

TREATY BODY MONITOR

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HUMAN RIGHTS COMMITTEE 91ST SESSION COSTA RICA, 5TH REPORT 22 OCTOBER 2007

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Information submitted by the Committee

The State report

On 30 May 2006, Costa Rica submitted its 5th periodic report to the Human Rights Committee (the Committee), which was due in April 2004.¹ Costa Rica last came before the Human Rights Committee (the Committee) in 1998, when it submitted its 4th report for consideration. Costa Rica signed the *International Covenant on Civil and Political Rights* (the Covenant), in 1966 and ratified it in 1968 without any reservations. The present 68-page report explained the measures taken towards the implementation of the Covenant during the period of 2000 to 2006. It contained a detailed examination of Articles 1 to 27 of the Covenant, focusing on the relationship between international and national law. It explained the changes that have been introduced in national law in relation to the protection of rights guaranteed by the Covenant and on the Committee's previous concluding observations.² However, with regards to certain questions on the Committee's previous concluding observations, the report does not provide comprehensive responses.

List of issues

On 21 June 2007, the Committee provided the list of issues to the State Party. The Committee requested follow up information on certain measures undertaken by the State towards the implementation of the Covenant in national law. Furthermore, it requested clarification from the State over specific parts of the report, including information of issues or events brought to the Committee's attention by various sources. The main issues under consideration related to gender discrimination, torture, the absolute prohibition of abortion with regards to the mother's right to life, the period of pre-trial detention, freedom of expression, freedom of association with regards to trade unions and human rights organisations, religion with regards to the right to marry and found a family of non-Catholics, the right to recognition as a person before the law, specifically in relation to the *Responsible Parenthood Act*, the protection of the child with regards to marriage and trafficking, the principle of non-discrimination with regards to migrants and the new *Migration Act*, the right of minorities in relation to indigenous people and finally the dissemination of the Covenant.

NGO parallel reports

Three non-governmental organisations (NGOs) submitted independent reports regarding the human rights situation in Costa Rica.³ Global Initiative raised the issue of corporal punishment of children at home. Conscience and Peace Tax International addressed the protection of refugees with regards of those claiming refugee status on the grounds of conscientious objection. Finally, the Center for Reproductive Rights raised the issue of the prohibition of the use of in vitro fertilization techniques in relation to the right to found a family. This last report also mentioned the prohibition of abortion with regards to the rights of the mother, which was raised by the Committee in its list of issues.

Themes and issues

Costa Rica's delegation was only composed of two members. It was headed by Ms Laura Thompson, Ambassador Permanent Representative of Costa Rica to the United Nations Office at Geneva, and Miss Alexandra Segura, Ministry Advisor. The Minister of Justice was also scheduled to attend the session, but had to cancel the trip to Geneva at the last minute. The issue of a small delegation was raised by various members of the Committee, as experts on certain matters were not available to respond to the questions posed and information was not readily available. However, the delegation managed to set up a support group in Costa Rica, which allowed for the provision of some of the information requested by some Committee members.

¹ CCPR/C/CRI/5, 6 November 2006, available at <http://www.ohchr.org/english/bodies/hrc/hracs91.htm>

² CCPR/C/79/Add.107, 8 April 1999, available at <http://www.unhchr.ch/tbs/doc.nsf/>

³ Available at <http://www.ohchr.org/english/bodies/hrc/hracs91.htm>

Costa Rica had previously submitted its replies to the list of issues⁴. However, they had not been translated on time and were only available in Spanish. Therefore, the delegation presented the written replies orally. There followed a flowing interactive dialogue between the State Party and the Committee, which allowed for all the issues to be addressed in a timely manner, and even for the last session to end 30 minutes before schedule.

Ms Thompson presented Costa Rica's 5th report to the Committee, and explained the developments that had taken place in the country since its last report in 2000. Ms Thompson emphasized that the different Government administrations had attempted to implement the recommendations presented to Costa Rica by the Committee in its previous concluding observations. She explained that many of those recommendations had already been carried out, but admitted that Costa Rica had faced various obstacles in implementing some of the observations, as explained in the report.

Ms Thompson reiterated Costa Rica's commitment to the respect of human rights. At the international level, she noted that since its last report, Costa Rica had acceded to *the International Convention for the Protection of All Persons from Enforced Disappearance*, and the *Convention on the Rights of Persons with Disabilities*, in February and March 2007 respectively. At the national level, Ms Thompson explained that Costa Rica's legislation contains a great number of provisions for the guarantee of human rights, making specific reference to the possibility of 'habeas corpus' and 'amparo' under Costa Rica's Constitution. Ms Thomson emphasized the fact that international human rights instruments to which Costa Rica is party enjoy 'supra-constitutional' status.

Status of the Covenant under domestic law

The delegation did not make specific reference to this issue in its oral presentation of the written replies, as it was mentioned in the oral presentation of the report.

Sir Rodley acknowledged the role of Costa Rica in the promotion of human rights and praised the fact that international treaties have supra-constitutional value. However, he pointed out that the report, like the 4th report, was very informative on legislation but did not sufficiently address the practical implementation of human rights. He asked the delegation to provide examples of cases where human rights instruments had been used to challenge national legislation, not only in the absence of national legislation. To this, Ms Thompson responded that she did not know of any cases and that she would ask the Supreme Court for information.

Women's Rights

Violence against women

One of the main issues of discussion was violence against women. Ms Thompson informed the Committee that a new law had been enacted on 25 April 2007. This law criminalises violence against women and is in compliance with the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. In addition, she explained that a Committee had been established to follow up the implementation of this law and that it was working towards determining institutional responsibilities and in a campaign to disseminate the law.

Sir Rodley congratulated the State Party on the adoption on the law, but requested additional information on cases of actions taken under this law in way of investigations, prosecutions or reparations for potential victims of violence. The delegation did not have any information on this and explained that the law had just entered into force and that at that moment the Government was disseminating information. However, in the second

⁴ Available at <http://www.ohchr.org/english/bodies/hrc/hrcs91.htm>

session, Ms Thompson informed the Committee that this law had been used for cases of female murder and abuse.

Another issue of concern was raised by Mr Johnson regarding the reporting of cases, as of the 60% of women that suffer violence only 10% file a complaint. Mr Johnson asked the delegation to provide information on any mechanisms in place to encourage victims to safely and efficiently report acts of domestic violence. In her reply, Ms Thompson noted that in Costa Rica domestic violence is defined not only against women, and therefore complaints do not always refer to women. She informed that new statistics on reported cases of violence indicated that the number of complaints had risen, with 47,000 complaints per year. Ms Thompson also stated that a national public awareness campaign had been launched to spread information on new laws. She added that in the following two weeks, a campaign against trafficking in co-operation with the International Organisation for Migration (IOM) would also start. Ms Thompson explained that there were also a whole series of agencies and bodies where women could seek help or advice.

The issue of sexual harassment was also addressed. Ms Motoc asked the delegation whether sexual harassment was a problem in Costa Rica and whether it had been addressed by law. The delegation replied that it is not considered a crime in Costa Rica, but nevertheless, there are a number of laws on this issue applied at the workplace. Ms Thompson explained that these laws are applied to female professors and teachers, and establish that the manager must send the information to the ombudsman. In the private sector, the head of department needs to communicate the abuses to the Ministry of Labour. However, Ms Motoc pointed out that sexual harassment, as in General Recommendation 19 of CEDAW⁵, is not confined to employment and the work environment (right to work), but it is a matter of violence against women.

Trafficking and prostitution

Ms Motoc also referred to the problems of prostitution, trafficking and of sex tourism, which had been reported by NGOs. She enquired about the measures taken to limit those phenomena and to comment on the State's views on the demand side of trafficking.

The delegation reported that a number of legislative measures had been adopted in order to protect people against sex tourism. Ms Thompson explained that the State had enacted a number of law reforms against sexual exploitation, which changed a number of articles in the Criminal Code. These include the increase of the proscription period for stopping impunity and protecting minors, the increase of sentences when taking advantage and the criminalisation of the possession of pornographic materials. The State had also banned entry of foreigners who had been convicted of sexual crimes abroad. Ms Thompson pointed out that this was an ongoing battle for Costa Rica and that at this point the State has a legal framework in place that is sufficient. Ms Motoc, however, insisted upon the need to stress the demand, and to look not only at the victim but also at the demand of sex tourism, which comes from men.

Pre-trial detention and detention incommunicado

The delegation informed the Committee that there are no draft bills to decrease the periods for pre-trial or incommunicado detention. Ms Thompson explained that the period for preventive detention, as established in Article 257 of the Criminal Code, cannot exceed 12 months. However, Article 258 also provides that this may be extended in exceptional cases.

Concerning incommunicado detention, the delegation explained that the period of ten days mentioned in the list of issues is an exceptional measure, as in principle the period is a maximum of 48 hours. However, Ms Thompson added that under Article 261 of the Criminal Code the Court can extend this period to ten consecutive days when the following conditions were met. Firstly, there needs to be a declaration of

⁵ <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19>

preventive detention. Secondly, there needs to be a founded judicial decision. Finally, there need to be reasons to estimate that the detainee will communicate with his/her accomplices or will interfere in the investigation. In any case, the Constitutional Chamber stated that the restrictions imposed to the access of the accused to his/her lawyer must be the minimum essential to prevent that their communication is used to hinder the finding of the truth.

Sir Rodley asked the delegation to provide statistics on the average length of pre-trial detention for different kinds of offences. He pointed out that prolonged incommunicado detention is a violation of Articles 9, 10 and even Article 7 of the Covenant, noting that the fact that a judge orders such detention is not a solution to the problem; it makes it less arbitrary but not less damaging. He added that this does not justify detention that removes all contact from the outside world and wanted to know how this worked in practice. He pointed out the need for the presence of something external to ensure that detainees are not vulnerable to potential abuse, and enquired about the safeguards in place. He also asked for information about people ordered by the judiciary to be held incommunicado beyond 48 hours.

In response to this, Ms Thompson repeated that incommunicado detention was only a precautionary and exceptional measure. She stressed the fact that the accused may consult a lawyer and that this would tend to exclude abuse. She did not provide any statistics on detention remanded in custody or pre-trial detention, but advised that they would be made available in the near future.

Despite the responses of the delegation, Sir Nigel asked for further clarification on the restrictions imposed to the accused in incommunicado detention when accessing his/her lawyer. However, the delegation did not provide any further clarification on this matter.

Freedom of expression

The Committee wanted to know how freedom of expression was dealt with in the press. The delegation explained that there is presently no specific law on the press. Instead, at the moment, freedom of expression in the press is regulated through various articles in different pieces of legislation. However, as the present legislation dates from 1902, there is a new draft bill entitled *Law of Expression and Press* that intends to reform a number of articles in various legislations. This draft seeks to establish the limits within which freedom of expression and information can be exercised, and at the same time guarantee the right to privacy.

Committee member Mr Lallah pointed out the fragile nature of Article 19 of the Convention on freedom of expression when there are restrictions empowered by law. He noted that defamation and insults committed through the press are considered criminal offences in Costa Rica, which can make the press more careful and restrained. He asked the delegation to provide information on the number of convictions for such an offence and the penalties imposed. He also recommended that offences of defamation and insult should not be criminalized and that civil remedies should be given sole legal force in Costa Rica. In their response, the delegation clarified that the new law criminalizing defamation had not yet been enacted. While they admitted that slander and insult were classified as a crime, they pointed out that they were not considered serious offences and therefore were punished with 10 to 70 fine days (a sum of money paid per day). Regarding statistics on cases, the delegation replied that they would send them in the near future.

Death threats

Another issue raised referred to the reports on death threats to journalists. Mr Lallah expressed his disappointment that these were not dealt with properly or did not ultimately result in the identification of perpetrators. The delegation responded that there were two cases before the national courts for the murder of two journalists. However, one had resulted in no action taken as the perpetrators could not be identified, and the other one is still awaiting judgement. The delegation explained that the problem was the lack of legal provisions that covered these events, as these cases were investigated using the normal Criminal Code.

Confidentiality of sources and access to public data

Mr Lallah also noted the existence of a special provision in the new law which protects the honour of public officials, but pointed out the fact that there are no provisions guaranteeing the confidentiality of sources or the right to have access to public data. The delegation replied that it was most probable there are no provisions on the confidentiality of sources, as there is no specific law on the issue. However, the delegation noted the existence of a code of ethics of journalists, which might address this issue. Concerning the access to public data, the delegation informed the Committee that the freedom of information was guaranteed in Article 30 of the Constitution.

Freedom of Religion

The delegation explained that under Costa Rica's Constitution, Catholicism is the State religion, and therefore marriages under this religion are the only ones that take automatic civil effect. Ms Thompson further explained that the Constitution also guarantees the freedom to exercise other religions.

Committee member Mr Johnson pointed out that these two provisions seemed to be in contradiction and asked for clarification. The delegation responded that Costa Rica does not view this as contradictory, as the fact that Catholic marriages takes automatic civil effect does not mean that marriages under other religions are not legal. Other marriages are legal, but they do not take automatic civil effect.

Furthermore, Mr Amor asked the delegation to provide statistics on the religious composition of Costa Rica. He also asked for clarification on whether the curriculum was devised by the State or the religious authorities, what procedure was followed and who taught the subject of religion in schools. He also asked about the teaching of ethics instead of the Catholic religion only. The delegation responded that 20 years ago, 99% of the population was Catholic, while a recent study showed that 47% are practising Catholics, 25% are non-practising Catholics, 13% are Evangelical Protestant, 10% have no religion and 5% belong to other non-specified religions. Ms Thompson further explained that apart from Catholic schools, there are schools with other religions and that all religions are fully recognised by the State. With regards to the teaching of religious education, the delegation clarified that it is taught by teachers and not by the clergy. The curriculum is drawn up under the Ministry of Education in consultation with the Episcopal Conference. With regards to the teaching of ethics, the delegation responded that as long as Catholicism is the State religion, there will not be any intention to change that, even though they admitted that there are sectors of the population advocating for the teaching of ethics instead of religion.

Freedom of association and the right to join trade unions

In the presentation of the report, Ms Thompson explained that Costa Rica has implemented measures to make the ILO conventions effective. In this context, a round table had been set up to elaborate a draft labour law.

In the response to the list of issues, the delegation reported on the issue of complaints against attacks and threats to trade union leaders. Reference was made to a particular attack to the headquarters of the International Confederation of Free Trade Unions, on which investigations were carried out. However, the case was archived as responsibility could not be placed on any particular individuals. Mr Lallah expressed again his disappointment to see that the attack on the headquarters of the ICFTU had resulted in no action being taken. He therefore enquired about the difficulties encountered in identifying the perpetrators.

Mr Lallah also noted that the report mentioned the existence of a draft bill addressed to reform the right to freedom of association and asked the delegation to provide information on the status of such bill. The delegation explained that there are a series of laws looking at amendments to articles, but these laws have not been

enacted yet due to a blockage in the legislature resulting from the division in Congress on the free trade agreement with the USA. Ms Thompson said that this was the reason why many laws had been put forth as draft bills when the report was written.

Mr Lallah also asked the delegation to explain what amendments and changes had taken place in the area of labour, and specifically regarding the right to strike. The delegation responded that there are a series of bills to reform the Code of Labour in order to broaden protection of workers and their representatives and strengthen labour rights. However, the delegation noted that these bills have not been enacted into law. With regards to the right to strike, Ms Thompson pointed out that the maximum strike time is 45 days, and if no settlement is accomplished, arbitration will be compulsory in accordance with the Code of Labour.

Prohibition of torture

In the presentation of the report, Ms. Thompson noted that Costa Rica had abolished the death penalty in 1878, and made special reference to the prohibition of torture, which since 2001, and following previous concerns by the Committee, is expressly banned and penalised in the Criminal Code. In addition, Costa Rica ratified the Optional Protocol to the Convention against Torture (OPCAT) in 2005, which Ms Thompson considered would be a valuable instrument to prevent torture in prisons.

Ms Thompson pointed out that there had not been any cases of the application of Article 123(bis) of the Criminal Code, which criminalises torture. She explained that there are legal bodies within the Ministry of Public Safety which ensure that there is no impunity for these acts. The Ministry receives written complaints and acts as a link to the Ombudsman for the purposes of sending information, following up and carrying out the recommendations issued. She informed the Committee that the written replies included a breakdown of all the complaints received by these bodies, and added that this information is compared to that of the Ombudsman.

Regarding abuse of authority, Ms Thompson noted that there has been a decrease in the number of complaints since 2005. The State attributed it to 3 factors: firstly, the compliance with the recommendations given to police to not get involved in acts that violate human rights; secondly, to the professionalisation of the police, and in particular, the training they receive; thirdly, the programme for the promotion and dissemination of the rights and duties that the Office of the Ombudsman had carried out in various communities and institutions. Ms Thompson further explained that in response to a recommendation by the Ombudsman in the area of prisons, since January 2006 there is a circular that instructs directors, administrators and security supervisors of their obligation to put forth all complaints against prison staff as an administrative process of investigation.

Sir Rodley noted that there had been no cases brought under Article 123(bis) of the Criminal Code, and invited the delegation to speculate why there had not been even one such case. He ventured to provide a possible explanation - that the authorities tended to stick with the language they knew rather than getting involved in new legislative concepts involving more serious action against law enforcement. To this, Ms Thompson responded that she hoped that the fact that there had been no cases meant that there had been no accusations. However, she admitted that it could be possible that there was a trend that the cases were treated as a dereliction of duty by the police, and stressed that the process by which an offence came to be enacted as a crime was long.

Sir Rodley also enquired about information on any investigations that had led to measures taken against those being investigated, what measures had been applied and for what acts, as well as any reparation to victims. The delegation responded that there is information in the written replies about case files on abuse of authority, and pointed out that even though there are no details concerning recommendations issued, there is an indication. The delegation did not provide information on compensation to victims.

Corporal punishment

Ms Wedgwood enquired about the situation of corporal punishment, noting that it is still not banned in domestic law. The delegation responded that the rights of the child are protected in the Children's Code and that corporal punishment should not be seen as standing alone, but rather alongside other legislation which affects its practice. The delegation explained that corporal punishment is limited to parental authority, which refers to the right to impose the duty of maintaining and modestly correcting a child. However, the delegation informed of a new bill seeking to ban this punishment.

Principle of non-discrimination

In the presentation of the report, Ms Thompson addressed the issue of migration and pointed out that national legislation does not make a distinction between the rights of Costa Ricans and those of foreign nationals. She added that these rights extend to the areas of health and labour. She referred to the new *Migration Act*, which criminalises, among others, arranged marriages of Costa Ricans with foreign nationals with the purpose of obtaining Costa Rican residency, acknowledging deficiencies in this *Act* and explaining that reforms are being considered by the Congress.

When presenting the replies to the list of issues, the delegation explained that the articles mentioned in paragraph 193 of the report refer to the previous legislation, which has been replaced by the new *Migration Act*, which sets out the new criteria for the entrance of foreigners to Costa Rica. However, this *Act* has been criticised by various institutions, including the Ombudsman, and civil society because it contains provisions that are contrary to human rights, such as the principle of *non-refoulement*. Therefore, a draft bill has been presented to amend the current law following discussion with the Ombudsman and other bodies.

A serious issue was raised by Ms Wedgwood, where in 2006 the Government of Costa Rica had shared the names of Colombian asylum seekers with Colombian authorities. The delegation responded that it was a regrettable incident and indeed a breach of confidentiality.

Rights of Minorities

In the presentation of the report, Ms Thompson explained that the Supreme Court of Justice has created a post for a special attorney with expertise in indigenous matters. A translation service within the court system has also been established and judges have been instructed to consult with indigenous people before resolving conflicts.

In response to the list of issues, the delegation informed the Committee that the draft law on the autonomous development of the indigenous people was presented in 2001, but was extended for 4 years in 2005. The aim was to comply with *ILO Convention No.169*, and a series of consultations were being held with various national bodies in the indigenous territories. The delegation informed that the draft law is the second agenda item of the Legislative Assembly.

Mr Johnson enquired about the reason for the big delay in adopting this law. The delegation responded that it was due to a complicated consultative process. Ms Thompson noted that the law was close to adoption and that the text had been approved by all the parties consulted.

Ms Wedgwood enquired about the Afro-American minorities in Costa Rica and about the actions taken by the State to ensure their participation in Government. Ms Thompson explained that this population tends to live in the Atlantic zone of Costa Rica, the rural area of the country, and therefore there are less opportunities available to them. She noted that the Government had put a lot of effort into correcting this, and pointed out that they have achieved virtual equality. Ms Thompson explained that this was still not visible at the higher level of Government positions and that it would take time to see the education progress take fruit.

Mr Bhagwati asked for clarification on the post created for the special attorney in indigenous matters and the criteria regarding consultations by the courts with indigenous populations, as described in paragraph 216 of the report. The delegation responded that the special attorney had been in place since 2005, and coordinated the National Commission on Indigenous Affairs (CONAI). The delegation further explained that each indigenous community has an association that is approached for various topics. These consultations are obligatory, in accordance with the *ILO Convention No. 169*.

Abortion and the right to life

Ms Thompson emphasised the defence of the right to life. She noted that the Government is aware of clandestine abortions and that there are thus a number of educational and awareness programs in place. In response to the list of issues, the delegation informed the Committee that in Costa Rica the right to life is enshrined from the moment of conception. Nevertheless, Article 121 of the Criminal Code provides that abortion is not punishable in cases where the abortion is carried out to avoid a threat to the life or health of the mother, and that this risk could not be prevented by any other means. This requires that three conditions are met: firstly, that the abortion is carried out with the consent of the woman; secondly, that it is carried out by an authorized doctor; and finally, that the abortion is carried out to prevent danger to the life and the health of the mother. Moreover, under Article 93 of the Criminal Code, it is possible for a judge to issue judicial pardon to eliminate the sentence in two situations: first, ‘to the person that has carried out an abortion to preserve one’s honour or that of a blood descendant, ascendant or sister’⁶, second, to the woman who has caused her own abortion in the case of rape.

Sir Nigel commented that it seemed the Committee had the wrong information, as it did seem that in Costa Rica abortion is permitted to protect the life of the mother. He requested the delegation to provide the full text of such law and information on prosecutions that might have taken place. Regarding judicial pardon, he noted that not only the sentence must be eliminated, but also criminal responsibility, and asked for examples of this pardon. The delegation, however, could not provide any information regarding any trials in this matter or on cases of pardon, and advised that they would try to provide it in the following days.

Right to recognition as a person before the law and protection of the child

The delegation informed the Committee that the *Responsible Parenthood Act* constituted progress for the rights of the child. Since it entered into force, there have been more than 12,000 cases resolved with voluntary recognition, and there are other 15,000 cases in process. The delegation pointed out the great impact that this *Act* has had in Costa Rica towards the identification and fulfilment of obligations. However, Mr Khalil noted that there had been some bureaucratic issues referred to by the Ombudsman, as stated in the report

Regarding marriage under 15, the delegation explained that following reforms to the Family Code in March this year, this was no longer allowed. Furthermore, in response to a concern raised by Mr Khalil, the delegation informed the Committee that domestic law no longer allows the perpetrator of a sexual abuse to marry his victim under the age of 15.

Other issues

The environment

Ms Motoc enquired about the work that the State Party was engaging into regarding the environment in relation to the right to life. The delegation explained that Costa Rica continued to make a significant effort to

⁶ Translation from the Spanish.

respect and protect the environment, pointing out that almost 20% of the territory had been declared national parks. Ms Thompson further explained that an enormous effort had also been put into reducing greenhouse gases and massive reforestation. She also mentioned the programme 'Peace with Nature', which tries to identify areas where development is not appropriate. The principle behind this programme is that one will not have peace if the environment is not respected.

Dissemination of the Covenant

The delegation informed the Committee that there was a consultation and information process with national institutions and civil society, including NGOs, both in the preparation of the report and in the dissemination of the conclusions and observations by the Committee. The observations are available to the public through the website of the Ministry of Foreign Affairs and the press releases issued by the Ministry.

Mr Bhagwati enquired about the role of the Ombudsman in the dissemination and promotion of human rights. Ms Thompson explained that this institution participated in discussions at all levels, and its reports were made public and spread throughout country. She added that these reports are not only available on the internet but that there is also a highly developed policy.

Mr Baghwati further asked about the steps taken to disseminate and promote human rights in Costa Rica, especially in schools and universities. The delegation responded that the curriculum is based on the training of staff, teaching of human rights, values at all levels, and student's participation in civic activities.

Conclusions and next steps

As the session ended, the Chairman thanked the delegation for the active participation of the delegation and the dialogue maintained with the Committee. However, he pointed out the disappointment that the delegation did not include specialized officials, which limited the possibilities for a more fruitful dialogue. He reasserted the Committee's concern regarding arbitrary and incommunicado detention and expressed concern regarding freedom of religion in Costa Rica, noting that clear discrimination existed regarding the civil effect of marriage. He also referred to the freedom of expression and noted that this was still a matter of concern for the Committee. He noted that limitations must be fully justified on the grounds provided in the Covenant. Finally, he expressed the Committee's concern regarding corporal punishment, and pointed out that it is 'disturbing' that the possibility of corporal punishment remains based on parental authority.

The head of the delegation thanked the Committee for listening and holding a dialogue. She expressed the big effort that Costa Rican had made to meet its obligations with the human rights treaty bodies. However, she admitted that there remained areas that required additional work, mentioning the limitation on available resources.

Previously, other treaty bodies provided recommendations on issues raised by the Committee. Regarding violence against women, the Committee for the Elimination of all Forms of Discrimination against Women (CEDAW) asked the State Party to recognize that violence against women is a human rights violation and a serious form of discrimination against women, to promote the adoption and promulgation of the *Act on Criminalization of Violence against Women* and the preparation of requisite regulations and legal procedures for better application. CEDAW further recommended strengthening programmes to combat violence against women, including training and awareness promotion for court officials and judges, and encouraging judges to reduce utilization of 'conciliation' between aggressors and victims and to ensure that rights of women are duly protected in such 'conciliation meetings'.⁷

⁷ UN Doc. A/58/38(SUPP), para. 55 bis (2003).

With regards to trafficking, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OP-CRC-SC) recommended that Costa Rica increase efforts to combat these criminal activities, including by adequately implementing a Programme of Action against Trafficking of Children for the purpose of Sexual Exploitation. OP-CRC-SC also recommended that the State provide the National Commission against Smuggling of Migrants and Trafficking of Persons with adequate resources⁸.

On the issue of freedom of religion, the CRC recommended that State Party devise curriculum that will ensure that child's freedom of religion can be fully realized in educational system without any discrimination⁹

With regards to torture, the Committee of the Rights of the Child (CRC) recommended that the State takes all necessary measures to ensure prohibition and penalization of torture in legislation.¹⁰ In addition, the Committee Against Torture (CAT) recommended that Costa Rica steps up training activities specifically for police officers and prison personnel.¹¹ Similarly, with regards to corporal punishment, the CRC recommended that the State should incorporate the prohibition of corporal punishment in legislation and continue to take appropriate measures to raise awareness on negative consequences of corporal punishment.¹²

With regards to the principle of non-discrimination, the Committee on the Elimination of Racial Discrimination urged the State party to step up its efforts to improve the situation of migrants in Costa Rica, and particularly that of women migrants. The State party should ensure that *Act No. 8487* amending the *Migration and Aliens Act* fully guarantees migrants' rights. The Committee invited the State party to consider ratifying the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*.¹³ In addition, and with relation to the incident of Costa Rican authorities divulging the names of Colombian refugees to the Colombian authorities, CERD recommended that the State party take the necessary steps to ensure that refugees are protected and that safeguards are in place to shield personal data from the authorities of the country of origin.¹⁴

In relation to minorities, the CRC recommended that the State continue to pay due attention to the needs of indigenous people by taking appropriate measures to address the high rate of infant mortality among indigenous communities, and to substantially increase their level of education and standard of living.¹⁵ These issues were also tackled in CERD recommendations of 2007.¹⁶ In addition, CERD urged the State party to remove without delay the legislative obstacles preventing the adoption of the *Autonomous Development of Indigenous Peoples Bill*.¹⁷

The Committee invited Costa Rica to submit its sixth periodic report on 1 November 2012.

Last revised and updated: 22 November 2007.

⁸ UN Doc. CRC/C/OPSC/CRI/CO/1, para 21 (2007)

⁹ UN Doc. CRC/C/15/Add.266, para 26 (2005)

¹⁰ UN Doc. CRC/C/15/Add.266, para. 30 (2005)

¹¹ UN Doc. A/56/44 (SUPP), para.136 (2001)

¹² UN Doc. CRC/C/15/Add.266 para. 32 , (2005)

¹³ UN Doc. CERD/C/CRI/CO/18, para 16 (2007)

¹⁴ UN Doc. CERD/C/CRI/CO/18, para. 19 (2007)

¹⁵ Paragraph(s) 19 CRC/C/15/Add.266 (CRC, 2005)

¹⁶ Paragraph 14 CERD/C/CRI/CO/18 (CERD 2007)

¹⁷ Paragraph 9 CERD/C/CRI/CO/18 (CERD 2007)

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ABOUT THE PUBLICATION

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