



ngo group for the crc

## STATE PARTY EXAMINATION OF CUBA'S 2ND PERIODIC REPORT

57th SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD  
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*Cuba ratified the Convention on the Rights of the Child (CRC) on 21 August 1991. On 8 June 2011, the Committee on the Rights of the Child (the Committee) examined the second periodic report of Cuba. It was last examined in May 1997. Cuba has a reservation on Article 1 of the Convention.*

### Opening Comments

The delegation was led by Mr. Abelardo Moreno, Vice Minister of the Ministry of External Relations. Mr. Moreno stated that Cuba had a high level of respect for the commitment the State had made to uphold the CRC and said that Cuba would continue to do so with a broad and participatory process that would involve numerous institutions both national and international. Mr. Moreno noted that the State took an integrated approach to CRC implementation as a matter of priority, but noted there were still areas for improvement such as a coherent definition of the child in all relevant laws.

Mr. Moreno said that there were historical realities which could not be ignored and data statistics are not up to the standards of the CRC and therefore needed to be improved. He said that Cuba had a national statistics office which executed policy in this area and that in 2009 that system allowed Cuba to provide up-to-date information on the status of human rights. Mr. Moreno said that in partnership with UNICEF Cuba, the State had introduced the DevInfo model for data collection.

Mr. Moreno went on to highlight some of the achievements of Cuba. He stated that in 2004 Cuba adopted a six-year National Action Plan to support children and adolescents. He stated that from the year 2000 Cuba had cooperated with UNICEF to implement a programme for rights of

children and adolescents and said that Cuba had 16 comprehensive education centres that taught those working with children about the CRC and what rights children were entitled to. Mr. Moreno said that Cuba's commitment was shown by the number of international treaties they were a party to. He said that Cuba adopted OPSC and OPAC, The International Convention against Enforced Disappearances, the Convention on the Rights of Persons with Disabilities, ILO Convention 182 on Prohibition of Worst Forms of Child Labor and the Protocol on Trafficking in Persons. Mr. Moreno explained that Cuba was modifying the criminal code to ensure that those committing crimes that compromised the healthy and holistic development of children had stricter punishment and that Cuba was currently working on a new draft of the Family Code that ensured both parents were equally responsible for the wellbeing of the child.

Mr. Moreno stated that the health system in Cuba was free and there were recognised standards in quality in all levels of the education system. He said that more than 50 per cent of the State budget goes towards health, culture, and education. He stated that spending on education had increased 3.4 times from 2000 to 2009.

Mr. Moreno said that the infant mortality rate had been was 7.9 per cent for every 1,000 live births, but that it had been reduced to 4.5 per cent for every thousand live births. He stated that children were vaccinated for 13 preventable diseases and that Cuba had eliminated 6 preventable diseases.

Mr. Moreno gave impressive statistics for the state of education in Cuba. He stated that 100% of children aged 6-11 were enrolled in school and that the education for boys and girls with special needs was fully covered. He said that Cuba had 396 schools which had excellent education skills for vocational training as well, increasing the number of citizens who moved on to higher education.

Mr. Moreno stated that 100% of Cuba's population enjoyed social protection which guaranteed access to a comprehensive social security system. He said Cuba had a legal system to protect children from all forms of abuse, which also included the rehabilitation of victims. Mr. Moreno said that Cuba has no incidents of child trafficking; there was also no prevalence of street children, no child labor and no economic exploitation of children.

Mr. Moreno noted some challenges faced by Cuba in CRC implementation, including the continuation of the embargo enforced by the United States. He stated that the impact on economic trade and financial transactions equaled billions of dollars and that as a result, the children of Cuba suffered. In spite of these challenges, there was firm political will and as such, CRC implementation in Cuba had seen significant success. He said that between 1961 and 2010 Cuba had benefited from 513,000 workers that had immigrated to the country and boosted human capital.

Mr. Moreno then described the health care system, stating that a programme of improving eye surgery had helped the vision of more than 5 million people. He said that since 1961 to 2009, 55,188 foreign students had graduated in Cuba and that 26,000 children from Latin America and Africa were studying in Cuba currently with 22,000 studying medicine. He said that genetic testing programmes of persons with disabilities had allowed evaluation of 2 million people. Mr.

Moreno stated that the Cuban programme of Care for Children of Accidents demonstrated the humanitarian character of the Cuban Revolution. He explained that this is a care programme which was vast and free and that 3,952 children had been cared for with more than 300 children receiving needed surgery. Mr. Moreno concluded and said that there are issues that Cuba had not dealt with thanked the Committee in advance for the constructive dialogue.

Mr. Jean Zermatten, the Country Rapporteur said that the report was a useful reflection but that it was not in line with the reporting guidelines and does not respond to the previous concluding observations. He noted that the report covered the period of 1997 to 2008, which he said was quite a long period for a report to cover. He noted the impact of the economic embargo on Cuban children.

Mr. Zermatten noted that Cuba had progressed towards ratification of the two Optional Protocols to the CRC, as well as the Hague Convention on International Adoption and the Protocol Against Transnational Organised Crime. He said that other positive factors of children's rights in Cuba included the low rates of infant mortality and maternal death and the number of doctors per inhabitant, as well as steps taken towards the realization of the Millennium Development Goals such as 100 per cent enrollment of boys and girls in primary education.

Mr. Zermatten highlighted some key areas where there were gaps in CRC implementation. The definition of the child included those up to the age of 16 years in some legislation and despite the ratification of several international conventions, Cuba had passed relatively little legislation in recent years. He said that there was room for improvement, especially in the ratification of Resolution 182 of the ILO on the Worst Forms of Child Labor.

Mr. Zermatten asked whether international law took precedence over national legislation in instances where the two were conflicting. He noted that the 1975 Family Code had come into force before the CRC was drafted and asked whether the CRC had been incorporated into the draft Family Code currently being considered.

Mr. Zermatten asked about the coordination of ministries within the government and between the central and local authorities. He also asked about the rights of women since there was a standing committee dedicated to that issue, but he noted that the mandate was broad and still in draft form and that there did not seem to be a responsible ministry for its implementation.

Mr. Zermatten asked about the resources allocated for the implementation of international treaties that Cuba had ratified. and wanted to know how the National Network for children fitted into legislation. He then asked what resources were available, both human and monetary. Mr. Zermatten also inquired about the National Action Plan which covers the period up to 2012, as well as the World Fit for Children Programme that was implemented in 2002. He wanted to know how these were being followed up on and what Cuba was planning to do in order to fully implement them. He also asked about the structure and funding of NGOs in Cuba and enquired about whether they had been consulted in the preparation of the State party report.

Mr. Zermatten asked about children's rights to freedom of assembly and association. He had the impression that current opportunities steered children towards being good communists and asked

about the rights of children to express diverging views and to question the direction of the country in this regard, without adult influence.

## **General Measures of Implementation**

### ***Budget***

The Committee asked whether there were distinct lines in the national budget that ensured resources allocation for child-specific programmes and policies. The delegation replied that the budget was approved at national level for different ministries and that the budget for education and health was then distributed at local and municipal levels. They said that each ministry had its own budget and that the individual ministries were responsible for handling the funding they received.

The Committee asked whether the Coordinating Committee for Human Rights had the power to distribute financial resources. The delegation replied that this Committee is only responsible for putting plans into place but that it must ask ministries for necessary funding.

### ***Coordination***

The Committee asked whether there was clear coordination among the government and individual services for children and whether there were clear directives guiding the implementation of the CRC at the local level.

### ***Legislation***

The delegation said that they were attempting to mainstream the system of legislation and taking all sorts of measures to make sure that legislation is compatible with the CRC. The delegation stated that their legislation was based off of international conventions and there is an ongoing effort to bring all legislation in line with international standards. The delegation gave an example and stated that in 1997 there were some major amendments added to the penal code, including an amendment that imposed sanctions for trafficking children and in 1999 stricter penalties were given for the sale and trafficking of minors.

### ***Independent Monitoring***

The Committee asked whether the State intended to establish an independent body according to the Paris Principles that would monitor the implementation of the CRC. The delegation responded that they had a broad and effective system, which included the participation of NGOs in order to evaluate and monitor the effect of mechanisms in place to implement children's rights. The delegation also said that Cuba's National Assembly ensured that the laws and regulations in place were properly enforced. The delegation noted this system worked well to ensure that the CRC and other international treaties were implemented in the country and that an independent monitoring body was not needed.

### ***Dissemination and Training***

The Committee said that doctors, teachers and other professionals who work with children on a daily basis should be fully aware of the CRC. They asked the delegation what programmes were in place to raise awareness about the CRC.

### **Definition of the Child**

The Committee asked if Cuba intended to extend protection of the child up until the age of 18. The delegation recognised that the harmonisation of age thresholds was an outstanding issue. As such, relevant legislation was being reviewed with the aim of ensuring that all laws were in line with the CRC. The delegation reminded the Committee that legislation concerning child protection had thirty years of precedence in Cuba without the role of international bodies.

### **General Principles**

#### ***Non-Discrimination***

The Committee asked what was being done to raise awareness about gender stereotypes. The Committee recognised that steps had been taken already to combat these stereotypes but noted the CEDAW recommendation which echoed this concern.

#### ***Best interest of the child***

The head of the delegation made a general statement before answering the questions posed by the Committee, to the effect that some questions were of a political or ideological nature that did not apply in this context and that discussions should focus on the best interests of the child.

#### ***Identity and Nationality***

The Committee noted that if a child is born to Cuban parents outside of Cuba there is no opportunity for dual nationality. Regarding the child's right to know his or her parents, the Committee asked whether Cuba had DNA testing provided for cases where the child's parentage was questioned. The delegation replied that this service was available and that the information could be used in court and allowed for repeal procedures by the child and the parent. The delegation stated that if there was a conflict between the parent and the child, the judge had the responsibility to take account of the views of the child. The delegation also said that the mother was able to name the father of the child and the father could either accept or reject that claim, with the mother having the right to lodge an appeal for paternity if the father rejected his paternity of the child.

The Committee asked whether stateless children were granted Cuban nationality.

### ***International Cooperation***

The Committee requested information on the issue of international cooperation with other countries since Cuba had agreed to article 11 but this article was only able to be implemented through cooperation with other States. The Committee wanted to know how Cuba was implementing this article and what they were doing to work with other States. The delegation replied that they worked with many countries on children's rights issues and had legal support from these countries. The delegation insisted that the principle of reciprocity was applied in this situation.

### ***The Work of NGO's***

The Committee asked about the possibility for independence and impartiality of NGOs within Cuba. The delegation said that Cuba fully recognised the right of association, reflected in law. The delegation said that the only time freedom of a group would be restricted was if it was based on racial discrimination. They said that there were more than 200 civil society organisations within Cuba. The Committee asked whether it was possible for children to form groups and whether there was a fee for getting permission to have a group. The delegation responded that there were many opportunities for children to join groups and that there was no fee to register a new group or organisation.

The Committee then asked what the procedure was for organising a group that was specifically for the promotion of human rights. The delegation responded that such a group would have to submit a written request to the government and that permission to form a group could then be obtained.

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

The Committee asked the delegation if they felt progress had been made toward giving children freedom of expression. The Committee also wanted to know whether children's organisations were free to choose a framework or whether there was one they had to follow. The delegation said that children's organisations were free to choose their own setup and framework. The head of the delegation said that he saw many people talking each day and that freedom of expression was fully respected in Cuba. He also said that children can vote in elections and run for public office from the age of 16 and that there were some in office currently.

## **Civil Rights and Freedoms**

### ***Child Abuse***

The Committee asked about corporal punishment, noting that the Family Code allowed the parents to inflict moderate punishment on their children. They asked what measures the government had taken to prevent abuse of children by parents and whether corporal punishment was prohibited in schools and institutions. The Committee noted that there was no general law against using corporal punishment in schools, but rather that a general statement had been issued saying that students must be treated well. The delegation replied that corporal punishment was

entirely prohibited and that while there were some cases of child abuse, it was not a major problem. They also said that it is not a general practice for parents to use corporal punishment on their children and that the newly drafted Family Code removed the clause that permits corporal punishment in the home.

The Committee asked about domestic violence and whether or not the perpetrators were brought to justice. The delegation said that in 1997 the National Group for the Prevention of Family Violence had been established, which initiated a process of discussion and awareness-raising about violence within the home. The delegation also stated that there is a policy of zero tolerance within Cuba for cases of violence in the home.

The Committee asked whether or not there was an obligation on those who worked with children to report cases of abuse and whether Cuba had taken measures to prevent abuse of children, as had been recommended previously by the Committee. The delegation responded by saying that the National Group for the Prevention of Family Violence had set forth an education programme, with a grassroots-level campaign including TV advertising and leaflets that raised awareness about both physical and psychological abuse. The delegation said that if any one, parents and teachers included, knew of an incident of child abuse, they had an obligation to report it to authorities. The delegation assured the Committee that anyone found guilty of abuse would be punished accordingly. They said that their cooperation with UNICEF had enabled them to extend awareness-raising programmes to the municipal level.

### ***Sexual Exploitation***

The Committee asked about how child prostitution was addressed by the State. The delegation responded that prostitution was not a crime in Cuba and that children were seen as victims of sexual abuse. The delegation said that children found involved in prostitution received training and education to prevent them from returning to this practice. The Committee mentioned that paragraph 131 of the written replies said that confinement was an option for those caught prostituting themselves. The delegation replied that those caught were never put in confinement, but rather that they were taken to homes where they received vocational training. In the drafting of the new Family Code, there had been an ongoing debate about changing the criminal code to formally eradicate those measures.

The Committee expressed concern that the young women arrested for prostitution were under the supervision of a judge. The delegation replied that the girls were never tried before a judge and that the issue of child prostitution in Cuba had been misrepresented in the western media. The delegation said that it only occurred in isolated cases in Cuba and that prostitution was not a crime, so those who were caught that were children simply received vocational training and were able to find a profession when they were of legal age.

### ***Access to Information***

The Committee asked children had free internet access, since it was not available for everyone in Cuba. The Committee also asked if the embargo placed on Cuba was detrimental to the amount of information available. The delegation replied that the embargo prevented North American

service providers from extending their networks to Cuba, which limited the capacity for countrywide internet access. The Committee asked what legislative and administrative measures had been taken to ensure confidentiality on the internet. The delegation replied that there were restrictions on access based on morals and national security.

### ***Early Marriage***

The Committee said that there were laws that permitted early marriage at the age of 14 for girls and 16 for boys. The Committee asked about the number of cases of early marriage and why they were allowed.

## **Family Environment and Alternative Care**

### ***Maternity Leave***

The Committee noted that maternity leave is 18 weeks, including the six weeks that are compulsory for the mother take off prior to giving birth, which gives the mother only 12 weeks to be with the newborn. The Committee asked what financial support is given to the families at this time and asked whether fathers are eligible for any leave time.

## **Basic Health and Welfare**

### ***Children with disabilities***

The Committee noted that 70 per cent of children with special education needs were in special schools in Cuba and that 30 per cent were integrated into the mainstream school system. The Committee stated that a 70 per cent inclusion rate was the ideal and asked what Cuba planned to do to increase the number of children that were integrated into the mainstream school system. The delegation replied that many special schools had facilities and programmes to prepare students for mainstream schools and that many special schools are simply transition schools to help prepare students for integration into mainstream schools.

The delegation addressed the issue of children who were physically unable to attend school, such as those in long-term hospital care. The delegation said that they had 704 roaming teachers that were in 36 hospital-based classrooms with 1,700 students benefiting from this service.

The Committee asked whether there were any recreational, extra-curricular activities for children with disabilities. The delegation replied that there were programmes run by universities and schools and also by associations of those with disabilities.

The Committee said that it was surprised there was not a framework established for disabled persons. They asked whether Cuba planned to set up an appropriate legal framework. The delegation replied that since 1994 the Council of Ministers had been the coordinating body for services for disabled persons, which were set up under the Ministry of Labor and Social Security. The delegation also said that in 1996 the National Council for Services for Disabled Persons had been established. The delegation said that rights for disabled persons were well established

within Cuba, as evidenced by the special fuel quote given to disabled persons during the fuel crisis. The delegation admitted that Cuba was not up to European standards but said that they had made significant progress in this area.

The Committee asked what programmes were in place to help parents and families take care of their children. The Committee was especially interested in help available to those parents who had children with disabilities. The delegation replied that each parent had responsibilities relating to the child, both the mother and the father and that the new draft of the Family Code included this provision.

### ***Health services***

The Committee asked about the plan to comprehensively implement the International Code of Marketing Breastmilk Substitutes. The delegation said that a law from 2003 stated that a woman is guaranteed maternity leave so that she could breastfeed her child. There was also a programme that spread information on different substitutes for breastfeeding and the importance of the difference between the two. The Committee asked about baby-friendly hospitals. The delegation replied that all maternity hospitals were officially recognised as baby- and mother-friendly. A family doctor process was in place in rural communities to monitor the health of children living there.

The Committee asked what type of psychological and behavioral counseling was available for children. Furthermore, the Committee asked about the accessibility of contraceptives to teenagers and how the high abortion rate among adolescent girls was being addressed. . The delegation said that contraceptives were available to teenagers. The high abortion rate was acknowledged as a very serious issue and that there was a programme for teenagers to address the topic, as well as other sexual and reproductive health matters. The delegation also stated that the programme included pregnancy consultations that incorporated care of the baby as a responsibility of the entire family so that abortion would not be seen as the only way to cope with the pregnancy of an adolescent girl. Other forms of media, including television, were also being used to spread information and raise awareness generally.

The Committee asked about programmes in place to address prevention of drug consumption by adolescents. The Committee recognised that the report said that drugs were not a widespread problem but that the issue was growing as a result of the growing tourism sector. The delegation stressed that they had a zero-tolerance policy on drug use and that 1999 programme facilitated by several ministries aimed to give health-based support for those affected by drugs. As part of this, awareness was also raised about the laws and penalties surrounding production, selling and consuming drugs. The Committee then asked whether a child who was caught consuming drugs was punished for this crime. The delegation said that a child who is a consumer was not considered a criminal and they were entitled to health care and rehabilitation.

The Committee asked about the child mortality rate in different regions of Cuba, noting that there were higher mortality rates in particular regions. The delegation replied that child mortality is different across regions all over the world and that this problem was not particular to Cuba.

The Committee asked about the network of facilities available for children with mental disabilities and raised concern over the level of outreach that was occurring. The Committee asked whether there were any services that went out into communities and offered medical assistance to those with mental disabilities.

The Committee noted with concern that child nutrition levels were fairly low and asked what was being done to address this. The delegation replied that child malnutrition was not a big problem but that there was a national plan in place for controlling iron deficiency, which could reduce anemia by 15 per cent.

### ***Accidents***

The Committee asked what measures had been taken to prevent accidents from occurring in Cuba and whether the delegation had any statistical data relating to these accidents. The delegation replied that road accidents affected a quarter of the population and for those between 5 and 19 years, it was the primary cause of death. The delegation said that to address this problem, the government had developed educational programmes to teach the youth about the dangers of drinking and driving, as well as safety procedures to follow. The delegation said that there is participation of youth and different organisations within this programme and their participation helped to focus the programme on key issues. Furthermore, a series of laws had been introduced to make the roads safer, two of the most significant being that no drinks can be taken into the car, and those under 18 cannot drive cars, only mopeds.

## **Education, Leisure and Cultural Activities**

### ***Education***

The Committee asked about the measures the government had taken to provide for higher education and what the government had done in cooperation with NGOs and other organisations to provide education on human rights.

The Committee asked about options available to children who drop out of school and those children in rural areas.

The Committee asked what the age for early childhood was considered to be in Cuba and what education programmes were in place for this age range. The delegation replied that the age of early childhood was from birth until the age of six and that the educational programme for those in early childhood used a community-based – and therefore non-institutional – approach, implemented in 1992 and recognised by UNICEF for its advantages. The delegation said that the role of the family was emphasised in this programme so that any special educational needs for the child could be recognised early and proper development of the child could be addressed.

## **Special Protection Measures**

### ***Migrant Children***

The delegation said that they have an extensive revision process in place for migration and did not want to pre-empt it.

### ***Refugees***

The Committee wanted to know why Cuba had not ratified the Convention on Refugees and the 1967 Protocol. The delegation said that Cuba looked at the tenements set out in these documents and followed them when dealing with refugees who reach Cuba; however, the State will not ratify them because of the implications for Cuban citizens attempting to reach the United States by sea. The delegation said they are opposed to the US implementing the dry feet, wet feet policy against Cuban immigrants whereas those who reach land are accepted and those caught in the water are sent back to Cuba. The delegation stated that while this policy was being practiced by the US, Cuba would not ratify the Convention on Refugees and the 1967 Protocol. The delegation assured the Committee that they had excellent relations with UNHCR and treated refugees according to the provisions set forth by the international standards.

The Committee asked about the educational opportunities for refugee children, specifically those that had arrived in Cuba from Haiti. The delegation replied that there were not Haitian refugees in Cuba and that if they were arriving in Cuba at all they only stayed in the country for a few days. The delegation assured the Committee that they received food and health care before voluntarily returning to their home country. The delegation insisted that these refugees were trying to get to the United States and that none of them intended to stay in Cuba.

### ***Juvenile Justice***

The Committee asked for information on court cases where the judge had referred to the CRC in his or her rulings, stating that it was important for law enforcement officials to recognise and be familiar with the CRC. The delegation replied that the best interest of the child is at the heart of every case, with the child having the right to bear witness and give testimony from the age of seven. The delegation said that in 2009 judges started to apply the CRC in relevant cases and reform was made within courts to make them more child-friendly, for example by having child-friendly rooms where the child could participate in the trial without the experience being overly traumatic. The delegation also said that children should be paid special attention in custody cases, noting that the child's opinion should be weighed heavily in deciding on parental custody.

The Committee asked why the age of legal responsibility in Cuba was 16 instead of 18 years. The Committee also wanted to know what the most severe sentence was that could be handed down to a child under the age of 16 who had committed a crime. The delegation replied that even though the legal minimum age of criminal responsibility was 16, there were special procedures in place for those between 16 and 18 years of age, with reduced penalties and separate institutions for those that were deprived of liberty. The delegation said that there were extensive programmes in place that offered education, vocational training and helped the concerned youth

to be fully reintegrated into society. The delegation stated that there was a new programme implemented, with a school that had no guards and included psychotherapy programmes to ensure that a repeat of the crime would not occur. The delegation mentioned that there were programmes in place with many places that agreed to hire those coming out of prison at a young age after they have gone through rehabilitation. The delegation stated that the benefit of holding a job after being in prison went a long way toward preventing the offender from repeating the offense.

## **Concluding Remarks**

Mr. Zermatten thanked the delegation for the work that they had done in implementing human rights in Cuba. He said that Article 1 of the drafted Family Code that addressed the respect for the opinion of the child was exactly what the Committee had been calling for to ensure that Cuba was guaranteeing that a child is the subject of rights instead of just being protected.

The head of delegation, Mr. Moreno, thanked the Chair and Rapporteurs for their comments and the advice received from the Committee as a whole. He said they were thankful for their expressions of solidarity and the desire to ensure that the overarching interest of the child was upheld. He said he was pleased with the dialogue that was respectful and touched on key objectives of the Convention. He commented that through the questions asked by the Committee, the delegation had been able to give a full and thorough report on the situation of children's rights in Cuba. He said that the embargo placed on Cuba by the United States, together with climate change and the current economic crisis, affected Cuba but that the government had done a great deal to ensure that protection systems continued to be implemented for children. He stated that the only regret he had was the misunderstanding of the situation of child prostitution. Mr. Moreno stated that prostitution did exist but reiterated that there were only isolated cases. He also noted that they had rehabilitation and reintegration programmes for the adolescent women who were prostitutes. In conclusion he thanked the Committee for their comments and cooperation.