

**COMMITTEE ON THE RIGHTS OF THE CHILD**

**Fifty-fourth Session**

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

**Concluding Observations of the Committee on the  
Rights of the Child  
Argentina**

1. The Committee considered the third and fourth combined periodic report of Argentina (CRC/C/ARG/3-4) at its 1522 and 1524 meetings (see CRC/C/SR. 1522 and 1524), held on 2 June 2010, and adopted, at the 1541 meeting, held on 11 June 2010 (See CRC/C/SR. 1541), the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the third and fourth combined periodic report and commends the inclusive approach for its preparation, including the participation of children. The Committee also welcomes the written replies to its list of issues (CRC/C/ARG/Q/4/Add.1) and appreciates the constructive dialogue with multi-sectorial delegation, which allowed the Committee to gain a better understanding of the situation of children in the State party.
3. The Committee reminds the State party that these concluding observations should be read in conjunction with the concluding observations on the State party's initial reports under the two Optional Protocols to the Convention (CRC/C/OPSC/ARG/CO/1) and (CRC/C/OPAC/ARG/CO/1), adopted on 11 June 2010.

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

4. The Committee notes with appreciation the adoption of the following legal measures and creation of institutions and programmes, notably:
  - a) Law No. 26.061 of 2005, which creates a System for the Integral Protection of Children and establishes the National

- Secretariat for Children, Adolescence and Family (SENAF), the Federal Council on Children, Adolescence and Family and the Ombudsman for Boys, Girls and Adolescents (2005);
- b) Law No. 26.290 of 7 November 2007 for the inclusion of child rights in all training of security forces.
  - c) Law No. 25.974 of 1 March 2004 on reparation, rehabilitation and localization of kidnapped children and children born in captivity;
  - d) Law No. 26.522 of 10 October 2009 on audiovisual communication services and the creation of the Advisory Council on Audiovisual Communication and Children, as well as the Observatory on Audiovisual Media relations with Children.

5. The Committee also notes the following institutional and policy measures:

- a) The creation of the National Commission on Refugees (2006);
- b) The establishment of the Commission for Monitoring of Institutional Treatment of Children (2006);
- c) The establishment through Law No. 25.724 of 27 December 2002 of the program on food and nutrition for children until the age of 14, pregnant women, the disabled and people over 70 years in situations of poverty.

6. The Committee welcomes the ratification by the State party of the following international human rights treaties:

- a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2002);
- b) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2003);
- c) The Optional Protocol to the Convention against Torture (2004);
- d) The Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2006);
- e) The Optional Protocol to the Convention on the Elimination of All Discrimination Against Women (2006);
- f) The Convention for the Protection of All Persons from Enforced Disappearance (2007).

## **C. Main areas of concern and recommendations**

### **1. General measures of implementation (arts. 4, 42 and 44, paragraph 6 of the Convention)**

#### **The Committee's previous recommendations**

7. The Committee welcomes efforts by the State party to implement the Committee's concluding observations on its second periodic report. Nevertheless, the Committee notes with regret that several of these concluding observations, have not been significantly addressed.

**8. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the second periodic report that have not yet been implemented or sufficiently implemented. These include such issues as implementation of new laws at national and provincial level (para. 16), children deprived of a family environment and failure of distinction between children in need of care and protection and those in conflict with the law (paras. 41 and 43), adolescent health and well-being (para. 51), multicultural education (para. 57), child sale and economic and sexual exploitation (para. 61), and juvenile justice (para. 63) as well as to provide adequate follow-up to the recommendations contained in the present concluding observations on the third and fourth report.**

#### **Reservations and declarations**

9. The Committee notes the analysis on the State party's reservations and declarations to the Convention carried out by the National Secretariat for Children, Youth and Family. Regarding the reservation to article 21 b) to e) on inter-country adoptions, of the Convention, the Committee, while appreciating that the State party wishes to adopt "a rigorous system for the legal protection of children against sale and trafficking", remains concerned that it has not yet been fully addressed.

**10. In light of the long waiting lists for adoptions, the Committee urges the State party to establish a strong legal protection system against sale and trafficking of children in line with the Optional Protocol on the sale of children, child prostitution and child pornography and in order to, among others, establish a secure system of adoption that respects the best interests of the child and with a view to eventually withdraw its reservation.**

11. The Committee welcomes the fact that the State party's interpretative declaration of article 24 f) regarding the concept of family planning has been abolished by 18 of 24 provinces.

**12. The Committee further encourages the State party to withdraw in all remaining provinces its interpretative declaration to article 24 f).**

#### **Legislation**

13. The Committee welcomes the State party's legal reforms to adjust its legislation to the provisions of the Convention, and in particular Law No. 26.061 (2005) on a

System for Integral Protection of Children, Adolescence and the Family. It notes that these reforms have progressively expanded to most provinces, given the federal structure of the State party. The Committee notes the difficulties of fully implementing the paradigm shift from the guardianship (“patronato”) to the integral protection of the child and that it has not yet fully materialized nor translated itself into a new institutional set-up at provincial level, specifically designed and appropriately resourced.

- 14. The Committee encourages full implementation of the State party’s legal reforms to all remaining provinces and urges the State party to take all necessary measures for the application of the Convention and its Optional Protocols in the entirety of its territory. It also recommends that the State party take all necessary measures to ensure that the appropriate institutional and administrative framework for implementation of Law 26.061 is set up at national and provincial level.**

#### **Coordination**

15. The Committee welcomes the establishment in 2006 of the Federal Council for Children, Youth and Family (*Consejo Federal de Niñez, Adolescencia y Familia (COFENAF)*) as the national coordinating mechanism of the Integral System for Children, a multi-sectorial and multi-provincial body, headed by the new National Secretariat for Children, Adolescents and the Family (*Secretaría Nacional de Niñez, Adolescencia y Familia (SENNAF)*). The Committee is however concerned about the insufficient coordination at provincial and municipal levels.
- 16. The Committee recommends that the State party improve coordination at provincial and municipal level and that careful consideration is given by the provincial governments to the need for specificity of child policy, programmes and human and financial resources, avoiding duplication or gaps.**

#### **National Plan of Action**

17. The Committee notes that a National Plan of Action for the rights of children and adolescents was adopted in 2009, covering the period 2008-2011 and containing 36 goals with their respective indicators. The Committee regrets that –this plan does not have any operational provisions attached to it, nor a monitoring mechanism to track indicators, nor specific budgetary allocations.
- 18. The Committee recommends that the National Action Plan becomes an integral part of national development planning and of the formulation of social policy, and is used to enhance the implementation of Law No. 26.061. It further recommends that it be clearly articulated with the national and provincial budgets, and that it be extended for a new period. The Committee also recommends that the State party ensure that evaluation and monitoring**

**mechanism be developed to regularly assess progress achieved and identify possible deficiencies. It encourages the State party to further ensure that the National Plan of Action is, in a coordinated manner, fully implemented at national, provincial and municipal levels.**

### **Independent monitoring**

19. The Committee notes that monitoring of children's rights is included in the mandate of the National Ombudsman for the People (Defensoría del Pueblo de la Nación Argentina). The Committee welcomes the introduction, by Law No. 26.061 (2005), of an Ombudsperson for Boys, Girls and Adolescents, however shares the State party's concern on the delays in the appointment of the mandate holder by Parliament.

**20. The Committee recommends that the State party take all necessary measures to expedite the appointment by parliament of the Ombudsperson for Boys, Girls and Adolescents, in order to monitor the implementation of the Convention on the Rights of the Child and its Optional Protocols. The Committee recommends that the Ombudsperson be able to receive and investigate complaints from, or on behalf of, children on violations of their rights and should be provided with the necessary human, technical and financial resources.**

### **Allocation of Resources**

21. The Committee welcomes the sustained increase since 2002 in social investment and, in particular, the introduction in 2009 of a "Universal Family Allowance per Child for Social Protection" of 180 pesos (48 dollars) a month (for families of up to 5 children, of those employed in the informal market and the unemployed, who do not otherwise have social security), covering currently some 3.5 million children. The Committee welcomes some preliminary results of the application of the subsidy, for example, the enrolment in preschool, primary and secondary schools has increased by 15%, 10% and 20%, respectively in one year, and the enrolment in the mother-child health programme (*Programa Nacer*) has increased in 30%, since 2008, both responding to the conditions established (presentation of school certificate and vaccination card). The Committee also welcomes the work that is being done by the Ministry of Economy and Finance and UNICEF in order to identify investment in children (calculated at 2.5% of GDP) and focus on poverty areas. It however notes with serious concern that disparities between provinces remain and are as acute as 500% difference between the poorest and richest provinces.

**22. The Committee recommends that the State party, in light of articles 3 and 4, of the Convention, take all appropriate measures, to the maximum extent of available resources, to ensure that sufficient budgetary allocation is provided to services for children and that particular attention is paid to the protection of the rights of children belonging to disadvantaged provinces and groups, including indigenous children and children living in poverty. In particular and in line with the Committee's recommendations resulting from its Day of general discussion on**

resources for the rights of the child-responsibility of States, it encourages the State party to:

- (a) Continue increasing the level of social investment maintaining its sustainability;**
- (b) Protect children's and social budgets from any external or internal instability, such as situations of economic crisis, natural disasters or other emergencies in order to maintain the sustainability of investments;**
- (c) Ensure the expansion of and equitable allocation to disadvantaged provinces and groups in order to address disparities and, in particular, consider migrant children and children in alternative care (both in foster care and in other alternative care) as recipients of the universal subsidy per children;**
- (d) Define strategic budgetary lines for those situations that may require affirmative social measures (such as birth registration, chronic malnutrition, violence against children, children without parental care, indigenous and migrant children, etc.);**
- (e) Ensure proper accountability by local authorities in an open and transparent way that enables participation by communities and children, harmonized allocation and monitoring of resources;**
- (f) Continue seeking technical assistance from the United Nations Children's Fund (UNICEF) and other international organizations, as appropriate.**

### **Data collection**

23. The Committee welcomes the establishment of the National Registry on Integral Protection of Children and Adolescents (Decree 2044/2009), as well as of the Directorate on Institutional Management and Development, in charge of monitoring and evaluation of programmes for children, adolescents and the family. It also notes the commitment (*Acta Compromiso*) with the provinces to build an "Integrated System of Information on Policies for Children and Adolescents". The Committee however remains concerned that the absence of a systematic approach to data collection and analysis in coordination with the National Institute of Statistics and Census (INDEC) continues to impede the availability of transparent and reliable data, disaggregated by provinces and municipalities, as well as by other relevant variables such as gender, age, children with disabilities, indigenous children, etc.

**24. The Committee urges the State party to take the necessary steps to ensure that plans for an "Integrated System of Information on Policies for Children and**

**Adolescents” are implemented and coordinated with the National Institute of Statistics and Census (INDEC), covering all aspects of the Convention. The State party should ensure that information collected through this Integral System contains transparent, reliable and comparable data on all rights, disaggregated by provincial and municipal location, gender, age and income in order to enable policy and programme decision-making and to ensure public knowledge of progress made and gaps in its implementation. Furthermore, attention should be paid to generating and monitoring data and information on children in need of special protection: children with disabilities, children in the juvenile justice system, children of single-parent families, sexually abused children, children in alternative care, or children without parental care, and others as relevant. The Committee also recommends that the State party seek technical assistance from, inter alia, UNICEF.**

### **Dissemination, awareness-raising and training**

25. While noting the State party’s efforts to disseminate the Convention, the Committee is concerned at the low level of awareness in many provinces of the Convention and its Optional Protocols. The Committee is further concerned that the Convention and its Optional Protocols have not yet been translated into the languages of the indigenous populations. It also regrets the lack of knowledge of the Convention among technical and professional cadres working with children, but notes that many universities have begun to incorporate child rights into their programmes.

**26. The Committee recommends that the State party increase its efforts to raise awareness of the Convention, the Optional Protocols and its national legislation on integral protection of the child, including by translating them into the languages of the indigenous populations. It also recommends the reinforcement of adequate and systematic training of all professional groups working for and with children, including, teachers, health personnel, social workers, personnel of childcare institutions and law enforcement officials. In this regard, the Committee recommends that human rights education be included in the official curriculum at all levels of education, and in training activities.**

### **Cooperation with civil society**

27. The Committee welcomes the consultations by the State party with civil society in the preparation of the State party’s report and the responses to the list of issues, though it regrets that such consultations did not take place in the provinces. It welcomes in particular the participatory process - including business, labour unions and children – followed in the Province of San Juan to establish a Pact for Children and Adolescents in order to reform the law, formulate policy and allocate resources for children.

**28. The Committee recommends that the State party encourage and support civil society organizations dealing with children to work in all provinces. It also urges**

**provincial governments to advance children's rights with the cooperation of broad coalitions of civil society, business, labour unions and children's organizations.**

#### **Child rights and the business sector**

29. The Committee is concerned at the lack of clear guidelines and regulations to enable the protection and respect by business corporations, both national and international, of children's rights. It has taken note of the study carried out by the National Ombudsman (2009) on the adverse effects on children's health and the environment of agro toxics and other harmful substances used in agriculture, industry and the home. It further notes with concern reports that the production of tobacco, "mate" herbs, soya may have harmful effects on children.

**30. The Committee urges the State party to develop clear guidelines and regulations for the business sector to protect and respect children's rights as enshrined in the Convention, the Law No. 26.061 and the Constitution to advance in the area of social and environmental responsibility from a human rights perspective. It should further ensure that the study by the Ombudsman is followed-up and extended.**

## **2. General principles (arts. 2, 3, 6 and 12 of the Convention)**

### **Non-discrimination**

31. The Committee notes Decree No. 1086/2005 establishing a national plan against discrimination. While welcoming the State party's effort to favour disadvantaged children, to establish programs to promote bilingual and intercultural education for indigenous children and health program focusing on the needs of indigenous children, the Committee is nevertheless concerned at persistent reports of discrimination, social exclusion and physical, sexual and psychological abuse of indigenous children, , amounting to around 3 to 5% of the total population in the country. The Committee notes with concern that disparities affecting the North East and North West provinces may lead to discrimination, for example the probability of children dying in their first year of life is 60% higher than in the rest of the country and illiteracy amounts to 11% whereas it is almost inexistent elsewhere. It is further concerned at the stigmatization and discrimination of adolescents living in poverty in urban centres or in street situations in the country, as well as children from a migrant background.

**32. The Committee urges the State party to increase its efforts:**

- a) to fight against discrimination, social exclusion, physical, sexual and psychological abuse of vulnerable groups, in particular indigenous children;**
- b) to fight against stigmatization and discrimination of poor adolescents living in poverty in urban areas or in street situations, as well as children from a migrant background.**

**The Committee further requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account General comment No.1 (CRC/GC/2001/1) on the aims of education.**

#### **Best interests of the child**

33. The Committee notes with concern that the principle of the best interests of the child may be used to evaluate if a child should be deprived of his/her liberty for reasons of protection, under Law No. 22.278 of 1980 on juvenile justice which has not yet been reformed to conform to the Convention. It is further concerned that this principle may not be taken into account in all decisions, administrative and judicial procedures and programmes concerning children.

**34. While strongly urging the State party to reform the juvenile justice system to conform to the Convention, the Committee recommends that the State party continue and strengthen its efforts to ensure that the general principle of the best interests of the child is appropriately integrated in all legal provisions as well as in judicial and administrative decisions and in all policies, programmes and services that have an impact on children. The Committee also urges the State party to refrain from using the principle of the best interests of the child when deciding on deprivation of liberty as a means to allegedly “protect” children, instead of increasing guarantees for child rights.**

#### **Respect for the views of the child**

35. The Committee welcomes the introduction in Law No. 26.061 of the right of the child to be heard and the obligation of the authorities to guarantee that right in all proceedings that concern a child. Nevertheless, the Committee expresses concern that making the hearing subject to the child’s own request may give rise to discrimination and inconsistencies in practice. It further expresses concern at the absence of formal procedures to ensure participation of children in issues that affect them and the perception by children that their voices are not adequately heard.

**36. The Committee recommends that the State party, in accordance with article 12 of the Convention and taking into account General comment No. 12 on the right of the child to be heard (2009), ensure that the right to a hearing in all proceedings concerning a child is respected, even without previous request by the child. It further recommends that the right of the child to be heard be widely disseminated to parents, teachers, public officials, judges, lawyers, journalists and children themselves, with a view to increase opportunities for children’s meaningful participation.**

#### **Right to life, survival and development**

37. The Committee welcomes that the State party has ratified, in 2008, the Second Optional Protocol to the Covenant on Civil and Political Rights. The Committee is concerned at the occurrence of child suicides and self-inflicted injuries of children while in detention, notably in the province of Buenos Aires. Moreover, the Committee, while noting the 2005 Supreme Court decision annulling a life sentence of an adolescent, is deeply concerned that, of the 12 life sentences of children passed since 1997 to 2002, three still face life imprisonment and that their cases have been brought to the attention of the Inter-American Commission of Human Rights.

**38. The Committee urges the State party to take efficient measures to prevent child suicides in detention. It should furthermore carry out an extensive study on the causes of self-inflicted injuries and suicides. While welcoming the fact that no more life sentences have been passed since 2002, the Committee urges the State party to refrain from sentencing children to life imprisonment or sentences that may amount to life imprisonment.**

### **3. Civil rights and freedoms (arts. 7, 8, 13-17, 19 and 37(a) of the Convention)**

#### **Birth registration**

39. The Committee welcomes the new legislation that guarantees free, universal and “ex officio” birth registration. It however expresses concern at insufficient implementation at provincial level, which leaves many children without adequate access to birth registration. It is further concerned that children who are born outside of health facilities, including indigenous children or children from disadvantaged families, such as those living in remote areas or in social exclusion, do not have access to birth registration.

**40. The Committee recommends that the State party continue to take all necessary measures, including retroactively, to ensure access of all children, including children born outside of health facilities, indigenous children, children from disadvantaged families, such as those living in remote areas or in social exclusion, to free birth registration, and that it take steps to identify all children who have not been registered or obtained an identity document. The Committee also encourages the State party to adopt flexible measures of birth registration, including mobile units to reach all children. The Committee further recommends that the State party implement a specific birth registration strategy for indigenous communities based on respect for their cultures and taking into account the Committee’s general comment No. 11 (2009) on indigenous children and their rights under the Convention .**

#### **Torture, inhuman and degrading treatment**

41. While appreciating the policy of zero tolerance of torture as part of the democratic recovery process in the country highlighted by the official delegation during the dialogue,

the Committee shares the State party's concern on the absence of reliable data, at national level, on allegations of inhuman and degrading treatment. It further expresses great concern at the high number of allegations in the Province of Buenos Aires (120 registered between 2007 and 2009) committed by police and other law enforcement officers, involving particularly juvenile offenders and street children. The Committee is also concerned at a case of enforced disappearance of a child (L.A.) in the province of Buenos Aires during police detention in January 2009 and that the investigation into the allegations was not launched promptly. Moreover, the Committee is concerned at the absence of any information on prompt investigations into these allegations, their results, including sentencing of those responsible and putting an end to the practice.

**42. The Committee urges the State party to take concrete measures to implement its zero tolerance policy on torture. It further urges the State party to promptly establish at national and provincial levels a mechanism for the registration and follow-up of allegations on a national register for allegations of inhuman and degrading treatment. It further urges the State party to launch prompt, thorough and independent investigations into such allegations, to bring those responsible to justice and provide reparations to the victims and to take all necessary measures to prevent such acts, including making public the investigation, disciplinary measures taken and sentences issued against the authors of the crimes as well as dissemination of the Convention. It should further study the causes of such grave violations, especially in the province of Buenos Aires, and take urgent measures of prevention, including comprehensive training of police and law enforcement officials on child rights. The Committee urges the State party to complete a thorough and impartial investigation into the allegations of enforced disappearance of the child L.A., in accordance with the Convention on the Rights of All Persons from Enforced Disappearance.**

43. The Committee expresses concern at reports of human rights violations having occurred in mental health institutions and at the fact that children with mental disorders sometimes remain in mental institutions/hospitals for prolonged periods of time without proper medical justification.

**44. The State party should take appropriate measures to avoid hospitalization and use it only if it is strictly necessary and for a minimum period of time. The Committee further recommends that the State party provides and monitors access to therapeutic accompaniment and appropriate housing for children released from hospitals and other institutions, taking into account the best interests of the child.**

#### **Corporal punishment**

45. While noting the general principle in Law No. 26.061 for children not to be subjected to violent, discriminatory, humiliating or intimidating treatment, the Committee expresses concern at the inclusion in article 278 of the Civil Code of a right of parents to proper correction, which may lead to abuse and corporal punishment. It is further concerned that corporal punishment is not explicitly prohibited outside the home, including schools, centres of detention and alternative care settings.

**46. The Committee recommends that the State party explicitly prohibit by law in all provinces corporal punishment and all forms of violence against children in all settings, including in the family, schools, alternative childcare and places of detention for juvenile offenders, and implement those laws effectively. It also recommends that the State party intensify its awareness-raising campaigns with a view to changing perceptions regarding eradicating corporal punishment and in order to promote the use of alternative and non-violent forms of discipline in a manner consistent with the child's human dignity and in accordance with the Convention, especially article 28, paragraph 2. In this regard, the Committee encourages the State party to take into account 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 (CRC/C/GC/8, 2006).**

#### **Follow-up to the UN Study on Violence against Children**

**47. With reference to the United Nations study on violence against children (A/61/299), the Committee recommends that the State party:**

**(a) Take all necessary measures for the implementation of the recommendations contained in the report of the independent expert for the United Nations study on violence against children while taking into account the outcome and recommendations of the regional consultation for Latin America held in Buenos Aires between 30 May and 1 June 2005. In particular, the Committee recommends that the State party pay particular attention to the following recommendations:**

- Prohibit by law all violence against children, including corporal punishment in all settings;**
- Prioritize prevention and promote non-violent values and awareness-raising;**
- Ensure accountability and end impunity;**
- Address the gender dimension of violence against children; and**
- Develop and implement systematic national data collection and research on violence against women, children and adolescents.**

**(b) Use these recommendations as a tool for action, in partnership with civil society and in particular with the involvement of children, to ensure that every girl and boy is protected from all forms of physical, sexual and psychological violence and to gain momentum for practical and, where appropriate, time-bound actions to prevent and respond to such violence and abuse; and**

**(c) Seek technical cooperation in this respect from the Special Representative of the Secretary-General on violence against children, OHCHR, UNICEF and other relevant agencies, as well as NGO partners.**

### **Access to appropriate information**

48. The Committee welcomes the measures taken by the State party to guarantee the right of the child to information, including from different sources and taking into account cultural diversity. The Committee also welcomes the creation by Law 26.522 (2009) of the Advisory Council on Audiovisual Communication and Children, as well as the Observatory on the Audiovisual Media relations with Children. The Committee is however concerned that, children, in particular adolescents, continue to be portrayed inappropriately by the media, which may contribute to their stigmatization. The Committee is further concerned at the effects media may have on children's behaviour with regard to patterns of consumption and consumerism, unhealthy nutrition and risky lifestyles.

**49. The Committee urges the State party to continue its efforts to guarantee children's right to appropriate information, promote legislative measures to protect children from harmful information and ensure respectful treatment of children's image, privacy and dignity in the media. It should further stimulate self regulation by, for example, a code of conduct of the media personnel and training of journalists to promote and guarantee the respect of the rights of children and adolescents. The Committee further encourages the State party to promote programmes for children that will enable them to have a critical reading of the media and to enhance their participation in media activities.**

#### **4. Family environment and alternative care (arts. 5, 18 (paras.1-2), 9-11, 19-21, 25, 27 (para.4) and 39 of the Convention)**

##### **Family environment**

**50. The Committee encourages the State party to continue its efforts to support families to effectively fight against poverty, as well as to ensure that families are prepared in their parenting roles, in particular families with one parent and those that may have more difficulties to access the State party's services, such as families from remote areas, indigenous families, migrants and families with children with disabilities. The Committee further encourages the State party to ensure that psychological, social and legal services offered at the local and community levels are accessible to all families and assist them to strengthen family relations, allow children to access day care and other measures to effectively prevent placement of children in institutions.**

##### **Alternative care**

51. The Committee welcomes that Law No. 26.061 introduced institutional changes with regard to assistance and protection of children, as well as the guidelines issued by the Federal Council for Children, Adolescents and Family on children deprived of their family environment, in particular the recommendation to avoid placement at institutions, the elimination of "mega institutes", as well as the study undertaken by the National

Secretariat for Children, Adolescence and the Family. The Committee notes with concern:

- a) The inadequate data and information provided on children in alternative care, especially the lack of a clear differentiation between correction institutions for offending children and residential homes for children who were placed out of their families for protection, as well as between the different modalities of alternative care;
- b) The absence of a common definition on the different modalities of alternative care and a harmonized methodology of data collection on institutions and foster care, as well as the absence of information on monitoring and evaluation mechanisms;
- c) The absence of supervision and preparation of caregivers and that the State party does not have uniform regulations on different modalities of alternative care, including foster care and extended family care;
- d) The absence of dedicated budgetary allocations to strengthen family links and promote alternatives to institutional care.

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

- (a) Ensures that uniform regulations on foster care and extended family care be adopted and used in the entirety of its territory and that it further harmonizes the methodology of data collection in all provinces;**
- (b) Conducts a study on the conditions of foster care in order to take corrective actions and monitor conditions by regular visitation;**
- (c) Finalize its study to assess the situation of children placed in institutions and includes in its objective the assessment of their living conditions, the services provided and the duration of their stay as well as the actions taken to find an appropriate family environment, duly resourced and monitored, as well as take appropriate measures to implement the findings;**
- (d) Continue taking all necessary measures, including at the provincial level, for children placed in institutions to return to their families whenever possible, or to be placed in family-type care and consider the placement of children in institutions as a measure of last resort and for the shortest period possible;**
- (e) Ensure that dedicated budget allocations are identified for strengthening of family links and promoting alternatives to institutional care, including the assistance of children and their psychological and social support;**
- (f) Set clear standards for alternative care, support for existing institutions to meet the standards, ensure a comprehensive mechanism of complaints for children placed in institutions and periodic review of measures for children placed in institutions, in light of article 25 of the Convention and the Guidelines for the Alternative Care of Children contained in General Assembly resolution 64/142, adopted on 20 November 2009;**

- (g) **Ensure that the right of the child to be heard is fully respected, when deciding on matters related to alternative care.**

### **Abuse and neglect**

53. The Committee notes Law No. 26.485 on violence against women but regrets the absence of an implementation decree. It notes with grave concern continuing reports of a high incidence of domestic violence, including femicide and violence against children, while noting the creation of mobile teams responding to victims of domestic violence, the telephone help lines installed in almost all provinces, as well as specialized magistrates trained in the areas of family. It further expresses concern at the absence of comprehensive and nationwide studies or statistics on these incidents, as recognized by the State party. It further expresses concern at insufficient access to justice for victims of abuse and neglect, as well as the absence of programs for reparation, rehabilitation and reintegration for victims of violence.

**54. The Committee recommends that the State party continue to take all necessary legislative, policy and other measures in order to address and prevent violence, abuse or exploitation of children and to care for and reintegrate child victims of abuse. It further recommends that the State party increase the number of magistrates specialized in family matters and provide them with the necessary training on violence, child and women abuse and neglect. The State party should also conduct public awareness campaigns and provide information about parental guidance and counseling with a view, inter alia, to preventing child abuse and neglect. It further recommends providing training to teachers, law enforcement officials, health and social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints about violence and neglect of children in a child and gender-sensitive manner.**

## **5. Basic health and welfare**

**(arts. 6, 18 (para.3), 23, 24, 26, 27 (paras.1-3) of the Convention)**

### **Children with disabilities**

55. The Committee welcomes efforts of the State party to implement the rights of children with disabilities to education, by improving standards of special education as a part of educational system. It notes with concern that only 42 % of children with disabilities below the age of 14 years have health insurance. The Committee further notes with concern that children with disabilities are often victims of discrimination, including economically due to, inter alia, unresolved pension issues and access to housing. The Committee is also concerned at insufficient efforts to equip all professionals working with children with disabilities, during training programs, with all needed knowledge and skills, with special focus on inclusive education.

**56. In light of the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's general comment No. 9 on the rights of children with disabilities (CRC/C/GC/9, 2006), the Committee recommends that the State party:**

- (a) Ensure that children with disabilities are included in the system of education and health insurance plans;**
- (b) Take all necessary measures to ensure the implementation of legislation providing services for children with disabilities and consider adopting specific legislation on the issue;**
- (c) Continue and further strengthen its programmes and services for all children with disabilities, including through the development of early identification programmes, to cover all children with disabilities in need of its services and special education as part of the school curriculum. In this regard, the State party should ensure that such services receive adequate human and financial resources;**
- (d) Enhance and broaden training for professional staff working with children, such as medical, paramedical and related personnel.**

#### **Health and access to health services**

57. The Committee welcomes the State party's efforts to reduce child mortality and the adoption of a comprehensive Health Action Plan, including the Plan on Birth (Plan Nacer) and the universal supply of essential drugs (Programa Remediario). While it notes the establishment of Commissions analyzing mother-child mortality and the State party's acknowledgment of areas in need of improvement, in particular prevention and promotion of health during pregnancy and birth, the Committee expresses concern at the consistently high rate of maternal and neonatal mortality, in particular in certain provinces. The Committee notes with concern disparities in chronic malnutrition between the national average (8%) and North West Argentina (15.5%). The Committee further expresses concern at the high percentage of maternal deaths, especially of adolescent girls, related to abortions (28.31% in 2005) and at the lengthy procedures for legal interruption of pregnancies resulting from rape, including due to article 86 of the Penal Code.

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

- a) Increase its efforts for the promotion of mother-child health, including during pregnancy and birth;**
- b) Take urgent measures to address inequalities of access and quality of health services among the provinces, with a particular focus on primary health care, as well as addressing the causes of chronic malnutrition in the North West provinces;**
- c) Undertake a study into the determinants of the high percentage and stagnant rates of maternal and neonatal mortality, and urgently address them;**

- d) **Take urgent measures to reduce maternal deaths related to abortions, in particular ensuring that the provision on non-punishable abortion, especially of girls and women victims of rape, is known and enforced by the medical profession without intervention by the courts and at their own request;**
- e) **Review article 86 of the Penal Code on a national level to prevent disparities in new and existing provincial legislation with regard to legal abortion;**
- f) **Seek technical assistance from UNICEF and WHO, among others.**

### **Breastfeeding**

59. The Committee notes the efforts made by the State party to encourage breastfeeding. It however regrets the absence of systematic data collection on breastfeeding practices and the absence of a National Breastfeeding Committee. It further is concerned at the low practice of exclusive breastfeeding of children under six months of age.

**60. The Committee recommends that the State party establish a National Breastfeeding Committee and systematically collect data on practices of breastfeeding ensuring at the same time the enforcement of the International Code of Marketing on Breast-Milk Substitutes The State party should also promote baby-friendly hospitals and encourage breastfeeding to be included in nursery training.**

### **Adolescent health**

61. While noting the adoption of a Programme for the Integral Care of Adolescents whose objectives, among others, are to reduce maternal mortality of adolescent girls, suicide and alcohol and other drugs abuse, the Committee remains concerned at the high incidence of substance use and abuse by adolescents. It further notes the establishment of a National Programme on sexual health and responsible procreation based on Law 26.150 on Integral Sexual Education, as well as Law 26.206 on Education, which contains the objective to promote education on responsible sexuality. It is however concerned at the increase of sexually transmitted infections, including HIV among adolescents. The Committee welcomes the universal and free distribution of contraceptives. It continues however to be concerned at the high percentage of child pregnancies (15% of children born alive in 2005 and 2008 were of mothers below the age of 20).

**62. The Committee recommends that the State party, taking into account the Committee's General comment No.4 (CRC/GC/2003/4) on adolescent health and development in the context of the Convention on the Rights of the Child, increase its efforts to develop and implement programmes and services, including child-friendly care, rehabilitation and counselling, in the area of adolescent health, including in particular early pregnancies, drug and alcohol abuse and other risky life styles. It**

**also recommends the State party to obtain reliable data and information on adolescent health concerns through, inter alia, studies on this issue. The Committee especially recommends that the State party addresses the prevention of adolescent health and life styles related issues, in consultation with the adolescent boys and girls.**

**Right to an adequate standard of living**

63. The Committee welcomes the State party's efforts to overcome poverty and extreme poverty since its peak of 54,3% in 2002 and which has been decreasing irregularly until 2008. The Committee also welcomes the sustained increase in social investment, in particular housing and social infrastructure, and the universal subsidy per child introduced in 2009. It however regrets that it is not yet possible to establish with certainty the actual effects of this investment on poverty, and that there are different calculations of the poverty rate (ranging as widely as from 13% to 47%, depending on the source). The Committee is concerned that the existing databases and statistics make it difficult for the State party to continue expanding social investment in a more focused way and especially targeting it to children and adolescents, in particular children in disadvantaged provinces and groups.

**64. The Committee urges the State party to continue strong and systematic efforts to reduce pervasive poverty and focus on children and adolescents, especially the most disadvantaged, as part of a comprehensive social equity strategy that goes beyond financial measures and that is based on reliable statistics and evidence.**

**6. Education, leisure and cultural activities  
(arts. 28, 29 and 31 of the Convention)**

**Education, including vocational training and guidance**

65. The Committee notes with appreciation adoption of Law No. 26.206, on National Education, preceded by an ample national debate, as well as the objective to reach 6% of GDP for education. The Committee welcomes in particular that compulsory secondary and pre-school education is introduced, expressly acknowledging that "education is a personal and social right to be guaranteed by the State". The Committee also notes the scholarship programme to favour inclusion of adolescents, the construction of new schools and the distribution of computers in secondary schools.

66. The Committee, nevertheless, observes that there is still a significant number of adolescents who drop out and that there are insufficient measures to ensure a child's transition from school to employment. This affects in particular indigenous adolescents living in extreme poverty. Furthermore, the Committee notes that the proportion of children with disabilities receiving special education is growing (78% of those between the age of 3 and 17 years), nevertheless, it regrets that only 53 % are integrated into regular educational facilities. The Committee further regrets the absence of reliable information regarding the number and reasons for drop out, especially of pregnant girls.

**67. The Committee recommends that the State party, taking into account its General comment No. 1 (CRC/GC/2001/1) on the aims of education:**

- a. Reduce disparities across the provinces, particularly those related to children with disabilities, indigenous children and pregnant girls, in access to education and full enjoyment of the right to education;**
- b. Invest additional resources in order to ensure the right of all children to a truly inclusive education;**
- c. Take all measures to ensure that children complete their schooling, taking concrete action to address the reasons behind non-completion of schooling and take measures to ensure children's transition from school to employment;**
- d. Expand and improve the quality of vocational education and training for children, including for those who have left school without certificates, enabling them to acquire competencies and skills in order to enhance their work opportunities;**
- e. Enhance human rights education and include child rights in the curricula of schools.**

68. The Committee notes the study carried out in the State party on incidents of violence in schools and associated institutions. It expresses concern at the high levels of children having been exposed to incidents of violence or physical and other kinds of aggression, including bullying among children.

**69. The State party should take urgent measures to protect children from exposure to violence or physical and other aggression, including bullying among children in educational facilities.**

## **7. Special protection measures (arts. 22, 38, 39, 40, 37(b) and (d), 30, 32-36 of the Convention)**

### **Unaccompanied, refugee or asylum-seeking children**

70. The Committee welcomes the enactment of Law No. 26.165 in November 2006 and the creation of the National Refugee Commission (CONARE). Nevertheless, the Committee is concerned that the State party has not adopted any legal procedures to deal with unaccompanied asylum-seeking children. It is further concerned that in the determination of the asylum request, the principle of the best interests of the child is not always used. It is further concerned that appropriate care, social and material assistance for unaccompanied refugee or asylum-seeking children is not always provided.

**71. The Committee urges the State party to adopt legal procedures dealing with unaccompanied asylum-seeking children, taking into account its General Comment No. 6 on Treatment of Unaccompanied and Separated Children outside their Country of Origin. The State party should also develop formal procedures for the best interests determination, which need to obligatorily be considered. The State**

**party should also ensure that all unaccompanied refugee or asylum-seeking children are provided with the necessary social and material assistance, bearing in mind gender and cultural sensitivities.**

### **Economic exploitation, including child labour**

72. While welcoming the National Plan for the Prevention and Eradication of Child Labour and the network of private business against child labour, the Committee notes with concern the absence of effective coordination mechanisms, as well as insufficient structures for enforcement at the provincial level. The Committee further remains concerned at the high percentage of adolescents who are object of economic exploitation, in particular in rural areas, with associated problems such as high repetition rates, frequent absences and late arrivals.

#### **73. The Committee recommends that the State party:**

- (a) Ensure that children are enrolled in school and are protected from the harmful effects of child labour;**
- (b) Continue and strengthen efforts and structures to eliminate child labour and its worst forms by, inter alia, enforcing the International Labour Organization (ILO) Convention No. 182 on the Worst Forms of Child Labour, ensuring effective monitoring and imposing penalties in case of violations of the provisions related to child labour;**
- (c) Collect updated and reliable data on working children disaggregated by, inter alia, age, sex, ethnic, socio-economic background and province, including those who work in the informal sector, inter alia, as domestic workers, and sectors of high risk, such as tobacco and “mate” herb plantations, and systematically monitor their conditions;**
- (d) Respect the right of the child to be heard while measures are being developed and applied to eliminate child labour in all its forms; and**
- (e) Seek technical assistance from ILO/IPEC in this regard.**

### **Trafficking, sexual exploitation and abuse**

74. The Committee welcomes the State party’s initiative for collaboration with the neighbouring countries of Paraguay and Brazil to fight against trafficking and sexual exploitation of children and adolescents in the border region of the three countries. The Committee notes the Program on prevention of trafficking and assistance to its victims, as well as the creation in 2005 of a unit within the Secretariat of Human Rights to promote the eradication of sexual exploitation of children. It regrets however the absence of coordination between different governmental and non-governmental bodies, as acknowledged by the State party. The Committee further is concerned about the lenient sentences for perpetrators of trafficking, which could lead to impunity.

#### **75. The Committee recommends that the State party:**

- (a) **Implement or the National Plan of Action with regard to Trafficking, Sexual exploitation and abuse;**
- (b) **Strengthen legislative measures to address the issues of sexual abuse and sexual exploitation;**
- (b) **Take appropriate measures to ensure the prompt prosecution of perpetrators of sexual offences against children;**
- (c) **Ensure that child victims of sexual exploitation or abuse are not criminalized or penalized; and**
- (d) **Continue to implement appropriate policies and programmes for prevention, recovery and social reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996, 2001 and 2008 World Congresses against Commercial Sexual Exploitation of Children, as well as the outcome of other international conferences on this issue.**

### **Administration of juvenile justice**

76. While noting that a reform process has been undertaken with regard to juvenile justice at national and provincial level, the Committee is seriously concerned at the continued application of Law No. 22.278 of 1980, in particular with regard to the possibility to detain children. It is furthermore concerned that children's right to be heard and to be assisted by an independent legal professional in criminal proceedings is not always respected.

77. The Committee is further concerned that one third of the places of deprivation of liberty for children are not specialized and that children are at times detained with adults. It further expresses concern at the insufficient implementation of alternatives to deprivation of liberty at the provincial level.

78. The Committee furthermore is concerned at the fact that the majority of juvenile offenders are deprived of their liberty pending trial. It furthermore is concerned that some juvenile offenders are held in detention for longer than one year. It is also concerned at the frequent use of disciplinary measures in detention, including isolation ("engome"), as well as the absence of sufficient educational, recreational and learning activities and insufficient access to fresh air. The Committee is particularly concerned at the number of reported suicides in detention, as well as patterns of self-inflicted injuries.

**79. The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular the Committee recommends that the**

**State party, while taking into account the Committee's general comment No. 10 on the administration of juvenile justice (CRC/C/GC/10, 2007):**

- (a) Abrogate Law No. 22.278 on juvenile justice and adopt a new law consistent with the Convention and international standards on juvenile justice;**
- (b) Ensure that children in conflict with the law have access to free and independent legal aid as well as to an independent and effective complaints mechanisms;**
- (c) Ensure that the right of the child to be heard in criminal proceedings is always respected;**
- (d) Take all necessary measures, including strengthening the policy of alternative sanctions and reintegration measures for juvenile offenders, to ensure that children are held in detention only as a last resort and for as short a time as possible;**
- (e) Take all necessary measures to ensure that when detention is carried out, it is done in compliance with the law and respects the rights of the child as set out under the Convention, and that children are held separately from adults in both pre-trial detention and after being sentenced;**
- (f) Take all necessary measures to ensure that conditions in detention facilities are not contrary to the child's development and meet international minimum standards, and that cases involving juveniles are brought to trial as quickly as possible;**
- (g) Ensure that children deprived of their liberty have access to education, including vocational training, recreational and learning activities;**
- (h) Investigate promptly, thoroughly and independently all cases of suicide and attempted suicides;**
- (i) Take steps to improve the system of juvenile justice, including through the enhancement of specialized juvenile courts, and ensure that the system has adequate human and financial resources to allow it to function properly;**
- (j) Take the necessary steps to ensure that persons working with children in the justice system, juvenile judges, etc. receive appropriate and regular training;**
- (k) Seek technical assistance and other cooperation from the United Nations Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.**

#### **Protection of witnesses and victims of crimes**

**80. The Committee also recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking and witnesses of such crimes,**

are provided with the protection required by the Convention and that it take fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).

## **9. Follow-up and dissemination**

### **Follow-up**

81. The Committee recommends that the State party take all appropriate measures to ensure that the present observations and recommendations are fully implemented, inter alia by transmitting them to the Head of State, heads and members of national and provincial Parliaments, and the judiciary as well as to the Heads of Provincial Governments and the city of Buenos Aires, for appropriate consideration and further action.

### **Dissemination**

82. The Committee further recommends that the third and fourth periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted (including those relating to the two Optional Protocols) be made widely available in the languages of the country, including (but not exclusively) through the Internet to the general public at large, civil society organizations, youth groups, professional groups and children, the media, in order to generate debate and awareness of the Convention, its implementation and monitoring. It further encourages that the Convention and its two Optional Protocols be translated into the languages of the indigenous populations.

## **10. Next report**

83. The Committee invites the State party to submit its consolidated fifth and sixth periodic report by 2 July 2016. This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Committee.

84. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the Common Core Document in the Harmonised Guidelines on Reporting, approved by the 5<sup>th</sup> Inter-Committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).