol. Furthermore, the Committee recommends that**

the State party develop awareness-raising, education and training programmes on the provisions of the Optional Protocol for relevant professional groups working with children, in particular prosecutors, lawyers, judges, law enforcement officers, social workers, medical professionals, teachers, the media, local and district officials.

### **Data**

11. The Committee regrets the lack of disaggregated data on many areas covered by the Optional Protocol, including the number of Nicaraguan children and asylum-seeking or immigrant children who have been recruited or used in hostilities by non-State armed groups abroad.

12. **The Committee urges the State party to establish a centralised data system with a view to collecting information and statistics on the implementation of the Optional Protocol, and identifying and registering all children within its jurisdiction who may have been recruited or used in hostilities by non-State armed groups abroad, including refugee and asylum-seeking children. It further urges the State party to provide information on the implementation of this recommendation in its next periodic report under the Convention.**

## **III. Prevention**

### **Peace education**

13. The Committee notes that human rights education exists in the school curricula, but regrets the lack of information from the State party regarding efforts to promote an effective and sustainable peace education at all levels in Nicaraguan schools.

14. **The Committee recommends that the State party take effective measures to include human rights and peace education in school curricula and to encourage a culture of peace and tolerance within schools. It also encourages the State party to include human rights and peace education in the training of teachers.**

## **IV. Prohibition and related matters**

### **Legislation**

15. While welcoming that the Penal Code and the Children and Adolescents Code prohibit the recruitment and direct participation of children in armed conflicts and hostilities, both internal and international, the Committee is concerned that the definition of the crime does not include indirect participation in hostilities (Penal Code No. 641, 2008, article 509; Child Code, 1998, article. 79). Furthermore, the Committee is concerned that this provision is not explicitly applicable to non-State armed groups.

16. **In order to further strengthen measures to prevent the recruitment and use of children in hostilities, the Committee urges the State party to:**

(a) **Ensure that violations of the provisions of the Optional Protocol regarding the recruitment of children by non-State armed groups and the indirect participation of children in hostilities be explicitly criminalized in the State party's Penal Code; and**

(b) **Ensure that all military codes, manuals and other directives are in accordance with the provisions of the Optional Protocol.**

### **Jurisdiction and extradition**

17. The Committee notes information that extradition from the State party is regulated by bilateral and multilateral agreements. Nevertheless, the Committee regrets the lack of explicit reference in the State party's legislation to the possibility of extradition of persons who commit offences addressed in the Optional Protocol.

18. **The Committee recommends that the State party ensure that domestic legislation enables it to establish and exercise extraterritorial jurisdiction over crimes under the Optional Protocol.**

## **V. Protection, recovery and reintegration**

### **Assistance for physical and psychological recovery**

19. The Committee regrets the insufficient measures taken to identify children, including refugee and asylum-seeking children, who may have been recruited or used in hostilities abroad, as well as inadequate measures taken for their physical and psychological recovery and social reintegration.

20. **The Committee encourages the State party to establish an identification mechanism for children who may have been recruited or used in hostilities, and take the necessary measures for their physical and psychological recovery and social reintegration. Such measures should include careful assessment of their situation, reinforcement of the legal advisory services available to them, and provision of immediate, culturally responsive, child-sensitive and multidisciplinary assistance for their physical and psychological recovery and social reintegration, in accordance with the Optional Protocol.**

## **VI. International assistance and cooperation**

21. **The Committee encourages the State party to support multilateral and bilateral activities to address the rights of children involved in armed conflict, in particular by promoting preventive measures as well as physical and psychological recovery and social reintegration of child victims of acts that contravene the Optional Protocol.**

## **VII. Ratification**

22. **The Committee recommends that the State party consider ratifying the Rome Statute of the International Criminal Court.**

## **VIII. Follow up and dissemination**

23. **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 Head of State, the Supreme Court, National Assembly,**

relevant ministries and municipal authorities for appropriate consideration and further action.

24. The Committee further recommends that the initial report and written replies submitted by the State party and the related recommendations (concluding observations) adopted be made widely available in the languages of the country, including (but not exclusively) through the Internet to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

#### **IV. Next report**

25. In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its consolidated fifth and sixth periodic report under the Convention on the Rights of the Child, due on 1 October 2015.

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