



## Child Rights References in the Universal Periodic Review

### Summary:

A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

El Salvador - 7th Session - 2010  
9th February, 3pm to 6pm

### National Report

28. In addition, the Office of the Attorney-General of the Republic<sup>23</sup> is collaborating in efforts to provide full and free access to justice: one of the major achievements of the Public Defence Unit is the joint project it carried out in 2008 on “Prevention of commercial sexual exploitation of children and adolescents in San Miguel”, which set up a centre based at the local office of the Office of the Procurator-General in San Miguel: this project established a centre, staffed by psychologists, which provided care for child and adolescent victims of exploitation.<sup>24</sup> Also, the Real and Personal Rights Unit provides notarial services and legal assistance for persons of limited means in cases related to property and personal law.

40. In the period 2004–2009, the Ministry of Education improved the education system by implementing a number of programmes, including the National Education Plan 2021,<sup>36</sup> and other measures such as free baccalaureate-level education in public-sector schools, increased provision of flexible learning models at baccalaureate level through the EDÚCAME programme,<sup>37</sup> the construction of MEGATEC technology institutes, etc. The national illiteracy rate is 14.1 per cent. According to figures for 2008, of the total number of illiterates, 16.4 per cent were females and 11.5 were males.

41. School attendance in 2008 stood at 33.0 per cent of the population aged 4 years and above, whereas in 2004, the rate was 31.9 per cent, so this indicator has improved. If the 2008 data are disaggregated, the school attendance rate among males was 35.5 per cent and the rate among females was 30.8 per cent. In urban areas, school attendance among males was 36.7 per cent and the rate among females was 30.9 per cent, while in rural areas it was 33.4 per cent among males and 30.7 per cent among females, all figures applying to 2008. By age group, school attendance was 83.1 per cent for the age group 4–12 years, 72.9 per cent for the age group 13–18 years and 13.3 per cent for the age group 19–33 years. The third group represents the proportion of the school population which goes on to the higher level of the school system.

42. The average duration of schooling in the country as a whole in 2008 was 5.9 years. In urban areas, it was 6.9 years and in rural areas it was 4.0 years, which is an improvement compared with 2004, when the national figure was 5.6 years. For the period 2009–2014, the Ministry of Education has set the following targets: to consolidate progress in access to education and prevention of school dropout at all levels of the education system by, inter alia, providing school uniforms<sup>38</sup> and stepping up food provision schemes<sup>39</sup> with the support of international cooperation programmes. A more appropriate approach to the educational curriculum is being developed in order to promote meaningful learning and better academic performance. Action will also be taken to guarantee access to basic and further training for young people and adults, which will benefit their quality of life and social participation. In the field of research, science and technology, the Government proposes to bridge the knowledge gap by strengthening research and access to technology.

53. Regarding child labour, the main objective of the National Committee for the Elimination of the Worst Forms of Child Labour,<sup>45</sup> is to establish guidelines for activities aimed at the gradual elimination of child labour in El Salvador. The Committee has a National Plan 2006–2009, based on the constitutional mandate regulating child labour nationwide, which categorically prohibits children under 14 from working, limits the number of hours in the working day for children under 16 and provides that persons under 18 should not engage in unhealthy or dangerous occupations. Work is also under way on a National Roadmap for eliminating the worst forms of child labour by 2015 and the elimination of child labour by 2020.

54. El Salvador has ratified the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182),<sup>46</sup> under which the State is obliged to take immediate and effective measures to secure the prohibition

and elimination of the worst forms of child labour as a matter of urgency.<sup>47</sup>

65. The Salvadoran Institute for the Comprehensive Development of Children and Adolescents<sup>56</sup> is the lead agency for all national policies relating to children and adolescents. In this connection, it promotes the National Policy for the Comprehensive Development of Children and Adolescents, to achieve at the local authority level civic participation and social co-responsibility and the signing of agreements with local governments for the promotion and protection of the rights of the child and the prevention of violence. It has also signed cooperation agreements with international organizations, such as the International Labour Organization (ILO), the German Agency for Technical Cooperation (GTZ), the United Nations Children's Fund, the United Nations Development Programme, the United States Agency for International Development, Plan International Inc. and the International Save the Children Alliance for the implementation of plans and programmes nationwide to promote and protect the rights of the child. Furthermore, in April 2009, the Act on the Comprehensive Protection of Children and Adolescents<sup>57</sup> was passed, which will enter into force in April 2010. It will establish a national system for the comprehensive protection of children and adolescents with the participation of the family, State and society.

66. In terms of programmes, the management of child welfare centres and of comprehensive development centres has been strengthened, and they are now present in 113 municipalities, i.e. in 43 per cent of the country.<sup>58</sup> With regard to gender equity, the Institute's preschool education programmes have resulted in fair and equitable enrolment: 49.8 per cent for boys and 50.2 per cent for girls.

67. As far as young persons in conflict with the law are concerned, there is a Juvenile Offenders Act,<sup>59</sup> amended in 2006, which sets forth measures relating to the placement of such persons in institutions when they commit criminal or minor offences. The Act allows a special legal regime for juvenile offenders, without neglecting their fundamental rights. Courts and specialized branches of the judiciary that deal with minors have been strengthened. A Social Reintegration Programme for juvenile offenders is also being implemented.<sup>60</sup>

68. It is also important to emphasize the contributions and support that have been provided by public institutions to intersectoral committees, inter-agency committees, networks and working groups, and other civil society organizations to protect and promote respect for certain rights of the child and adolescents.

80. Regarding trafficking in persons, in 2005, the National Committee against Trafficking in Persons<sup>62</sup> was established, comprising 16 State institutions. In the same year, a shelter for victims of trafficking<sup>63</sup> was opened, under the supervision of the Institute for the Comprehensive Development of Children and Adolescents. Since May 2008, there has been a National Policy for the Elimination of Trafficking in Persons in El Salvador, and a Strategic Plan 2008–2012, which define the spheres of competence of and strategic activities to be implemented by the Committee as a whole. However, a number of issues are pending: the drafting of legislation relating to trafficking in persons; the establishment of permanent mechanisms to coordinate with institutions, local governments and actors involved at the municipal level; the preparation of shelters for child and adult victims of trafficking; and the establishment of a system for monitoring and following up cases of trafficking in persons.

## **UN Compilation**

2. UNICEF reported that in 2009 the Legislative Assembly unanimously approved the Law for Integral Protection of Children and Adolescents.<sup>18</sup>

17. CRC was concerned at the persistent discrimination faced by indigenous children, children with disabilities and girls and recommended that El Salvador intensify its efforts to prevent and eliminate all forms of de facto discrimination.<sup>55</sup>

22. CRC expressed concern about the disproportionately high number of children who are victims of crimes, violence and homicides.<sup>62</sup> UNICEF in 2009 reported that around 241 children were killed during the first semester of 2009, mostly from 13 to 17 years of age.<sup>63</sup> Between January and July 2009, there were 448 cases of rape perpetrated against minors recorded. Likewise, injuries against minors are of concern, with the National Civil Police (PNC) recording a total of 273 injuries during the same time period.<sup>64</sup>

33. UNICEF referred to estimates that 9.8 per cent of the population between 5 to 17 years of age is involved in child labour.<sup>84</sup> CESCR,<sup>85</sup> CEDAW<sup>86</sup> and the ILO Committee of Experts<sup>87</sup> expressed concern at the persistence of child labour, with CRC particularly concerned about the high number of child domestic workers, and about children working in sugar cane plantations and other hazardous conditions.<sup>88</sup>

39. CRC expressed concern that the Family Code allows marriage to be contracted by children as young as 14 years of age, who have reached puberty or have had a child together or if the girl was pregnant.<sup>97</sup> It was deeply concerned that an estimated 9.8 per cent of the population in El Salvador have not been registered at birth and do not have a birth certificate.<sup>98</sup>

40. UNICEF reported significant challenges in protecting children against violence, abuse and exploitation. It highlighted that 43 per cent of the children of El Salvador (1.1 million) live without one or both parents.<sup>99</sup> In a survey carried out by UNICEF in 2005, 2007 and 2008, 7 out of 10 children reported having been abused in their homes.<sup>100</sup>

41. UNICEF explained that the culture of institutional confinement is still prevalent. In a study conducted by UNICEF at the end of 2008, Salvadoran Institute for Children and Adolescents (ISNA) reported a total of 3,018 children sheltered under a "protection" measure as a result of a ruling by a Family Judge or the ISNA itself.<sup>101</sup>

42. CRC expressed concern that adequate priority is not given to domestic adoptions.<sup>102</sup> UNICEF submitted that there are no formally established administrative procedures for adoption, therefore arbitrary and personal criteria are applied by some staff; and that there are some irregularities in adoption, a challenge is to have properly trained staff specializing on the topic of trafficking to detect any irregular adoption.<sup>103</sup>

52. CRC expressed concern about the high number of teenage pregnancies<sup>128</sup> and CEDAW was also alarmed at the high number of

illegal abortions.<sup>129</sup> In 2004, the Special Rapporteur on violence against women stressed that the criminalization of abortion is discriminatory as the majority of cases involving illegal abortions brought before the courts involve poor and under-educated young women.<sup>130</sup> CEDAW recommended, inter alia, the strengthening of family planning programmes addressed to women and men. It also urged El Salvador to facilitate a national dialogue on women's right to reproductive health, including on the consequences of restrictive abortion laws.<sup>131</sup> UNICEF noted that in 2009, the Government incorporated education in sexual and reproductive health in the school curriculum.<sup>132</sup> A similar concern was expressed by CAT in 2009.<sup>133</sup>

53. UNICEF indicated that between 2005 and 2006, 26.8 per cent of maternal deaths pertained to 15 to 19 year olds.<sup>134</sup> CESCR noted with concern that clandestine abortions and HIV/AIDS are among the principal causes of women's death.<sup>135</sup> UNICEF indicated that 22 per cent of cases of pregnant women with HIV concern girls between 10 and 19 years of age and more than half of all positive cases are persons under 24 years of age.<sup>136</sup> CEDAW urged El Salvador to address the gender aspects of HIV/AIDS.<sup>137</sup>

55. UNICEF,<sup>140</sup> CRC,<sup>141</sup> CEDAW<sup>142</sup> and the ILO Committee of Experts<sup>143</sup> noted improvements in education coverage. The ILO Committee of Experts requested El Salvador to intensify its efforts to improve the working of the education system in the country.<sup>144</sup> CEDAW urged El Salvador, inter alia, to continue taking proactive measures to reduce the illiteracy rate of women, and design programmes, inter alia, to prevent and reduce the dropout rate of girls and young women, including pregnant students and young mothers.<sup>145</sup>

56. UNICEF noted that access to safe spaces for recreation and leisure for children and their families continues to be a challenge.<sup>146</sup>

### **Stakeholder Compilation**

5. The Network for Children and Young People (RIA) reports that the Act on the Comprehensive Protection of Children and Adolescents was passed in 2009, but that there remain nevertheless matters of concern, such as the failure to explicitly prohibit corporal punishment, little depth on the issue of adoption, the complexity of the protection system, a lack of clarity on the funding necessary to guarantee application of the Act, and the importance of a special jurisdiction, among other things.<sup>6</sup>

12. RIA considers that there exists much stigmatization of young people, arising from a culture centred around adults which tends to regard young people as unsuitable for decision-making and associates them with terms such as "delinquent", "superficial" and "incapable".<sup>14</sup>

20. RIA refers to child abuse, negligence and neglect, which continue to be the main reasons for care being offered by the Salvadoran Institute for the Comprehensive Development of Children and Adolescents (ISNA). According to RIA, ISNA reports that 45.5 per cent of children cared for in the Institute have suffered physical abuse, while 65 per cent live in an atmosphere of domestic violence.<sup>28</sup> PDDH expresses its concern at the increase in youth, domestic and sexual violence. In recent years, PDDH says it has observed that children and young people are daily the victims of public insecurity.<sup>29</sup> The IACHR indicated being deeply disturbed by the fact that the majority of acts of violence against women are never punished, noting that this perpetuates the social acceptance of such acts.<sup>30</sup>

21. RIA expresses its concern that the recently passed Act on Child Protection does not explicitly prohibit corporal punishment.<sup>31</sup> The Global Initiative to End All Corporal Punishment against Children (GIEACPC) noted that it is still trying to establish whether recent legal reform effectively prohibits all corporal punishment in the home. While article 204 of the Penal Code confirms a "right of correction", and article 215 of the Family Code states that parents have a duty "to correct [their children] appropriately and moderately", the new Law on Integral Protection of Children and Adolescents passed in April 2009, prohibits corporal punishment in its article 38. GIEACPC had yet to confirm that the right of correction now excludes all corporal punishment, however light. GIEACPC also indicated that the Domestic Violence Act revised in 2004 does not explicitly prohibit corporal punishment of children.<sup>32</sup>

22. RIA states that in El Salvador, figures for the child population engaged in any type of labour are inexact and numbers vary according to the source.<sup>33</sup> RIA recommends that commercial sexual exploitation should not be considered one of the worst forms of labour, as this restricts how it is dealt with.<sup>34</sup>

24. RIA estimates that some 3,000 children are held in protection centres in line with measures prescribed by the ISNA and family courts. However, it says that 73 per cent of the population is cared for in homes or care centres run by NGOs and 27 per cent in ISNA centres.<sup>36</sup>

46. CLADEM states that the Constitution stipulates that all inhabitants of El Salvador have the right and duty to receive preschool and basic education to equip them to fulfil their role as useful citizens, but that there are wide differences between regions in terms of access to education, with the metropolitan region displaying the highest level of average schooling at 7.5 years of study, which is 1.7 years of study more than the national average in 2006.<sup>71</sup> RIA notes that El Salvador is one of the countries with the lowest rates of primary school completion.<sup>72</sup>

47. CLADEM states that studies across a range of countries have shown that El Salvador's performance in various education indicators, such as basic literacy, enrolment in secondary education and average level of schooling, continues to be poor. Lack of resources and inefficiency are reflected in high dropout and repetition rates, and also give rise to a steady stream of cases of sexual harassment, sexual abuse and pregnancy that do not appear in official reports.<sup>73</sup> RIA states that material accessibility to rural secondary education in El Salvador is not inclusive. Fewer than one third of adolescents of the right age to attend classes for high-school leaving qualifications are enrolled at that level.<sup>74</sup>

### **Final Report and Conclusions - To Follow**

