

**Convention on the Rights of the Child  
Alternative Report Submission:  
Indigenous Children's Rights  
Violations in Costa Rica**

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# Convention on the Rights of the Child Alternative Report Submission: Violations of Indigenous Children's Rights in Costa Rica

## I. Reporting Organization

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*; and on its website: [www.cs.org](http://www.cs.org)

## II. Background

According to UNICEF, despite significant gains for children since the adoption of the Convention on the Rights of the Child in 1989, the world has not delivered upon its commitments to Indigenous children. Whether they live in low-, middle- or high-income countries, Indigenous children continue to face glaring disparities across all human development indicators.<sup>1</sup> Indigenous Peoples in the Republic of Costa Rica are amongst the poorest and most vulnerable in the country. Costa Rica recognizes eight Indigenous Peoples inhabiting 24 Indigenous territories, making up 2.4 percent of Costa Rica's total population.<sup>2</sup> Although Costa Rica has made substantial progress towards achieving universal access to healthcare, education, clean water and sanitation, and electricity, this progress has not been felt by Indigenous Peoples.<sup>3,4</sup> Indigenous Peoples continue to experience high levels of poverty and marginalization, particularly the Cabécar, Téribé and Ngöbe Peoples.<sup>5</sup> For example, while 28.9 percent of households live in poverty or extreme poverty across Costa Rica, poverty or extreme poverty is faced by almost 50 percent households in the Brunca region – an area predominately inhabited by Indigenous Peoples.<sup>6</sup>

According to the Pan American Health Organization, a regional office of the World Health Organization (WHO), the Indigenous population of Costa Rica is relatively young.<sup>7</sup> 46 percent

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<sup>1</sup> UNICEF (2014, August 9) *UNICEF: Indigenous children left behind in their countries' progress*. Retrieved from: [https://www.unicef.org/media/media\\_74728.html](https://www.unicef.org/media/media_74728.html)

<sup>2</sup> Pan American Health Organization (2019). *Health in the Americas: Costa Rica*. Retrieved from: <https://www.paho.org/salud-en-las-americas-2017/?p=2656> [hereinafter: PAHO 2019]

<sup>3</sup> Central Intelligence Agency (2019, December 3). *The World Factbook: Costa Rica*. Retrieved from: <https://www.cia.gov/library/publications/the-world-factbook/geos/cs.html>

<sup>4</sup> UNICEF (2018). Country Office Annual Report: Costa Rica. Retrieved from: [https://www.unicef.org/about/annualreport/files/Costa\\_Rica\\_2018\\_COAR.pdf](https://www.unicef.org/about/annualreport/files/Costa_Rica_2018_COAR.pdf) [hereinafter: UNICEF 2018]

<sup>5</sup> Ibid.

<sup>6</sup> PAHO 2019.

<sup>7</sup> Ibid.

of Indigenous Costa Ricans do not survive to age 15,<sup>8</sup> with suicide rates amongst adolescents aged 15-19-years four times higher than the national average.<sup>9</sup> The average schooling years of Indigenous youth is just 3.6 years (compared to the national average of 7.6 years).<sup>10</sup> Indigenous children are twice as likely not to receive an education than non-Indigenous children.<sup>11</sup> By 19 years of age, 49 percent of Indigenous adolescent women had already given birth.<sup>12</sup>

Costa Rica ratified the Convention on the Rights of the Child in 1990 and the ILO Indigenous and Tribal Peoples Convention (No. 169) in 1993.<sup>13,14</sup> In 2007, Guatemala voted for the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). In 2009, the Committee published the General Comment no. 11 clarifying the rights of Indigenous children under the convention. Despite these commitments, Indigenous children continue to face widespread rights violations. Additionally, the Indigenous Peoples' Autonomous Development Act (Law no. 14352), first introduced in 1998, has still not been approved.

### III. Ongoing Rights Violations

#### A. Child Labor

Article 32 of the Convention on the Rights of the Child states that:

“State parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.”<sup>15</sup>

This includes instigating a minimum age for joining the workforce, which Costa Rica has set as 15 years of age.<sup>16</sup> Costa Rica has made significant advances in this area in recent years. The government is working in partnership with non-governmental organizations toward preventing child labor and has strengthened laws against child trafficking.<sup>17</sup> However, existing programs are unable to reach all child laborers, particularly those working in agriculture, and resources for law enforcement remain limited. In addition, legislation preventing children from

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<sup>8</sup> PAHO 2019.

<sup>9</sup> UNICEF 2018.

<sup>10</sup> PAHO 2019.

<sup>11</sup> UNICEF 2018.

<sup>12</sup> PAHO 2019.

<sup>13</sup> UNHCR. *Status of Ratification*. Retrieved from: <https://indicators.ohchr.org>

<sup>14</sup> ILO. *Ratifications of C169 – Indigenous and Tribal Peoples Convention, 1989 (No. 169)*. Retrieved from: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300\\_INSTRUMENT\\_ID:312314](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312314)

<sup>15</sup> UN (1989) *Convention on the Rights of the Child*, Retrieved from: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> [hereinafter UN 1989]

<sup>16</sup> Bureau of International Labor Affairs (2018). *2018 Findings on the Worst Forms of Child Labor*. Retrieved from: [https://www.dol.gov/sites/dolgov/files/ILAB/child\\_labor\\_reports/tda2018/Costa%20Rica.pdf](https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2018/Costa%20Rica.pdf)

<sup>17</sup> Ibid.

participating in labor, including agricultural labor, until the age of 15 is inconsistent with Indigenous views on work.

Each year, an estimated 2,500 Ngöbe and Buglé children cross the Panama-Costa Rica border with their families to seasonally work in the coffee plantations, a key source of income for the Indigenous group.<sup>18</sup> However, these children have limited access to education and social services during the harvest season. Children travel with their parents to the field in lieu of other options, thus subjected to harsh weather conditions, and may not have access to education or medical care for months at a time.<sup>19</sup>

In the last couple of years, the government has begun supporting a social program, known as *Casas de la Alegría* (House of Joy), which aims to provide an alternative to child labor during the coffee harvest season (September to December/January).<sup>20,21,22</sup> *Casas de la Alegría* has been operating since 2002, initially begun as an independent project by farm owners, and provides a safe space for children under 12 years of age while their families are at work.<sup>23,24</sup> A 2018 report indicates that less than 25 percent of the Ngöbe and Buglé children entering the region for the coffee harvest attend a *Casa de la Alegría*.<sup>25</sup> Additionally, there are only 17 *Casas de la Alegría* across 16 farms.<sup>26</sup>

Additionally, the legal status of Ngöbe and Buglé children who are born in Costa Rica is unclear. Although legally a person is deemed Costa Rican by birth if born on Costa Rican soil, there are reports that some officials refuse to register the birth, thus deeming the child potentially stateless.

## **B. Discrimination against Indigenous children**

The approval of the National Policy Against Racism, Racial Discrimination, and Xenophobia (PNSLRDRX) indicates some progress towards reducing the stigma and discrimination facing Indigenous children. However, concrete steps need to be taken to reduce this discrimination. Reports that the Costa Rican National Council on Children “frequently takes away children

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<sup>18</sup> Tella, S. (2018, July 30). Costa Rica: Investing in Change for Indigenous Children. *Pulitzer Center*. Retrieved from: <https://pulitzercenter.org/reporting/costa-rica-investing-change-indigenous-children> [hereinafter: Tella 2018]

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Casa de la Alegria ‘About’. Retrieved from <https://www.facebook.com/pg/CasasdeLaAlegria> [hereinafter Casa de la Alegria]

<sup>22</sup> Costa Rica, *Combined fifth and sixth periodic reports of Costa Rica due in 2016 under article 44 of the Convention*, CRC/C/CRI/5-6 (28 March 2019). [hereinafter: Costa Rica 2019], p.14.

<sup>23</sup> Ibid.

<sup>24</sup> Tella, S. 2018.

<sup>25</sup> Ibid.

<sup>26</sup> Casa de la Alegria

from their families” is deeply concerning.<sup>27</sup> Women leaders of the Cabécar Indigenous Peoples in Upper Chirripó reported cases of this in late 2018. National Council response indicates a continued lack of intercultural understanding of Indigenous practices.<sup>28</sup> Article 30 of the Convention on the Rights of the Child states,

“In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.”<sup>29</sup>

### **C. Exposure to Violence Related to Land rights**

Indigenous People’s right to self-determination continues to be denied in Costa Rica, with the continued invasion of Indigenous lands. According to the International Working Group for Indigenous Affairs (IWGIA), Indigenous Development Associations have enrolled non-Indigenous persons as members in order to occupy Indigenous lands.<sup>30</sup> According to figures obtained by the Inter-American Commission on Human Rights (IACHR) during a recent visit only 40 percent of land recognized as Indigenous in Salitre is in the hands of Indigenous Peoples, and as low as 12 percent in Térraba.<sup>31</sup> This has led to high levels of conflict and violence, as well as deforestation for cattle pastures. IWGIA report frequent incursions by non-indigenous armed bands in Salitre, threatening indigenous members of the land recovery movement.<sup>32,33</sup> Formal complaints have yielded few results.

### **D. Inclusion of Indigenous Rights in Education**

While Spanish is the national language, a decree was issued in 2013 recognizing Cabécar, Bribri, Ngöbe, Buglé, and Maleku as first languages of Indigenous peoples, with an attempt to revitalize an additional two languages: Teribe and Boruca.<sup>34</sup> However, the nationalized schooling system continues to teach only in Spanish. According to Adilia Caravaca, a Costa Rican lawyer and peace activist, this has contributed to a decline in children speaking Bribri, and this is likely to be similar in other language groups.<sup>35</sup>

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<sup>27</sup> The International Work Group for Indigenous Affairs (2019) *The Indigenous World 2019*. IWGIA, Copenhagen, p.90. [hereinafter IWGIA 2019]

<sup>28</sup> Ibid.

<sup>29</sup> UN 1989.

<sup>30</sup> IWGIA 2019.

<sup>31</sup> Inter-American Commission on Human Rights (2019) *IACHR Completes Working Visit to Costa Rica*, 3 July. Retrieved from [https://www.oas.org/en/iachr/media\\_center/PReleases/2019/138.asp](https://www.oas.org/en/iachr/media_center/PReleases/2019/138.asp) [hereinafter: IACHR 2019]

<sup>32</sup> IWGIA 2019, p.88.

<sup>33</sup> IACHR 2019

<sup>34</sup> Costa Rica 2019.

<sup>35</sup> Gibian, R. and Crandall, D. (2015), Why Aren’t Costa Rica’s Indigenous Students Graduating? *The Atlantic*, 23 December. Available: <https://www.theatlantic.com/education/archive/2015/12/costa-ricas-indigenous-students/421335>

According to its National Report, the Ministry of Public Education and the Ministry of Intercultural Education run educational programs to promote its Indigenous cultures.<sup>36</sup> The government also reports that it encourages bilingual materials be produced to meet the needs of Indigenous children; however, it is not clear to what extent this is actually being actioned.<sup>37</sup> The Ministry of Public Education produced a series of mini encyclopedias in 2017 providing information on the Indigenous peoples of Costa Rica, however these documents are currently only available in Spanish.<sup>38</sup> The Ministry also has a department that coordinates between development associations and organizations and local Indigenous education committees, and aims to work with teachers, Indigenous leaders, and wise elders to strengthen Indigenous aspects of the national curriculum.<sup>39</sup> However, a lack of disaggregated data means that it is not clear whether this is having an impact on the low school completion rates of Indigenous youth. In its 2017 report on Costa Rica, the Committee on the Elimination of Discrimination against Women also raised concerns about the:

“... absence of information disaggregated by age, ethnicity and socioeconomic condition on access to education for girls, in particular their enrolment, completion and dropout rates, notably for reasons of early pregnancy at all levels, and about culturally appropriate bilingual education for indigenous women and girls.”<sup>40</sup>

#### **IV National Report**

The government of Costa Rica submitted their national report on 20 December 2017, and demonstrates some positive response to previous recommendations from the CRC.<sup>41</sup> According to the report, the National Child Welfare Agency has been aiming to raise awareness around the human rights of children and adolescents, particularly within a framework of Indigenous worldviews.<sup>42</sup> Indigenous cultures and languages are being taught both in and outside Indigenous territories, with programs in education centers aimed at promoting Indigenous cultures and mobile teaching vans providing instruction in Indigenous languages.<sup>43</sup> Efforts are being made to provide basic services to Indigenous Peoples in remote areas, and the Ministry of Health is coordinating a national health plan for Indigenous Peoples.<sup>44</sup> The government also

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<sup>36</sup> Costa Rica, 2019, p.13, 32.

<sup>37</sup> Ibid, p.33.

<sup>38</sup> Ministerio de Educación Pública (2017). *Minienciclopedias de los Pueblos Indígenas de Costa Rica*. Retrieved from <https://www.mep.go.cr/educatico/minienciclopedias-pueblos-indigenas>

<sup>39</sup> Ibid, pp.13-14.

<sup>40</sup> United Nations, Committee on the Elimination of Discrimination against Women, *Concluding observations on the seventh periodic report of Costa Rica*, CEDAW/C/CRI/CO/7 (24 July 2017), p.8. [hereinafter CEDAW 2017]

<sup>41</sup> Costa Rica 2019.

<sup>42</sup> Ibid, p.9.

<sup>43</sup> Ibid, pp.12-13, 33.

<sup>44</sup> Ibid, pp.12-13.

reports that the Prudential Social Council has coordinated a food security plan for Indigenous Peoples, particularly Indigenous children and adolescents, in Alto Telire.<sup>45</sup>

## V CRC Concluding Observations 2011

Following its consideration of the fourth period review report, the Committee on the Rights of the Child made the following recommendations to Costa Rica in 2011:<sup>46</sup>

- *8 The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations on its third periodic report under the Convention and on its initial reports under the two Optional Protocols to the Convention that have not been implemented or insufficiently implemented, particularly those related to coordination, data collection, dissemination of the Convention, discrimination against indigenous children and children belonging to other minorities, freedom of association, child abuse and sexual exploitation of children.*
- *17(e) Define strategic budgetary lines for those situations that may require affirmative social measures, such as birth registration, especially with regard to indigenous and migrant children.*
- *21 The Committee recommends that the State Party, in close cooperation with civil society and public and private media, design and implement programmes specifically targeting children and adolescents, including children with disabilities, Afro-descendant children and indigenous and migrant children, to disseminate knowledge about their rights under the Convention and relevant national legislation. It also recommends that the State party increase its efforts to raise awareness among the general public about the rights provided for in the Convention.*
- *24 The Committee recommends that the State party intensify its efforts to systematically involve and cooperate with civil society, including children's and indigenous organizations, in the planning, implementation, monitoring and evaluation of policies, plans and programmes for the promotion and protection of the rights of children and adolescents, and in the report preparation process.*
- *30(a) Strengthen its efforts to eliminate societal discrimination and prejudice against indigenous, Afro-descendant, migrant children and children with disabilities through legislative measures, awareness-raising programmes, the media and the educational system, as well as in-service training for public officials.*
- *30(b) Adopt a comprehensive action plan for indigenous children, including targeted programmes and investment in services and infrastructure in indigenous territories and rural and deprived urban areas in order to improve the socio-economic situation of indigenous and other minority children, taking into account the Committee's general comment No. 11 (2009) on indigenous children and their rights under the Convention.*

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<sup>45</sup> Ibid, p.14.

<sup>46</sup> United Nations, Committee on the Rights of the Child, *Concluding Observations: Costa Rica*, CRC/C/CRI/CO/4 (3 August 2011).

- *34(c) Take into consideration the special requirements and linguistic needs of children with disabilities, indigenous and migrant children and other children in situations of vulnerability.*
- *36 The Committee recommends that the State party intensify its efforts to ensure that all indigenous and migrant children are registered at birth and provided with personal documents enabling them to access social services, by ensuring that pregnant indigenous as well as migrant women, including those who are undocumented or in an irregular situation, have adequate access to hospitals and health centres, and by educating parents on the need to register their children. The Committee also recommends that the State party consider concluding bilateral agreements with neighbouring States, with a view to granting dual citizenship to migrant children.*
- *41 The Committee recommends that the State party adopt legislative and other measures, including temporary special measures, to protect women in the above mentioned groups from intersecting forms of discrimination and collect statistical data disaggregated by sex and age for all the above mentioned groups in all areas covered by the Convention, in both the public and private spheres.*
- *42(b) Encourage mass media to give special consideration to the linguistic needs of children who belong to indigenous group.*
- *58(a) Review its centralized system of health care and ensure affordable access to basic health care for all children, particularly indigenous and migrant children, including those without personal identity documents, while giving priority to regions and communities with the lowest coverage, with a view to redressing the existing sharp inequalities.*
- *68(d) Promote more effective educational programmes to address low school attendance by indigenous and migrant children.*
- *70 The Committee recommends that the State party:*
  - (a) Reinforce bilingual and intercultural education models for indigenous children by, among others, increasing the number of school teachers in the indigenous territories;*
  - (b) Expand the coverage and number of lessons on indigenous language and culture, including at the preschool and secondary levels;*
  - (c) Develop specific training programmes and improve the conditions for teachers of such classes in and outside the sub-systems for indigenous education, in cooperation with public universities and in accordance with the specific cultural needs of indigenous children;*
  - (d) Make available textbooks and child-friendly education materials in indigenous languages; and*
  - (e) Include education on indigenous cultures in the national school curriculum, with a view to promoting respect for diversity and eliminating prejudice against indigenous children.*

Some of the recommendations have been partly or wholly actioned; for example, representatives of the Civil Registry are required to visit Indigenous populations to register the



births of children.<sup>47</sup> However, there are a number of recommendations that remain outstanding and other areas of concern. Of particular concern are those relating to child labor, removal from community, exposure to violence, and inclusion of Indigenous Peoples' worldviews in school curricula.

## **VI. Other UN Body Recommendations**

### **A. Universal Periodic Review 2019**

The following recommendations from Costa Rica's 2019 UPR third periodic review are relevant to the committee:<sup>48</sup>

- *111.85 Continue to pursue the strengthening of systems to deepen social inclusion and the enjoyment of human rights by persons of African descent, indigenous persons, migrants and refugees (Barbados);*
- *111.88 Guarantee the right to adequate housing for indigenous peoples and the restitution of their ancestral lands (Bolivarian Republic of Venezuela);*
- *111.103 Integrate an intercultural perspective into sexual and reproductive health services to guarantee the rights of indigenous, Afrodescendent and migrant women to, among others, dignified treatment during childbirth (Peru);*
- *111.119 Continue to bridge the gap that exists in the education system for indigenous people with respect to school attendance and completion and also learning achievements and equal opportunities (Maldives);*
- *111.173 Strengthen the fight against the worst forms of child labour, in particular those affecting migrant children and indigenous children (Côte d'Ivoire);*
- *111.179 Update and promote the approval of the Law on Autonomous Development of Indigenous Peoples (Denmark);*
- *111.180 Take the necessary actions to enact the Law on Autonomous Development of Indigenous Peoples, which has been pending before the Legislative Assembly (Dominican Republic);*
- *111.181 Speed up the implementation of the general mechanism for consultation with indigenous peoples and ensure its proper functioning in order to promote the necessary conditions for the realization of their individual and collective rights (Togo);*
- *111.187 Enforce the law on indigenous land rights and facilitate peaceful resolution of land disputes by ensuring the availability and efficacy of conflict resolution mechanisms and the presence of effective, impartial law enforcement (United States of America);*
- *111.190 Increase attention to the indigenous population and eliminate disparities among the population (Yemen);*

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<sup>47</sup> Costa Rica 2019, p.19.

<sup>48</sup> United Nations, Human Rights Council, Report of the Working Group on the Universal Periodic Review: Costa Rica, A/HRC/42/12 (5 July 2019).

- *111.191 Continue its actions and initiatives to protect the rights of the most vulnerable persons in society, such as indigenous adolescent mothers (Benin);*
- *111.192 Continue efforts towards greater respect for the cultural norms and practices of the indigenous populations and for greater access to all aspects of social services, in particular, health and education (Guyana);*
- *111.194 Continue efforts for the prompt processing of the Bill on the Protection of the Right to Nationality of the Indigenous Person and Guarantee of Integration of the Indigenous Cross-Border Person (Dominican Republic);*
- *111.195 Eliminate the structural discrimination against indigenous peoples and people of African descent, and ensure their access to education (Syrian Arab Republic); and*
- *111.196 Address ongoing racial inequality, particularly for indigenous and Afro-Costa Rican communities, and adopt a coordinated strategy to combat child labour and sexual abuse among disadvantaged and migrant communities (Australia).*

## **B. Committee on the Elimination of Discrimination against Women 2017**

The following recommendations from Costa Rica's 2017 CEDAW seventh periodic review are relevant to the committee:<sup>49</sup>

- *27(a) Put in place a strategy with measurable indicators and time frames for the assessment of progress with regard to the enrolment of girls and ensure that indigenous women have access to culturally appropriate bilingual education;*
- *27(b) Eliminate the stigmatization of pregnant adolescent girls and adopt regulations and provide scholarships to ensure re-entry to school for young mothers in both the public and private education sectors;*
- *37(a) Take resolute action against land dispossession and forced evictions of indigenous women and women of African descent from lands traditionally occupied or used by them, strengthen legal and procedural safeguards to protect them and ensure their meaningful participation in decision making processes regarding the use of traditional indigenous lands; and*
- *37 (b) Set up and implement effective consultation mechanisms to secure the free, prior and informed consent of indigenous women and benefit sharing in relation to development projects and other uses of their natural resources and lands, and assess and mitigate the impact of the establishment of protected areas and the adoption of environmental public policies on the rights of indigenous women and women of African descent.*

## **VII. Questions**

1. What steps are being taken to collect disaggregated data, particularly around Indigeneity?
2. What measures are being taken to ensure that the new legislation around child labor, including agricultural labor, is enforced?

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<sup>49</sup> CEDAW 2017.

3. What measures are being taken to improve the educational outcomes of Indigenous children?
4. What steps are being taken to ensure the expansion and ongoing support of the *Casas de la Alegría*?
5. What is the government doing to ensure Indigenous children have access to their cultural practices and languages?
6. What steps are being taken to ensure the imminent approval of the Indigenous People's Autonomy Development Act (Law no. 14352)?

## **VIII. Recommendations**

Cultural Survival recommends that the government of Costa Rica:

- Action outstanding recommendations from the CRC fourth periodic cycle report, the UPR third periodic cycle report, and the CEDAW seventh periodic cycle report.
- Collect disaggregated data on Indigenous Peoples in Costa Rica in the next census, particularly of children.
- Approve the Indigenous People's Autonomy Development Act (Law no. 14352).
- Improve access to social services, particularly for Indigenous children in remote or coffee-growing areas.
- Promote and continue to support the *Casas de la Alegría* for Ngöbe and Buglé children.
- Take cultural practices into consideration when enforcing child labor laws.
- Enhance efforts to eliminate barriers for Indigenous children to access education and implement strategies to improve school retention.
- Support Indigenous children to attend school in their first language rather than Spanish.
- Ensure the development of educational material in both Spanish and Indigenous languages.
- Invest in training and support for Indigenous teachers.
- Implement curriculum that takes into consideration Indigenous worldviews.