



**Convention on the  
Rights of the Child**

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**Committee on the Rights of the Child**

**Forty-eighth session**

19 May–6 June 2008

**Report on the forty-eighth session**

(Geneva, 19 May–6 June 2008)

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Organizational and other matters .....	1–13	3
A. States parties to the Convention .....	1–2	3
B. Opening and duration of the session.....	3	3
C. Membership and attendance .....	4–7	3
D. Agenda.....	8	4
E. Pre-sessional working group .....	9–11	4
F. Organization of work.....	12	5
G. Future regular meetings .....	13	5
II. Reports submitted by States parties .....	14–22	5
III. Consideration of reports of States parties .....	23–32	6
IV. Cooperation with United Nations and other competent bodies.....	33	124
V. Methods of work .....	34–35	124
VI. General comments .....	36	125
VII. Future day of general discussion.....	37	125
VIII. Future meetings.....	38	125
IX. Adoption of the report.....	39	125
<b>Annexes</b>		
I. Membership of the Committee on the Rights of the Child .....		126
II. Decision of the Committee to work in two chambers .....		127

## **I. Organizational and other matters**

### **A. States parties to the Convention**

1. As at 6 June 2008, the closing date of the forty-eighth session of the Committee on the Rights of the Child, there were 193 States parties to the Convention on the Rights of the Child. The Convention was adopted by the General Assembly in its resolution 44/25 of 20 November 1989 and opened for signature and ratification or accession in New York on 26 January 1990. It entered into force on 2 September 1990, in accordance with the provisions of its article 49. An updated list of States that have signed, ratified or acceded to the Convention is available at [www.ohchr.org](http://www.ohchr.org) and <http://untreaty.un.org>.

2. As at the same date, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict had been ratified or acceded to by 120 States parties and signed by 122 States. The Optional Protocol entered into force on 12 February 2002. Also as at the same date, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography had been ratified or acceded to by 126 States parties and signed by 115 States. It entered into force on 18 January 2002. The two Optional Protocols to the Convention were adopted by the General Assembly in its resolution 54/263 of 25 May 2000 and opened for signature and ratification or accession in New York on 5 June 2000. A list of States that have signed, ratified or acceded to the two Optional Protocols is available at [www.ohchr.org](http://www.ohchr.org) and <http://untreaty.un.org>.

### **B. Opening and duration of the session**

3. The Committee on the Rights of the Child held its forty-eighth session at the United Nations Office at Geneva from 19 May to 6 June 2008. The Committee held 28 meetings. An account of the Committee's deliberations at its forty-fifth session is contained in the relevant summary records (see CRC/C/SR.1314 to SR.1342).

### **C. Membership and attendance**

4. Two members of the Committee could not attend the forty-eighth session (Ms. Joyce Aluoch and Mr. Kamal Siddiqui). A list of members, together with an indication of the duration of their terms of office, is provided in the annex to the present report.

5. The following United Nations offices and funds were represented at the session: Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Children's Fund (UNICEF).

6. The following specialized agency was also represented at the session: International Labour Organization (ILO).

7. Representatives of the following non-governmental organizations also attended the session:

#### *General consultative status*

International Confederation of Free Trade Unions, International Council of Women, International Movement ATD Fourth World, International Save the Children Alliance, Zonta International.

*Special consultative status*

Amnesty International, Arab Organization for Human Rights, Coalition against Trafficking in Women, Defence for Children International, International Commission of Jurists, International Confederation of Social Workers, International Federation of Women in Legal Careers, International Federation Terre des Hommes, International Service for Human Rights, World Federation of Methodist and Uniting Church Women, World Organization against Torture.

*Others*

NGO Group for the Convention on the Rights of the Child, Geneva Institute for Human Rights (GIHR), International Baby Food Action Network.

**D. Agenda**

8. At its 1314th meeting, on 19 May 2008, the Committee adopted the following agenda on the basis of the provisional agenda (CRC/C/48/1):

1. Adoption of the agenda.
2. Organizational matters.
3. Submission of reports by States parties.
4. Consideration of reports of States parties.
5. Cooperation with other United Nations bodies, specialized agencies and other competent bodies.
6. Methods of work of the Committee.
7. Day of general discussion.
8. General comments.
9. Future meetings.
10. Other matters.

**E. Pre-sessional working group**

9. In accordance with a decision of the Committee at its first session, a pre-sessional working group met in Geneva from 4 to 8 February 2008. All members except Ms. Al Thani; Ms. Aluoch and Mr. Siddiqui participated in the working group. Representatives of OHCHR, ILO, UNICEF and UNHCR also participated. A representative of the NGO Group for the Convention on the Rights of the Child, as well as representatives from various national and international non-governmental organizations, also attended.

10. The purpose of the pre-sessional working group is to facilitate the Committee's work under articles 44 and 45 of the Convention, article 12 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement on children in armed conflict, primarily by reviewing State party reports and identifying in advance the main questions that would need to be discussed with the representatives of the reporting States. It also provides an opportunity to consider questions relating to technical assistance and international cooperation.

11. Ms. Yanghee Lee chaired the pre-session working group, which held 9 meetings, at which it examined lists of issues put before it by members of the Committee relating to one initial report (Serbia), the second periodic reports of one country (Bulgaria) and one combined second and third periodic report (Eritrea); three initial reports submitted to the Committee on the Optional Protocol on the involvement of children in armed conflict (Philippines, Republic of Korea and United States of America), two reports on the Optional Protocol on the sale of children, child prostitution and child pornography (Republic of Korea and United States of America). The lists of issues were transmitted to the Permanent Missions of the States concerned with a note requesting written answers to the issues raised in the list, if possible before 31 March 2008. The working group meeting related to the second periodic report of Chad was postponed.

## **F. Organization of work**

12. The Committee considered the organization of its work at its 1314th meeting, held on 19 May 2008. The Committee had before it the tentative programme of work for the forty-eighth session, prepared by the Secretary-General in consultation with the Chairperson of the Committee.

## **G. Future regular meetings**

13. The Committee decided that its forty-ninth session would take place from 15 September to 3 October 2008 and that its pre-session working group for the fiftieth session would meet from 6 to 10 October 2008.

# **II. Reports submitted by States parties**

## **Submission of reports**

14. The Committee had before it the note by the Secretary-General on States parties to the Convention and status of the submission of reports (CRC/C/48/2).

15. The Committee was informed that between its forty-seventh and forty-eighth sessions, the Secretary-General had received the second and third periodic reports of Mozambique, Cameroon and The former Yugoslav Republic of Macedonia, the third and fourth periodic reports of the Philippines, Tajikistan, El Salvador, Burkina Faso, Paraguay, Mongolia, Argentina, Japan, Guatemala and Nigeria, and the fourth periodic reports of Bolivia, Norway and Ecuador.

16. The Committee was also informed that the following initial reports under the Optional Protocol on the involvement of children in armed conflict had been received: Israel, Ecuador, Sierra Leone, Mongolia, Republic of Moldova, Japan and Serbia.

17. It was also informed that the initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography from Yemen, Ecuador, Sierra Leone, Mongolia, El Salvador, Japan, Estonia and Serbia.

18. As at 19 May 2008, the Committee had received 193 initial reports, 118 second periodic reports, 38 third periodic reports and 15 fourth periodic reports. The Committee further received 43 initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography and 55 under the Optional Protocol on the involvement of children in armed conflict. A total of 369 reports have been considered by the Committee. To date, the Committee considered 37 initial reports under the Optional

Protocol on the involvement of children in armed conflict and 26 initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography.

19. At its forty-eighth session, the Committee examined one initial report and five periodic reports submitted by States parties under article 44 of the Convention. It also considered two initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography and three initial reports under the Optional Protocol on the involvement of children in armed conflict.

20. The following reports, listed in the order in which they were received by the Secretary-General, were before the Committee at its forty-eighth session: Sierra Leone (CRC/C/SLE/2); Georgia (CRC/C/GEO/3); Republic of Korea (CRC/C/OPAC/KOR/1 and CRC/C/OPSC/KOR/1); United States of America (CRC/C/OPAC/USA/1 and CRC/C/OPSC/USA/1); Philippines (CRC/C/OPAC/PHL/1); Serbia (CRC/C/SRB/1); Eritrea (CRC/C/ERI/3) and Bulgaria (CRC/C/BGR/2).

21. In accordance with rule 68 of the provisional rules of procedure of the Committee, representatives of all the reporting States were invited to attend the meetings of the Committee at which their reports were examined.

22. The following sections, arranged on a country-by-country basis according to the sequence followed by the Committee in its consideration of the reports, contain concluding observations reflecting the main points of discussion and indicating, where necessary, issues that require specific follow-up. More detailed information is contained in the reports submitted by the States parties and in the summary records of the relevant meetings of the Committee.

### **III. Consideration of reports of States parties**

#### **23. Georgia**

(1) The Committee considered the third periodic report of the Republic of Georgia (CRC/C/GEO/3) at its 1316th and 1317th meetings (CRC/C/SR.1316 and 1317), held on 20 May 2008, and adopted, at the 1342nd meeting (CRC/C/SR.1342), held on 6 June 2008, the following concluding observations.

#### **A. Introduction**

(2) The Committee welcomes the submission of the State party's third periodic report, which gave a clear overview of the situation of children in the State party and the written replies to the list of issues (CRC/C/GEO/Q/3/Add.1). The Committee further notes with appreciation the open and constructive dialogue with the multi-sectoral delegation of the State party.

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

(3) The Committee notes with appreciation the legislative and programmatic measures taken with a view to implementing the Convention, including:

(a) The Law on Combating Domestic Violence, Prevention of and Support to Victims, in June 2006;

(b) The Law on Adoption, in May 2008;

- (c) The Safe School Programme, aimed to reduce violence on and off school premises, introduced in 2007; and
  - (d) The Action Plan for Child Care (2008–2011).
- (4) The Committee also welcomes the ratification/accession by the State party to:
- (a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 28 June 2005;
  - (b) The Council of Europe Convention on Action against Trafficking in Human Beings, on 14 March 2007;
  - (c) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 4 September 2006;
  - (d) The Framework Convention for the Protection of National Minorities, on 22 December 2005;
  - (e) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 9 August 2005; and
  - (f) The Rome Statute of the International Criminal Court, on 28 June 2002.

### **C. Factors and difficulties impeding the implementation of the Convention**

- (5) The Committee notes that the de facto lack of control by the State party over Abkhazia and South Ossetia/Tskhinvali region is a serious obstacle for the State party in the implementation of the Convention in those regions.

### **D. Principal areas of concern and recommendations**

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

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

- (6) The Committee notes that several concerns and recommendations made upon the consideration of the State party's second periodic report (CRC/C/15/Add.222) have been addressed. However, it regrets that some of its concerns and recommendations have been insufficiently or only partly addressed, including those related to: legislation; allocation of resources; reduction of poverty; social security and services; internally displaced children; street children; and juvenile justice.

- (7) The Committee urges the State party to take all necessary measures to address those recommendations contained in the concluding observations on the second periodic report that have not yet been implemented or sufficiently implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations on the third periodic report.**

##### *Coordination*

- (8) The Committee regrets that there is no mechanism responsible for the coordination and evaluation of the implementation of the Convention in the State party.

- (9) The Committee recommends that the State party allocate principal responsibility for the coordination and evaluation of implementation of the**

**Convention to a single mechanism and provide regular and adequate financial and human resources so that it comprehensively coordinates children's rights.**

*National Plan of Action*

(10) While welcoming the adoption of the National Action Plan for Child Care for 2008–2011, the Committee regrets that it does not cover all areas of the Convention. The Committee also regrets that the previous National Plan of Action for Children (2002–2003) was not implemented due to insufficient financial backing from the State budget.

**(11) The Committee encourages the State party to adopt a comprehensive action plan that covers all areas of the Convention and ensure cross-sectoral implementation of the Convention, in consultation with civil society and all sectors involved in the promotion and protection of children's rights. In this regard, the Committee encourages the State party to take into account the principles and provisions of the Convention as well as the outcome document of the 2002 General Assembly special session on children entitled "A world fit for children" and its mid-term review of 2007. The Committee further urges the State party to allocate sufficient financial resources to the action plan to ensure its full and effective implementation.**

*Independent monitoring*

(12) While welcoming the establishment of the Child's Rights Centre of the Office of the Public Defender and its role in the protection of the rights of the child, the Committee regrets that the Child Rights Centre does not have adequate human and financial resources to fulfil its mandate throughout the country. The Committee is also concerned that the reports and the recommendations of the Child's Rights Centre are not considered in a timely fashion by Parliament. The Committee is further concerned about the inability of the Child's Rights Centre to have unhampered access to children in State institutions.

**(13) The Committee recommends that the State party secure the necessary human and financial resources to enable the Child's Rights Centre, to adequately execute its mandate throughout the country and that it be provided with unhampered access to all institutions caring for children. The Committee further recommends that the State party consider reports and recommendations of the Child's Rights Centre and respond to them in a timely manner. In this regard, the Committee draws the attention of the State party to the general comment No. 2 (2002) on the role of independent national human rights institutions in the protection and promotion of the rights of the child.**

**(14) The Committee urges the State party to take the necessary measures to establish an independent complaint mechanism that is easily accessible to and user-friendly for all children, to deal with complaints of violations of their rights and to provide remedies for such violations.**

*Data collection*

(15) The Committee, while noting that the State Department for Statistics under the Ministry of Economic Development is responsible for comprehensive data collection, remains concerned that the lack of reliable statistics on children are hampering effective follow-up or evaluation of the implementation of the Convention. The Committee is particularly concerned that disaggregated data and analytic information in important areas of the Convention are not available such as on children with disabilities, refugee and internally displaced children, child abuse and neglect, children who are victims of sexual exploitation, including prostitution, pornography and trafficking, substance abuse and children working and/or living in streets.

(16) **The Committee reiterates its recommendation that the State party continue and strengthen its efforts to develop a comprehensive system of collection of data on the implementation of the Convention. The data should cover all children below the age of 18 years and be disaggregated by sex, with particular attention to groups of children who are in need of special protection. The Committee encourages the State party to further its cooperation with the United Nations Children's Fund (UNICEF) in this regard.**

*Dissemination of the Convention and training*

(17) The Committee welcomes the efforts undertaken by the State party, with the support of UNICEF, to increase the awareness of the Convention, by, inter alia, including the principles and provisions of the Convention in the National Curriculum as part of civic education, and ensuring that all judges involved in criminal proceedings involving minors are specially trained in child rights. However, the Committee remains concerned that systematic training is still lacking for all professionals working with and for children, in particular on the duties and responsibilities stemming from the Convention.

(18) **The Committee encourages the State party to continue to strengthen its efforts to provide adequate and systematic training and/or sensitisation on children's rights of professional groups working with and for children, including law enforcement officials, as well as judges, lawyers, health personnel, teachers, social workers, school administrators and others as required.**

*Cooperation with civil society*

(19) While noting the existence of an active civil society in Georgia, the Committee notes with regret that insufficient efforts have been made to support civil society as partners in the implementation of the Convention, and to involve non-governmental organizations (NGOs) in the preparation of the third periodic report to the Committee.

(20) **The Committee recommends that the State party encourage and support the active and systematic involvement of civil society, including NGOs, in the promotion and implementation of children's rights, including, inter alia, their participation in the follow-up to the concluding observations of the Committee and in the reporting process.**

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

*Non-discrimination*

(21) The Committee is concerned that, despite the Constitutional and other guarantees, the principle of non-discrimination is not fully respected in practice with certain groups of children, including, inter alia, for children belonging to minorities; children with disabilities; refugee and asylum-seeking children; children who are internally displaced; children of disadvantaged families; street children; children in juvenile justice system and children living in rural or remote areas. The Committee also notes with concern that girls in particular are disproportionately affected, due to gender discrimination,

(22) **The Committee recommends that the State party increase its efforts to monitor and ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention. It also recommends the collection of appropriate disaggregated data to enable monitoring of discrimination against children, including those belonging to the above-mentioned vulnerable groups, and in particular, girls, with a view to developing comprehensive strategies aimed at ending all forms of discrimination.**

*Best interests of the child*

(23) The Committee is concerned that procedures to determine the best interest of the child (art. 3) are lacking in the laws and the decision-making processes of the State party on matter relating to children, particularly in the areas of juvenile justice and adoption.

**(24) The Committee recommends that the State party fully incorporate the principle of the best interests of the child in all programmes, policies, judicial and administrative proceedings, including in the implementation of national action plans.**

*Respect for the views of the child*

(25) The Committee notes with appreciation the State party's efforts to promote and respect children's right to freely express their views and to participate in society, including the amendments being made to the Code of Ethics for Teachers and Students in the 2008/09 academic year. However, the Committee is concerned that the State party's efforts to promote the right to participation of those children who belong to vulnerable groups, including internally displaced children, have been insufficient, particularly in civil, judicial and administrative procedures. The Committee also regrets that children's forums for participation and decision making for matters affecting them, such as the Youth Parliament, are no longer supported by the State party. The Committee further notes with concern that the traditional attitudes in Georgian society may limit children's right to freely express their views within the family, in schools and in the community at large.

**(26) The Committee recommends that the State party, taking into account the recommendations adopted by the Committee after the Day of General Discussion on the right of the child to be heard in 2006:**

**(a) Further promote, facilitate and implement in practice, within the family, schools, the community level, in institutions as well as in civil, judicial and administrative procedures, the principle of respect for the views of children and their full participation in all matters affecting them, in accordance with article 12 of the Convention;**

**(b) Support forums for children's participation, such as the Youth Parliament; and**

**(c) Continue to collaborate with civil society organizations, to increase opportunities for children's participation, including in the media.**

### **3. Civil rights and freedoms (arts. 7, 8, 113–17 and 37 (a) of the Convention)**

*Birth registration*

(27) The Committee welcomes the progress achieved with regard to birth registration rates due to the simplification of the birth registration procedure in 2003 and that birth registration is now free-of-charge. However, the Committee remains concerned that large numbers of children belonging to minority groups, as well as internally displaced and refugee children are still not registered at birth.

**(28) The Committee recommends that the State party continue and strengthen its ongoing efforts to establish institutional structures, for example through the use of mobile registration centres, in order to ensure full birth registration throughout the country. The Committee recommends, in addition, that information campaigns be used to inform the population of birth registration requirements.**

*Torture and inhuman or degrading treatment or punishment*

(29) While welcoming the accession by Georgia in 2006 to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the elaboration of the Anti-Torture Action Plan, as well as the establishment of the Inter-agency Coordinating Council for fight against torture in June 2007, the Committee remains concerned about information indicating that children continue to be victims of arbitrary detentions, police brutality and ill-treatment in detention facilities.

**(30) The Committee recommends that the State party, in close cooperation with relevant NGOs:**

**(a) Investigate thoroughly all allegations of torture and ill-treatment by public officials and ensure that perpetrators are rapidly brought to justice and tried;**

**(b) Provide adequate reparations, rehabilitation and recovery programs for victims of such abuses;**

**(c) Consider strengthening the existing system of independent monitoring for detention centres for juveniles; and**

**(d) Ensure the accessibility of the existing mechanism, with the involvement of civil society as equal partners in this process, to receive complaints from, or on behalf of, children of ill-treatment or abuse by members of the police.**

*Corporal punishment*

(31) While noting the legal prohibition of corporal punishment in school as stipulated in Article 19 of the Law on General Education, the Committee notes with concern that corporal punishment in the home remains lawful. Furthermore the Committee concerned that corporal punishment continues to occur in the home as well as schools and institutions.

**(32) The Committee recommends that the State party adopt legislation explicitly prohibiting all forms of corporal punishment of children in all settings, including the home. The State party should also conduct awareness-raising and public education campaigns against corporal punishment and promote positive, non-violent forms of discipline as an alternative to corporal punishment, while taking due account of the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.**

*Follow-up to the United Nations Study on Violence against Children*

**(33) With reference to the United Nations Secretary-General's 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 study on violence against children while taking into account the outcome and recommendations of the Regional Consultation for Europe and Central Asia (held in Ljubljana from 5–7 July 2005). In particular, the Committee recommends that the State party pay particular attention to the following recommendations:**

**(i) Prohibit all violence against children;**

**(ii) Strengthen national and local commitment and action;**

**(iii) Prioritize prevention;**

**(iv) Promote non-violent values and awareness-raising;**

**(v) Provide recovery and social reintegration services;**

(vi) **Ensure accountability and end impunity.**

(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 child is protected from all forms of physical, sexual and mental violence and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse; and**

(c) **Seek technical assistance from UNICEF, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the World Health Organization (WHO) for the above- mentioned purposes.**

**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*

(34) The Committee is deeply concerned that a large number of children are customarily placed in institutions due to the lack of adequate services and financial support to families or the absence of social service alternatives and effective gate-keeping mechanisms, and that most of the children placed in residential care are in fact not orphans. The Committee is also concerned that the social services network remains underdeveloped and that qualified social workers and social services are in short supply. The Committee also notes with concern that the current reforms focus mainly on children in institutions, and have not dealt with social exclusion issues such as poverty and domestic violence which could adequately address the needs of children and families at risk and effectively prevent the abandonment and institutionalization of children.

**(35) The Committee encourages the State party to allocate sufficient resources to provide adequate support and assistance through its social services system for all families, particularly those economically disadvantaged, up to the age of 18 years and their families, and those in rural and remote areas. The Committee further recommends that the Special Project on Poverty be expanded so that no child is placed under State care as a result of the poverty of his/her parents.**

*Alternative care*

(36) While welcoming the progress achieved under the 2005–2008 National Plan of Action on the Protection of Children and Deinstitutionalization, the Committee remains concerned about the current state of institutional care and the pace of reunification of children with families. Furthermore, the Committee, while noting the adoption in 2006 of the national standards of childcare for alternative care institutions, remains concerned at the number of children in institutions that are neither State-funded nor regulated. The Committee is also concerned about the absence of any State mechanism monitoring and providing follow-up assistance for those leaving institutional care.

**(37) The Committee recommends that the State party expedite the deinstitutionalization programme, including reunification with families and the recruitment of foster parents. At the same time, the Committee recommends that the conditions in existing institutions be improved in the areas of nutrition, sanitation, training of staff, monitoring and visitation, complaint mechanism and periodic review of placement, in conformity with article 25 of the Convention. The Committee also recommends that all institutions providing alternative care to children be regulated by the State and requests that the State party specifically report on its efforts to regulate all institutions and the number of children in their care. The Committee**

**further recommends that the State party consider introducing measures to ensure and provide for follow-up and after-care to young persons leaving care centres.**

*Adoption*

(38) The Committee welcomes the steps being taken by the State party to establish an appropriate procedure for adoption in accordance with the Convention and the 1993 Hague Convention (No. 33) on the Protection of Children and Co-operation in Respect of Intercountry Adoption, as well as the enactment, in May 2008, of the Law on Child Adoption which, *inter alia*, prohibits direct adoptions. The Committee however regrets the lack of sufficient information received on: programmes for the preparation of the prospective adoptive parents and the children to be adopted; bilateral agreements on adoption; number of accredited adoption agencies and their regulations; information, including statistical data, on children awaiting adoption who are living in temporary accommodations or with foster families; and programmes that encourage adoption of older children and groups of siblings.

**(39) The Committee recommends that the State party continue with its efforts and provide appropriate professional and financial resources with a view to strengthening programmes related to adoption, its promotion and its respective control, by, *inter alia*:**

**(a) Strengthening the central authority on adoption, so that it successfully performs all the functions mandated by the national legislation and the 1993 Hague Convention, through, *inter alia*, programmes, regulations and instruments to facilitate training and monitoring the performance of all actors involved in adoption;**

**(b) Raising public awareness about adoption and the conditions for adopting. In this connection, special attention should be given to the identification of prospective adoptive families for children who may have particular difficulties in being adopted, including: older children; groups of siblings; children with disabilities; and children belonging to minority groups; and**

**(c) Establishing a system to effectively identify children who are potentially adoptable (having explored the possibility to maintain the link with their families) and expedite the adoption process.**

*Abuse and neglect*

(40) While welcoming the enactment, in June 2006, of the Law on Combating Domestic Violence, Prevention of and Support to Victims, the Committee regrets that the Action Plan on Measures to Prevent and Combat Domestic Violence, as envisaged in the aforementioned legislation, has not yet been adopted. The Committee also regrets the paucity of information provided by the State party on the extent of violence, sexual abuse and neglect within the family, including statistical information.

**(41) The Committee urges the State party to:**

**(a) Strengthen public awareness campaigns and provide information, parental guidance and counselling with a view, *inter alia*, to prevent child abuse and neglect;**

**(b) Reinforce mechanisms for monitoring the number of cases and the extent of violence, sexual abuse and neglect within the family;**

**(c) Ensure that professionals working with children (including teachers, social workers, medical professionals, members of the police and the judiciary) receive**

training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children;

(d) Strengthen support for victims of abuse and neglect in order to ensure their access to adequate services for recovery, counselling and other forms of rehabilitation; and

(e) Support the establishment of a toll-free, 24-hour and nationally accessible child helpline service with three-digit number, to be able to reach out to all children in need of care or assistance throughout the country.

5. **Basic health and welfare (arts. 6; 18, paras. 3; 23; 24; 26 and 27, paras 1–3 of the Convention)**

*Children with disabilities*

(42) The Committee, while welcoming the various measures aimed at promoting inclusive education for children with disabilities with a view to using the model in all schools, regrets the lack of a comprehensive government policy for children with disabilities which takes into account their overall developmental needs, including their right not to be discriminated against, the right to education and the right to health.

(43) **The Committee recommends that the State party, taking into account general comment No. 9 (2006) on the rights of children with disabilities:**

(a) Consider ratifying the Convention on the Rights of Persons with Disabilities and its Optional Protocol;

(b) Ensure implementation of the Standard Rules for Equalizing the Possibilities for Persons with Disabilities, adopted by the General Assembly on 23 December 1993;

(c) Pursue efforts to ensure that children with disabilities may exercise their right to education to the maximum extent possible;

(d) Undertake awareness-raising campaigns to sensitize the public, and parents in particular, on the rights and special needs of children with disabilities, including those with mental health concerns; and

(e) Undertake greater efforts to make available the necessary professional (i.e. disability specialists) and financial resources, especially at the local level and to promote and expand community-based rehabilitation programmes, including parent support groups.

*Health and health services*

(44) The Committee welcomes the various measures undertaken by the State party in the context of health reform, including the adoption of the National Policy and Strategic Plan of Healthcare for 1999–2010, the introduction of the free-of-charge medical treatment for children. However, the Committee is gravely concerned by the high rates of neonatal deaths and premature births as well as the overall state of prenatal and post-natal health care, in particular, among the minority groups. The Committee is also concerned that many children have limited access to medical care as a result of geographic restrictions, and about the marked disparities in the quality of water, which continues to have a negative impact on the health of the population in rural areas.

(45) **The Committee urges the State party allocate increased resources to address the high rates of neonatal deaths and premature births, by, inter alia, improving ante- and post-natal care and develop campaigns to inform parents about basic child health**

and nutrition, advantages of breastfeeding, hygiene and environmental sanitation, family planning and reproductive health. In this connection, the Committee encourages the State party to consider establishing a governmental body in charge of maternal and child health care and development at the executive and sub-national levels. The Committee also encourages the State party to continue to develop the system of fully subsidized health care that ensures the provision of the highest standard of health for all children, paying special attention to the most vulnerable families, including those in rural and remote areas.

(46) In the light of article 24 (c) of the Convention, the Committee also recommends that the State party strengthen measures to implement the Law on Product Harmlessness/Safety and Quality, with a view to preventing and combating the damaging effects of low-quality or contaminated water supplies, taking into account the particular vulnerability of children.

#### *Adolescent health*

(47) In view of the high number of pregnancies and the high and increasing rates of abortion, as well as the increasing incidence of sexually transmitted diseases, including HIV/AIDS, among adolescents, the Committee is concerned about the limited availability of health services, including reproductive health education and assistance for adolescents. The Committee also notes with concern the legislative provision which stipulate that a child under the age of 16 who wishes to see a doctor must be accompanied by a parent, and that sex and reproductive health education is not part of the school curriculum.

(48) The Committee recommends that the State party promote and ensure access to reproductive health services for all adolescents, including sex and reproductive health education in schools as well as youth-sensitive and confidential counselling and health-care services, taking into due account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child. In this regard, the Committee urges the State party to take legislative measures to ensure to all children under the age of 16 free and confidential access to medical counsel and assistance with or without parental consent.

#### *Mental health*

(49) The Committee is concerned about the absence of a national child mental health policy, particularly given the existence of serious gaps in the provision of mental health services for children, particularly adolescents, in the State party.

(50) The Committee recommends that the State party formulate a modern, evidence-based child mental health-care policy, and invest in the development of a comprehensive system of services, including mental health promotion and prevention activities, out-patient and in-patient mental health services, with a view to ensuring effective prevention of violence, suicidal behaviour and institutionalisation of children.

#### *HIV/AIDS*

(51) The Committee is concerned at the increasing number of children with HIV/AIDS or who are affected by the HIV/AIDS-related illness or death of their parents and other family members, and at the lack of concerted action by the State party.

(52) In the context of the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37), the Committee urges the State party to make efforts to accurately assess and monitor the scale of the HIV/AIDS problem in the country, to prevent the spread of HIV/AIDS and to allocate increased resources with a view to

providing assistance to children with HIV/AIDS and to children whose parents and other family members have HIV/AIDS. The Committee further recommends that the State party give particular attention to HIV/AIDS orphans and to ensuring that children with HIV/AIDS are not discriminated against. In this regard, the Committee encourages the State party to seek technical cooperation with UNICEF, WHO and the United Nations Programme on HIV/AIDS (UNAIDS).

*Standard of living*

(53) Despite the impressive overall economic progress achieved by the State party, the Committee remains concerned by the persistence of widespread poverty and deprivation in the country and notes that the overall standard of living of many children is very low, as measured by indicators such as access to housing, water and sanitation. In particular, it expresses concern at the large disparities in living standards among children in the State party, depending on, inter alia: rural/urban residence; family size and structure; refugee or internally displaced persons (IDP) status. The Committee also notes with regret that no information has been provided by the State party on whether children are prioritized and mainstreamed in its poverty-reduction strategy.

(54) **The Committee recommends that the State party take steps to improve the standard of living of children as a matter of priority, giving particular attention to housing, water and sanitation. In this regard, the State party is urged to allocate sufficient funds in order to counteract the persistent inequality and effectively reduce the disparities and improve the extremely low standard of living of, inter alia, families with several children, refugee and internally displaced families, and families living in rural and remote areas. In particular, increased access to basic services including clean running water and sewerage disposal should be targeted as a priority.**

(55) **The Committee urges the State party to mainstream children and prioritize their needs in a separate chapter its poverty reduction strategy, the “Programme on Economic Growth and Elimination of Poverty”. This should ensure the implementation of programmes that specifically promote the full development of children and protect them against detrimental effects of growing up in poverty and extreme poverty. The Committee further recommends that the State party monitor the poverty situation of children regularly and take urgent measures to address all negative indicators.**

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

(56) The Committee welcomes the enactment of the Law on General Education, in 2005, and notes with appreciation the increase in the allocation of State resources to education, particularly in the 2006 and 2007 budgets, as well as the progress of the programme to develop school infrastructure and the intensified teachers’ in-service training. Nevertheless, the Committee remains concerned about the general quality of education and about the poor infrastructure of many schools, as well as the growing disparity in educational standards between rural and urban areas. The Committee is concerned about the hidden costs of education which may hinder access for children from low-income families, and that drop-out rates are progressively higher in later stages of schooling, particularly in rural areas.

(57) **The Committee recommends that the State party:**

- (a) **Continue to increase budget allocations to the educational sector;**
- (b) **Focus on an overall improvement of the quality of education provided, particularly in rural and minority regions, by, inter alia, ensuring that teachers are fully qualified and trained;**

(c) Take further measures to facilitate the accessibility to education of children from all groups in society by, inter alia, improving material provisions in schools and eliminate additional costs of schooling so that no child is discriminated in their enjoyment of the right to education due to the financial circumstance of his/her parents;

(d) Take measures to increase school attendance and reduce dropout and repetition rates, including by providing assistance and counselling to children; and

(e) Take measures to increase enrolment in early childhood development programmes and pre-school institutions, in particular with regard to children growing up under economic hardship and deprivation.

**7. Special protection measures (arts. 22; 30; 38; 39; 40; 37 (b)–(d); 32–36 of the Convention)**

*Refugee children*

(58) While welcoming the April 2007 amendments to the Law on Refugees Issues which grant refugees registered in Georgia temporary residence permits, and that the Law is in the process of being revised to bring it closer in line with international standards, the Committee is concerned about the deprived living conditions of refugees living in the State party, including Chechen refugees. The Committee is particularly concerned about the lack of sufficient protection of the rights of children in isolated refugee communities that severely hampers development and well-being of these children.

**(59) The Committee recommends that the State party revise its legislation on refugees and asylum-seekers in line with the 1951 Convention. The Committee recommends the State party to meet the specific protection needs of refugee and asylum-seeking children, including unaccompanied and separated children, in line with the Committee's general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin, should be taken into account.**

*Internally displaced children*

(60) While welcoming the newly adopted draft action plan for the implementation of the national strategy on internally displaced persons adopted on 2 February 2007 with an increased focus on integration, the Committee remains concerned that internally displaced children in the State party continue to face serious socio-economic deprivation, especially their limited access to housing, health services and education, as well as the physical and psychological impact of displacement on children. The Committee is further concerned about the potential negative impact of segregated schools for internally displaced children.

**(61) The Committee recommends that the State party give the highest priority to the protection of the rights of internally displaced children. In this regard, the Committee recommends that the State party:**

(a) Continue to follow up the recommendations of the Special Representative of the Secretary-General on Internally Displaced Persons contained in the report on his mission to Georgia (see E/CN.4/2006/71/Add.7), in particular those relating to the incorporation of the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2) in the State party's legislation and policies on internally displaced persons;

(b) Integrate internally displaced children and families into the State social assistance schemes as a matter of priority and ensure that all public services and programmes are accessible and available to them;

(c) Take measures to close segregated schools for internally displaced children, and integrate them in mainstream schools without delay; and

(d) Ensure that appropriate alternative accommodation is made available to all residents, especially families with children, upon the closure of collective centres, while seeking long-term solutions.

*Economic exploitation, including child labour*

(62) The Committee notes the State party's position that child labour is not a problem in Georgia, however it is concerned that the Child Labour Survey conducted by the State Department for Statistics in 2004 indicated that over 21.5 per cent of children in the State party were engaged in economic activities and that 10.56 per cent of children were undertaking work in conditions that violate their rights and harm their development.

(63) **In line with article 32 of the Convention and the International Labour Organization (ILO) Conventions No. 138 (1973) concerning the Minimum Age for Admission to Employment and No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour to which Georgia is a party, the Committee recommends that the State party take steps to prevent child labour by, inter alia:**

(a) **Formulating, in a participatory manner, a strategy to prevent child labour and eliminate the worst forms of child labour and to safeguard the rights of children who are legally allowed to work;**

(b) **Strengthening the labour inspectorate to ensure the effective implementation of child labour laws, both in the formal and informal sectors; and**

(c) **Seeking assistance from ILO International Programme on the Elimination of Child Labour (IPEC) in this respect.**

*Street children*

(64) While noting that a study on street children is currently under way, the Committee remains concerned by the absence of strategic measures addressing the situation of children who work or live in the street. The Committee is particularly concerned about the plight of these children in view of the risks to which these children are exposed, including trafficking.

(65) **The Committee recommends that the State party:**

(a) **Provide street children with recovery and social reintegration services, taking into account their views in accordance with article 12 of the Convention, and provide them with adequate nutrition, housing, necessary healthcare and educational opportunities;**

(b) **Carry out a comprehensive study to assess the scope, nature and root causes of the presence of street children in the country in order to develop a national policy for prevention;**

(c) **Ensure that the availability of shelters is sufficient, in Tbilisi as well as in other parts of the country;**

(d) **Develop a policy for family reunification where possible and in the best interests of the child;**

(e) **Conduct public awareness campaigns to address the stigma attached to street children; and**

- (f) **Collaborate with NGOs and seek technical assistance from, inter alia, UNICEF.**

*Sexual exploitation of children*

(66) The Committee is concerned about the paucity of information provided with regard to sexual exploitation and prostitution of children in the State party, and in particular, expresses concern about the absence of:

- (a) Comprehensive legislation to prevent sexual exploitation of children;
- (b) Protection and/or recovery assistance and social reintegration for children who are victims of sexual exploitation; and
- (c) Data on the extent and patterns of sexual exploitation and prostitution.

(67) **The Committee recommends that the State party:**

(a) **Adopt a comprehensive law to prevent sexual exploitation and prostitution of children;**

(b) **Take appropriate legal and other measures to protect children who are victims of sexual exploitation and prostitution, and prosecute perpetrators of sexual abuse and exploitation;**

(c) **Train law enforcement officials, social workers, judges and prosecutors on how to receive, monitor and investigate complaints, and in a child-sensitive manner that respects confidentiality;**

(d) **Implement appropriate policies and programmes for the prevention, recovery and social reintegration of child victims, including education and training as well as psychological assistance and counselling, taking into consideration the Declaration and Agenda for Action and the Global Commitment adopted at the first and second World Congress against Commercial Sexual Exploitation of Children in 1996 and 2001 respectively; and**

(e) **Collaborate with relevant NGOs and seek technical assistance from, inter alia, UNICEF.**

*Trafficking*

(68) While welcoming the various measures taken to address the problem of trafficking in persons, including the adoption of a new anti-trafficking law in April 2006, the National Action Plan regarding the Fight against Trafficking in Persons in Georgia (2007–2008) and the establishment of an inter-agency Anti-trafficking Council, the Committee remains concerned that insufficient legal guarantees exist to ensure that child victims of trafficking are not penalized, and that insufficient attention has been paid to the particular vulnerabilities of orphans, children working and living in the street and internally displaced children to trafficking and other forms of exploitation.

(69) **The Committee recommends that the State party continue and strengthen its efforts to prevent and combat child trafficking. In this regard, the Committee encourages the State party to:**

(a) **Improve the system of monitoring and evaluation of policies, programmes and projects, with particular attention to vulnerable groups of children;**

(b) **Ensure that all trafficking cases are investigated and that perpetrators are charged and punished;**

(c) Ensure that child victims of trafficking are protected and not criminalized and that they are provided with adequate recovery and social reintegration services and programmes;

(d) Seek to establish further bilateral agreements and subregional multilateral agreements with countries concerned, including neighbouring countries, to prevent the sale, trafficking and abduction of children; and

(e) Continue its cooperation with, inter alia, UNICEF and the International Organization for Migration (IOM).

*Administration of juvenile justice*

(70) While noting that a reform of the criminal justice system is currently underway, the Committee is concerned that the Convention does not appear to be adequately reflected in guiding documents on the State reform of the criminal justice system, for example, the "Implementation Plan for the Strategy of Criminal Justice Reforms in Georgia, 12 June 2006". In particular, the Committee is concerned about:

(a) The abolishment, in November 2006, of the Commission of Minors and the Inspectorate of Minors, the only specialist unit dealing with prevention activities with regard to juveniles, and that apparently no appropriate mechanism has been put in its place;

(b) The increasing number of children entering the criminal justice system and receiving custodial measures and punishments;

(c) The lack of juvenile courts;

(d) The absence of efficient mechanisms to ensure that imprisonment is used as a last resort and for the shortest possible period of time (e.g. pre-sentence reports, risk and needs assessment, individual sentence planning, parole board); and the often disproportionate length of sentences in relation to the seriousness of offences;

(e) The lack of community-based programmes offering an alternative to prosecution and custody, in particular, the negative impact of the 2006 "Zero-Tolerance" policy on juvenile offenders, such as the reduced possibility of alternative sentencing;

(f) The excessive length of pre-trial detention and the limited access to visitors during this period;

(g) The conditions of detention; and

(h) The absence of facilities for the physical and psychological recovery and social reintegration of juvenile offenders.

**(71) The Committee reiterates its previous recommendation that the State party bring the system of juvenile justice fully in line with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in the field of juvenile justice, including 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), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules) and the Vienna Guidelines for Action on Children in the Criminal Justice System; and the Committee's general comment No. 10 (2007) on children's rights in juvenile justice. In this regard, the Committee recommends the State party in particular:**

**(a) Undertake all necessary measures to ensure the establishment of juvenile courts and the appointment of juvenile judges in all regions of the State party;**

(b) Ensure that all professionals involved with the system of juvenile justice are trained on relevant international standards;

(c) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time; protect the rights of children deprived of their liberty and monitor their conditions of detention; and ensure that children remain in regular contact with their families while in the juvenile justice system;

(d) Take a holistic and preventive approach to addressing the problem of juvenile crime (e.g. addressing underlying social factors) advocated in the Convention with a view to supporting children at risk at an early stage, by using alternative measures to detention such as diversion, probation, counselling, community service or suspended sentences, wherever possible;

(e) Provide children with legal and other assistance at an early stage of the procedure and ensure that children in detention are provided with basic services (e.g. schooling and healthcare); and

(f) Request further technical assistance in the area of juvenile justice and police training from the United Nations Interagency Panel on Juvenile Justice.

*Minimum age for criminal responsibility*

(72) The Committee deeply regrets the decision of the State party to lower the minimum age for criminal responsibility from 14 to 12.

(73) **The Committee strongly urges the State party to reinstate, as a matter of urgency, the minimum age of criminal responsibility at 14 years, taking into account the Committee's general comment No. 10 in which States parties are urged not to lower their minimum age of criminal responsibility to the age of 12 (para. 33) on the grounds that a higher age, such as 14 and 16 years of age, contributes to the juvenile justice system which deals with children in conflict with the law without resorting to judicial proceedings, providing that the child's human rights and legal safeguards are fully respected, in accordance with the article 40(3)(b) of the Convention.**

*Protection of victims and witnesses of crimes*

(74) **The Committee recommends that 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 to 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).**

*Children belonging to minority groups*

(75) While recognizing the State party's efforts to ensure equal enjoyment of rights for children belonging to minority groups, including the establishment, in 2005, of the Council of National Minorities and the National Council on Civic Integration and Tolerance (NCCIT), the Committee remains concerned that children from minority populations experience discrimination in the enjoyment of their rights as stipulated in the Convention, in particular, concerning culture and language.

(76) The Committee notes that after the "Rose Revolution", the State party has been encouraging its population, through the enforcement of its language law, to use Georgian in all public spheres. However, the Committee is concerned that insufficient efforts have been

made by the State party to facilitate learning by children belonging to minority groups in Georgia, both in Georgian and in their own language.

(77) **The Committee urges the State party to:**

(a) **Recognize the rights of children belonging to minority groups in line with article 30 of the Convention by which a child belonging to such a minority has the right to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language, and to consider adopting a comprehensive legal act providing protection of their rights;**

(b) **Guarantee, in the context of the State Language Programme, the quality of instruction of the Georgian language to children belonging to minority groups so as to ensure that minority-language-speaking children can participate on a more equal level with Georgian-speaking children, in particular at higher education levels;**

(c) **Take the necessary measures to ensure that access to higher education by pupils belonging to minority groups is not hindered solely by their inability to pass the Georgian language exams;**

(d) **Implement the National Civic Integration Strategy and Action Plan in such a way that all the children of Georgia will be taught about the culture, history and identity of the various groups living in Georgia and that exchanges are organized between pupils of different schools in order to foster contacts, friendships and mutual respect among children from all groups of society;**

(e) **Ensure that the rights of all children to use their own language is guaranteed in practice, through, inter alia, strengthened efforts to address linguistic needs of children belonging to minority groups; and**

(f) **Strengthen its mechanisms for data collection on children belonging to minority groups so as to identify existing gaps and barriers to exercise their rights to their own culture, use of their own language and preservation and development of their own identity, with a view to developing legislation, policies and programmes to address such gaps and barriers.**

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

### *Ratification of international human rights instruments*

(78) The Committee notes with regret that the State party has not yet ratified: the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; the International Convention on the Protection of the Rights of All Migrant Workers and their Families; the Convention on the Rights of Persons with Disabilities; and the International Convention for the Protection of all Persons from Enforced Disappearance.

(79) **The Committee encourages the State party to consider ratifying the international human rights instruments to which it is not yet party.**

### *Follow-up*

(80) **The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the Parliament (*Umaghlesi Sabcho*), relevant ministries and the municipal authorities for appropriate consideration and further action.**

*Dissemination*

(81) **The Committee further recommends that the third periodic report and written replies submitted by the State party and related recommendations (concluding observations) it adopted be made widely available in the relevant languages (including minority languages), including through internet (but not exclusively), to the public at large, civil society organizations, youth groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.**

**9. Next report**

(82) **The Committee invites the State party to submit its fourth periodic report, by 1 July 2011. This report should not exceed 120 pages (see CRC/C/118).**

(83) **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 harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents”, approved at the fifth Inter-Committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).**

**24. Bulgaria**

(1) The Committee considered the second periodic report of Bulgaria (CRC/C/BGR/2) at its 1318th and 1319th meetings (see CRC/C/SR.1318 and 1319), held on 21 May 2008, and adopted at its 1342nd meeting, held on 6 June 2008, the following concluding observations.

**A. Introduction**

(2) The Committee welcomes the State party's second periodic report, and the written replies to its list of issues (CRC/C/BGR/Q/2/Add.1). The Committee further notes with appreciation the dialogue with the multisectoral delegation.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/BGR/CO/1) and the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/BGR/CO/1) adopted on 5 October 2007.

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

(4) The Committee notes the enactment of the Child Protection Act of 30 October 2000 by virtue of decree No. 226 and the establishment of the State Agency for Child Protection and adoption of the Child Protection Policy of 30 October 2000 by virtue of decree No. 226.

(5) The Committee welcomes the signature of the Convention on the Rights of Persons with Disabilities on 27 September 2007.

## C. Main subjects of concern and recommendations

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

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

(6) While the Committee notes that some of its previous recommendations (CRC/C/15/Add.66 of 1997) have been implemented, it regrets that many of them have not been sufficiently addressed, including the recommendations regarding an independent body to monitor the observance of the rights of the child, institutionalization and abandonment of children, children belonging to minority groups, especially Roma children, and the administration of a juvenile justice system.

**(7) The Committee urges the State party to make every effort to implement the recommendations from the concluding observations of the initial report that have not yet been sufficiently addressed and to provide adequate follow-up to the recommendations contained in the present concluding observations.**

#### *Legislation*

(8) While the Committee appreciates the steps taken by the State party to harmonize legislation in order to ensure greater consistency with the Convention, it is concerned that some aspects of domestic legislation are not consistent with the principles and provisions of the Convention such as in the areas of family life and fair trial. In particular the Committee is concerned that the Child Protection Act does not cover all areas of the Convention. Furthermore, the Committee expresses concern that existing legislation is not effectively implemented in all areas of the rights of the child.

**(9) The Committee recommends that the State party continue harmonizing its legislation with the principles and provisions of the Convention, incorporate the Convention fully into the Child Protection Act and ensure the effective implementation of domestic legislation pertaining to the rights of the child.**

#### *Coordination*

(10) The Committee notes that the State Agency for Child Protection (SACP) is mandated both to implement and monitor implementation of the Convention and that the National Council for Child Protection has been established. However, the coordination especially with regard to the local-level Child Protection Departments, seems to be lacking and the different bodies have not been given sufficient capacity and financial resources.

**(11) The Committee recommends that the State party consider the establishment of a single mechanism for the coordination, monitoring and evaluation of all activities relating to the implementation of the Convention (maybe the SACP). Such a coordinating body should be adequately mandated and provided with sufficient financial and human resources to carry out its mandate effectively. In this regard, the Committee refers the State party to its general comment No. 5 on general measures of implementation for the Convention on the Rights of the Child (CRC/GC/2003/5).**

#### *National Plan of Action*

(12) While noting the National Strategy for Children 2008–2018 and the various sectoral plans of action that serve the needs of children, the Committee is concerned that plans, programmes and strategies are not followed by clear and efficient mechanisms for implementation. The Committee is also concerned that the State party lacks a mechanism for regular reviews and evaluations of such plans, programmes and strategies.

(13) **The Committee recommends that the State party include in its National Strategy for Children the existing sectoral action plans and address the possible divergences among these plans by putting them into a comprehensive national framework which covers all areas of the Convention, taking into account the outcome document of the 2002 General Assembly special session on children, “A world fit for children” and its mid-term review of 2007. The Committee urges the State Party to develop efficient and effective mechanisms to adequately implement and review all plans of action that are relevant for children and enjoyment of their rights.**

*Independent monitoring*

(14) While welcoming the establishment of the position of Ombudsman at the national and regional levels, the Committee is concerned that the Office of the Ombudsman has no specific mandate to monitor, promote and protect the rights of the child. The Committee is further concerned that there are insufficient resources assigned specifically to children’s issues within the office. The Committee also regrets that the Ombudsman has not been accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) in order to ensure its compliance with the Paris Principles.

**(15) The Committee recommends to the State party that an independent monitoring agency be given the responsibility to monitor and promote children’s rights and provide an accessible complaint mechanism for children and their representatives. The agency should be provided with sufficient human and financial resources to carry out its mandate in accordance with the “Paris Principles” (annexed to General Assembly resolution 48/134 of 20 December 1993) and general comment No. 2 (CRC/GC/2002/2) on the role of independent national human rights institutions. This agency could be a separate Children’s Rights Office or be incorporated into the existing Ombudsman’s Office, through designation of a deputy charged with the responsibility for children’s rights. The Committee further recommends that the Ombudsman apply for accreditation with the ICC.**

*Allocation of resources*

(16) While noting the increase of funds budgeted for specific child rights programmes, the Committee is concerned at the inadequate State annual budget allocated for areas affecting children including for health, education and social assistance in general. Furthermore, the Committee is concerned at the reported corruption which may have a negative impact on the allocation of already limited resources to effectively improve the promotion and protection of children’s rights, including regarding to health and education.

**(17) The Committee recommends the prioritization of children’s rights and welfare in the State party’s budget policy. In this regard, the Committee recommends that the State party, in accordance with article 4 of the Convention, further increase budget allocations for the implementation of the rights recognized in the Convention and especially for health, education and family support. In this regard the Committee urges the State party to pay particular attention to economically disadvantaged, marginalized and neglected children, including Roma children, with a view to alleviating disparities, deficits and inequalities. Furthermore, the Committee recommends that the State party strengthen the skills of the personnel of the administration of child protection system as well as local Governments in planning and management of budgets that address the needs of children and families. The Committee also recommends budget tracking to monitor spending on children and that all necessary measures be taken in order to prevent and eliminate corruption in all sectors of society.**

*Data collection*

(18) The Committee commends the State party for having set up within SACP a data collection system which is active in eight regions of the country. However, the Committee regrets that disaggregated data on many areas of the Convention are not available such as on children victims of violence, children with disabilities, the situation of child labour, street children, economic and sexual exploitation, and marginalized children and that the State party does not have a centralized system of data collection.

**(19) The Committee recommends that the State party strengthen its efforts to develop a centralized system for comprehensive collection of data on the rights of all children up to the age of 18 with a specific emphasis on vulnerable groups of children, including Roma children, and ensure that data allow for disaggregation, inter alia, according to sex, age, urban/rural areas and ethnic or social origin.**

*Dissemination of the Convention and training*

(20) The Committee welcomes the information that human rights are included in school curricula. However, the Committee is concerned that systematic teaching of the Convention's principles and provisions has not yet reached all professionals working with and for children and that human rights and in particular the rights of the child are still not included in the curricula at all educational levels. It is also concerned that the level of awareness of the Convention seems low among the public at large and among children themselves.

**(21) The Committee recommends that the State party:**

**(a) Strengthen its efforts to provide adequate and systematic training and/or sensitization on children's rights to professional groups working with and for children, such as law enforcement officials, parliamentarians, judges, lawyers, health personnel, teachers, school administrators, academics, social workers, media professionals and others as required;**

**(b) Pay particular attention to the systematic inclusion of teaching of the Convention's principles and provisions, at all levels of the school curricula;**

**(c) Give special attention to the participation of children in the dissemination of their rights;**

**(d) Encourage the media to ensure its sensitivity to children's rights as well as the inclusion of children in the development of programs; and**

**(e) Continue and strengthen its efforts to increase the awareness of the Convention and its principles and provisions and to disseminate the Convention throughout the country, in close cooperation with non-governmental organizations (NGOs) and other stakeholders and by paying particular attention to the remote and rural areas and children out of school.**

*Cooperation with civil society*

(22) While welcoming the efforts undertaken by the State party to establish relationships between the Government and civil society including non-governmental organizations, the Committee is concerned that cooperation with non-governmental organizations with regard to preparation of the report as well as to the implementation of the Convention remains insufficient.

**(23) The Committee recommends that the State party strengthen its collaboration with civil society and widen the scope of cooperation so as to ensure cooperation on a broad level in all areas related to the promotion and protection of the rights of the**

child and throughout all stages of the implementation and monitoring of the Convention. This cooperation should in particular be established at the community level, with an emphasis on enabling civil society organizations to contribute to promotion and implementation of child rights including through provision of services.

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

*Non-discrimination*

(24) While noting the efforts undertaken by the State party to counter discrimination, including through the Law on Protection against Discrimination, the Committee is deeply concerned at the persistent discrimination against Roma children, as well as children living in institutions and children with disabilities, in particular with regard to access to education, health care and housing. The Committee is also concerned that, in spite of considerable international assistance, the Programme for Equal Integration of Roma into Bulgarian Society lacks an adequate strategic approach and sufficient coordination.

**(25) The Committee recommends that the State party:**

**(a) Effectively ensure that all children within its jurisdiction enjoy the rights enshrined in the Convention without discrimination, in accordance with article 2 of the Convention by implementing the existing law;**

**(b) Undertake comprehensive public education campaigns to prevent and to address negative societal attitudes and behaviour based on sex, age, race, nationality, ethnicity, religion and disability;**

**(c) Implement the Programme for Equal Integration of Roma into Bulgarian Society, and provide for sufficient human resources, an adequate strategic approach and effective coordination;**

**(d) Explicitly include, by taking into account its general comment No. 9 (2006), specific prohibition of discrimination on the ground of disability in other specific legal provisions, including the Public Education Act; and**

**(e) Include information in the next periodic report on 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, and taking account of the Committee's general comment No. 1 on the aims of education (CRC/GC/2001/1).**

*Respect for the views of the child*

(26) While noting that the principle of the respect of the views of the child is incorporated in the Child Protection Act, the Committee is concerned that traditional practices and cultural attitudes limit the full implementation of article 12 of the Convention, especially in judicial and administrative decisions. The Committee further regrets the lack of information on best practices available of judicial decisions in particular with regard to family matters. The Committee is also concerned that no information on children's participation was received, even though a Child Council has been established as a consultative body to the SACP.

**(27) The Committee recommends that the State party:**

**(a) Strengthen its efforts to ensure that children have the right to express their views freely in all matters affecting them and to have those views given due weight in schools and other educational institutions, as well as in the family, and**

reduce the disparities in the opportunities for the participation of students from different social backgrounds and various regions;

(b) Ensure that children are provided with the opportunity to be heard in any judicial, including civil (family, divorce) and penal matters, and in administrative proceedings affecting them, and that due weight is given to those views in accordance with the age and maturity of the child, and not with a strict age limit;

(c) Develop a systematic approach to increase public awareness of the rights of children to express views and be heard and encourage respect for the views of children within the family, school, care institutions, community and the administrative and judicial system;

(d) Ensure the involvement of children and child-focused organizations, including the Child Council, in the preparation and implementation of major developmental plans and programmes in the country, such as national development plans, action plans, annual budgets and poverty reduction strategies; and

(e) Take into account the recommendations adopted on the Committee's day of general discussion on the right of the child to be heard (September 2006).

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

#### *Torture or other cruel, inhuman or degrading treatment or punishment*

(28) The Committee welcomes the existence of complaints and investigation mechanisms allowing children in institutions or detention to file complaints. However, the Committee is concerned at the numerous allegations of children being ill-treated and/or tortured and that data in that regard are not available and particularly on cases occurring in schools and police stations.

(29) The Committee recommends that the State Party:

(a) Expand and facilitate children's ability to file complaints about ill-treatment in these institutions and ensure the prosecution of offences;

(b) Strengthen its efforts to eradicate all acts of degrading treatment and violation of children's dignity in schools, boarding schools, remand and detention centres;

(c) Enhance training for staff of these institutions in order to raise their awareness and to impress upon them the rights of the child which have to be strictly ensured also in these institutions; and

(d) Raise teachers' awareness on peer mobbing and bullying in classrooms and schools and encourage schools to adopt action plans to address these harmful behaviours.

(30) With reference to the United Nations Study on violence against children, the Committee recommends that the State party:

(a) Take all necessary measures to implement recommendations of the United Nations Study on violence against children (A/61/299) taking into account the outcome and recommendations of the Regional Consultation for Europe and Central Asia held in Ljubljana from 5 to 7 July 2005. In particular, the Committee recommends that the State party pay particular attention to the following recommendations:

(i) Strengthen national and local commitment and action;

- (ii) **Prioritize prevention;**
- (iii) **Promote non-violent values and awareness-raising;**
- (iv) **Enhance the capacity of all who work with and for children;**
- (v) **Create accessible and child-friendly reporting systems and services;**

(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 child is protected from all forms of physical, sexual and mental violence and to gain momentum for concrete 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 Office of the United Nations High Commissioner for Human Rights (OHCHR), UNICEF and the World Health Organization (WHO) and other relevant agencies, inter alia, the International Labour Organization (ILO), UNESCO, the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office on Drugs and Crime (UNODC), as well as NGO partners.**

#### *Corporal punishment*

(31) While noting that corporal punishment is unlawful in the home, schools, the penal system, alternative care settings, and in situations of employment, the Committee is concerned that children are still victims of corporal punishment in all the above-mentioned settings.

(32) **The Committee urges the State party, to take into account its general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/GC/2006/8), to enforce the ban of corporal punishment by:**

- (a) **Undertaking public and professional awareness-raising;**
- (b) **Promoting non-violent, positive, participatory methods of childrearing and education and reinforcing knowledge among children of their right to protection from all forms of corporal punishment; and**
- (c) **Bringing offenders before the competent administrative and judicial authorities.**

#### **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*

(33) The Committee notes the numerous efforts undertaken by the State party to deal with the rights of the child within the family setting. However, the Committee is concerned at the inadequate support provided to families with children and especially to families in a crisis situation due to poverty, families caring for children with disabilities and to single-parent households. Furthermore, the Committee is concerned that insufficient early intervention, including family support and crisis intervention, gives rise to neglect and abandonment of children and is the root cause of the high number of institutionalized children. In that regard the Committee is concerned at the insufficient availability of family counselling services and parental education programmes as well as professional staff trained to identify and address family problems.

(34) **The Committee recommends that the State party:**

(a) Redirect allocations of national and regional budgets, with increasing funding for programmes and services to encourage the possibility of children to remain in their family environment;

(b) Increase support to families with children, in particular for those living in poverty, families caring for children with disabilities and to single-parent households;

(c) Develop and financially support community-based and family-focused services for families at risk of social problems and families who care for children with developmental challenges, disabilities or health problems; and

(d) Establish social services providing family counselling and parenting education and train professionals, including social workers providing assistance to parents in the upbringing of their children and provide them with continuous, gender sensitive and targeted training.

*Alternative care*

(35) While noting the State party's indication that foster care, as an alternative type of placement of children without parental care, is preferred over institutional care, the Committee is concerned at the insufficient numbers and adequate training of foster families, which results in the high proportion of children still placed in institutions. The Committee is also concerned that coordination within the care system, as well as the periodic review of placement, is not a regular practice in all alternative care placements.

(36) The Committee recommends that the State party review its policies on alternative care for children deprived of a family with a view to developing a more integrated and accountable system of care and support by:

(a) Strengthening and expanding the foster care system through improved training of social workers and increased counselling and support for foster families;

(b) Enhancing coordination between all persons involved in the care of children deprived of a family environment, including police, social workers, foster families and the staff of public and private orphanages;

(c) Establishing a set of standards and procedures for all public and private organizations working with these children that encompass the principles of the Convention, particularly the best interests of the child and respect for the views of the child, and ensure that their placement is periodically reviewed, in accordance with article 25 of the Convention;

(d) Taking steps to regularly monitor the status of children in kinship homes, foster care, pre-adoptive homes and other care institutions;

(e) Ensuring regular visitations and inspections of all alternative-care facilities;

(f) Providing an independent child accessible complaints mechanism; and

(g) Developing care plans for each child in care which will be reviewed on a regular basis.

*Adoption*

(37) The Committee notes the steps taken in the area of adoption with regard to the harmonization of law and procedures with the principles and provisions of the Convention and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (1993) and takes note of the preparation of the draft Family Code.

The Committee while noting the increased controls in the adoption procedures, both national and inter-country, is concerned about the insufficient organizational and human resources provided to the central adoption authority in order to fulfil its function. Furthermore, the Committee is concerned at the high number of children waiting for adoption and that there are difficulties in placing children of Roma origin within the State party.

**(38) The Committee recommends that the State party strengthens its central adoption authority and other bodies dealing with the adoption process with a view to:**

**(a) Establish a training programme on adoption for, inter alia, judges, lawyers, staff of the national registry and for the accreditation bodies;**

**(b) Provide public awareness about adoption and the conditions for adopting to the public at large, preparation for prospective adoptive parents and children about their upcoming adoption;**

**(c) Ensure adequate procedures to monitor all steps of the adoption process effectively;**

**(d) Ensure that children of Roma origin are not discriminated against in the adoption process and establish programmes to reduce misconceptions related to the adoption of Roma children; and**

**(e) Ensure that the child's best interests are the paramount consideration in all adoption procedures.**

*Children without parental care living in social care institutions*

(39) While noting the Government's efforts to deinstitutionalize children, and also to improve the situation of children in institutions, the Committee is concerned that limited progress has been made in reducing the large number of children, especially Roma children, placed in institutions. Furthermore, the Committee is concerned at the insufficient and inadequately trained personnel working within these institutions and at the inadequate budgetary allocations which may have a negative impact on the physical conditions prevailing in these institutions and the quality and quantity of the food and other services provided. The Committee is also concerned that some children leaving institutions are not well prepared to take on the responsibility of adult life and that not all of them are eligible for further support services. The Committee is also concerned at reports that many children lacking parental care, in particular abandoned children, are apprehended and placed in the same closed facilities as children suspected or accused of criminal wrongdoing.

**(40) The Committee recommends that the State party, while taking into account the recommendations of the day of general discussion on children without parental care (CRC/C/153):**

**(a) Continue its efforts for deinstitutionalization while taking steps to ensure that appropriate alternative accommodations are provided for each child;**

**(b) Ensure that there are enough and properly trained staff and carers for all facilities and adequate resources for the proper functioning and monitoring of the system;**

**(c) Continue providing training and education programmes, in collaboration with NGOs, for children who leave the institutions and encourage their reintegration into society;**

(d) Ensure that children without parental care are placed in facilities separated from children suspected or accused of criminal wrongdoing, in order to provide them with appropriate care;

(e) Provide these children with mainstream education; and

(f) Take into account the views and best interests of the child while aiming, whenever possible, at reintegrating them into their families.

*Abuse and neglect*

(41) The Committee is concerned at the increase in rates of children subjected to abuse, including psychological, physical and sexual abuse and that only a negligible number of cases reaches the courts.

(42) **The Committee recommends that the State party:**

(a) **Develop and implement a comprehensive strategy for the prevention and reduction of child abuse and neglect by, inter alia, undertaking awareness raising campaigns and providing adequate support to children and families at risk;**

(b) **Develop and implement an effective system for reporting of cases of child abuse and neglect, by inter alia, providing training for all professionals working with and for children;**

(c) **Strengthen the psychological and legal support for children victims of child abuse and neglect;**

(d) **Prosecute and sentence perpetrators of these crimes; and**

(e) **Ensure the access to and sustainability of the toll-free, 24-hour national helpline for children, and grant it a 3-digit number.**

**5. Basic health and welfare (arts. 6; 18, para. 3; 23; 24; 26; 27, paras. 1–3, of the Convention)**

*Children with disabilities*

(43) The Committee is concerned at the persisting shortage of resources for the development of educational, social and health services for children with disabilities and their families in their own living environment. Furthermore, the Committee is concerned that children with disabilities are often placed in large residential institutions and that these institutions do not provide the professional competence and special equipment required. The Committee is also concerned at the lack of efforts to develop an effective monitoring and data collection systems on the situation in social care homes for children with disabilities, particularly with regard to the right of children with disabilities to education. The Committee is also concerned that Roma children with disabilities experience double discrimination.

(44) **The Committee recommends that the State party, while taking into account 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 (CRC/C/GC/9) on the rights of children with disabilities, take all necessary measures to:**

(a) **Provide children with disabilities and their families with adequate support, including access to social protection to allow them to remain within their families;**

(b) Provide training for professional staff working with children with disabilities, such as medical, paramedical and related personnel, teachers and social workers;

(c) Establish a formal monitoring system for residential care homes for children which closely examines the right to education of children with mental and other disabilities, as well as ensure that monitoring incorporates concrete steps to follow up recommended actions, and favours the participation of civil society organizations;

(d) Develop and effectively apply new regulations to ensure that management of homes for children with mental disabilities is regularly evaluated in relation to securing the right to education and other rights for children living in the homes;

(e) Establish and implement a comprehensive data collection system which takes into consideration the number of children with disabilities (disaggregated by age, sex, and ethnic or social origin), number and categories of homes for children with mental disabilities, number of children entering and leaving the homes, information on where children are moved to, information on the number of children who have been integrated into special schools or mainstream schools;

(f) Use these data to develop a comprehensive and specific national policy on disability which promotes the full and equal enjoyment of all human rights and fundamental freedoms by all children with disabilities and their full and effective participation in society; and

(g) Develop skills of local-level governments and institutions, including Child Protection Departments, support activities of NGOs (especially organizations of parents) and cooperate with them in the process of continuing to develop community based day care and early childhood development services for children with special needs.

*Health and health services*

(45) The Committee notes the efforts undertaken in the area of health, including the reform of the health system as well as the special Health Strategy for Disadvantaged Persons from the Ethnic Minorities. However, the Committee remains concerned at the still limited and inequitable access to adequate health-care services, especially for Roma children and children in the rural areas, reflected, inter alia, in the relatively high infant mortality rate and in the segregation of Roma patients in hospital facilities that remains common practice.

(46) **The Committee recommends that the State party:**

(a) Develop a comprehensive programme to improve mother and child health, including through basic health care services for the most vulnerable children, in particular for Roma children and children living in rural areas;

(b) Take all necessary measures, including the continued training of health personnel, particularly those working in the Roma communities, to ensure equitable access to health services by the Roma population and other vulnerable groups;

(c) Closely collaborate with the minority communities and their respective leaders to elaborate effective measures to abolish traditional practices prejudicial to the health and well-being of children, such as early marriage; and

(d) Take all the necessary steps to end segregation in hospital facilities.

*Adolescent health*

(47) The Committee is deeply concerned about the high rate of early pregnancies and the high abortion rate among adolescents, which indicates that abortion may be used as a method of contraception. Furthermore, the Committee is concerned that the legal minimum age for medical treatment without parental consent is set at 16 years and notes the limited availability of programmes and services in the area of adolescent health at school. The Committee is also concerned at the shortage of mental health services provided to children.

**(48) The Committee recommends that the State party, taking into account the general comment No. 4 on adolescent health and development (CRC/GC/2003/4) of 2003:**

**(a) Take all necessary measures to provide adolescent reproductive health services and strengthen measures aimed at the prevention of early pregnancies through, inter alia, making a comprehensive range of contraceptives widely available, reproductive health education in schools and increasing knowledge about family planning;**

**(b) Undertake a comprehensive and multidisciplinary study to assess the scope of adolescent health problems including on psychological development;**

**(c) Strengthen training of general practitioners, nurses, social workers and other primary-care specialists in the field of mental health and emotional well-being of adolescents, with a view to improving the capacity and quality of child mental health professionals in the country;**

**(d) Lower the minimum legal age for medical treatment without parental consent; and**

**(e) Develop a comprehensive mental health policy, including, mental health promotion, prevention of suicidal and violent behaviour, outpatient day care and inpatient services for adolescents with mental health problems, as well as programmes to support families with children at risk.**

*Drug, tobacco, alcohol and other substance use*

(49) The Committee is concerned at the high incidence of drug, tobacco, alcohol, and other toxic substances use among children.

**(50) The Committee recommends the State party to take all necessary measures to address the incidence of drug, alcohol, tobacco, and other substance use among children by, inter alia, providing children with accurate and objective information about toxic substance use, including tobacco use.**

*HIV/AIDS*

(51) The Committee is concerned at the increase in sexually transmitted diseases (STDs) rates, particularly syphilis and HIV/AIDS amongst adolescents.

**(52) The Committee recommends that the State party, while taking into account the Committee's general comment No. 3 (CRC/GC/2003/3) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights, strengthen its preventive efforts by conducting campaigns and educational programmes, particularly within schools, in order to raise awareness on STDs, including syphilis and HIV/AIDS, as well as on prevention methods.**

*Standard of living*

(53) While noting the efforts undertaken by the State party to reduce poverty and social exclusion, the Committee is deeply concerned at the relatively low standard of living of a section of the child population and their families. Quite a large percentage of the population, especially children under 15 years and Roma and Turkish children, are living in poverty and social isolation and are deprived of equal opportunities and access to essential services. The Committee is also concerned that adequate housing remains a problem for many families and for children after they have left children's homes and institutions. Furthermore, the Committee is concerned that recent changes in the Social Assistance Act might put more children and vulnerable families at risk of poverty and lowered standards of living.

**(54) In accordance with article 27 of the Convention, the Committee recommends that the State party:**

**(a) Take steps to improve the standard of living of families with children, in particular of those living below the poverty line;**

**(b) Take all necessary measures to make adequate housing, sanitation and infrastructure available for all families including for low-income and large families and Roma communities; and**

**(c) Reinforce its efforts to alleviate poverty and to ensure and protect support and material assistance, with particular focus on the most marginalized and disadvantaged children and their families and to guarantee the right of children to an adequate standard of living.**

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

(55) The Committee commends the State party's programme to provide free textbooks and meals for certain vulnerable groups of children. The Committee also welcomes the State party's declaration that education is a priority of governmental policy, but does not see this reflected in the budget allocations for education, which still are low. The high drop-out rates, a concern of the Committee in the concluding observations following the initial report of Bulgaria in 1997, were not reduced, so that more than 25 per cent of the children in rural areas do not even finish the eighth grade. In general, the quality of education and the marked urban-rural disparities are a serious concern of the Committee.

(56) The Committee notes the efforts of the State party to better integrate Roma children in mainstream schools, including the National Programme and the Action Plan of 2005, but regrets the lack of data about Roma children and their educational achievements and remains concerned at the limited success of the efforts resulting in the continuation of segregated schools for Roma children and high repetition and drop-out rates. The Committee welcomes the goal of including the majority of children with disabilities in general education schools and regrets that the goal could not be realized. The Committee is concerned that many of these children are still regarded as uneducable and live in special boarding schools and that schools which enrol children with disabilities do not receive additional resources to assist these children appropriately.

(57) The Committee welcomes that one preschool year is mandatory and free, but is concerned that preschool facilities, which, according to the State party report, have unoccupied places, are not used for preparation of children with disabilities and Roma children for school. Furthermore, the Committee is concerned at the insufficient provision of vocational education and training, including for children who dropped out of school.

**(58) The Committee recommends that the State party:**

- (a) Increase the budget allocation for education;
- (b) Conduct a thorough analysis of the root causes of low achievement levels and drop-out of schools in order to develop measures which ensure that all children, in urban and in rural areas, complete the full course of compulsory education until the age of 16;
- (c) Strengthen its efforts to integrate Roma children into the general school system by enhanced teacher training, curriculum revisions and appropriate teaching and learning methods as well as intensified parental education and participation;
- (d) Include children with disabilities in the general school system, provide the needed personnel and material resources to the schools in which these children are enrolled and reduce the number of schools for children with special educational needs to the unavoidable minimum taking into account the Committee's general comment No. 9 on "The rights of children with disabilities" (CRC/C/GC/9);
- (e) Expand early childhood development programmes and preschool education to more children and in particular use the mandatory year before primary school for a better preparation of children from ethnic minorities, in particular Roma children, and children with disabilities taking into account the Committee's general comment No. 7 on implementing child rights in early childhood (CRC/C/GC/7/Rev.1);
- (f) Increase the quality of school, in particular by introducing interactive teaching methods, better equipment of schools, teacher training before start in school and in-service training and active involvement of teachers in reform processes;
- (g) Expand the integration of human rights and child rights education in the curriculum of all schools and shape learning and social life of schools accordingly taking into account the Committee's general comment No. 1 on the aims of education (CRC/GC/2001/1); and
- (h) Establish a vocational education and training system for children, who wish to enter practical occupations, including for children who dropped out before graduating from primary or secondary education.

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

*Economic exploitation including child labour*

(59) The Committee welcomes the fact that the State party's legislation restricts child labour and that the State party has developed a National Plan for Combating the Worst Forms of Child Labour. However, the Committee is concerned at the still large number of socially vulnerable children, especially Roma children, engaged in harmful and exploitative labour, particularly in agriculture, industry and domestic service. Furthermore, the Committee is concerned that there are no adequate or recent disaggregated data on child labour.

(60) **The Committee recommends that the State party:**

- (a) Introduce monitoring mechanisms to ensure the enforcement of labour laws and protect children from economic exploitation;
- (b) Collect data disaggregated by sex, age, urban/rural areas and ethnic or social origin on child labour;
- (c) Continue its collaboration with ILO in order to assess the situation of child labour, in particular within the informal sector, work on the streets and

**domestic work, in order to develop strategies to strengthen awareness, prevention and assistance programmes; and**

**(d) Take measures to ensure effective implementation of the ILO Conventions No. 138 and No. 182, which the State party has ratified.**

*Street children*

(61) The Committee appreciates the measures taken to address rights and needs of street children such as the adoption of the National Strategy for Protection of the Rights of Children in the Street in 2003 and the awareness and information campaigns undertaken in this area. However, the Committee is concerned that there are still a high number of children, predominantly Roma, living on streets and that street children are often placed in specialized institutions. Furthermore, the Committee is concerned that these children are especially vulnerable to trafficking and economic and sexual exploitation.

**(62) The Committee encourages the State party to continue its efforts in cooperation with relevant NGOs to fulfil the rights and needs of street children, to address the root causes and develop effective strategies to increase awareness about the rights of street children. Furthermore, the Committee urges the State party to provide protection and assistance to children currently living on the streets taking into account the views of these children. The State party is further urged to elaborate and implement programmes, on the basis of in-depth studies and analysis of the root causes, in order to prevent children from leaving families and schools for the street.**

*Sexual exploitation and abuse*

(63) The Committee is concerned at the rise in rates of children who are subjected to sexual exploitation and abuse and that only a negligible number of cases reach the courts.

**(64) The Committee recommends the State party to:**

**(a) Undertake in-depth studies and research to identify the scope, extent and root causes of sexual exploitation of children to facilitate the implementation of effective strategies;**

**(b) Increase its awareness raising campaigns and public education on sexual exploitation, prostitution and child abuse for children, their families, communities and the public at large and ensure the recognition of the gender perspective in these campaigns and in public education;**

**(c) Take measures to prosecute perpetrators of sexual exploitation of children and child abuse; and**

**(d) Implement appropriate policies and targeted programs for the 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 and 2001 World Congresses against Commercial Sexual Exploitation of Children.**

*Trafficking and abduction*

(65) The Committee remains concerned at the prevalence of national and cross-border trafficking especially of Roma children, young children and newborns and at the absence of related data.

**(66) The Committee encourages the State party:**

**(a) To collect data on trafficking disaggregated by sex, age, urban/rural areas and ethnic or social origin on trafficking;**

(b) To continue and strengthen its awareness-raising campaigns including through education and media campaigns;

(c) To increase protection provided to victims of trafficking, including prevention, social reintegration, access to health care and psychological assistance and free access to legal aid; and

(d) To enter into bilateral and multilateral agreements for the prevention of trafficking and for the rehabilitation and repatriation of trafficked children.

*Sale, prostitution and pornography*

(67) The Committee reminds the State party of the need to effectively implement its relevant concluding observations and recommendations on the Optional Protocol on sale of children, child prostitution and child pornography (CRC/C/OPSC/BGR/CO/1) adopted on 5 October 2007.

*Administration of juvenile justice*

(68) The Committee notes with appreciation the amendments to the Juvenile Delinquency Act, the introduction of measures regarding deprivation of liberty by courts and the adoption of the new Criminal Procedure Code in 2005. However, the Committee is concerned:

(a) That the State party has not established specialized juvenile courts or chambers within the existing settlements as recommended by the Committee in its previous concluding observations;

(b) At the definition of “anti-social behaviour” of juveniles which contradicts international standards;

(c) That despite the fact that the Juvenile Delinquency Act defines the minimum legal age for criminal responsibility at the age of 14, children at a very low age (8 years old) are considered by measures of prevention and re-education fixed by article 13 of the Juvenile Delinquency Act and which may be decided by the local Commission, without adequate guarantees;

(d) That the deprivation of liberty is not used as a means of last resort;

(e) At the high percentage of children placed in correctional-educational institutions; and

(f) At the inadequate conditions prevailing in prisons and detention centres, including overpopulation and poor living conditions.

(69) The Committee recommends that the State party take prompt measures to fully bring the system of juvenile justice in line with the Convention, in particular articles 37(b), 40 and 39, as well as with other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules), the Vienna Guidelines for Action on Children in the Criminal Justice System and the recommendations of the Committee’s general comment No. 10 (CRC/C/GC/10) on children’s rights in juvenile justice. In this regard, the Committee recommends that the State party:

(a) Implement the Committee’s recommendations (CRC/C/15/Add.66) regarding juvenile justice;

(b) **Reform the Juvenile Delinquency Act and the Criminal Procedure Code with the view to withdraw the notion of anti-social behaviour;**

(c) **Make a clear definition of the legal age of criminal responsibility in order to guarantee that children under the age of fourteen years are totally treated outside of the criminal justice system on the basis of social and protective measures;**

(d) **Set up an adequate system of juvenile justice, including juvenile courts with specialized judges for children, throughout the country;**

(e) **Use deprivation of liberty, including placement in correctional-educational institutions, as a means of last resort and, when used, regularly monitor and review it taking into account the best interests of the child;**

(f) **Provide a set of alternative socio-educational measures to deprivation of liberty and a policy to effectively implement them;**

(g) **Ensure that children deprived of their liberty remain in contact with the wider community, in particular with their families, as well as friends and other persons or representatives of reputable outside organisations, and are given the opportunity to visit their homes and families;**

(h) **Focus on strategies to prevent crimes in order to support children at risk at an early stage;**

(i) **Train judges and all law enforcement personnel who come into contact with children from the moment of arrest to the implementation of administrative or judicial decisions taken against them;**

(j) **Ensure independent monitoring of detention conditions and access to effective complaints, investigation and enforcement mechanisms; and**

(k) **Seek technical assistance from the United Nations Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.**

(70) **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 to 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).**

#### *Roma children*

(71) While noting that efforts are undertaken to ensure equal enjoyment of rights for Roma children as through the National Action Plan on the Decade of Roma Inclusion, the Committee remains deeply concerned at the negative attitudes and prejudices of the general public as well as about the overall situation of children of minorities and in particular Roma children, especially with regard to discrimination and disparities, poverty and their equal access to health, education, housing, employment and decent standard of living.

(72) **The Committee urges the State party to:**

(a) **Initiate campaigns, at all levels and in all regions, aimed at addressing the negative attitudes towards the Roma in society at large, including among police and professionals;**

(b) **Strengthen its efforts to remove discrimination and to continue developing and implementing – in close collaboration with the minority communities**

and especially the Roma community – policies and programmes aimed at ensuring equal access to culturally appropriate services, including education; and

(c) Develop curricula units for children at school level, including in relation to Roma history and culture, in order to promote understanding, tolerance and respect for the rights of Roma in Bulgarian society.

## 8. Follow-up and dissemination

### *Ratification of international human rights treaties*

(73) The Committee recommends that the State party ratify the core United Nations human rights treaties and their Protocols to which it is not yet a party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, International Convention on the Protection of All Persons from Enforced Disappearance, Convention on the Rights of Persons with Disabilities and its Optional Protocol and Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment.

### *Follow-up*

(74) The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to relevant Government Ministries, the Narodno Sobranie and to local authorities, for appropriate consideration and further action.

### *Dissemination*

(75) The Committee further recommends that the second periodic report and written replies submitted by the State party and related recommendations (concluding observations) that it adopted be made widely available to the public at large, civil society organizations, youth groups, media and other professional groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

## 9. Next report

(76) The Committee invites the State party to submit its consolidated third fourth and fifth periodic report, which should include information on the implementation of the two Optional Protocols, by 2 July 2013. This report should not exceed 120 pages (CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.

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

25. **United States of America: Optional Protocol on the involvement of children in armed conflict.**

(1) The Committee considered the initial report of the United States of America (CRC/C/OPAC/USA/1) at its 1321st meeting (see CRC/C/SR.1321), held on 22 May 2008, and adopted, at the 1342nd meeting, on 6 June 2008, the following concluding observations.

## Introduction

(2) The Committee welcomes the State party's initial report and takes note of the written replies to the list of issues. The Committee appreciates the constructive dialogue with a high-level multisectoral delegation, which included representatives of the Department of Defense.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations adopted on the same day on the State party's initial report under the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography (CRC/C/OPSC/USA/CO/1).

### A. Positive aspects

(4) The Committee welcomes:

(a) The State party's contributions to projects for the rehabilitation and reintegration of child soldiers in several countries experiencing conflict or in post-conflict situations;

(b) Information from the State party indicating the extended application to the military justice system of the abolition of the death penalty for persons who committed a crime while under 18 year of age by the Supreme Court in 2005 (*Roper v. Simmons*).

(5) The Committee also welcomes the ratification by the State party of:

(a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 23 December 2002;

(b) International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 12 February 1999.

#### 1. General measures of implementation

##### *Reservations*

(6) The Committee regrets the restrictive interpretations of the provisions of the Optional Protocol lodged as "understandings" at the time of ratification.

**(7) The Committee recommends that the State party review with a view to withdrawing its understandings of the provisions of the Optional Protocol in the interest of improving the protection of children in situations of armed conflict.**

##### *Dissemination and training*

(8) The Committee regrets that the training for members of the armed forces of the State party does not cover the provisions of the Optional Protocol.

**(9) The Committee encourages the State Party to provide training on the Optional Protocol to all members of its armed forces, in particular those involved in international operations, including on the obligations in articles 6, paragraph 3, and 7.**

**(10) The Committee recommends that further training on the provisions of the Optional Protocol be provided for professionals dealing with children, in particular teachers, migration authorities, police, lawyers, judges, military judges, medical professionals, social workers and journalists.**

*Data*

(11) The Committee takes note of the statistics provided, disaggregated by sex and ethnicity, on the number of voluntary recruits under 18 years of age in the armed forces. Furthermore, the Committee notes the data provided on refugee and asylum-seeking children from countries where children may have been recruited or used in hostilities, however the Committee regrets that the statistics only cover unaccompanied children.

**(12) The Committee recommends that the State party ensure that disaggregated data, by sex and ethnicity, is available on voluntary recruits under the age of 18. Furthermore, the Committee recommends the State party to establish a central data collection system in order to identify and register all children present within its jurisdiction who may have been recruited or used in hostilities. In particular, the Committee recommends the State party to ensure that data is available regarding refugee and asylum-seeking children who have been victims of such practices.**

**2. Prevention***Participation in armed conflict*

(13) The Committee, while taking note of the amended policy of the State party to avoid direct participation in hostilities of members of the armed forces who are under 18 years, is nevertheless concerned that the State party failed to prevent the deployment of volunteer recruits below the age of 18 years to Afghanistan and Iraq in 2003 and 2004.

**(14) The Committee recommends the State party ensure that its policy and practice on deployment is consistent with the provisions of the Optional Protocol.**

*Voluntary recruitment*

(15) The Committee notes that the age for the recruitment of volunteers at 17 is valid only with the consent of their legal guardian. The Committee is concerned over reports indicating the targeting by recruiters of children belonging to ethnic and racial minorities, children of single female-headed households as well as children of low income families and other vulnerable socio-economic groups. Furthermore, the Committee is concerned over reported misconduct and coercive measures used by recruiters. The Committee regrets that the use of the No Child Left Behind Act for recruitment purposes is incompatible with respect for the privacy and integrity of children and the requirement of prior consent of parents or legal guardians. The Committee is furthermore concerned that parents are not fully informed of their right to request that schools withhold information from recruiters and that parents are only involved at the end of the recruitment process.

**(16) The Committee encourages the State party to review and raise the minimum age for recruitment into the armed forces to 18 years in order to promote and strengthen the protection of children through an overall higher legal standard.**

**(17) The Committee recommends that the State party ensure that recruitment does not occur in a manner which specifically targets racial and ethnic minorities and children of low-income families and other vulnerable socio-economic groups. The Committee underlines the importance that voluntary recruits under the age of 18 are adequately informed of their rights, including the possibility of withdrawing from enlistment through the Delayed Entry Program (DEP).**

**(18) The Committee furthermore recommends that the content of recruitment campaigns be closely monitored and that any reported irregularity or misconduct by recruiters should be investigated and, when required, sanctioned. In order to reduce the risk of recruiter misconduct, the Committee recommends the State party to**

carefully consider the impact quotas for voluntary recruits have on the behaviour of recruiters. Finally, the Committee recommends the State party to amend the No Child Left Behind Act (20 U.S.C., sect. 7908) in order to ensure that it is not used for recruitment purposes in a manner that violates the children's right to privacy or the rights of parents and legal guardians. The Committee also recommends the State party to ensure that all parents are adequately informed about the recruitment process and aware of their right to request that schools withhold information from recruiters unless the parents' prior consent has been obtained.

*Military schools and training*

(19) The Committee notes the extensive use of Junior Reserve Officer Training Corps (JROTC) in high schools and notes with concern that children as young as 11 can enrol in Middle School Cadet Corps training.

(20) **The Committee recommends the State party ensure that any military training for children take into account human rights principles and that the educational content be periodically monitored by the federal Department of Education. The State party should seek to avoid military-type training for young children.**

**3. Prohibition and related matters**

*Legislation*

(21) The Committee, while noting as positive that the United States War Crimes Statute (18 U.S.C., sect. 2441) establishes extraterritorial jurisdiction over certain war crimes, is concerned that criminal legislation fails to specifically include the crimes covered in the Protocol. The Committee further notes the draft Child Soldier Accountability Act of 2007, which would include recruitment of children under the age of 15 in the United States Criminal Code.

(22) **In order to strengthen protection measures for the prevention of the recruitment of children and their use in hostilities, the Committee recommends that the State party:**

(a) **Ensure that violations of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities be explicitly criminalized in the State party's legislation. In this regard, the State party is recommended to expedite the enactment of the Child Soldier Accountability Act of 2007;**

(b) **Consider establishing extraterritorial jurisdiction for these crimes when they are committed by or against a person who is a citizen of or has other links with the State Party;**

(c) **Ensure that military codes, manuals and other military directives are in accordance with the provisions of the Optional Protocol.**

(23) **The Committee recommends that the United States of America proceed to become a State party to the Convention on the Rights of the Child in order to further improve the protection of children's rights.**

(24) **Furthermore, the Committee recommends that the State Party consider ratifying the following international instruments, already widely supported in the international community:**

(a) **The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1977;**

(b) **The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1977;**

(c) **The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction 1997.**

(25) **The Committee, consistent with its practice in this regard, invites the State party to reconsider its position in relation to the Rome Statute of the International Criminal Court, 2001.**

#### **4. Protection, recovery and reintegration**

##### *Assistance for physical and psychological recovery*

(26) The Committee regrets that the measures to identify refugee and asylum-seeking children who may have been recruited or used in hostilities are inadequate. Furthermore, the Committee is concerned that refugee and asylum-seeking children, who have previously been recruited or used in hostilities, may be ineligible for protection unless they also claim persecution on the basis of membership of a particular social group.

(27) **The Committee recommends that the State party provide protection for asylum-seeking and refugee children arriving to the United States of America who may have been recruited or used in hostilities abroad by taking, inter alia, the following measures:**

(a) **Identify at the earliest possible stage those refugee and asylum-seeking children who may have been recruited or used in hostilities abroad;**

(b) **Recognize the recruitment and use of children in hostilities as a form of persecution on the grounds of which refugee status may be granted;**

(c) **Improve the access to information, including help lines, for children who may have been recruited or used in hostilities, reinforce the legal advisory services available for them and ensure that all children under 18 years are assigned a guardian in a timely manner;**

(d) **Carefully assess the situation of these children and provide them with immediate, culturally and child sensitive multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with the Optional Protocol;**

(e) **Ensure the availability of specially trained staff within the migration authorities and that the best interests of the child and the principle of non-refoulement are primary considerations taken into account in the decision making process regarding repatriation of such children;**

(f) **Include information on measures adopted in this regard in its next report.**

##### *Captured child soldiers*

(28) The Committee notes the presence of considerable numbers of children in United States-administered detention facilities in Iraq and Afghanistan. The Committee, while taking note of the measures undertaken to establish educational programmes for children

detained in Iraq, regrets that not all detained children have access to education. The Committee is concerned at the number of children detained over extended periods of time, in certain instances for one year or more, without adequate access to legal advisory services or physical and psychological recovery measures. Furthermore, the Committee is concerned over reports indicating the use of cruel, inhuman and degrading treatment of detained children.

(29) The Committee is concerned at reports indicating the detention of children at Guantánamo Bay for several years and that child detainees there may have been subject to cruel, inhuman or degrading treatment. Furthermore, the Committee is seriously concerned that children who were recruited or used in armed conflict, rather than being considered primarily as victims, are classified as “unlawful enemy combatants” and have been charged with war crimes and subject to prosecution by military tribunals, without due account of their status as children.

(30) **The Committee recommends that the State party:**

(a) **Ensure that children are only detained as a measure of last resort and that the overall number of children in detention is reduced. If in doubt regarding the age, young persons should be presumed to be children;**

(b) **Guarantee that children, even if suspected of having committed war crimes, are detained in adequate conditions in accordance with their age and vulnerability. The detention of children at Guantánamo Bay should be prevented;**

(c) **Inform parents or close relatives where the child is detained;**

(d) **Provide adequate free and independent legal advisory assistance for all children;**

(e) **Guarantee children a periodic and impartial review of their detention and conduct such reviews at greater frequency for children than adults;**

(f) **Ensure that children in detention have access to an independent complaints mechanism. Reports of cruel, inhuman and degrading treatment of detained children should be investigated in an impartial manner and those responsible for such acts should be brought to justice;**

(g) **Conduct investigations of accusations against detained children in a prompt and impartial manner, in accordance with minimum fair trial standards. The conduct of criminal proceedings against children within the military justice system should be avoided;**

(h) **Provide physical and physiological recovery measures, including educational programmes and sports and leisure activities, as well as measures for all detained children’s social reintegration.**

## 5. International assistance and cooperation

### *Financial and other assistance*

(31) The Committee commends the State party for its significant financial support to multi- and bilateral activities aimed at protecting and supporting children who have been affected by armed conflict. The Committee also notes as positive the support of the State party for the Special Court of Sierra Leone, which has played a significant role in promoting accountability of those who have recruited and used children in armed conflict.

(32) **The Committee recommends that the State party continue and strengthen its financial support for multilateral and bilateral activities to address the rights of**

**children involved in armed conflict, in particular through promotion of preventive measures, as well as of physical and psychological recovery and social reintegration of child victims of acts contrary to the Optional Protocol.**

*Arms export and military assistance*

(33) The Committee takes note that the State party is the world's largest arms exporter. While noting that the Arms Export Control Act (22 U.S.C., sect. 2778) regulates the private sale of arms export, the Committee regrets that it does not specifically restrict the sale of arms to countries where children are recruited or used in hostilities.

**(34) The Committee recommends the State party to include a specific prohibition in legislation with respect to the sale of arms when the final destination (end use) is a country where children are known to be, or may potentially be, recruited or used in hostilities.**

(35) The Committee notes information from the State party that Foreign Military Financing (FMF) may not be provided to Governments where the State or State-supported armed groups recruit children, however the Committee regrets that this restriction may be waived under certain circumstances if deemed important to the national interests of the United States. The Committee notes as positive the draft Child Soldiers Prevention Act of 2007 which, if adopted, would restrict military assistance for countries where State forces or paramilitaries are known to recruit and use child soldiers.

**(36) The Committee recommends that the State party abolish Foreign Military Financing, when the final destination is a country where children are known to be – or may potentially be – recruited or used in hostilities, without the possibility of issuing waivers. In the interest of strengthening measures to prevent the recruitment or use of children in hostilities, the Committee recommends that the State party adopt the draft Child Soldiers Prevention Act of 2007.**

**6. Follow-up and dissemination**

*Follow-up*

**(37) The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of Government Departments, the Congress and to State authorities, for appropriate consideration and further action.**

*Dissemination*

**(38) The Committee recommends that the initial report submitted by the State Party and concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**

**7. Next report**

**(39) In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next report on 23 January 2010.**

**26. United States of America: Optional Protocol on the sale of children, child prostitution and child pornography**

(1) The Committee considered the initial report of the United States of America under the Optional Protocol on the sale of children, child prostitution and child pornography

(CRC/C/OPSC/USA/1) at its 1320th meeting (see CRC/C/SR.1320), held on 22 May 2008, and adopted at its 1342nd meeting, held on 6 June 2008, the following concluding observations.

## **Introduction**

(2) The Committee welcomes the submission of the State party's initial report, though not written in compliance with the Committee's reporting guidelines, as well as the replies to the list of issues, which give substantive information on the legislative, administrative, judicial and other measures adopted for the implementation of the Optional Protocol. The Committee also welcomes the open and constructive dialogue held with a high-level and multi-sectoral delegation.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations adopted on the same day on the State party's initial report under the Optional Protocol to the Convention on the involvement of children in armed conflict (CRC/C/OPAC/USA/CO/1).

## **I. General**

### **A. Positive aspects**

(4) The Committee welcomes the wide range of activities of international assistance and cooperation, including technical cooperation, training, raising awareness and assistance to victims provided by the Trafficking in Persons (TIP) Office, with the aim of monitoring and combating trafficking in persons.

(5) The Committee welcomes the Innocence Lost Initiative aimed at combating child prostitution in the country, through a partnership between the Criminal Division of the Department of Justice, the Federal Bureau of Investigation, and the National Center for Missing and Exploited Children.

(6) The Committee further welcomes the passing of numerous pieces of legislation which demonstrates the State party's commitment in the fight against the commercial sexual exploitation of children, including:

(a) The Trafficking Victims Protection Act 2000 and its re-authorizations in 2003 and 2005, which strengthened state programmes to prosecute those responsible for child prostitution and enhanced assistance to victims of trafficking in the United States and in other countries;

(b) The PROTECT Act of 2003, which expanded extra-territorial jurisdiction to prosecute State party's citizens committing sex crimes against children abroad;

(c) The Adam Walsh Child Protection and Safety Act, passed in 2006, which increased penalties for child sex offenders and eliminated statutes of limitations for criminal offences against children.

(7) The Committee also welcomes the ratification by the State party of:

(a) ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 12 February 1999;

(b) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 23 December 2002;

(c) The Hague Convention No. 33 of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption, on 12 December 2007.

## 2. Data

### *Data collection*

(8) The Committee notes the State party's commitment and efforts to gather data and conduct studies on commercial sexual exploitation of children, but is concerned that there is insufficient information available on sale of children, child prostitution and child pornography in the State party, due mainly to the lack of a functional data collection system on the issues covered by the Protocol. Furthermore, the Committee notes that the definition of trafficking is based on the Federal Victims of Trafficking and Violence Protection Act of 2000, which broadly interprets that contained in the Palermo Protocol on Trafficking supplementing the United Nations Convention on Transnational Organized Crime. In this respect, the Committee is concerned that defining a wide range of criminal activities against children as trafficking, without differentiating between them, may cause difficulties in the collection of disaggregated data and analytical information on the activities covered by the Protocol as well as in the identification of victims and of appropriate strategies to prevent and combat these crimes at national and international level.

**(9) The Committee recommends that the State party consider developing and implementing a comprehensive and systematic mechanism of data collection, analysis and monitoring on all the issues covered by the Protocol. The data should be disaggregated, inter alia, by the nature of the offence and by age, sex, ethnicity, socio-economic status and geographical location. The coverage of data collection and studies should include all of mainland United States as well as the insular areas and other dependent areas over which the United States exercises sovereignty. The Committee also recommends that the State party consider using, in the development of programmes and activities in all the areas covered by the Optional Protocol, the definitions used therein or contained in other international standards to which the State party has adhered.**

## 3. General measures of implementation

### *National Plan of Action*

(10) The Committee notes that, while several plans and programmes have been adopted and implemented to combat trafficking, notably cross-border trafficking, an overall strategy for the implementation of the Optional Protocol and the elimination of sale of children, child prostitution and child pornography is lacking.

**(11) The Committee recommends that the State party develop a National Plan of Action aimed at addressing comprehensively all the issues covered by the Optional Protocol and provide adequate human and financial resources for its implementation.**

### *Coordination of the implementation of the Optional Protocol*

(12) The Committee notes that there are several governmental departments or agencies with responsibilities for the implementation of the Optional Protocol such as the Department of Justice, the Department of State and the Department of Health and Human Services, but is concerned at the insufficient level of coordination among them and between federal, state and local authorities. The Committee also notes with concern that coordination is often insufficient between government agencies and non-governmental organizations working in the areas covered by the Optional Protocol.

(13) **The Committee recommends that the State party strengthen coordination among the different agencies and governmental departments working in the areas covered by the Optional Protocol, both at federal and state levels. The State party is also encouraged to strengthen the coordination with non-governmental organizations in the implementation and evaluation of the Optional Protocol.**

*Dissemination and training*

(14) The Committee notes that the State party has generally high-quality training resources and facilities and it welcomes the training delivered by the National Center for Missing and Exploited Children to judges, prosecutors and law enforcement officials on investigation and prevention of child sexual exploitation. However, it is concerned that there is no systematic dissemination of and training on the Optional Protocol either at federal and state level and that the Optional Protocol and the problems surrounding the issues covered thereto are not very well known.

(15) **The Committee recommends that the State party:**

(a) **Continue and strengthen systematic education and training on the provisions of the Optional Protocol for all relevant professional groups, including law enforcement personnel, judges, lawyers, social and health-care workers, immigration and customs officers, religious and community leaders, civil society organizations, and organizations accredited for adoption;**

(b) **Strengthen measures to disseminate the provisions of the Optional Protocol among its population, especially children and parents, by using school curricula and appropriate material specifically for children;**

(c) **Promote, in cooperation with civil society and the media – in line with article 9, paragraph 2, of the Optional Protocol – awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of all the offences referred to in the Optional Protocol, including by translating into appropriate languages and by encouraging the participation of the community and, in particular, children and child victims of both sexes, in accessing such information, education and training programmes.**

*Allocation of resources*

(16) The Committee notes that a significant amount of financial resources is allocated to the prevention of human trafficking, but is concerned that only a small proportion of it is specifically allocated to child victims of trafficking and to victims of other offences covered by the Optional Protocol.

(17) **The Committee recommends that the State party:**

(a) **Provide more information in the next report on the budget allocations for the implementation of the Optional Protocol, in particular those addressed to services for child victims of the offences covered by the Protocol;**

(b) **Provide the necessary human and financial resources for the development and implementation of projects and plans, especially at local level, aimed at the prevention of the offences, protection and rehabilitation of child victims and prosecution of the perpetrators of all the offences covered by the Protocol;**

(c) **Adopt a human rights approach to its budgeting with particular focus on children.**

*National human rights institutions*

(18) While the Committee recognizes the difficulty in creating an independent agency at the federal level to monitor the implementation of the Optional Protocol, because most of the laws and services required are a state responsibility, the Committee is concerned that there is no agency such as an Ombudsman at the federal or state level to monitor the implementation of the Optional Protocol.

**(19) The Committee recommends that the federal and state governments consider the creation of human rights institutions in accordance with the Paris Principles to monitor and promote the Optional Protocol. These institutions should be provided with the necessary human and financial resources to carry out their mandates.**

**4. Prevention of the sale of children, child prostitution and child pornography**

(20) The Committee notes the State party's initiatives aimed at preventing child abuse and neglect, but is concerned that a focus on sale of children, child prostitution and child pornography is still lacking. It is also concerned that preventive efforts are mostly limited to specific areas of the country and do not cover sufficiently large groups of vulnerable children in the State party, such as children living in poverty, migrant children, indigenous children and children living in difficult family situations, who are particularly vulnerable to all the offences covered by the Optional Protocol.

**(21) The Committee is of the view that the elimination of the sale of children, child prostitution and child pornography would be facilitated by adopting a holistic approach, addressing the contributing factors thereto, and recommends that the State party strengthen its efforts to address the root causes, such as poverty and marginalization, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism. Particular attention in the preventive efforts should be given to protect children throughout the State party who are especially vulnerable to such practices.**

(22) The Committee is concerned at the paucity of programmes focusing on reducing the demand for sexual services involving the exploitation of children, including awareness-raising campaigns.

**(23) The Committee recommends that demand for sexual services involving the exploitation of children be addressed through both prevention and prosecution measures. Preventive measures should include, among others, public awareness campaigns aimed at the individuals and groups creating demand for sexual exploitation of children.**

*Child prostitution*

(24) The Committee notes the State party's efforts in addressing child prostitution, with programmes focused on a victim-centred approach. However, the Committee is concerned at the information that prostitution of children is a widespread and increasing phenomenon in the State party. It is also concerned at the information that enforcement of child prostitution laws is quite low at the state level and that the resources allocated for protection programmes, training and education are not sufficient.

**(25) The Committee recommends that the State party continue to combat child prostitution, both involving foreign children trafficked into the country and "internal" child prostitution. To this end, the Committee recommends, inter alia, that the State party monitor enforcement and implementation of child prostitution laws at the state level and consider increasing human and financial resources for protection programmes, including awareness campaigns and training.**

*Child pornography*

(26) The Committee appreciates the State party's efforts in combating child pornography both internally and as a worldwide phenomenon, including the numerous investigations and prosecutions in this respect, but is concerned that the State party is one of the world's largest producers, distributors and consumers of child pornography and that the incidence of cyber-crimes involving children, facilitated by the emergence of new technologies, is on the rise.

(27) **The Committee recommends that the State party:**

(a) **Improve enforcement of the existing legislative framework on child pornography;**

(b) **Intensify its efforts to take the necessary measures to address the rapidly changing nature of technology;**

(c) **Strengthen its measures to identify and assist child victims of child pornography;**

(d) **Continue to strengthen international cooperation to prevent and punish child pornography.**

*Sex tourism*

(28) The Committee welcomes the launch in 2004 of the "Code of Conduct to Protect Children from Sexual Exploitation in Travel and Tourism" as well as that the adoption of the PROTECT Act of 2003 has resulted in more than 50 indictments and 29 convictions of State party's nationals involved in child sex tourism abroad. It also appreciates the funding of deterrence and public information campaigns abroad in countries such as Cambodia, Costa Rica, Brazil, Belize, and Mexico, targeted at United States child sex tourists. However, the Committee is concerned at the information that the State party remains among the main source countries for child sex tourism.

(29) **The Committee recommends that the State party continue to strengthen its measures to combat sex tourism, including by raising awareness to tackle attitudes, such as the idea that is acceptable to abuse and exploit children living in poverty in foreign countries. The Committee also recommends that the State party take further measures to prevent sex tourism, in particular by promoting responsible tourism through awareness campaigns specifically directed at tourists and cooperating closely with travel operators, media, NGOs and civil society organizations to combat all forms of commercial sexual exploitation of children in travel and tourism.**

*Illegal adoption*

(30) The Committee welcomes the recent ratification of the Hague Convention on Inter-Country Adoption and notes that the Department of State has been identified as the Central Authority. In this respect, the Committee is concerned about the fact that for-profit persons may be approved to perform Central Authority functions, though they must comply with the requirements and qualifications indicated in article 22, paragraphs 2 (a) and (b), of the Hague Convention, including integrity, professional competence and accountability. The Committee is also concerned at the information that, according to the current regulations, the payment of prenatal and other expenses to birth mothers abroad would still be possible.

(31) **In order to strengthen the safeguards against sale of children for adoption purposes, the Committee recommends that the State party:**

(a) **Adequately and effectively implement the Hague Convention on Inter-Country Adoption in order to curb the instances of sale for adoption purposes;**

(b) Ensure that not only the accredited agencies, but also the approved persons, pursue only non-profit objectives;

(c) Expressly prohibit all forms of possible active solicitation for children, including the payment of pre-natal and other expenses;

(d) Intensify its efforts to prevent and punish all the cases of sale of children, notably those occurring via the Internet, irrespective of the purpose of the sale;

(e) Seek to ensure that the principle of best interests of the child and the safeguards guaranteed in the Hague Convention are equally respected in case of adoption from countries not parties to the Hague Convention;

(f) Effectively apply the principle of subsidiarity as enshrined in Section 303 (a) (1) (B) of the Intercountry Adoption Act of 2000, in order to ensure that American children are primarily adopted in the United States.

## 5. Prohibition and related matters

### *Existing criminal or penal laws and regulations*

(32) The Committee welcomes the fact that the State party has generally developed adequate legislation at the federal level concerning child pornography, the transporting of children between states for unlawful sexual purposes and child trafficking. However, the Committee is concerned that some inconsistencies between the legislation at state and at federal levels may result in certain lacunae in the definition and prohibition of all offences covered by the Protocol. In this respect, the Committee is concerned, inter alia, that:

(a) There is no federal law defining or prohibiting child prostitution per se;

(b) While activities related to child pornography are a felony at federal level, they may be only a misdemeanour in some states;

(c) Attempts to commit, or all forms of participation in, the offences covered by the Optional Protocol are not always punished under federal and state legislation.

(33) **The Committee recommends that, since criminal law is mainly the responsibility of each State, the State party ensure that all the offences covered by the Optional Protocol are defined and prohibited in accordance with articles 2 and 3 of the Optional Protocol throughout the country. The Committee further recommends that the State Party:**

(a) **Define and prohibit child prostitution in accordance with articles 2 and 3 of the Optional Protocol both at federal and state levels;**

(b) **Make all the offences under the Optional Protocol punishable by appropriate penalties that take into account their grave nature, both at federal and state levels;**

(c) **Ensure that attempt to commit any of the offences covered by the Optional Protocol as well as complicity or participation therein are punished in conformity with article 3, paragraph 2, of the Optional Protocol.**

(34) **The Committee further recommends that the United States of America proceed to become a State party to the Convention on the Rights of the Child in order to further strengthen the framework for the protection of children's rights.**

*Jurisdiction and extradition*

(35) The Committee, while welcoming the possibility for the State party to establish extraterritorial jurisdiction for sex tourism and child pornography offences committed outside the United States, is concerned that the State party's extraterritorial jurisdiction based on the nationality of the offender, while provided by some federal laws, such as 18 U.S.C., paragraphs 1585 and 1587, does not reach all offences covered by the Optional Protocol. The Committee also notes that federal law does not generally provide for the assertion of extraterritorial jurisdiction where the victim is a State party's national.

**(36) The Committee, in order to strengthen the framework for prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism, recommends that the State party establish its jurisdiction in all cases listed under article 4. Furthermore, the Committee recommends that the State party be able to prosecute an alleged offender present in its territory who has committed one of the offences covered by the Optional Protocol abroad – if it does not extradite him or her to another State party – even if the country where the offence was committed is not a Party to the Optional Protocol or does not criminalize these acts in its legislation.**

## 6. Protection of the rights of child victims

### *Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol*

(37) The Committee welcomes the measures taken for the protection of child victims of the offences covered by the Optional Protocol in the criminal justice system, including the access to support persons, alternatives for live in-court testimony when it is determined that a child should not testify, the use in many states of closed-circuit television (CCTV) testimony of children, child interview specialists and developmentally appropriate questioning. However, the Committee is concerned at the information that there are instances where child victims, especially those who are victims of trafficking within the United States and those used in prostitution, may be penalized or criminalized, since state laws have not yet uniformly exempted children, notably those involved in prostitution, from arrest and prosecution.

**(38) The Committee recommends that the State party:**

**(a) Ensure that all persons below the age of 18 victims of any of the offences under the Optional Protocol are as such neither criminalized nor penalized at federal or state level. To this end the Committee recommends that the State party ensure that the upper age for protection for child victims is set at 18 years throughout the country;**

**(b) Take all necessary measures to ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the Optional Protocol, the best interests of the child shall be a primary consideration;**

**(c) In the light of article 8, paragraph 1, of the Optional Protocol, ensure the protection of all victims and witnesses below the age of 18 at all stages of the criminal justice process, both at federal and at state levels. The State party should be also guided in this respect by the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (see Economic and Social Council resolution 2005/20).**

*Recovery and reintegration of victims*

(39) The Committee notes with appreciation that, with the Trafficking Victims Protection Act, in the United States, non-citizens who are victims of severe forms of trafficking – which include a person under 18 years of age induced to perform a commercial sex act – are allowed to remain in the country and are eligible to receive certain kinds of public assistance to the same extent as refugees. However, the Committee is concerned that while there are certain services available for child victims of trafficking from other countries, children victim of internal commercial sexual exploitation often lack the adequate services, including transitional shelters, necessary for their physical and psychological recovery and social reintegration. The Committee is further concerned at the information that in some cases foreign victims of trafficking for sexual exploitation may face deportation as unidentified trafficked victims.

(40) **The Committee recommends that the State party:**

(a) **Ensure that adequate services are available for all child victims of the offences covered by the Optional Protocol, boys and girls, including for their full social reintegration and their full physical and psychological recovery, in accordance with article 9, paragraph 3, of the Optional Protocol;**

(b) **Ensure that foreign children victims of the offences covered by the Protocol are not deported but rather granted the necessary services aimed at their physical and psychological recovery. When return in the country of origin is considered to be the best option in the interests of the child, an adequate assessment concerning the situation in the countries of origin, including – if possible – the family environment, should be undertaken;**

(c) **Take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the Protocol, in accordance with article 8 (4) of the Optional Protocol;**

(d) **Ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional Protocol.**

## **7. International assistance and cooperation**

(41) The Committee welcomes that the State party has substantially contributed to combating human trafficking internationally. It also welcomes the information provided during the dialogue concerning the cooperation between the state of New Mexico and the Mexican state of Chihuahua, which establishes a good practice in the fight against trafficking.

(42) **The Committee recommends that the State party continue to strengthen international cooperation by multilateral, regional and bilateral arrangements, giving due attention to the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism, in accordance with the Optional Protocol. These arrangements should always be in the best interest of the child and respect international human rights standards.**

(43) **The Committee encourages the State party to continue its cooperation with United Nations agencies and programmes, including interregional programmes, and non-governmental organizations, in the development, implementation and evaluation of measures aimed at an adequate application of the Optional Protocol.**

(44) The Committee also encourages the State party to promote the strengthening of international cooperation in order to address the root causes, such as poverty, underdevelopment and weak institutional capacity, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.

## 8. Follow-up and dissemination

### *Follow-up*

(45) The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to relevant government departments and agencies, the Congress, the Senate and to state authorities, for appropriate consideration and further action.

### *Dissemination*

(46) The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including through the Internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups, and children in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

## 9. Next report

(47) In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next report, due on 23 January 2010.

### 27. Republic of Korea: Optional Protocol on the involvement of children in armed conflict

(1) The Committee considered the initial report of the Republic of Korea under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/KOR/1) at its 1322nd meeting (CRC/C/SR.1322), held on 23 May 2008, and adopted at the 1342nd meeting (CRC/C/SR.1342), held on 6 June 2008, the following concluding observations.

## A. Introduction

(2) The Committee welcomes the submission of the State party's initial report under the Optional Protocol and of the written replies to its list of issues (CRC/C/OPAC/KOR/Q/1/Add.1), which provide additional information on the legislative, administrative and other measures applicable in the Republic of Korea in respect of the rights guaranteed by the Optional Protocol. However, the Committee regrets that the delegation of the State party lacked some information necessary for a constructive dialogue.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's second periodic report on 15 January 2003 (CRC/C/15/Add.197) and the concluding observations adopted on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/KOR/CO/1) on 6 June 2008.

## B. Positive aspects

- (4) The Committee notes with appreciation:
- (a) The State party's declaration made upon ratification of the Optional Protocol that the minimum age for voluntary recruitment into the Korean national armed forces is 18 years;
  - (b) The amendment made in December 2004 to article 14, paragraph 1, of the Military Service Act which raised the minimum age for voluntary enlistment for active service in the armed forces from 17 to 18;
  - (c) The amendment to the Air Force Regulations which removed the provision allowing for the involvement of persons under 18 in armed conflict;
  - (d) The establishment of the Child Rights Monitoring Centre, in 2006.
- (5) The Committee welcomes the ratification or accession by the State party of:
- (a) The Optional Protocol on the sale of children, child prostitution and child pornography, in September 2004;
  - (b) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in October 2006;
  - (c) The Rome Statute of the International Criminal Court in November 2002.
- (6) Furthermore, the Committee notes with appreciation the State party's activities in the area of international cooperation, including the provision of financial support for action to protect children involved in armed conflict.

### 1. General measures of implementation

#### *Dissemination and training*

(7) The Committee, while welcoming various initiatives taken by the National Human Rights Commission of Korea (NHRCK) to promote human rights education in the school curricula and for the public at large, regrets that no information has been provided by the State party with respect to dissemination of information and training related to the issues covered by the Optional Protocol, including in the curricula of military schools and in the pre-deployment training programmes for peace-keeping personnel.

**(8) The Committee recommends that the State party, in the light of article 6, paragraph 2, ensure that the principles and provisions of the Optional Protocol are included in the curricula of military schools and widely disseminated to the general public and State officials, as well as military and peace-keeping personnel, by appropriate means, including the media.**

**(9) It also recommends that the State party develop systematic awareness-raising, education and training programmes on the provisions of the Optional Protocol for all relevant professional groups working with and for children, including those working with asylum-seeking and refugee children coming from countries affected by armed conflict, such as health personnel, social workers, teachers, lawyers, judges and immigration officials.**

#### *Independent national human rights institution*

(10) The Committee welcomes the decision of the State party taken on 20 February 2008 to maintain the independence of the NHRCK, and notes with appreciation that it has competence to monitor violations of individual rights of children by State agents, including

the military. However, the Committee regrets the lack of a child right division within the NHRCK which would for the adequate monitoring and promotion of the Optional Protocol.

(11) **The Committee, reiterating what it previously stated in its concluding observations on the second periodic report (CRC/C/15/Add.197, para. 18), recommends that the State party continue to ensure that the NHRCK is provided with the necessary human and financial resources that would enable it to establish a child rights division to adequately monitor and promote the Optional Protocol and take awareness-raising measures with a view to achieving increased visibility and accessibility for children.**

## 2. Prohibition and related matters

### *Legislation*

(12) The Committee welcomes that the amendment made in December 2004 to article 14, paragraph 1, of the Military Act which adjusted the minimum age for voluntary enlistment from 17 to 18. However, the Committee remains concerned that there are no specific provisions criminalizing the compulsory recruitment or involving in hostilities of a person under the age of 18.

(13) **The Committee recommends that the State party:**

(a) **Explicitly prohibit by law the violation of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities;**

(b) **Ensure that all legislation is fully harmonized with the provisions of the Optional Protocol;**

(c) **Ensure that all military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Optional Protocol.**

### *Jurisdiction*

(14) The Committee welcomes that the domestic legislation of the State party provides for the exercise of extraterritorial jurisdiction over recruitment of children under the age of 15 years into armed forces or groups.

(15) **In order to further strengthen international measures for the prevention of the recruitment of children for armed forces or armed groups and their use in hostilities, the Committee recommends that the State party consider extending extraterritorial jurisdiction for crimes of recruitment and involvement of children in hostilities, inter alia, by entering into bilateral or multilateral agreements.**

## 3. Protection, recovery and reintegration

### *Measures adopted to protect the rights of child victims*

(16) While noting the position of the State party that children coming from the Democratic People's Republic of Korea are not considered as asylum-seeking children, and that no case of unaccompanied children arriving in the State party has yet been reported, the Committee remains concerned about the absence of an identification mechanism for asylum-seeking and refugee children who may have been recruited or used in hostilities, and regrets the lack a specific strategy for their physical and psychological recovery and social reintegration. The Committee also notes with concern the extremely low rate of asylum recognition by the State party, including for asylum-seeking children coming from conflict areas.

(17) **The Committee recommends that the State party:**

(a) **Introduce a mechanism that allows for systematic identification at the earliest possible stage of refugee and asylum-seeking children entering the Republic of Korea who may have been recruited or used in hostilities abroad;**

(b) **Carefully assess the situation of these children and provide them with immediate, culturally sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration, in accordance with article 6, paragraph 3, of the Optional Protocol;**

(c) **Systematically collect data on refugee and asylum-seeking children within its jurisdiction who may have been recruited or used in hostilities in their home country;**

(d) **Include information on measures adopted in this regard in its next report.**

(18) **The Committee further recommends that the State party consider the particular vulnerabilities of children coming from the Democratic People's Republic of Korea who may have been recruited or used in hostilities, and grant them special protection and assistance measures, taking into account article 6(3) of the Optional Protocol and the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin. The Committee also urges the State party to take all necessary measures to ensure that children coming from the Democratic People's Republic of Korea who may have been recruited or used in hostilities and who seek the protection of the State party are not forcibly returned.**

#### **4. International assistance and cooperation**

##### *International cooperation*

(19) **The Committee commends the State party on its financial support to multilateral and bilateral activities aimed at protecting and supporting children who have been involved in armed conflict.**

(20) **The Committee encourages the State party to continue its activities in the area of international cooperation, including the provision of financial support for action to protect children in armed conflict. The Committee also recommends that the State party consider disaggregating financial data relating to the assistance provided by the Korea International Development Agency (KOICA) to allow for an assessment and monitoring of the aid expenditure on children, and in particular, children involved in armed conflict.**

##### *Arms export and military assistance*

(21) **While the Committee welcomes the State party's legislation and programmes to control the export of small arms and munitions, it is concerned about the lack of specific legislation prohibiting the export to countries where persons who have not attained the age of 18 take direct part in hostilities as members of their armed forces or armed groups that are distinct from the armed forces of a State.**

(22) **The Committee recommends that the State party enact relevant legislation to prohibit trade of small arms and light weapons to countries with current or recent armed conflicts that may involve children as participants. In this respect, the Committee recommends that the State party indicate, in its next periodic report, what**

changes to the domestic law have been made and how the implementation of these changes has contributed to halting the sales of small arms to those countries.

## 5. Follow-up and dissemination

(23) The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations, *inter alia*, by transmitting them to relevant government ministries, members of the National Assembly, the State Council, the Defence Ministry and to provincial authorities, where applicable, for appropriate consideration and further action.

(24) Additionally, in light of article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the initial report submitted by the State party and the concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

(25) In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its consolidated third and fourth periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 19 December 2008.

### 28. Republic of Korea: Optional Protocol on the sale of children, child prostitution and child pornography

(1) The Committee considered the initial report of the Republic of Korea under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/KOR/1) at its 1323rd meeting (CRC/C/SR.1323), held on 23 May 2008, and adopted at its 1342nd meeting (CRC/C/SR.1342), held on 6 June 2008, the following concluding observations.

## Introduction

(2) The Committee welcomes the submission of the State party's initial report and the replies to its list of issues (CRC/C/OPSC/KOR/Q/1/Add.1), submitted in a timely fashion. However, the Committee regrets that the State party's delegation lacked some information necessary for a constructive dialogue.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's second periodic report on 15 January 2003 (CRC/C/15/Add.197) and with the concluding observations adopted on the initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/KOR/CO/1) on 6 June 2008.

## A. General guidelines

### 1. Positive aspects

(4) The Committee notes with appreciation the adoption of the following legislative and other measures:

(a) The Juvenile Protection Law Against Sexual Exploitation, in 2000, as amended;

- (b) The Act on the Punishment of Procuring Prostitution and Associated Acts, in 2004;
  - (c) The Act on the Prevention of Prostitution and Protection of its Victims, in 2004;
  - (d) The amendment to the Civil Code raising the minimum age of marriage to 18;
  - (e) The Comprehensive Measures on Harmful Environment for Youth.
- (5) The Committee also welcomes the establishment of:
- (a) The Child Rights Monitoring Centre, in 2006;
  - (b) The Hotline 1366, in 2001, pursuant to the Act on the Punishment of Sexual Crimes and Protection of its Victims.
- (6) The Committee further commends the State party on the accession to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in 2006, and the signing of the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crimes, in 2000.

## 2. Data

### *Data collection*

(7) The Committee welcomes the statistical data provided in the State party report and the replies to the list of issues, including data on child victims of sexual abuse, children involved in prostitution, and the prosecution of offenders, but regrets that such data are not disaggregated by sex or age. The Committee also regrets that no statistical information is available on children victims of trafficking, although according to information available before the Committee, trafficking in children is a problem that affects the State party. The Committee is also concerned about the apparent lack of coordination among government ministries with regard to data collection and analysis.

(8) **The Committee recommends that a comprehensive data collection system be established within a central governmental body, in order to ensure that data on child prostitution and child pornography, disaggregated, inter alia, by age and sex, are systematically collected and analysed, as they provide essential tools for measuring policy implementation. Data should also include information on the number of prosecutions and convictions for such offences, disaggregated by the nature of the offence.**

## 3. General measures of implementation

### *Legislation*

(9) The Committee regrets that, while the Optional Protocol has the identical force and effect of law as the domestic legislation in force, national legislation is not fully in compliance with its provisions, for example, in the areas of child prostitution and child pornography.

(10) **The Committee recommends that the State party:**

(a) Take the necessary measures to fully harmonize its legislation with the provisions of the Optional Protocol;

(b) Provide systematic training to judges and lawyers on the provisions of the Optional Protocol.

*National Plan of Action*

(11) While noting the adoption of the Five-Year Basic Plan for Youth Protection (2002–2006) and the National Plan of Action for Protection and Promotion of Human Rights (2007–2011), the Committee is concerned that neither of them contains strategies and programmes specifically related to the Optional Protocol.

**(12) The Committee recommends that the State party incorporate the implementation of the specific obligations arising from the Protocol in its national strategies and programmes, in consultation and cooperation with relevant stakeholders and taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the First and Second World Congresses against Commercial Sexual Exploitation of Children, held respectively in Stockholm in 1996 and in Yokohama in 2001.**

*Coordination and evaluation*

(13) While welcoming the establishment of the Child Policy Coordinating Committee under the Office of the Prime Minister in 2004 and of the Child Rights Monitoring Centre as a three-year pilot project in 2006, the Committee remains concerned about the absence of a functional permanent mechanism to enable effective coordination between the different institutions involved in the implementation of the Optional Protocol.

**(14) The Committee recommends that the State party ensure effective coordination in the implementation of the Optional Protocol. Furthermore, the Committee recommends that the State party provide the Child Rights Monitoring Centre with sufficient human and financial resources to enable it to be fully operational, and consider making it a permanent mechanism responsible for the evaluation and the implementation of the Optional Protocol.**

*Dissemination and training*

(15) The Committee notes with appreciation the State party's efforts to raise awareness of issues covered by the Optional Protocol, including by organizing numerous information campaigns and seminars related to child prostitution and child pornography. However, the Committee remains concerned that relevant groups of professionals are not systematically provided with adequate training on all areas of the Optional Protocol and that awareness remains low among these groups of professionals as well as the public at large.

**(16) The Committee recommends that the State party allocate adequate and earmarked resources for the development of training materials and courses for all relevant groups of professionals throughout its territory, including police officers, public prosecutors, judges, medical staff and other professionals involved in the implementation of the Optional Protocol.**

**(17) Furthermore, in light of article 9, paragraph 2, of the Protocol, the Committee recommends that the State party make its provisions widely known, particularly among children and their families, through, inter alia, school curricula and long-term awareness-raising campaigns, including the media, and training on preventive measures and the harmful effects of all offences referred to in the Optional Protocol.**

**In this regard, the participation of the community and, in particular, children, should be encouraged.**

*Allocation of resources*

(18) The Committee regrets that no specific information has been provided by the State party on the budget allocated for the implementation of the different areas covered by the Optional Protocol.

**(19) The Committee encourages the State party to ensure that adequate resources are allocated for the implementation of all areas covered by the Optional Protocol, by providing, in particular, the necessary human and financial resources for the development and implementation of programmes aimed at the prevention, protection, physical and psychological recovery and social reintegration of victims, as well as the investigation and prosecution of the offences covered by the Optional Protocol.**

*Independent institutions*

(20) The Committee welcomes the decision of the State party taken on 20 February 2008 to maintain the independence of the National Human Rights Commission of Korea (NHRCK), and notes with appreciation that it has competence to monitor violations of individual rights of children by state agents. However, the Committee regrets the lack of a child right division within the NHRCK which would allow for the adequate monitoring and promotion of the Optional Protocol.

**(21) The Committee, reiterating what it previously stated in its concluding observations on the second periodic report (CRC/C/15/Add.197, para. 18), recommends that the State party continue to ensure that the NHRCK is provided with the necessary human and financial resources that would enable it to establish a child rights division to adequately monitor and promote the Optional Protocol and take awareness-raising measures with a view to achieving increased visibility and accessibility for children.**

**4. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2)**

*Measures adopted to prevent offences prohibited under the Optional Protocol*

(22) The Committee welcomes initiatives for preventive action, such as the development of promotional materials on laws banning child prostitution and child pornography, but regrets that documentation and research are lacking on the root causes, nature and extent of the sexual exploitation of children, including prostitution and pornography.

**(23) The Committee encourages the State party to carry out further gender-sensitive research and develop further documentation on the root causes, nature and extent of the sexual exploitation of children, including prostitution and pornography, in order to develop relevant prevention measures, in collaboration with, inter alia, UNICEF, the International Labour Organization and the International Organization for Migration and civil society organizations. The Committee also recommends that the State party allocate earmarked budget resources to preventive measures.**

(24) The Committee notes the initiative “John School” introduced in 2004 as part of the Sex Trafficking Prevention Plan of the Task Force for the Elimination of Prostitution, whereby men who have used a child for prostitution or are suspected of having done so are sentenced to undergo a mandatory rehabilitation programme. The Committee is concerned that the fact that perpetrators are exempt from a criminal sentence if they participate in the

programme may weaken the deterrent effects of the existing law which criminalizes solicitation of prostitutes, particularly of child victims of prostitution.

**(25) The Committee urges the State party to continue and strengthen its efforts to rehabilitate offenders of sexual crimes as stipulated in the Optional Protocol while encouraging the strict application and enforcement of existing legislation criminalizing the use of children for the purpose of prostitution.**

(26) The Committee is concerned that “the Republic of Korea has been listed as one of the violators of human rights of children in island nations in the South Pacific such as Kiribati” (para. 74 of the State party report). While noting that the Special Team to Combat Overseas Prostitution has been established in partnership between the Prosecutor’s Office and the National Police Agency, the Committee regrets the lack of concrete strategies to combat child sex tourism.

**(27) The Committee recommends that the State party undertake further measures to prevent sex tourism, in particular by earmarking additional funds for public campaigns for this purpose. The State party should also, through relevant authorities, continue its cooperation with the tourism industry, non-governmental organizations and civil society organizations in order to promote responsible tourism by disseminating the Code of Conduct of the World Tourist Organization among employees of the tourism industry and organizing awareness-raising campaigns for the general public.**

(28) The Committee notes with appreciation efforts made by the State party to address cyber-criminality in relation to offences referred to in the Optional Protocol. However, it remains concerned at the lack of a clear and comprehensive strategy to address sexual crimes referred to in the Optional Protocol which are committed via the Internet or other forms of information technology, including mobile phones.

**(29) The Committee recommends that the State party include measures within the existing plans of action to address cyber-crimes that relate to the Optional Protocol, with the participation of children, and strengthen its awareness-raising efforts among the general public with a view to informing children and their parents about the safe use of the Internet.**

## **5. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)**

### *Existing criminal or penal laws and regulations*

(30) The Committee commends the State party on its efforts to strengthen the legal protection of children against the sale of children, child prostitution and child pornography, including, inter alia, the enactment of the Juvenile Protection Law Against Sexual Exploitation in 2000 and the Prevention of Prostitution and Protection of its Victims Act and the Punishment of Soliciting Prostitution Act in 2004. Nevertheless, the Committee is concerned that the offences contained in articles 2 and 3 of the Optional Protocol are not all adequately covered under the State party’s legislation. In particular, the Committee is concerned that:

(a) While offences relating to the sale of and trafficking in persons are covered by article 324 of the Criminal Law and article 113 of the Labour Standards Law, the State party’s Criminal Code does not contain a specific provision outlawing trafficking in persons which criminalizes child trafficking regardless of the use of a deceptive scheme, force, or other form of coercion, and regardless of the provision of money or other forms of remuneration;

(b) The definition of child prostitution contained in the Juvenile Protection Law Against Sexual Exploitation (2000) may not cover sexual acts that do not involve penetration, or cases in which the child him/herself receives payment for a sexual act;

(c) The provision in the Criminal Code on procurement of prostitutes does not systematically apply to all cases of use of children for prostitution;

(d) The Prevention of Prostitution and Protection of its Victims Act treats victims of prostitution, including children, as offenders, in contradiction to the Act on the Punishment of Procuring Prostitution and Associated Acts, which specifically stipulates that victims of prostitution are not subject to punishment (article 6);

(e) The definition of child pornography as contained in article 2.3 of the Juvenile Protection Law Against Sexual Exploitation (2000), does not cover mere possession of child pornography and simulated explicit sexual activities or sexual representation of the sexual parts of a child for primarily sexual purposes, as required by article 2 (c) of the Optional Protocol.

**(31) The Committee recommends that the State party take necessary measures to bring its domestic legislation in full compliance with articles 2 and 3 of the Optional Protocol, including the provision on the definition of child pornography (article 2(c)). In particular, the Committee recommends that the State party:**

**(a) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and take the necessary steps to adequately define and criminalize the sale of and trafficking in children in accordance with the Optional Protocol;**

**(b) Amend the definition of child prostitution contained in the Juvenile Protection Law Against Sexual Exploitation (2000) in order to strengthen the protection afforded to child victims of prostitution;**

**(c) Criminalize all acts that constitute offering, delivering or accepting by whatever means a child for the purpose of his/her sexual exploitation;**

**(d) Amend the relevant legislation in order to ensure that child victims of prostitution are not subject to punishment;**

**(e) Amend the Juvenile Protection Law Against Sexual Exploitation (2000) to include, in its definition of child pornography, simulated explicit sexual activities or sexual representation of the sexual parts of a child for primarily sexual purposes, as required by article 2 (c) of the Optional Protocol;**

**(f) Criminalize the possession of child pornography without requiring the intent of dissemination.**

(32) The Committee is also concerned about the weak enforcement of legislation relating to offences referred to in the Optional Protocol, in particular, the prosecution and punishment of those responsible for acts involving the sale of children, child prostitution and child pornography.

**(33) The Committee recommends that the State party ensure effective and prompt investigation, prosecution and conviction of all crimes referred to in the Optional Protocol.**

(34) The Committee is further concerned that the State party's report does not contain information on measures taken to establish the liability of legal persons for offences referred to in article 3 (1) of the Optional Protocol.

(35) **In light of article 3(1) of the Optional Protocol, the Committee recommends that the State party take necessary measures to establish the liability of legal persons for offences referred to in the Optional Protocol.**

*Adoption*

(36) In view of the high number of domestic and inter-country adoption of Korean children, the Committee notes with regret the declaration made by the State party upon ratification to article 3(1)(a)(ii) of the Optional Protocol and its reservation to article 21 of the Convention. The Committee is also concerned that the legislation of the State party does not criminalize the sale of children as required by article 3(1)(a)(ii) of the Optional Protocol.

(37) **The Committee strongly recommends the State party to withdraw its declaration to article 3(1)(a)(ii) of the Optional Protocol and the reservation to article 21 of the Convention, and consider ratifying the 1993 Hague Convention No. 33 on Protection of Children and Cooperation in Respect of Intercountry Adoption. The Committee further recommends the State party to ensure that acts covered by article 3(1)(a)(ii) of the Optional Protocol are criminalized as sale in its legislation.**

*Jurisdiction and extradition*

(38) The Committee notes with concern that no information has been provided by the State party with regard to measures taken to establish extraterritorial jurisdiction over the offences related to article 3 (1) of the Optional Protocol, when the crime is committed abroad by a national or a person who has habitual residence in its territory, or when the victim is a national of the Republic of Korea.

(39) **In light of article 4, paragraph 2, of the Optional Protocol, the Committee recommends that the State party take the necessary legislative measures to establish its extraterritorial jurisdiction over the offences referred to in the Optional Protocol when such offences are committed by a national of the Republic of Korea or a person who has habitual residence in its territory, or when the victim is a national of the Republic of Korea.**

**6. Protection of the rights of child victims (articles 8 and 9, paragraphs 3 and 4)**

*Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol*

(40) The Committee is deeply concerned that that the Prevention of Prostitution and Protection of its Victims Act treats child victims of prostitution, among others, as offenders, although, according to the State party, it is “unlikely” that child victims of prostitution will be prosecuted.

(41) **The Committee recommends that the State party:**

(a) **Take all necessary measures, including legislative amendments, to ensure that child victims of any of the offences under the Optional Protocol are as such neither criminalized nor penalized, and that all possible measures be taken to avoid their stigmatization and social marginalization;**

(b) **Allocate adequate financial and human resources to the competent authorities in order to improve legal representation for child victims;**

(c) **Ensure that all child victims of the offences described in the Optional Protocol have access to adequate procedures to seek, without discrimination,**

compensation for damages from those legally responsible, in accordance with article 9 (4) of the Optional Protocol;

(d) Consider merging the existing child helplines (1577, 1391 and 1388) into one helpline which should be sufficiently funded, fully accessible and known to children, and available in a multi-lingual format; and facilitate the collaboration of the helpline with child-focused non-governmental organizations, health and social workers, and the police;

(e) Ensure that resources are earmarked in order to strengthen social reintegration and physical and psychosocial recovery measures, in accordance with article 9(3) of the Optional Protocol, in particular by providing interdisciplinary assistance for child victims.

*Criminal justice system protection measures*

(42) While welcoming the introduction of video-taping of witness testimonies for children under the age of 16, the Committee notes with concern that this practice does not apply for those aged between 16 and 18. The Committee also remains concerned about the unclear legal status of victims of crimes covered by the Optional Protocol which may result in the victims being viewed as child offenders, and as such, would not receive adequate protection in the criminal justice system.

(43) **The State party should be guided by the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20) and should in particular:**

(a) **Protect the rights and interests of child victims by providing them with adequate and explicit protection in the criminal justice system so as to ensure that they are not considered or treated as juvenile offenders;**

(b) **Allow the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected;**

(c) **Use child-sensitive procedures to protect children from hardship during the justice process, including by using special interview rooms designed for children and child-sensitive methods of questioning; and by reducing the number of interviews, statements and hearings, and in this connection, consider making use of video-taping of witness testimonies for all children under 18;**

(d) **Presume young victims of sexual exploitation to be children, and not adults, if in doubt.**

*Recovery and reintegration of victims*

(44) The Committee welcomes the efforts made by the State party to assist child victims of offences referred to in the Optional Protocol with rehabilitation measures, including those stipulated in the 2004 Prevention of Prostitution and Protection of its Victims Act and the Punishment of Procuring Prostitution and Associated Acts, and the plans to establish additional centres for counselling for victims of prostitution. However, the Committee regrets that the social reintegration and physical and psychosocial recovery measures for child victims currently in place are inadequate, and that there is no mechanism to evaluate such programmes. The Committee also notes with concern that the existing programmes and services are available only for women and girl victims, and only in the Korean language.

(45) Furthermore, the Committee regrets not having received sufficient clarification by the State party whether the recovery and rehabilitation programme for victims of sexual

exploitation which subjects them to “corrective education” for over four weeks in a selected institution is in fact voluntary, and if not, whether it is a criminal or civil procedure. The Committee is particularly concerned that such a programme may, in fact, hamper the psychological recovery of child victims of sexual exploitation.

(46) **The Committee urges the State party to ensure that adequate and appropriate administrative measures, social policies and programmes are in place to protect all children who are vulnerable to the offences referred to in the Optional Protocol and to allow for the full physical, psychological, and social recovery of child victims, with their full participation. In this connection, the Committee recommends that the State party provide rehabilitation measures to boys as well as to girls, in a multi-lingual format, in particular, taking into account the most common countries of origin of child victims of trafficking and sexual exploitation. The Committee recommends that the State party ensure that such programmes are effectively monitored and evaluated regularly, with the active participation of children.**

(47) **The Committee also requests the State party to provide, in the next report, detailed information on the “corrective education” programme for child victims of sexual exploitation and to ensure that the programme prioritizes the rights and interests of child victims in line with article 8 of the Optional Protocol, general comment No. 10 (2007) on children’s rights in juvenile justice and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines).**

#### **7. International assistance and cooperation (art. 10)**

##### *Multilateral, regional and bilateral agreements*

(48) **The Committee welcomes the State party’s support for international cooperation projects relating to the implementation of the Optional Protocol in a number of countries and urges the State party to further its efforts in this regard, taking into account the relevant concluding observations adopted by the Committee on these countries with respect to the Optional Protocol.**

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

##### *Follow-up*

(49) **The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations, inter alia, by transmitting them to relevant government ministries, the State Council, members of the National Assembly and provincial authorities, for appropriate consideration and further action.**

##### *Dissemination*

(50) **The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including, but not exclusively, through the Internet, to the public at large, civil society organizations, the media, youth groups and professional groups in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring. Furthermore, the Committee recommends that the State party make the Optional Protocol widely known to children and their parents through, inter alia, school curricula and human rights education.**

## 9. Next report

(51) **In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its consolidated third and fourth periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 19 December 2008.**

### 29. Serbia

(1) The Committee considered the initial report of Serbia (CRC/C/SRB/1) at its 1326th and 1327th meetings (CRC/C/SR.1326 and 1327), held on 27 May 2008, and adopted, at the 1342nd meeting, held on 6 June 2008, the following concluding observations.

## A. Introduction

(2) The Committee welcomes the submission of the initial report of the State party under the Convention on the Rights of the Child (“the Convention”) as well as the written replies to the list of issues (CRC/C/SRB/Q/1 and Add.1). The Committee welcomes the frank dialogue with the high level and multisectoral delegation.

## B. Positive aspects

(3) The Committee notes the inclusion of several fundamental rights concerning children in the new Constitution of the State party (2006) and welcomes the progress made through the adoption of laws, inter alia the Law on Family Relations (2005), the Law on Protection of Disabled Persons against Discrimination (2006) and the Law on Juvenile Delinquents and Penal Law Protection of Juveniles (“Law on Juveniles”) (2006).

(4) The Committee welcomes the establishment of the Council of the Rights of the Child, consisting of representatives of both governmental and non-governmental entities with relevant expertise. The Committee also welcomes the development of a National Action Plan (NAP) by the Council, which defines the relevant policies and priorities of the State party until 2015 and provides for the monitoring of progress. The Committee further notes the establishment of three levels of Ombudsman offices (Defender) at the national, provincial and local levels.

(5) The Committee notes with appreciation that, over the past five years, the State party has ratified, inter alia:

(a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child pornography and child prostitution on 10 October 2002;

(b) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 31 January 2003;

(c) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime on 6 September 2001;

(d) The Rome Statute of the International Criminal Court on 6 September 2001;

(e) Convention No. 182 (1999) of the International Labour Organization (ILO) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 10 July 2003.

## C. Factors and difficulties impeding the implementation of the Convention

(6) The Committee notes that the complex political situation in the country has contributed to difficulties in the implementation of the Convention in all parts of the country. The Committee notes that no information on Kosovo and Metohija was provided in the report of the State party nor the written replies, their administration being under the control of United Nations Interim Administration Mission in Kosovo (UNMIK). The State party suggested that the Committee seek relevant information from UNMIK on the implementation of the Convention in Kosovo and Metohija, owing to the fact that, according to Security Council resolution 1244 (1999), the administration over Kosovo and Metohija has been entrusted to UNMIK and that under paragraph 11 of the same resolution, UNMIK has the obligation to protect and promote human rights in Kosovo and Metohija. Under these circumstances, the Committee requests UNMIK to provide without prejudice to the legal status of Kosovo, information on the implementation of the Convention in Kosovo and Metohija.

## D. Main subjects of concern and recommendations

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

#### *Legislation*

(7) The Committee welcomes the progress made in legislative reform related to human rights in general and more specifically to the rights of the child. The Committee notes that while the new Law on Family Relations, the Law on Protection of Disabled Persons against Discrimination and the Law on Juveniles appear to be harmonized with the Convention, it is concerned that, overall, legislation has not yet been fully harmonized with the Convention. Furthermore, the Committee is concerned at the lack of a comprehensive Children's Act.

**(8) The Committee recommends that the State party ensure full harmonization of all laws with the Convention and consider adopting a comprehensive Children's Act.**

#### *Coordination*

(9) The Committee notes the efforts undertaken by the Council of the Rights of the Child to strengthen coordination among the various governmental bodies and mechanisms involved in the implementation of child rights. Nevertheless, the Committee notes that the Council has an advisory status and role only, and it is concerned at the lack of effective coordination among the various ministries.

**(10) The Committee recommends that the State party take the necessary steps to ensure effective coordination, particularly amongst its ministries and agencies, and strengthen the role of the Council of the Rights of the Child.**

#### *National Action Plan*

(11) The Committee notes with satisfaction that a National Action Plan for the implementation of child rights, covering the period until 2015, was adopted in 2004 and local action plans were adopted on its basis. The Committee also notes that 25 strategies have been developed and a separate budget has been allocated to the implementation of the National Action Plan. However, the Committee is concerned that the National Action Plan is not applied in all municipalities through local plans of action. The Committee is also concerned that the strategies are not fully harmonized with the National Action Plan.

(12) **The Committee encourages the State party to implement effectively its National Action Plan for children which should aim at the realization of the principles and provisions of the Convention, and to ensure its implementation in all municipalities. The National Action Plan should take into account, inter alia, the Declaration and the Plan of Action “A World Fit for Children” adopted by the General Assembly at the Special Session on Children, held in May 2002, and its mid-term review 2007. Furthermore, the Committee recommends that the State party ensure that the strategies and the National Action Plan are harmonized in a comprehensive manner. The State party should also take all necessary measures to ensure a specific and adequate budget allocation and provide professional resources as well as follow-up and evaluation mechanisms for the full implementation of the National Action Plan to regularly assess progress achieved and identify possible deficiencies.**

*Independent monitoring*

(13) The Committee welcomes the establishment of the Ombudsman’s office at the national level, in the autonomous Province of Vojvodina and in 13 municipalities. The Committee also welcomes the fact that the Ombudsman will be responsible for investigating alleged breaches of human rights, including those related to children. The Committee acknowledges the draft law on the Ombudsman for the Rights of the Child. However, it is concerned that a Deputy at the national level specializing in child rights has yet to be appointed by Parliament and the budget for that office has yet to be approved, and that there is no specific mandate to monitor the implementation of the Convention. The Committee is also concerned that recommendations of the relevant Ombudsmen may not be fully complied with and at the lack of coordination between the Ombudsmen’s structures at national, provincial and local levels.

(14) **The Committee recommends that the State party ensure that the Ombudsman offices comply with the principles relating to the status and functioning of national institutions for protection and promotion of human rights (“the Paris Principles”) and take into account its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child. The Committee also recommends that:**

(a) **The State party adopt the Law on the Ombudsman for the Rights of the Child;**

(b) **If not, the Deputy Ombudsman for children be appointed at the national level and that the mandates of the existing Ombudsman offices at all three levels of government include monitoring and promotion of child rights, and that the Ombudsman offices be provided with the necessary human and financial resources and enhance their coordination efforts to promote and protect child rights effectively.**

*Helplines*

(15) The Committee notes the existence of a toll-free national child helpline available 24 hours a day from Monday to Saturday, but it is concerned that awareness of its existence remains low amongst children.

(16) **The Committee recommends that the State party expand its support to the helpline and that a three-digit toll free number be established seven days a week, thereby facilitating increased awareness of the existence of the helpline amongst children.**

*Allocation of resources*

(17) The Committee is concerned that neither the report of the State party nor its written replies provide a clear picture of the financial allocations for children in its budgets. The Committee regrets that the budget allocation to education is one of the lowest in the region (Europe) at 3.6 per cent of the gross domestic product (GDP).

**(18) In the light of articles 2, 3, and 6 of the Convention as well as the recommendations of the Committee issued following its Day of General Discussion, held on 21 September 2007, on “Resources for the Rights of the Child – Responsibility of States,” the Committee encourages the State party to pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations which ensure implementation of the economic, social and cultural rights of children, “to the maximum extent of available resources and, where needed, within the framework of international cooperation”. The Committee further encourages the State party to undertake a comprehensive budget review from a child rights perspective with a view to monitoring budget allocations for children.**

*Data collection*

(19) The Committee notes the development by the State party of a system of monitoring its National Action Plan, including through the development, in cooperation with the United Nations Children’s Fund (UNICEF), of Devinfo. The Committee notes, however, that in many areas covered by the Convention reliable data for the monitoring and evaluation of the situation of children in the State party, including vulnerable groups, are not available.

**(20) The Committee encourages the State party to proceed with its efforts to establish a consolidated system for the comprehensive collection and analysis of disaggregated data allowing for comparative analysis covering all children, with specific attention to groups of children who are in need of special protection.**

*Dissemination of the Convention and training*

(21) The Committee, while noting the existence of a civic educational manual for training teachers, is concerned at the lack of further information on the dissemination of the Convention and the promotion of awareness of its principles and provisions across government agencies and civil society as well as the media. The Committee is also concerned that human rights training, including on child rights, provided to judicial officers, health personnel and other relevant professional groups is insufficient.

**(22) The Committee recommends that the State party undertake efforts, in cooperation with local non-governmental organizations (NGO) and the international community, to systematically disseminate information on the Convention among children, parents, civil society organizations and government agencies, and to provide all relevant professional groups with targeted and regular training on the provisions and principles of the Convention.**

*Cooperation with civil society*

(23) The Committee notes that collaboration between governmental institutions and NGOs takes place, including through the cooperation of representatives of both governmental and non-governmental entities, in the Council for the Rights of the Child. However, the Committee is concerned that the cooperation with civil society organizations is not systematically encouraged.

(24) **The Committee emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention and encourages closer cooperation with NGOs. The Committee recommends that the State party systematically promote a climate of collaboration between the Government and civil society organizations working with and for children throughout all stages of the implementation of the Convention.**

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

### *Non-discrimination*

(25) The Committee commends the State party for the inclusion of special provisions on protection from discrimination in its legislation, such as the Law on Protection of Disabled Persons against Discrimination and the Law on the Protection of the Rights and Freedoms of National Minorities, as well as initiatives targeted at the inclusion of minorities. The Committee notes that the draft law on prohibiting discrimination is awaiting adoption and is concerned that certain groups of children, including Roma children, children of returnees, children without birth certificate, children belonging to minorities and children with disabilities, face de facto discrimination, most importantly with regard to access to education and health care. The Committee is also concerned at the lack of a comprehensive strategy to combat discrimination and the negative portrayal of these groups in the media.

**(26) In accordance with article 2, the Committee recommends that the State party make greater efforts to ensure that all children within its jurisdiction enjoy all the rights enshrined in the Convention without discrimination and pay particular attention to the most vulnerable groups. The Committee recommends that the State party use all measures to overcome the stigmatization of children belonging to vulnerable groups. The Committee also recommends that the State party take effective immediate action to favour children belonging to vulnerable groups, to enable them to effectively enjoy full access to education and any other rights, including by expediting the adoption of a law on the prohibition of discrimination, and increase awareness-raising of the role of the media.**

### *Best interests of the child*

(27) While noting that several laws of the State party such as the Law on Family Relations (art. 6) refer to the principle of the child's best interests, the Committee is concerned that the principle is not sufficiently implemented in practice, in particular due to lack of understanding of its specific meaning. The Committee is concerned that the principle is not sufficiently applied and is frequently misunderstood.

**(28) The Committee recommends that the State party take all appropriate measures to ensure that the principle of best interests of the child, in accordance with article 3 of the Convention, is adequately integrated in all legal provisions as well as in judicial and administrative decisions and in projects, programmes and services which have an impact on children. To this end, the State party should take the necessary measures to raise awareness of the practical application of this principle.**

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

(29) While the Committee welcomes the progress made by the State party in reducing child mortality, it remains concerned at the high rate of infant mortality among the Roma. The Committee notes the development of a new law on traffic safety and the efforts made to increase safety in the areas around schools, but it is concerned at the lack of additional initiatives to curb the high number of traffic accidents leading to death.

(30) **The Committee recommends that the State party seek to fully implement article 6 of the Convention by prioritizing all measures necessary to reduce the rate of infant mortality, particularly among the Roma. The Committee also recommends that the State party enhance road safety to reduce the high number of deaths caused by accidents through the adoption and implementation of a new law on traffic safety and additional awareness-raising initiatives.**

*Respect for the views of the child*

(31) The Committee welcomes the efforts of the State party to promote the respect for the views of the child, inter alia by the adoption of the new Law on Family Relations. The Committee remains concerned that this principle is not adequately respected in families, schools and other institutions and in the community, and that it is not fully taken into account in the administrative and judicial proceedings and in the development and implementation of laws, policies and programmes.

(32) **The Committee recommends that further efforts be made to ensure the implementation of the principle of respect for the views of the child. In this connection, particular emphasis should be placed on the right of every child to be heard in the family, at school, within other institutions and bodies, in the community and in society at large, with special attention to vulnerable and minority groups. This right should also be incorporated into all laws, policies and programmes relating to children.**

**3. Civil rights and freedoms (articles 7, 8, 1–7, 19 and 37 (a) of the Convention)**

*Birth registration*

(33) The Committee notes that the State party has achieved close to universal birth registration in most areas, but is concerned at gaps and disparities among the rural population, in particular among the Roma and the internally displaced persons. The Committee is concerned that birth registration procedures are overly complicated and that children are at times not registered due to the lack of identification documents of parents. The Committee is concerned that this may place Roma and internally displaced children in a vulnerable position as undocumented citizens and consequently excluded from access to basic services.

(34) **In the light of article 7 of the Convention, the Committee urges the State party to continue and strengthen, as a matter of priority, its efforts to establish a system ensuring the registration of all children born within its territory – irrespective of the nationality and status of the parents. The Committee further recommends that the State party take specific steps to remove existing gaps and obstacles to universal civil registration and to ensure registration of the children of Roma and internally displaced persons, in order to enable these groups to exercise the full range of rights recognized in the Convention.**

*Torture and other cruel, inhuman or degrading treatment or punishment*

(35) The Committee welcomes the efforts made to eliminate the identified deficiencies in the care of residents of the special institution for children and juveniles “Dr. Nikola Šumenković” in Starnica. The Committee is still concerned at the reported treatment of children with disabilities in some social care institutions, in which severe and long-term forms of restraint and seclusion have reportedly taken place, and it is concerned that such practices could amount to ill-treatment or even torture.

(36) The Committee recommends that the State party take all necessary measures to put an end to practices against children with disabilities in institutions that could amount to torture or ill-treatment and that increased efforts be made to address the causes to prevent severe and long-term restraint and seclusion. The Committee also recommends that legislative measures be adopted for the full compensation and rehabilitation of children victims of such practices and that training on the human rights of children with disabilities be systematically provided to health and social care professionals.

*Follow-up to the United Nations study on violence against children*

(37) 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 Europe and Central Asia, held in Ljubljana, Slovenia, from 5 to 7 July 2005. In particular, the Committee recommends that the State party pay particular attention to the following recommendations:

- (i) To prohibit all violence against children;
- (ii) To promote non-violent values and awareness-raising;
- (iii) To provide recovery and social reintegration services;
- (iv) To develop and implement systematic national data collection and research;

(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 child is protected from all forms of physical, sexual and psychological violence and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse;

(c) Seek technical assistance from UNICEF, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the World Health Organization (WHO) and other relevant agencies, inter alia, ILO, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Office of the United Nations High Commissioner for Refugees (UNHCR) as well as NGO partners in this context.

**4. Family environment and alternative care (articles 5; 18, paragraphs 1–2; 9–11; 19–21; 25; 27, paragraphs 4; and 39 of the Convention)**

*Family environment*

(38) The Committee notes the progress made in legislation, including through the adoption of the new Constitution and the Law on Family Relations as well as the introduction of joint custody and other measures taken by the State party to improve the situation for children in alternative care and decrease the number of children in institutions, including the establishment of a Social Innovation Fund. The Committee also notes the shift towards decentralized and community-based services with a view to improving living standards that are directed to reintegration. However, the Committee is concerned at the lack of a systematic support system and multisectoral service provision to parents, and at the overall weakness of measures to support families and prevent deterioration of family relations and its effect on children due to the lack of well trained social workers.

(39) **The Committee recommends that the State party:**

(a) **Take effective measures to strengthen support, such as improved social assistance and support to families, by developing a comprehensive child-centred family policy to enable families to care for their children at home wherever possible and promote positive child-parent relationships;**

(b) **Enhance the professional training of social workers;**

(c) **Improve the extent and quality of social and psychological support provided to children and families in need of assistance.**

*Children deprived of a family environment*

(40) The Committee welcomes that the placement of children outside of their families will be decided by a judge. The Committee further welcomes the commitment of the State party to de-institutionalize children while at the same time enhance standards in the existing institutions. The Committee is concerned that, despite the existence of data on the general conditions of children and a national standard for assessment of both the decision of referrals and placements as well as the existence of review procedures, there is a lack of implementation of these standards. The Committee is also concerned at reports of high numbers of children, particularly children with disabilities, who remain placed in institutions, often far away from their initial place of residence and at the low quality of care and treatment. Concern is also expressed at the limited number of foster families.

(41) **The Committee recommends that the State party:**

(a) **Strengthen its efforts to move towards de-institutionalization ensuring that supplementary structures are in place to provide adequate follow-up and reintegration support and services for children who leave institutional care;**

(b) **Implement a national assessment procedure for purposes of referral, placement and review of placement of children to ensure that children residing in institutions that are being closed are fully informed and able to participate in deciding on their future placement, and that these children retain their rights to social protection;**

(c) **Encourage individuals to offer themselves as foster parents, inter alia through providing them with employment opportunities.**

*Adoption*

(42) The Committee regrets that insufficient information on procedural aspects of adoption was provided. The Committee encourages more permanent family environments to be considered through the use of adoption. The Committee also notes that the State party has not ratified the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

(43) **The Committee recommends that the State party:**

(a) **Establish the conditions under which a child is adoptable and ensure that the biological parents and the child have sufficient information prior to consenting to a decision;**

(b) **Effectively identify those children potentially adoptable and, having explored the possibility to maintain the link with their families, expedite the adoption process;**

(c) **Ensure that adoption takes into account the best interest of the child and that the child's view is heard and taken into account;**

- (d) **Ensure that prospective adoptive parents are considered as eligible, prepared and suited for adoption;**
- (e) **Promote adoption counselling and post-adoption services;**
- (f) **Promote awareness of adoption in general and in particular promote adoption of children belonging to groups that have particular difficulties to be adopted including siblings, disabled children and minority children;**
- (g) **Consider ratifying the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.**

*Abuse and neglect*

(44) The Committee notes that the State party is making efforts to strengthen its domestic laws, build judicial capacity and raise public awareness with regard to issues of abuse and neglect. The Committee welcomes the introduction of protective measures against domestic violence into the Criminal Code and the Law on Family Relations as well as the recently drafted National Strategy against violence and the National Action Plan. The Committee is concerned at the lack of implementation of the above-mentioned provisions and that a general climate of violence, including domestic violence, still prevails in Serbian society. The Committee is also concerned at the lack of reporting mechanisms and that incidents of domestic violence remain underreported as are other forms of abuse, including sexual abuse. The Committee is further concerned at the insufficient training programmes destined to professionals to prevent and combat such abuses.

(45) **In the light of article 19 and other relevant provisions of the Convention, the Committee urges the State party to:**

- (a) **Ensure the effective implementation of its protective laws and measures against violence;**
- (b) **Strengthen its efforts to prevent and combat all forms of domestic violence and abuse, including by establishing a comprehensive reporting mechanism and adopting measures and policies with a view to changing attitudes within the family and in society;**
- (c) **Ensure that an assessment, referral and placement system is set up, that cases of domestic violence and abuse of children, including sexual abuse within the family, are properly investigated within a child-friendly judicial procedure, and that sanctions are applied to perpetrators, giving due regard to protecting the child's right to privacy;**
- (d) **Ensure the provision of support services, such as psychological recovery and social reintegration, and prevent the stigmatization of victims;**
- (e) **Take steps to enhance a better understanding and practice of non-violent communication.**

*Corporal punishment*

(46) The Committee is particularly concerned that corporal punishment in the family remains lawful and continues to be a widely used disciplinary method.

(47) **The Committee urges the State party to expressly prohibit and enforce by law all corporal punishment in the family. The State party is further encouraged to undertake awareness-raising campaigns and education programmes on non-violent forms of discipline, to conduct research into the prevalence of corporal punishment of children in the family and other settings, and to enforce the law.**

5. **Basic health and welfare (articles 6; 18, paragraph 3; 23; 24; 26; 27, paragraphs. 1–3, of the Convention)**

*Children with disabilities*

(48) The Committee welcomes the efforts made by the State party to assist children with disabilities and their families, the start of pilot programmes and projects to provide inclusive education, and the steps aimed at the de-institutionalization of children and the shift towards family-based care. The Committee welcomes steps taken to immediately enforce the prohibition of placement of children at the institution in Kulina following a ministerial decision of 9 May 2008. However, the Committee is concerned at the large number of children with disabilities, and in particular mental disability, who still remain institutionalized, often together with adults. The Committee is also concerned that many children with disabilities are not included in the mainstream education system and at the general lack of resources and specialized staff for these children. It is also concerned at the prevailing societal attitudes which are conducive to stigmatization of children with disabilities.

(49) **With regard to the efforts made by the State party to provide equal opportunities for the full participation of children with disabilities in all spheres of life, the Committee draws the attention of the State party to 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 (2006) on the rights of children with disabilities. The Committee recommends that the State party take all necessary measures to:**

(a) **Collect adequate statistical data on children with disabilities and use such disaggregated data in developing a comprehensive and specific national policy on disability which promotes equal opportunities of persons with disabilities in society;**

(b) **Ensure that public education policy and school curricula reflect in all their aspects the principle of full participation and equality and include children with disabilities in the mainstream school system to the extent possible and, where necessary, establish special education programmes tailored to their special needs;**

(c) **Monitor and evaluate the quality of services for children with disabilities and raise awareness of all services available;**

(d) **Provide children with disabilities with access to adequate social and health services, including early intervention, psychological and counselling services;**

(e) **Ensure that professionals working with and for children with disabilities as well as teachers and social workers, such as medical, paramedical and related personnel are adequately trained;**

(f) **Ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol, both signed on 17 December 2007;**

(g) **Seek technical cooperation with, among others, UNICEF and WHO.**

*Health and health services*

(50) The Committee welcomes the information provided by the State party on legislative and other measures aimed at providing equal access to health care for all. However, the Committee is concerned at the poor quality of health services in general, particularly in rural regions, and at the difficulties faced by vulnerable groups in accessing those services. The Committee is also concerned at the high number of people not covered by the compulsory health insurance and that the available health-care personnel are not trained and

equipped to take into account children's special needs. The Committee is furthermore concerned that, despite improvements, the infant mortality rate remains high, particularly among ethnic minorities such as the Roma, and at the inadequate availability of baby friendly hospitals.

(51) **The Committee recommends that the State party:**

(a) **Undertake all necessary measures to ensure that all children have access to quality and affordable health services, with special attention to vulnerable groups;**

(b) **Ensure that appropriate resources are allocated for the health sector, develop and implement comprehensive policies as well as programmes for improving the health situation of children;**

(c) **Continue to take measures to reduce infant and under-5 mortality, inter alia, by guaranteeing equal access to quality pre- and post-natal health services and facilities;**

(d) **Strengthen efforts to improve the nutritional status of children, with particular focus on vulnerable groups, through education and promotion of healthy feeding practices;**

(e) **Facilitate greater access to quality primary health services by mothers and children in all areas of the country;**

(f) **Continue to strengthen preventive measures central to a child's healthy development, particularly by increasing access to baby friendly hospitals that do not separate new born babies from their mothers after birth.**

#### *Breastfeeding*

(52) The Committee notes that while there has been a relatively high rate in initiating breastfeeding, exclusive breastfeeding for the first 6 months remains inadequate. The Committee notes the prevalence of advertisements for breast-milk substitutes with concern and that few baby friendly hospitals exist.

(53) **The Committee recommends that the State party promote exclusive breastfeeding for the first 6 months and strengthen the monitoring capacity for the implementation of the International Code of Marketing of Breast-milk Substitutes. The Committee also recommends that increased attention be placed on setting up baby friendly hospitals as a priority.**

#### *Adolescent health*

(54) The Committee welcomes the recent laws and strategies and the increased awareness-raising efforts of the State party to protect adolescents, including through the adoption of the new Law on Health Care and Law on Health Insurance. The Committee is concerned at the absence of a comprehensive national strategy or systemic responses for adolescent health and at the extremely high rate of teenage pregnancies. The Committee is also concerned that children's right to privacy may not be fully respected in schools and health system, particularly in medical check ups and treatments and that a comprehensive mental health policy does not exist.

(55) **The Committee recommends that the State Party, while taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child:**

(a) **Enhance its efforts to address adolescent health issues and to ensure that the programmes for adolescent health are effectively implemented, including through the provision of adequate resources;**

(b) **Ensure that adolescents have access to child-sensitive and confidential counselling services;**

(c) **Take all possible measures to guarantee the conditions for respecting the right to privacy for children;**

(d) **Develop a comprehensive child and adolescent mental health policy which includes all obligatory components, as recommended by WHO, inter alia regarding mental health promotion activities, prevention of mental disorders in primary health care, outpatient and inpatient services for emotional and mental disorders to reduce rates of suicides and institutionalization.**

*Drug, tobacco, alcohol and other substances use*

(56) The Committee notes that the State party has taken measures to criminalize trafficking of illegal substances. The Committee remains concerned at the high incidence of drug, tobacco, alcohol and other toxic substances use among children.

(57) **The Committee recommends that the State party take all necessary measures to address the use of illicit substances, alcohol and tobacco by children, inter alia by providing children with accurate and objective information on toxic substances and tobacco use, and that it provide support to those attempting to abandon their use or dependency.**

*Standard of living*

(58) The Committee notes that many families live in economic hardship with about 10 per cent living below the official poverty line and enduring deprivations of basic services. The Committee remains concerned about the high number of households and public institutions, whether urban or rural, that have access only to poor quality water and sanitation. The Committee is further concerned at the considerable disparities in standard of living among different groups of children and families. Poverty among the Roma in particular is four to five times higher than among the general population and they are deprived of social services due, among others, to discriminatory practices. The Committee is concerned that poor living conditions seriously limit children's enjoyment of their rights in the family, schools and in peer and cultural activities.

(59) **In accordance with article 27 of the Convention, the Committee recommends that the State party:**

(a) **Strengthen its efforts to address the low standard of living among children and families living in poverty, inter alia, through allocating resources for effective poverty reduction measures, especially at the local and community level;**

(b) **Provide children living in poverty with an opportunity to be heard and to express their views in the planning and implementation of poverty reduction programmes, especially at the community level;**

(c) **Take measures to develop safety net programmes which target the most vulnerable groups for the enjoyment of free access to social and health services, education and housing, clean drinking water and sanitation;**

(d) **Take steps to monitor the poverty situation of children regularly and take urgent measures to address all deprivation of factors.**

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

### *Education, including vocational training and guidance*

(60) The Committee welcomes recent encouraging developments, including the reported decrease in illiteracy rates, improvements in the level of education, enhancement and expansion of the educational preschool facilities, the implementation of mandatory preparation for school and the adoption of an Action Plan for Roma Education Improvement. The Committee also notes that the State party has made important steps to reorganize and modernize its school system within the framework of its education reform, inter alia curriculum revisions, teacher training and achievement assessments. Nevertheless, the Committee remains concerned at:

(a) The low budget allocations for the educational system and slow progress with regard to the implementation of the reform;

(b) The “hidden costs” of free education, inter alia for books, stationary, transportation and for private tuition in order to compensate for the poor quality of the educational system;

(c) The many schools in need of renovation, their poor equipment and training of teachers which does not prepare them for interactive teaching methods;

(d) The incomplete enrolment, the high levels of drop-outs and the comparatively lower achievement of children belonging to vulnerable groups, including children from rural areas, children living in economic hardship and deprivation, Roma children and children from other minority groups, refugee and internally displaced children;

(e) The slow progress in training sufficient numbers of teachers able to teach in minority languages;

(f) The marginal incorporation of human rights and child rights education in schools at all levels;

(g) The slow expansion of vocational education and training, including for children who have dropped out;

(h) The reported widespread violence in schools, particularly among students;

(i) The quality of education and the situation of the most vulnerable groups of children.

(61) **The Committee recommends that the State party:**

**(a) Take all necessary measures to ensure that the right to education is fully implemented so that children belonging to vulnerable groups, including rural children, children living in economic hardship and deprivation, Roma children and children from other minority groups, refugee and internally displaced children, fully enjoy their right to education;**

**(b) Improve the efficiency of the educational system, including through appropriate budget allocations;**

**(c) Improve professional qualification of teachers and in particular pay attention to slow learners and the high drop-out rates among vulnerable groups of children;**

**(d) Enhance efforts for the training of teachers before and in-service with the view of enhancing the interactive learning methods;**

(e) **Increase the availability of vocational training programmes for young people, in order to facilitate their access to the labour market.**

(62) **In the light of article 29 of the Convention, the Committee recommends that the State party:**

(a) **Further strengthen efforts to improve the quality of education by continued curriculum reform;**

(b) **Include education on human rights, including on the rights of the child, in the general educational curriculum;**

(c) **Establish adequate programmes and activities with a view to creating a school environment of tolerance, peace and understanding of cultural diversity shared by all children to prevent intolerance, bullying and discrimination in schools and society at large;**

(d) **Take account of the Committee's general comment No. 1 (2001) on the aims of education, in particular with regard to children belonging to the most vulnerable groups (i.e. minority groups, those living in poverty, refugee and returnee children, Roma children, children with disabilities, etc.).**

*Rest, leisure, recreation and cultural and artistic activities*

(63) The Committee welcomes the attention given by the State party to school-based sports and recreation as well as the support provided to sports activities. The Committee is concerned that the access to sports facilities to a large degree still remains dependant on family's income.

(64) **In the light of article 31 of the Convention, the Committee encourages the State party to continue and strengthen its focus on children's sports, play and cultural activities, including through adequate resource allocation and technical cooperation projects.**

**7. Special protection measures (articles 22; 30; 38; 39; 40; 37 (b)–(d); 32–36 of the Convention)**

*Refugee children*

(65) The Committee welcomes the progress made in establishing a clear legal framework governing the treatment of refugees by way of adopting the Law on Asylum in December 2007. The Committee is concerned that a large percentage of the returned children remain unregistered and therefore do not have access to all basic services.

(66) **The Committee recommends that the State party take all necessary measures to ensure that all children, including child returnees, are fully registered and effectively benefit from the social protection systems.**

*Economic exploitation including child labour*

(67) The Committee welcomes the ratification by the State party of ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour with a view to extending special protection to children. The Committee is concerned at the continued existence of child labour in the State party, in particular in the rural areas and the informal sector. Furthermore, the Committee regrets the lack of data in this respect.

(68) **The Committee recommends that the State party, in accordance with article 32 of ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour:**

(a) **Undertake a comprehensive national survey of the number, composition and characteristics of working children in order to design and implement comprehensive strategies and policies to address the causes with a view to enhancing prevention and, where children are legally employed, ensure that their work is not exploitative and is in accordance with international standards;**

(b) **Establish, if necessary, cooperation with ILO International Programme on the Elimination of Child Labour (IPEC) and UNICEF in this regard.**

*Street children*

(69) The Committee appreciates the measures taken to address the rights and needs of street children such as the implementation of the programme “Children of the Streets” covering care and protection for 27 Roma children. However, the Committee is concerned that these children are especially vulnerable to trafficking and economic and sexual exploitation.

(70) **The Committee encourages the State party to continue its efforts in cooperation with relevant NGOs to fulfil the rights and needs of street children, to address the root causes and develop effective strategies to increase awareness of the rights of street children. Furthermore, the Committee urges the State party to provide protection and assistance to children currently living on the streets taking into account the views of these children. The State party is further urged to elaborate and implement programmes to prevent children from leaving families and schools for the street.**

*Sexual exploitation and trafficking*

(71) The Committee welcomes the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child pornography and child prostitution as well as the establishment of a National Team for the Prevention and Suppression of Trafficking of Human Beings. However, the Committee is concerned at the lack of data and the lack of a comprehensive national strategy to prevent trafficking and sexual exploitation of children. The Committee is furthermore concerned at the lack of reintegration and rehabilitation programmes and services exclusively for child victims and at reports of sexual abuse by law enforcement officials.

(72) **The Committee recommends that the State party:**

(a) **Strengthen its efforts to reduce and prevent the occurrence of sexual exploitation, sale of children and trafficking, through, inter alia, undertaking a comprehensive study and data collection of the occurrence and the dimension of the problem and implement comprehensive strategies and policies;**

(b) **Strengthen cooperation with the authorities of countries from or to which children are trafficked in order to combat the phenomenon;**

(c) **Continue to sensitize professionals, parents, children and the general public to the problems of sexual abuse of children and trafficking through education, including media campaigns;**

(d) **Develop a comprehensive national strategy to prevent trafficking and sexual exploitation of children;**

(e) **Increase protection provided to sexually exploited and trafficked children, who should be treated as victims and not criminalized. The Committee**

recommends that this take place including through prevention, witness protection, social reintegration, access to health care and psychological assistance in a coordinated manner, including by enhancing cooperation with NGOs. In this respect, account should be taken of the Declaration and Agenda for Action and the Yokohama Global Commitment adopted at the First and Second World Congresses against Commercial Sexual Exploitation of Children, held in 1996 and 2001 respectively;

(f) Ensure that a confidential, accessible and child-sensitive mechanism is established to receive and effectively address individual complaints of all children, including those in the 14 to 18 age group in addition to the existing toll-free national helpline;

(g) Ensure the prosecution of perpetrators;

(h) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate complaints and prosecute perpetrators, in a child-sensitive manner;

(i) Seek assistance, if necessary, from UNICEF, among others.

*Administration of juvenile justice*

(73) The Committee welcomes the adoption of the Law on Juvenile Perpetrators of Criminal Acts and on Criminal Legal Protection of Minors, which provides for special provisions for young offenders, such as, inter alia, mandatory defence of minors, exemptions and limited duration of proceedings and the imposition of guidance measures instead of juvenile prison. The Committee also welcomes the various projects aimed at the reintegration of juvenile perpetrators. The Committee is concerned at the lack of implementation of the existing provisions due to various factual constraints and the lack of an effective juvenile justice system of specialized prosecutors, judges and social workers to deal with children in conflict with the law.

(74) **The Committee recommends that the State party:**

(a) **Continue and strengthen its efforts to ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention and other relevant international standards in this area, such 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”), taking into account the Committee’s general comment No. 10 (2007) on child rights in juvenile justice;**

(b) **As a matter of priority, pay particular attention to:**

(i) **The need to take measures to prevent and reduce the use of pre-trial and other forms of detention and to make this detention as short as possible, inter alia, by developing and implementing alternatives to detention such as community service orders, interventions of restorative justice, etc.;**

(ii) **The need to train police officers, prosecutors, judges, probation officers and others involved in the process of dealing with children in conflict with the law, in order to, inter alia, make sure that these children are interrogated by trained police officers who notify parents immediately about their child’s arrest and who encourage the presence of legal assistance for the child;**

(iii) **The need to promote, in accordance with article 40, paragraph 1, of the Convention, social reintegration of children in the society;**

- (c) **Strengthen preventive measures, such as supporting the role of families and communities in order to help eliminate the social conditions leading to problems such as delinquency, crime;**
- (d) **Enhance enforcement of existing legislation;**
- (e) **Request further technical assistance in the area of juvenile justice and police training from the Interagency Panel on Juvenile Justice and others, including UNICEF.**

*Roma children*

(75) The Committee, while noting the efforts made by the State party, such as the adoption of the Law on Protection of Rights and Freedoms of National Minorities, the Committee remains deeply concerned at the negative attitudes and prejudices of the general public and at the overall situation of children of minorities and in particular Roma children. The Committee is concerned at the effect this has with regard to discrimination and disparity, poverty and denial of their equal access to health; education; housing, employment; non-enrolment in schools; cases of early marriage; and decent standard of living. The Committee is also concerned at the very low levels of participation in early childhood development programmes and day care and the deprivation of education.

(76) **The Committee urges the State party to:**

- (a) **Initiate campaigns, including throughout the media at all levels and regions, aimed at addressing the negative attitudes towards the Roma in society at large, including among police and other professionals;**
- (b) **Strengthen its efforts to remove discrimination and to continue developing and implementing – in close collaboration with the Roma community itself – policies and programmes aimed at ensuring equal access to culturally appropriate services, including early childhood development and education;**
- (c) **Take all necessary measures to systematically register Roma children so as to provide equal access to health services and to avoid statelessness;**
- (d) **Develop curricula units for children at school level, including in relation to Roma history and culture, in order to promote understanding, tolerance and respect for the rights of Roma in Serbian society as well as to enhance their Serbian-language skills;**
- (e) **Raise awareness in the Roma communities of the value of the girl child, her right to access education without discrimination as well as her right to be protected from early marriage and its harmful impact.**

**8. Ratification of human rights instruments**

(77) The Committee encourages that the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

**9. Follow-up and dissemination**

*Follow-up*

(78) **The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, including by transmitting them to the members of the Government and National Assembly for appropriate consideration and further action.**

*Dissemination*

(79) The Committee recommends that the initial report and written replies submitted by the State party be made widely available in the languages of the country to the public at large, civil society organizations, youth groups, professional groups, and children in order to generate debate on and awareness of the Convention, its implementation and monitoring.

**10. Next report**

(80) The Committee invites the State party to submit its consolidated second and third periodic report by 12 March 2013. The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.

(81) The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document set out in the “Harmonized guidelines on reporting to the international human rights treaties, bodies” including guidelines on the common core document and the treaty-specific document, approved at the Fifth Inter-Committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).

**30. Sierra Leone**

(1) The Committee considered the second periodic report of Sierra Leone (CRC/C/SLE/2) at its 1330th and 1331st meetings (see CRC/C/SR.1330 and 1331), held on 29 May 2008, and adopted, at its 1342nd meeting, held on 6 June 2008, the following concluding observations.

**A. Introduction**

(2) The Committee welcomes the submission of the second periodic report as well as the written replies to its list of issues (CRC/C/SLE/Q/2/Add.1) and commends the frank and self-critical nature of both the report and the replies to the list of issues, which gave a better understanding of the situation of children in the State party. The Committee regrets, however, that due to unforeseen circumstances, the State party was unable to send a multi-sectoral delegation to participate in the dialogue and therefore responses could not be provided on some issues raised.

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

(3) The Committee welcomes the adoption of the following legislation and measures:

- (a) The Education Act 2004;
- (b) The Trafficking in Persons Act 2005;
- (c) The Inheritance Act in 2007;
- (d) The Customary Marriage Act in 2007;
- (e) The Domestic Violence Act in 2007;
- (f) The national Child Rights Act in 2007;
- (g) The Human Rights Commission in 2004; and,
- (h) The National Children’s Policy in 2006.

- (4) The Committee welcomes the implementation of a number of programmes and projects related to child rights issues, including:
- (a) The justice sector development programme;
  - (b) The orphans and other vulnerable children's programmes;
  - (c) The child friendly centre programme;
  - (d) The Family Support Programme of Sierra Leone; and
  - (e) The Cross Border Family Tracing and Reunification Programme.
- (5) The Committee welcomes the ratification by the State party of:
- (a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in September 2001;
  - (b) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in May 2002; and
  - (c) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in April 2001.

## C. Main areas of concern and recommendations

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

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

(6) The Committee notes that several concerns and recommendations made upon the consideration of the State party's initial report (CRC/C/15/Add.116) have been addressed. However, it regrets that some of its concerns and recommendations have been insufficiently or only partly addressed, including those related to coordination, data collection and discrimination.

**(7) The Committee urges the State party to take all necessary measures to address those recommendations contained in the concluding observations on the initial report that have not yet been implemented or sufficiently implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations on the second periodic report. In this context, the Committee draws the attention of the State party to general comment No. 5 (2003) on general measures of implementation for the Convention on the Rights of the Child.**

#### *Legislation*

(8) The Committee particularly welcomes the recent adoption of the Child Rights Act, which broadly encompasses many areas of protection of child rights, as well as other legislation directly or indirectly relevant to child rights. The Committee takes note with appreciation of the fact that the Act was drafted to take into account the concluding observations relating to the State party's initial report in 2000 (CRC/C/15/Add.116). The Committee also notes with interest that an implementation plan is being prepared, and an information dissemination strategy is being designed, for the Child Rights Act.

**(9) The Committee encourages the State party to take, as a matter of priority, all appropriate measures to ensure that the Child Rights Act has precedence, in juridical terms and in practice, over previous legislation relating to child rights. The Committee also recommends that the State party ensure adequate human and**

**financial resources for the full implementation of the Act's provisions, particularly with regard to the ability of local councils to carry out the necessary planning and implementation of programmes in this regard.**

*Coordination*

(10) The Committee notes with interest that the Child Rights Act calls for the establishment of a national commission for children which will coordinate activities on child related issues. The Committee notes, however, that this commission has not yet been established. The Committee is concerned that, currently, the coordination role is divided between a large number of task forces that have been established, each dealing with specific child-related issues.

**(11) The Committee recommends that the State party establish a high-level body responsible for the coordination of activities on child-related issues and that it ensure that this body has the adequate financial and human resources to carry out its role efficiently.**

*National plan of action*

(12) The Committee notes with appreciation the draft National Policy on Child Well-being, which is intended to combine with other laws to protect, promote and enforce child rights. The Committee is concerned, however, that there is no national plan of action on children.

**(13) The Committee encourages the State party to adopt a National Plan of Action on Children and to ensure that it addresses fully all of the rights of the child enshrined in the Convention, and takes into account the outcome document "A World Fit for Children" adopted by the United Nations General Assembly at its special session on children held in May 2002 and its mid-term review of 2007. The Committee also recommends that the State party provide a specific budget allocation and adequate follow-up mechanisms for the full implementation of the Plan and ensure that it is equipped with an evaluation and monitoring mechanism to regularly assess progress achieved and identify possible deficiencies. The Committee encourages the State party to also monitor the implementation of the "Accelerated Call for Action" adopted during the mid-term review of "Africa Fit for Children, held in Cairo in November 2007.**

*Independent monitoring*

(14) The Committee notes with appreciation that the newly operational Human Rights Commission has a broad mandate to examine all cases of human rights abuse, including those affecting children. The Committee expresses concern, however, that there is no section within the Commission to focus specifically on children's rights.

**(15) The Committee recommends that the State party ensure that the Human Rights Commission has a mandate to monitor the implementation of the Convention on the Rights of the Child, and that it be established in accordance with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134 of 20 December 1993, annex) and taking into account the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child. Such a body should 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 and financial resources. In this regard, the Committee recommends that the State party seek technical assistance**

**from, inter alia, the United Nations Children's Fund (UNICEF) and the Office of the High Commissioner for Human Rights (OHCHR).**

*Allocation of resources*

(16) While noting that the Ministry for Social Welfare, Gender and Children's Affairs (Ministry for Social Welfare) works on children's issues in collaboration with other ministries, departments and agencies, which have their own budget allocations, the Committee notes with concern that the Ministry for Social Welfare itself receives only a small fraction of the State party's annual budgetary allocations and that it lacks adequate funding to carry out its work relating to children. The Committee also notes that the Ministry is very dependent upon development partners to implement its mandate for children, a situation that is not sustainable.

(17) While noting the expressed commitment of the Government to pursue a vigorous anti-corruption campaign, the Committee nevertheless expresses concern over reports of continuing corruption which may have a negative impact on the allocation of already limited resources for the promotion and protection of children's rights.

**(18) The Committee urges the State party, taking into account the Committee's recommendations during its Day of General Discussion in 2007 on "Resources for the Rights of the Child – Responsibility of States", to prioritize and increase budgetary allocations for children at national and local levels, to ensure that the Ministry for Social Welfare receives adequate financial and human resources to carry out its work relating to children. The Committee also recommends that the State party take all measures to eradicate corruption, including by continuing and strengthening its anti-corruption campaign, strengthening the role and independence of the Anti-Corruption Commission and effectively prosecuting acts of corruption. The Committee further recommends that the State party start budget tracking from a child right's perspective with a view to monitoring budget allocations for children, seeking technical assistance for this purpose from, inter alia, UNICEF.**

*Data collection*

(19) The Committee expresses its concern at the inadequate data collection, including on different categories of vulnerable children. Furthermore, the Committee is concerned at the reported loss in 2005 of the database developed in cooperation with donors and that the data lost has not, as of yet, been retrieved.

**(20) The Committee encourages the State party to continue to strengthen its data collection system as a basis for assessing progress achieved in the realization of child rights and to help design policies to implement the Convention. The State party should ensure that information collected contains up-to-date data, allowing for disaggregation and analysis, on a wide-range of vulnerable groups including former child combatants, children living in poverty, street children, children with disabilities, child labourers, etc. The Committee also recommends that the State party seek technical assistance from, inter alia, UNICEF.**

*Dissemination, training and awareness-raising*

(21) The Committee notes with appreciation the efforts made by the State party in disseminating the provisions of the Convention and related laws through, inter alia, publicity and sensitization campaigns and regular training programmes for Child Forum Network members, ministry officials, community animators and social workers. The Committee welcomes efforts to actively engage children in the dissemination process. The Committee is concerned, however, that training programmes have been targeted towards

only a limited scope of professional groups working with children. The Committee is also concerned that there has been no incorporation of human rights, including child rights, into the school curricula.

**(22) The Committee recommends that the State party strengthen its efforts to ensure that the provisions of the Convention are widely known and understood by adults and children. It also recommends the reinforcement of systematic training of all professional groups working for and with children, in particular law enforcement officials, teachers, including teachers in rural and remote areas, health personnel, social workers and personnel of childcare institutions. In this regard, the Committee recommends that human rights education be included in the official curriculum at all levels of education.**

*Cooperation with civil society*

(23) The Committee takes note of the State party's indication that it has maintained and increased constructive working relationships with local and international non-governmental organizations (NGOs) and community-based organizations. The Committee welcomes the fact that the system of collaborative networking and joint monitoring between NGOs and community-based organizations, related to child protection, has been decentralized, and is currently working in the rural areas as well. The Committee is concerned, however, that the limited capacity of national NGOs may not enable them to perform the tasks expected of them.

**(24) The Committee recommends that the State party prioritize capacity building of local NGOs both at central and local levels, with a view to ensuring sustainability. The Committee invites the State party to draw on the resources of international partners as well as United Nations agencies working in the State party, including UNICEF. The Committee further recommends that the State party strengthen its collaboration with civil society and widen the scope of cooperation so as to ensure cooperation on a broad level in all areas related to the promotion and protection of the rights of the child, including activities related to the implementation of the Convention and the follow-up to the concluding observations of the Committee.**

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

*Non-discrimination*

(25) The Committee notes with appreciation the section on the principle of non-discrimination, including against girls, contained in the Education Act (2004) and the ongoing and increasing efforts to educate the public on the need for non-discrimination, particularly against the girl child and children with disabilities. The Committee regrets nevertheless that the Constitution continues to allow discrimination against women and children, particularly in matters relating to marriage and inheritance, through restrictions and privileges available under customs and tradition.

**(26) The Committee urges the State party to continue and strengthen its efforts to remove all discriminatory laws from its statute books. In particular, the Committee urges the State party to review the Constitution with a view to ensuring that its provisions on non-discrimination are in full compliance with article 2 of the Convention. The Committee also encourages the State party to adopt a comprehensive strategy, including awareness-raising campaigns, to eliminate discrimination on any grounds and against all vulnerable groups.**

*Best interests of the child*

(27) The Committee takes note of the State party's affirmation that recent legislation and measures, including the Child Rights Act and the National Children's Policy, uphold the principle of the best interests of the child. It also notes with interest the State party's declaration that the Ministry for Social Welfare and its partners use the principle of best interests in actions concerning children, including post-war rehabilitation and reintegration programmes. However, the Committee also notes with concern that the principle of the best interests of the child does not seem to be a priority in major actions regarding children, including with regard to budget allocations.

**(28) The Committee recommends that the State party continue and strengthen its efforts to ensure that the principle of the best interests of the child is appropriately integrated in all actions, particularly those regarding budget allocations, legal provisions as well as in judicial and administrative decisions and in projects, programmes, and services that have an impact on children.**

*Right to life, survival and development*

(29) The Committee notes with appreciation the inclusion of efforts to ensure child survival and development in the Poverty Reduction Strategy Paper document and the Country's Vision 2025 Plan of Action. The Committee welcomes the efforts made by Child Protection Agencies and Community-Based Organizations working on child survival and development programmes to be present in remote villages and urban areas. The Committee shares, however, the State party's concern that efforts to improve food security are not adequate for the survival and development of the child.

**(30) The Committee urges the State party to continue and strengthen its policies and programmes to address issues related to the right to life, survival and development of children, including food security, and to ensure that priority is given to all children, including those living in rural or remote areas of the country.**

*Respect for the views of the child*

(31) The Committee notes with appreciation that the Ministry for Social Welfare and its partners have ensured the active participation of children and their Child Forum Network administration in transitional justice programmes, including participatory child sessions with the Truth and Reconciliation Commission. The Committee also notes with interest that children's views were heard and, to some extent, incorporated into the Child Rights Act and the National Children's Policy. The Committee is concerned, however, that such initiatives are not mainstreamed in all sectors and that children, particularly those belonging to vulnerable groups, are not always given the opportunity to express their views in administrative and judicial proceedings, the family, schools and the community.

**(32) The Committee calls the attention of the State party to the recommendations adopted on the Day of General Discussion on the right of the child to be heard, held on 15 September 2006, and recommends that the State party continue and strengthen its efforts to implement article 12 of the Convention and promote respect for the views of the child, including in administrative and judicial proceedings and schools. The Committee also recommends that the State party mainstream successful pilot initiatives promoting the participation of children in all matters that concern them in the family, school, other children's institutions and the community.**

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

#### *Birth registration*

(33) The Committee welcomes the various measures taken to promote birth registration of all children. It notes with concern, however, that the birth registration rate continues to be low, particularly in the rural areas.

**(34) The Committee recommends that the State party continue and strengthen its efforts to register all children with a special focus on children in the rural areas, including by providing the opportunity for late registration free of charge, mobile registration centres and financial assistance.**

#### *Corporal punishment*

(35) The Committee notes with appreciation that the Child Rights Act repeals the Corporal Punishment Act, under which boys under age 17 could receive up to 12 lashes as punishment, and that corporal punishment had not been judicially applied for several years. However, the Committee is concerned that corporal punishment is not prohibited and, in fact, is widely practiced in homes, schools or alternative care contexts and detention centres.

**(36) The Committee recommends that the State party ensure the full implementation of the Child Rights Act and that it explicitly prohibit by law all forms of violence against children, including corporal punishment, in all settings, including in the family, schools, alternative childcare and places of detention for juveniles, and implement those laws effectively. The Committee also recommends that the State party intensify its awareness-raising campaigns in order to promote the use of alternative forms of discipline in a manner consistent with the child's human dignity and in accordance with the Convention, especially article 28, paragraph 2, taking into account the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.**

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

(37) The Committee, while noting efforts by the State party to combat violence against children, is concerned nevertheless that violence against children is still widely practiced against children in various forms.

**(38) The Committee encourages the State party to prioritize elimination of all forms of violence against children. 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 to implement recommendations of the United Nations Study on violence against children, taking into account the outcome and recommendations of the Regional Consultations for West and Central Africa (held in Bamako, from 2–5 May 2005). In particular, the Committee recommends that the State party pay particular attention to the following recommendations:**

- (i) Prohibit all forms of violence against children;**
- (ii) Strengthen national and local commitment and action;**
- (iii) Promote non-violent values and awareness-raising;**
- (iv) Enhance the capacity of all who work with and for children;**
- (v) Ensure accountability and end impunity;**

(b) Use the recommendations of the Study as a tool for action in partnership with civil society and, in particular, with the involvement of children to ensure that all children are protected from all forms of physical, sexual and psychological violence and to gain momentum for concrete and time-bound actions to prevent and respond to such violence and abuse; and

(c) Seek technical cooperation in this respect from OHCHR, UNICEF and the World Health organization (WHO), and other relevant agencies, inter alia, the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office on Drugs and Crime (UNODC), as well as NGO partners.

4. **Family environment and alternative care (articles. 5, 18 (paragraphs 1–2), 9–11, 19–21, 25, 27 (paragraph 4) and 39 of the Convention)**

*Family environment*

(39) The Committee notes with appreciation that the Child Rights Act imposes parental duties and rights, on both parents, and mandates Central and Local Authorities to appropriately support parents and guardians where necessary, and that sensitization on parental/guardian rights and responsibilities has continued through the work of the Ministry for Social Welfare. However, the Committee is concerned, that the Ministry has very limited human and financial resources and is lacking in training and logistical support.

(40) **The Committee recommends that the State party take all necessary measures to ensure the allocation of appropriate financial and other support to the Ministry for Social Welfare and the Central and Local Authorities in order to allow these bodies to carry out work relating to programmes that support parents in the exercise of their responsibilities.**

*Children without parental care*

(41) The Committee welcomes the establishment in 2004 of the national Orphans and Other Vulnerable Children Task Force, set up to prepare a situational analysis for the development of a strategic plan of action for orphans and other vulnerable children in the country. The Committee notes with appreciation the efforts made by the State party and Child Protection Network partners to respond to the plight of orphans and other vulnerable children, including separated children, particularly efforts by the State party to reunite separated children with their families. However, the Committee notes the concern of the Task Force at the increase in the number of children orphaned by HIV/AIDS.

(42) **The Committee recommends that the State party, while taking into account the recommendations of the Day of General Discussion on children without parental care (CRC/C/153, 2006), continue its efforts to reunite separated children with their families. The Committee also recommends that the State party take all necessary measures to address the issue of children who become orphans due to HIV/AIDS and to provide adequate care and support to families caring for orphans and other children without parental care.**

*Residential and foster care*

(43) The Committee notes that the Ministry for Social Welfare and its Child Protection Network partners have undertaken to broaden and increase enforcement measures in monitoring day-to-day observance of provisions of law regarding fostering, among others.

However, the Committee is concerned at the lack of information about the condition of children living in residential care.

**(44) The Committee recommends that the State party ensure the full implementation of the Child Rights Act regarding foster placement. The Committee also recommends that the State party ensure that the placement of children is done in conformity with the Convention and that a periodic review of placement is established.**

*Adoption*

(45) The Committee is concerned that the 1989 law on adoption has not yet been evaluated and that the State party is not a party to the Hague Convention.

**(46) The Committee recommends that the State party:**

**(a) Evaluate the 1989 law on adoption in relation to article 21, in particular, and other articles of the Convention, especially article 3 on the best interests of the child, article 8 on the right to his/her identity, article 5 on the rights and duties of parents and article 12 on the right of the child to express his/her opinion;**

**(b) Recalling the Committee's previous recommendation on this issue (CRC/C/15/Add.116, para. 53), consider acceding to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption.**

*Abuse and neglect*

(47) The Committee notes that the Child Rights Act provides for the criminalization of, and increased penalties for, ill-treatment of children, including their abandonment by their parents, legal guardians or service providers, and that it implicitly repeals several provisions of the Prevention of Cruelty to Children Act, including the Act's definition of childhood. The Committee shares the State party's concern about the large number of children affected by sexual violence or abuse. The Committee also regrets the absence of mandatory reporting of abuse of children.

**(48) The Committee recommends that the State party take all necessary measures and actions to implement existing legislation to address and prevent sexual violence or abuse of children, including the setting up of a mandatory reporting system for abuse of children, the creation of a special police unit to deal with violence against children and the strengthening of rehabilitation services and advocacy.**

**5. Basic health and welfare (articles. 6, 18, paragraph 3, 23, 24, 26, 27 (paragraphs. 1–3) of the Convention)**

*Children with disabilities*

(49) The Committee notes that the State party works with NGOs, Child Protection Agencies and other humanitarian agencies to provide for the welfare of disabled persons, including children. It also notes that there are a number of facilities in place to care for the needs and well-being of children with disabilities and in which enrolment has increased. While the Committee notes with interest that a National Policy for the Protection of Persons with Disabilities is being developed by the State party, it remains concerned at the lack of appropriate legislation to cover the needs and protection of persons with disabilities. Further, the Committee regrets that no information is provided regarding any efforts to include children with disabilities in society. Finally, the Committee expresses its concern over reports that children with disabilities are excluded from the regular education system due to parents who do not want to send their children to school, the lack of teachers trained

to teach children with disabilities and the inaccessibility of the infrastructure to children with disabilities.

(50) **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 (2006) on the rights of children with disabilities, the Committee recommends that the State party:**

(a) **Take all necessary measures to ensure the effective implementation of existing legislation, and take all necessary measures to expedite the completion and adoption of the National Policy for the Protection of Persons with Disabilities;**

(b) **Make every effort to provide programmes and services for all children with disabilities and ensure such services receive adequate human and financial resources;**

(c) **Carry out awareness campaigns to sensitise parents as well as the public about the rights and special needs of children with disabilities and encourage their inclusion in society;**

(d) **Provide training for professional staff working with children with disabilities, such as teachers, medical, paramedical and related personnel and social workers; and**

(e) **Consider ratifying the Convention on the Rights of Persons with Disabilities and its Optional Protocol.**

*Right to health and access to health services*

(51) The Committee welcomes reports that there is improved and increased access to health facilities since the war. The Committee notes that immunization for children and antenatal coverage have also increased. The Committee also notes that Child Welfare Committees and social development workers have been trained/re-trained and assigned across the country. The Committee is concerned, however, at under-five and maternal mortality rates in the State party, which continue to be among the highest in the world. It is also concerned at the high malnutrition rate, limited access to drinking water and sanitation facilities and inadequate protection of children from malaria.

(52) Furthermore, the Committee notes with concern the gender and regional disparities in access to basic health services, as well as the lack of basic medical supplies and fully-trained nurses in health centres across the country. While noting the efforts by the State party and its partners to promote exclusive breastfeeding of babies for the first six months of their lives, and the subsequent improvement in the number of exclusively breastfed infants, the Committee remains concerned at the low rates of exclusive breastfeeding in the country.

(53) **The Committee recommends that the State party take the necessary steps to ensure that health care is both accessible and affordable to all children and that it continue to conduct appropriate training for health workers. The Committee urges the State party to undertake as a matter of priority, efforts to address the problems of infant and maternal mortality, malnutrition, acute respiratory infections, and diarrhoea and to take measures to protect children from, inter alia, malaria including by ensuring that they sleep under insecticide-treated mosquito nets (ITNs). The Committee also recommends that the State party continue and strengthen efforts to promote exclusive breastfeeding of infants for the first six months of their lives. In this regard, the State party is urged to adopt legislation on the International Code of Marketing of Breast-milk Substitutes (1981). The Committee encourages the State party to seek technical assistance from UNICEF and WHO, among others.**

(54) **The Committee further recommends that the State party ensure that maternal, child and adolescent health issues are strategically integrated into and given priority in national development policies.**

*Adolescent health*

(55) The Committee notes that campaigns against sexually transmitted diseases are helping to reduce their spread amongst teenagers. However, the Committee is concerned at the absence of an adolescent health policy or strategy and a mental health policy catering to adolescents affected by conflict and post conflict situations. The Committee also notes with concern that the levels of substance abuse, especially alcohol and marijuana, are increasing and yet the Child Rights Act omits any provisions referring to substance abuse. Furthermore, there are no minimum ages for the sale of alcohol or cigarettes to children and no penalties are set out for adults who encourage the use of illegal substances by children.

(56) **The Committee recommends that the State party, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child (CRC/GC/2003/4), establish a comprehensive policy on adolescent health, develop effective programmes and services in this area and collect valid data on adolescent health concerns through, inter alia, studies on the issue. The Committee also recommends that the State party, in consultation with affected youth, elaborate clear policies and, when applicable, legislation, to address the prevention of adolescent health-related issues, in particular, suicide, drug and alcohol abuse, early pregnancies, and mental health concerns.**

*Harmful traditional practices*

(57) The Committee notes with appreciation that the recently adopted Child Rights Act prohibits harmful traditional practices such as early/forced marriage, forced initiation, child betrothal and any other harmful cultural rite, custom or tradition that may inflict physical, psychological or emotional pain on a child or otherwise endanger him/her, and criminalizes and penalizes the commission of such acts. The Committee notes with interest that alternative strategies are being implemented to make practitioners of female genital mutilation (FGM) and traditional secret societies positively useful. The Committee nevertheless remains concerned about the persistence of harmful traditional practices and expresses particular concern that FGM is not explicitly prohibited by law. In this regard, the Committee reiterates the concern expressed by the Committee on the Elimination of Discrimination against Women (CEDAW/C/SLE/CO/5, paras. 22 and 23) over the persistence and high incidence of FGM and the serious health and social complications for girls that may arise out of this harmful practice.

(58) **The Committee urges the State party, in collaboration with civil society, to:**

(a) **Implement without delay legislative and other measures to prohibit traditional practices that are harmful to children, including female genital mutilation, early/forced marriage, child betrothal and forced initiation, and ensure that perpetrators of such acts are brought to justice;**

(b) **Continue and strengthen its strategies for awareness-raising and sensitization for practitioners, families, traditional or religious leaders and the general public in order to encourage a change of attitudes towards harmful traditional practices;**

(c) **Take adequate measures to provide practitioners who give up female genital mutilation with adequate training and support to find alternative sources of income; and**

**(d) Take other appropriate measures from a child-rights perspective to eradicate FGM and other traditional practices harmful to the health, survival and development of children, especially girls; and**

**(e) Put in place effective monitoring systems to assess progress towards the eradication of harmful traditional practices against children.**

*HIV/AIDS*

(59) The Committee welcomes the development by the State party in 2002 of an HIV/AIDS policy aimed at raising awareness about HIV/AIDS, which has included the "Prevention of mother to child transmission programme" and care, support and treatment of orphans of HIV/AIDS and people living with HIV/AIDS. The Committee also welcomes the establishment by the State party of an HIV/AIDS secretariat, which set up an HIV/AIDS prevention, control and treatment plan for the 2004 to 2008 period. However, the Committee is particularly concerned about the large discrepancies among information sources as to the number of children orphaned by HIV/AIDS which does not allow for a correct assessment of the number of children affected by HIV/AIDS.

(60) Furthermore, the Committee is concerned about the low level of knowledge about HIV/AIDS prevention among young persons and the low percentage of pregnant women having access to counselling and voluntary testing. The Committee also remains concerned at the information that people's attitudes show a climate of stigmatization and discrimination against persons with HIV/AIDS with many misconceptions existing about the modes of transmission and prevention of the virus.

**(61) The Committee urges the State party, while taking into account the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child (CRC/GC/2003/3) and the International Guidelines on HIV/AIDS and Human Rights, to take measures to prevent and reduce HIV/AIDS infection in its territory, particularly with regard to the young people through, inter alia:**

**(a) Fully implementing the HIV/AIDS prevention, control and treatment plan and continuing and strengthening implementation of the 'Prevention of Mother to Child Transmission' programme, including through increased coverage and access to prevention of mother-to-child transmission services;**

**(b) Developing, strengthening and continuing policies and programmes to provide care and support for children infected or affected by HIV/AIDS, including programmes and policies to strengthen the capacity of families and the community to care for such children;**

**(c) Continuing activities aimed at reducing stigma and discrimination related to HIV/AIDS and providing awareness-raising on human rights within the context of HIV/AIDS;**

**(d) Taking effective measures to prevent discrimination against children infected with HIV and/or affected by HIV/AIDS, particularly with regard to equal access to education;**

**(e) Continuing to disseminate information and materials to the public, particularly to women and girls, to increase knowledge about prevention and protection methods, including safe sex practices; and**

**(f) Seek technical assistance, as appropriate, from the United Nations Programme on HIV/AIDS (UNAIDS), UNICEF and WHO.**

*Standard of living*

(62) While the Committee welcomes the fact that food security for children is part of the basis of the State party's poverty reduction strategy paper (PRSP) and Vision 2025 action plan, it nevertheless shares the State party's concern at the low levels of nutrition in the State party, especially for children. The Committee also notes with concern that legislation is still in force that provides unrealistically low child maintenance fees, and unfair conditions for receipt of those fees, for abandoned or separated wives and their children and for children born out of wedlock. Furthermore, the Committee remains concerned about the high proportion of children living in poverty and enduring serious deprivation in basic social services.

**(63) The Committee recommends that the State party continue and strengthen the application of poverty reduction strategies in order to provide economically disadvantaged families with, inter alia, economic opportunities, adequate food, shelter and clothing. The Committee further recommends that the State party take all necessary measures, including through legislation, to ensure the fulfilment of the obligations of parents to provide adequate maintenance to their children, including children born out of wedlock and children of separated or abandoned wives. The Committee also recommends that the State party take specific measures to reduce child poverty and regularly monitor progress therein.**

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

(64) The Committee notes that the Education Act (2004) mandates free and compulsory basic education and junior secondary education for Government-assisted schools and affordable school charges for private schools. The Committee further notes that the Act and a corresponding Education Policy promote education for girls, vocational training, including for dropouts and enhanced quality, inter alia, by teacher training. The Committee is concerned that despite increased enrolment and completion rates in primary schools, enrolment is still low, in particular for girls, and that the number of teachers, in view of the large class sizes, is too small. The Committee also expresses concern at the practice of public schools to charge additional fees. Finally, the Committee is concerned about reports of sexual abuse of children, mostly girls, by teachers and the continued practice of corporal punishment in schools.

**(65) The Committee recommends that the State party, taking into account its general comment No. 1 (2001) on the aims of education:**

**(a) Ensure that primary education is free of charge, and also of other (additional) costs, in order to facilitate the participation of all children in primary education;**

**(b) Expand access to education, including early childhood education, to all regions of the State party;**

**(c) Improve the quality of education through the increase of the number of well-trained and fully qualified teachers and invest sufficient resources to provide adequate school facilities, materials and salaries;**

**(d) Continue and strengthen promotion of vocational education and training, including for children who have dropped out of primary or secondary schools;**

**(e) Reduce socio-economic, regional and gender disparities in access to and full enjoyment of the right to education;**

(f) Take appropriate measures to address charges of sexual abuse in schools and prosecute perpetrators;

(g) Promote the use of alternative forms of discipline in a manner consistent with the child's human dignity and in accordance with the Convention, especially article 28, paragraph 2; and

(h) Include human rights and child rights in the school curricula.

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

*Unaccompanied, refugee and internally displaced children*

(66) While the Committee notes with appreciation the efforts of the State party, in cooperation with UNHCR to ensure that refugees remaining in the country receive appropriate services and protection, it remains concerned that cases of rape and indecent assault registered in respect to children have been on the increase in refugee hosting areas.

**(67) The Committee urges the State party, taking into account the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, to take the necessary steps, in collaboration with civil society and other Governments, to complete the resettlement of all Sierra Leonean refugees, including children, without delay. The Committee also urges the State party to make every effort to protect children in refugee camps against rape and indecent assault and to prosecute perpetrators of such acts.**

*Economic exploitation, including child labour*

(68) The Committee welcomes efforts to address common forms of child labour through, inter alia, the provision of compulsory basic education for children, the promotion of vocational skills training for adolescents, and the upholding of the protective legal provisions for children contained in existing laws of the State party. The Committee also welcomes ongoing campaigns to stop child labour in the country, including recent community initiatives that prohibit child labour in mining areas. The Committee notes that a Policy on Mining, including a prohibition on the use of children in mines, is being developed by the Government of Sierra Leone and that the Child Rights Act provides protection against hazardous forms of child labour as well as forms of economic and sexual exploitation of children. Nevertheless, the Committee notes with concern the continuing existence of child labour, including hawking/peddling, domestic labour, and the widespread use of children for purposes of manual labour in mining areas. The Committee also notes with concern that the law does not limit working hours for children and, while school attendance is required through the age of 12, the Government does not enforce this. Finally, the Committee expresses its concern over reports that adults have asked orphanages for children to be used as household help.

**(69) The Committee encourages the State party to continue and strengthen efforts to address common forms of child labour, including child labour in mining areas, domestic labour and hawking/peddling. The Committee urges the State party to ensure that any policies, plans and legislation to address child labour, particularly in its worst forms, also provide effective protection for girls and children belonging to vulnerable groups. The Committee also urges the State party to take concrete action to address the root causes of child labour, including cultural traditions and high levels of extreme poverty. The Committee encourages the State party to consider ratifying ILO Convention 138 (1973) concerning the Minimum Age for Admission to Employment and ILO Convention 182 (1999) concerning the Prohibition and**

**Immediate Action for the Elimination of the Worst Forms of Child Labour. The Committee encourages the State party to seek technical assistance from the ILO/International Programme on the Elimination of Child Labour (IPEC).**

*Street children*

(70) The Committee notes with appreciation that training has been provided on the care and protection of street children for, inter alia, social workers, police, community leaders and child rights monitors and that street children have benefited from skills and reintegration programmes. However, the Committee notes that a number of children are still working and/or living in the street in the State party and that these children are vulnerable to social vices, lack shelter and do not attend school. The Committee shares the State party's opinion that street children, and other disadvantaged children, deserve special care and attention and notes that the Ministry for Social Welfare and its Child Protection Network partners provide interim care facilities for such children. The Committee notes with concern, however, that this response serves only as a temporary measure and does not permanently resolve the issue.

**(71) The Committee recommends that the State party adopt an all-embracing approach, legislation and policy, backed by social action, for all disadvantaged children. It recommends that the State party elaborate and implement concrete proposals and measures to meet the needs of these children, in close cooperation with civil society and taking into account the views of the children themselves. Furthermore, the State party is urged to include measures to provide the necessary support to families in order to prevent or reduce the likelihood of children going to the streets.**

*Sexual exploitation and abuse*

(72) The Committee notes that the Child Rights Act provides increased protection and penalties relating to sexual offences against children and that this Act supersedes the Prevention of Cruelty to Children Act, which sets a lower age definition for child victims of sexual abuse, provides minimal penalties for perpetrators of sexual misconduct against children and allows frivolous defences to justify the sexual misconduct alleged. The Committee notes with concern that available data on sexual abuse demonstrates a marked increase in rape, indecent assault and carnal abuse of children shortly after the civil war. The Committee also notes that rapid response strategies such as community sensitization and prosecution of offenders are ongoing and have yielded some results but is concerned that delays in the Department of Justice and the limited availability of trained medical experts are delaying the prosecution of sexual offenders.

**(73) The Committee recommends that the State party:**

**(a) Take appropriate legislative measures to address the issues of sexual exploitation and abuse, including implementation of the Child Rights Act;**

**(b) Take appropriate measures to ensure the prompt prosecution of perpetrators of sexual offences against children, including through the provision of trained medical experts and the elimination of causes of delays in the Department of Justice;**

**(c) Ensure that child victims of sexual exploitation or abuse are not criminalized or penalized and that they are not stigmatized because of sexual exploitation or abuse; and**

**(d) 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 and 2001 World Congresses against Commercial Sexual Exploitation of Children.**

*Sale, trafficking and abduction*

(74) The Committee welcomes the adoption in 2005 of the Anti-Human Trafficking Act and the subsequent creation of a Trafficking in Persons Task Force. The Committee also welcomes awareness-raising campaigns on this issue that have been carried out countrywide and with a particular focus on children, the main victims of trafficking. However, the Committee is concerned that there are reports of growing numbers of internally displaced (IDP) children being trafficked regionally and internationally, and that police and army officials at international borders are not effectively monitoring, reporting or investigating such unlawful practices. Additionally, the Committee notes with concern that, while the practices of sale of children, child prostitution and child pornography are decreasing, they nevertheless remain prevalent in the country. The Committee is also deeply concerned at the State party's indications that parental poverty and ignorance, corruption and lack of adequate governmental capacity for law enforcement and monitoring are obstacles to the prevention of sale and trafficking of children. The Committee notes with concern the common practice of giving children away as wards, a practice that the State party considers to inhibit its ability to fulfil its obligations under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

**(75) The Committee urges the State party to take all appropriate measures to prevent and eradicate the problems of the sale of children and child trafficking. The Committee recommends in particular that the State party take measures to address issues that present obstacles to the eradication of the sale of children and child trafficking, such as traditional cultural attitudes that promote the "sale" of children, the lack of adequate human and financial capacity in government agencies responsible for dealing with this issue and corruption.**

*Juvenile justice*

(76) The Committee notes that efforts at reviewing and upgrading current laws on juvenile justice have intensified and are near completion and that the Child Rights Act contains extensive provisions on alternative approaches to the issue of juvenile justice. The Committee welcomes the various measures taken by the State party to improve the situation of children in conflict with the law, including training programmes, awareness-raising and sensitization campaigns, monitoring of Remand and Bail Homes, and the establishment of a task force on juvenile justice to review policy and law and develop best practice for the general administration of juvenile justice. The Committee also notes that the Child Rights Act increases the minimum age of criminal responsibility from 10 years to 14 years. The Committee expresses concern that the State party does not provide legal aid for children within the justice system and that there is only one juvenile court in the country. The Committee is further concerned that the country's Remand Homes and Approved School are understaffed and ill-equipped, with little or no security, poor learning facilities, little recreation and limited food supplies. The Committee also notes with concern that children suspected of crimes are either incarcerated with adult offenders in deplorable conditions or sent to overcrowded facilities in Freetown.

**(77) The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular in line with 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 (2007) on children's rights in juvenile justice:

(a) Take the necessary steps to ensure full implementation of the Child Rights Act, which raises the age of criminal responsibility to 14 years;

(b) Take all necessary measures, including adopting a permanent policy of alternative sanctions for juvenile offenders, to ensure that children are held in detention only as a last resort and for as short a time as possible and that detention sentences are reviewed periodically;

(c) Take all necessary measures to ensure that when detention is carried out, it is done so 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 both in pre-trial detention and after being sentenced;

(d) Take all necessary measures to ensure that children are not ill-treated in detention, that conditions in detention facilities are not contrary to the child's development, that such facilities are regularly and independently monitored and that children's rights, including visitation rights, are not violated, and that cases involving juveniles are brought to trial as quickly as possible;

(e) Request further technical assistance in the area of juvenile justice and police training from the United Nations Interagency Panel on Juvenile Justice.

*Protection of witnesses and victims of crimes*

(78) The Committee 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).

**8. Ratification of international human rights instruments**

(79) While the Committee notes with appreciation that the State party has ratified a variety of international human rights instruments, it regrets that the State party has not fulfilled its reporting obligations under some of these instruments, particularly the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of all Forms of Racial Discrimination.

(80) The Committee encourages the State party to make every effort to fulfil its reporting obligations under the international human rights instruments it has ratified and particularly under the above-mentioned treaties.

**9. Follow-up and dissemination**

*Follow-up*

(81) The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, inter alia, by transmitting them to the members of the Cabinet or a similar body, the Parliament,

and to local governments, when applicable, for appropriate consideration and further action.

*Dissemination*

(82) The Committee further recommends that the second periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available in the languages of the country and in an accessible form, to the public at large, civil society organizations, youth groups, professional groups, the media and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.

**10. Next report**

(83) The Committee welcomes the submission by the State party on 31 March 2008 of its initial reports under the two Optional Protocols. The Committee invites the State party to submit its combined third, fourth and fifth periodic report by 1 September 2012. 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 Convention.

(84) The Committee also invites the State party to submit a core document in accordance with the requirements of the common core document in the Harmonized Guidelines on Reporting, approved by the fifth Inter-Committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).

**31. The Philippines: Optional Protocol on the involvement of children in armed conflict**

(1) The Committee considered the initial report of the Philippines under the Optional protocol on the involvement of children in armed conflict (CRC/C/OPAC/PHL/1) at its 1333rd meeting (CRC/C/SR.1333), held on 30 May 2008, and adopted at its 1342nd meeting, on 6 June 2008, the following concluding observations.

**A. Introduction**

(2) The Committee welcomes the submission of the initial report of the State party as well as the written replies to the list of issues (CRC/C/OPAC/PHL/Q/1 and Add.1), which give substantive information on the legislative, administrative, judicial and other measures applicable in the State party with respect to the rights guaranteed by the Optional Protocol. The Committee also welcomes the dialogue held with a high-level and multisectoral delegation.

(3) The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the second periodic report of the State party on 21 September 2005 (CRC/C/15/Add.259), and in particular with paragraphs 75 to 78 of the document, under the section “children in armed conflict”.

**B. Positive aspects**

(4) The Committee welcomes the information that several pieces of legislation contain provisions preventing children from being compulsorily recruited into armed forces or other armed groups as well as from directly participating in hostilities. The Committee notes with appreciation, in particular:

- (a) Republic Act 7610 (Special Protection Against Child Abuse, Exploitation and Discrimination Act);
  - (b) Republic Act 9208 (Anti-Trafficking of Persons Act);
  - (c) Republic Act 8371 (Indigenous Peoples Rights Act);
  - (d) Republic Act 9231 (Elimination of Child Labour).
- (5) The Committee welcomes the fact that the State party has recently agreed to join the monitoring and reporting mechanism initiative following Security Council resolution 1612 (2005).
- (6) The Committee also welcomes:
- (a) The work of the Interagency Agency Committee on the Comprehensive Program on Children in Armed Conflict (IAC-CIAC);
  - (b) The Memorandum of Agreement on the treatment and handling of children involved in armed conflict, which provides for rehabilitation and reintegration of these children;
  - (c) The Comprehensive Program Framework for Children in Armed Conflict;
  - (d) The creation, in February 2006, of the Sub-Committee on Children Affected by Armed Conflict and Displacement (SC CAACD) of the Council for the Welfare of Children, mandated to promote child welfare focusing on armed conflict and displacement.
- (7) The Committee further welcomes the ratification by the State party of:
- (a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 20 December 2001;
  - (b) Convention No. 182 (1999) of the International Labour Organization (ILO) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, on 28 November 2000.

## C. Factors and difficulties affecting the implementation of the Protocol

(8) The Committee acknowledges that the particular geographic configuration of the State (over 7,100 islands) associated with the continuous instability caused by, inter alia, the presence of opposition armed groups create objective difficulties and challenges for the implementation of the Optional Protocol.

### 1. General measures of implementation

#### *Data collection*

(9) The Committee welcomes the fact that the Commission on Human Rights of the Philippines and the Department of Social Welfare and Development have collected data on children in armed conflict, but regrets that these data are limited to some of the armed groups recruiting children and mostly relate to alleged cases of recruitment or use of children by armed groups when the children are arrested and referred to the Department of Social Welfare and Development.

**(10) The Committee recommends that the State party expand and strengthen its data collection, monitoring and reporting mechanisms, including by providing further human, financial and technical resources to enhance the data collection system of the Department of Social Welfare and Development and the Commission on Human Rights of the Philippines.**

*Resource allocation*

(11) The Committee is concerned that resources allocated for the implementation of the Optional Protocol are still inadequate.

(12) **The Committee recommends that the State party – taking also into account the recommendations resulting from its day of general discussion on “Resources for the Rights of the Child, Responsibility of States” held on 21 September 2007 – take all necessary measures to provide adequate human, financial and technical resources for the full implementation of the Optional Protocol.**

*Dissemination and training*

(13) The Committee notes with appreciation that some courses in human rights and domestic child protection laws were integrated into the curriculum of the Public Safety College, which is the training institution for police, but regrets that this training is not systematized and that no specific courses on the Optional Protocol are currently offered.

(14) **The Committee recommends that the State party ensure that all relevant professional groups, in particular military personnel, are systematically trained in the provisions of the Optional Protocol. In addition, in the light of article 6, paragraph 2, it recommends that the State party make the provisions of the Optional Protocol widely known and promoted, by appropriate means, to adults and children alike.**

*Independent monitoring*

(15) The Committee welcomes that both the Commission on Human Rights of the Philippines and the Deputy Ombudsman for the Military can accept and investigate breaches of human rights by the military. However, it notes that few cases regarding children have come to the attention of these bodies.

(16) **The Committee recommends that the State party provide the necessary human and financial resources to enable the Commission on Human Rights of the Philippines and the Deputy Ombudsman Office to actively monitor the compliance of the State party with the Optional Protocol, including with regard to the facilities where children may be housed, and to ensure that children can easily access these bodies in order to submit complaints.**

## 2. Prevention

*Voluntary recruitment*

(17) The Committee notes that the minimum age for voluntary recruitment is 18, except for training purposes. However, the Committee remains concerned that because of the difficulties in ensuring adequate birth registration in remote areas and among certain minority groups, including indigenous groups, children might be recruited under the age of 18.

(18) **In order to guarantee that the declaration made by the State party under article 3 of the Optional Protocol is effectively honoured, the Committee recommends that the State party establish and systematically implement safeguards to verify the age of volunteers, based on objective elements such as birth certificates, school diplomas and, in the absence of documents, medical examination to determine the exact age of the child.**

(19) **The Committee further recommends that the State party enforce the provisions of the Indigenous Peoples Rights Act to ensure that indigenous children are not recruited by armed forces or armed groups, including vigilantes groups.**

*Prevention of recruitment by armed groups distinct from the armed forces of a State*

(20) The Committee notes that non-State armed groups have in different terms expressed their commitment to protect children and that, in general, there seems to be awareness of the minimum age requirement in the communities among adults, youth and even children. However, it notes with concern that children continue to join armed groups, both government linked paramilitary groups and other non-State opposition armed groups, mainly due to poverty, indoctrination, manipulation, neglect or absence of opportunities.

(21) **The Committee recommends that:**

**(a) In the light of article 4 of the Optional Protocol, the State party take all feasible measures to eliminate the root causes and prevent recruitment and use of children by armed groups that are distinct from the armed forces of the State;**

**(b) The State party ensure that special and adequate attention is paid to children who have been recruited or used in hostilities when entering into negotiation and talks with armed groups, especially in the area of prevention, physical and psychological recovery and social reintegration;**

**(c) During ceasefire and peace negotiations all parties be made aware of their obligations under the Optional Protocol, which should form an integral part of the peace agreements.**

*Schools and peace education*

(22) The Committee notes the information that high school students, usually 15 or 16 years of age, continue to be required to undergo at least one year of Citizenship Advancement Training (CAT), (formerly known as Citizen's Army Training) as a prerequisite for graduation. The Committee is concerned that the CAT promotes militarism and is contrary to the peacebuilding education of the State party and to the spirit of the Optional Protocol.

**(23) The Committee recommends that the State party, in order to continuously improve the situation of children and their development and education in conditions of peace and security, amend the CAT programme and consider abolishing its military content.**

**(24) The Committee further recommends that the State party, in collaboration with civil society organizations, develop and implement training programmes and campaign to promote the values of peace and respect for human rights and include the subject of peace education and human rights as a fundamental subject in the education system.**

### 3. Prohibition

*Legislation*

(25) The Committee notes that under several laws recruitment and use of children in hostilities is prohibited and punished with sanctions of up to 20 years of imprisonment. However, in spite of this important legislative framework, the Committee is concerned at the lack of its effective implementation, especially in conflict areas, and at the fact that so far there has been no prosecution for recruitment or use of children in armed conflict. Furthermore, the Committee is concerned that the Philippines have not ratified the Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) and the Rome Statute of the International Criminal Court.

(26) **In order to strengthen the national and international measures for the prevention of the recruitment of children by armed forces or armed groups and their use in hostilities, the Committee recommends that the State Party:**

(a) **Effectively implement the existing legislation prohibiting and criminalizing the recruitment and involvement of children in hostilities;**

(b) **Provide information in its next report on the number of prosecutions for recruitment or use of children in armed conflict;**

(c) **Ensure and enforce extraterritorial jurisdiction for these crimes when they are committed by or against a person who is a citizen of or has other links with the State party, including by entering into multilateral and bilateral agreements for extradition;**

(d) **Ensure that military codes, manuals and other military directives are in accordance with the provisions of the Optional Protocol;**

(e) **Ratify the Rome Statute of the International Criminal Court as well as the Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I).**

#### **4. Protection, recovery and reintegration**

(27) The Committee welcomes the information on disarmament, demobilization, rehabilitation and reintegration programmes implemented in the State party, including the 2004 Action Plan on Disarmament, Demobilization, Rehabilitation and Reintegration (DDRR). While the Committee appreciates the measures adopted to ensure confidentiality and protection of children involved in these programmes, it is concerned at the information on cases where children have been exploited for propaganda purposes in breach of their right to privacy.

(28) **The Committee recommends that the State party continue and strengthen measures aimed at the demobilization, physical and psychological recovery and social reintegration of victims of acts contrary to the Optional Protocol, including by providing further financial resources for the development and effective functioning of these services, and notably of the DDRR programmes. The State party should also prohibit all activities which constitute arbitrary interference of the privacy of children, especially within the framework of recovery and reintegration programmes.**

(29) The Committee notes with appreciation the Memorandum of Agreement on the treatment and handling of children involved in armed conflict, which provides for rehabilitation and reintegration of these children, rather than their prosecution. However, it is concerned that Republic Act 7610, in its article 10, provides for the arrest and prosecution of children for reasons related to the armed conflict, though the sentence would be suspended in case of conviction. The Committee is further concerned at reports of ill-treatment of children occurring at the moment of their apprehension and/or during their deprivation of liberty.

(30) **The Committee recommends that the State party:**

(a) **Amend Republic Act 7610 so as to ensure that children are not criminalized for the fact of having been recruited or used in hostilities;**

(b) **If children in armed conflict are arrested and prosecuted for having committed a crime, trials have to strictly follow safeguards and procedures outlined in international standards on juvenile justice;**

(c) **Ensure that children deprived of their liberty as a consequence of their involvement in the hostilities are treated with humanity and with respect for their inherent dignity;**

(d) **Take due account of the victimization of former child soldiers in peace negotiations with opposition armed groups;**

(e) **Seek legal advice from the Office of the United Nations High Commissioner for Human Rights and the United Nations Children's Fund (UNICEF) on how to integrate minimum human rights standards and a child rights perspective in the legal framework of peace negotiations, with special attention to the basic principles of truth, justice and reparations for the victims.**

(31) The Committee, while noting the statement made by the State party that the issue of landmines does not represent a significant problem in the Philippines, is concerned at the information that non-State armed groups continue to use victim-activated antipersonnel mines and that incidents involving the use, seizure or recovery of mines and other explosive devices continue to occur.

**(32) The Committee recommends that the State party provide more information in its next report on measures adopted to develop a landmine and unexploded ordnances (UXO) clearance program as well as risk education activities, including by seeking the necessary technical and financial support within a framework of international cooperation, including from United Nations agencies.**

#### *Control of arms exports*

(33) The Committee welcomes the various measures that the State party has put into place to control the sale, possession and export of small arms and munitions. However, the Committee is unclear whether these measures would be adequate to prevent small arms from coming into the possession of children or being sold to children or entities where the end user may recruit children.

**(34) The Committee recommends that laws regulating the sale and export of small arms be sufficiently strong and enforced so that they do not end up in the hands of child soldiers.**

#### *Helpline*

(35) The Committee notes that the child helpline Bantay-Bata is only accessible in 5 of the 17 regions of the State party.

**(36) The Committee recommends that the existing child helpline be expanded to all regions and be three-digit, toll free for both the helpline and the caller, and available 24 hours.**

### **5. International assistance and cooperation**

(37) **The Committee recommends that the State party seek from the international community further technical cooperation and financial assistance for the implementation of the Optional Protocol.**

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

(38) **The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the Ministry of Defense, the Congress and the Cabinet and to**

provincial authorities, where applicable, for appropriate consideration and further action.

(39) The Committee recommends that the initial report submitted by the State party and concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate on and awareness of the Optional Protocol, its implementation and monitoring. The State party should also consider making these concluding observations and recommendations known to armed groups that are distinct from the armed forces of the State within the framework of their ongoing talks, pursuant to article 4 of the Protocol.

#### **7. Next report**

(40) In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its combined third and fourth periodic reports under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.

#### **32. Eritrea**

(1) The Committee considered the consolidated second and third periodic report of Eritrea (CRC/C/ERI/3) at its 1334th and 1335th meetings (CRC/C/SR.1034 and 1035), held on 2 June 2008, and adopted, at the 1342nd meeting, held on 6 June 2008, the following concluding observations.

#### **A. Introduction**

(2) The Committee welcomes the submission of the report, the written replies to its list of issues (CRC/C/ERI/Q/3 and Add.1) and legal documentation as well as the constructive dialogue with a high-level, cross-sectional delegation. The Committee would have appreciated the presence of a representative of the inter-ministerial Committee responsible for coordination of policies on the rights of children.

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

(3) The Committee welcomes a number of positive developments in the reporting period, inter alia:

- (a) Proclamation No. 158 of 2007 aimed at abolishing female genital mutilation;
- (b) The efforts made to reduce the number of infant and under five mortality rates.

(4) The Committee also welcomes the accession to the following international human rights instruments:

- (a) The Optional Protocol on the sale of children, child prostitution and child pornography on 16 February 2005;
- (b) The Optional Protocol on the involvement of children in armed conflict on 16 February 2005.

## C. Factors and difficulties impeding the implementation of the Convention

(5) The Committee acknowledges that the aftermath of the armed conflict as well as poverty and drought continue to hamper progress in the effective implementation of the provisions of the Convention.

## D. Main areas of concern and recommendations

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

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

(6) The Committee notes with satisfaction that certain concerns and recommendations (see CRC/C/15/Add.204) made upon the consideration of the initial report of the State party in 2003 have been addressed. However, the Committee is concerned that recommendations regarding, inter alia, legal reform, national plan of action, independent monitoring, resources allocation, data collection, harmful traditional practices, birth registration, child labour and juvenile justice have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present document.

**(7) The Committee urges the State party to take all necessary measures to address those recommendations contained in the concluding observations on the initial report that have not yet been implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations on the second and third periodic report.**

#### *Legislation*

(8) The Committee remains concerned at the lack of progress of Eritrea in reforming its legislation with a view to harmonizing it with the Convention on the Rights of the Child ("the Convention"), its Optional Protocols and related international standards and notes that the draft Civil and Penal Codes have not been adopted. The Committee regrets that a systematic legislative review by the Child Law Committee has not been completed. Furthermore, the Committee is concerned that customary laws still constitute an obstacle to the implementation of the Convention.

**(9) The Committee recommends that the State party strengthen and expedite its efforts to bring domestic law into full compliance with the Convention by completing a comprehensive review of legislation by the Child Law Committee and implementing legislative amendments. The State party should consider the adoption of a comprehensive Children's Code in order to incorporate the provisions of the Convention and take into account the African Charter on the Rights and Welfare of the Child. Furthermore, the State party should promote awareness of legislation, in particular among communities which continue to apply customary laws.**

#### *Coordination*

(10) The Committee notes that an inter-ministerial Committee is responsible for coordination of policies and programmes and that offices of the Ministry of Labour and Human Welfare coordinate policies at the regional and sub-regional level. The Committee however remains concerned that national coordination of the implementation of the Convention is not sustained and regrets the lack of information on the mandate and resources available to the national and regional coordinating bodies.

(11) **The Committee recommends that the State party ensure that the entity designated for coordination purposes be given an adequate mandate and human and financial resources enabling it to effectively coordinate and monitor implementation at the national, regional (zoba) and sub-regional level. In this regard, the Committee refers the State party to its general comment No. 5 (2003) on general measures of implementation for the Convention on the Rights of the Child.**

*National Plan of Action*

(12) The Committee notes several specific action plans and programmes mentioned in the report of the State party, but regrets the lack of a comprehensive National Plan of Action and of information indicating the outcome and evaluation of the National Programme of Action on Children 200–006 (CRC/C/15/Add.204, para. 8).

(13) **The Committee recommends that the State party adopt a National Plan of Action for Children that covers all areas of the Convention and ensure its implementation with adequate human and financial resources, accompanied with assessment and evaluation mechanisms. Furthermore, the Committee recommends that the National Plan of Action for Children be translated into local languages and disseminated widely among local governments and non-governmental organizations (NGO) as they play an important role in its implementation. The Committee encourages the State party to take into account the Declaration and Plan of Action “A World Fit for Children” adopted by the General Assembly at the Special Session on Children held in May 2002 and its mid-term review of 2007. The Committee encourages the State party to also monitor the implementation of the “Call for accelerated action on the implementation of the Plan of Action towards Africa Fit for Children (200–012)” adopted in Cairo on 2 November 2007 by the African Union second Pan-African Forum on Children: midterm review (see A/62/653).**

*Independent monitoring*

(14) While the Committee welcomes the efforts of the State party to monitor the implementation of the Convention through expansion of social services to the sub-regional level and the child well-being committees, the Committee reiterates its concern as stated in the previous concluding observations that there is no independent national human rights institution to monitor and promote the Convention (CRC/C/15/Add.204, paras. 10 and 11).

(15) **The Committee recommends that the State party establish an independent national human rights institution in full compliance with the Paris Principles. Such an institution should be accessible to children and be provided with adequate human and financial resources to receive, monitor and investigate complaints from or on behalf of children on violations of their rights as well as recommend remedies. In this regard, the Committee draws the attention of the State party to its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child.**

*Resources for children*

(16) The Committee notes information that resources in some areas have been increased, but remains concerned that the allocated resources are insufficient to effectively improve the implementation and protection of children’s rights. The Committee is further concerned that information regarding allocations for children is imprecise and not related to the total budget or gross domestic product. In particular, the Committee notes the considerable military expenditure in contrast to allocations to education and health.

(17) **The Committee urges the State party to take into account the recommendations issued by the Committee following its day of general discussion held on 21 September 2007 on “Resources for the Rights of the Child – Responsibility of States”. In the light of article 4 of the Convention, the Committee also urges the State party to prioritize and increase budgetary allocations for children at both national, regional and sub-regional levels to improve the implementation of the rights of the child throughout the country and, in particular, to pay attention to the protection of the rights of children belonging to vulnerable groups, including children belonging to minority groups, children with disabilities, children affected by and/or infected with HIV/AIDS and children living in poverty and in remote and rural areas.**

*Data collection*

(18) The Committee welcomes the improvements made with regards to data collection since the last periodic review in 2003. However, it notes that the figures given do not indicate the proportion of children in need and that updated data remains lacking in numerous areas, inter alia on alternative care, child abuse, sexual exploitation and child labour.

(19) **The Committee encourages the State party to further strengthen its system of data collection and analysis as a basis for assessing progress achieved in the realization of children’s rights and to help design policies to implement the Convention. The Committee also recommends that the State party seek technical assistance, including from the United Nations Children’s Fund (UNICEF), in order to establish a DevInfo-based national database.**

*Dissemination, training and awareness-raising*

(20) The Committee notes with appreciation the efforts made by the State party in translating and disseminating the Convention through the organization of seminars and public events. However, the Committee is concerned that additional efforts are required with regard to raising awareness of the Convention among relevant professional groups, communities, religious leaders, parents and among children themselves, especially in rural and remote areas.

(21) **The Committee recommends that the State party strengthen its efforts to ensure that the provisions of the Convention are widely known and understood by communities, religious leaders, parents and children, by using various forms of media with active participation of children. The Committee recommends that human rights education be included in the official curriculum at all levels of education. The Committee also recommends that the State party conduct public awareness campaigns paying particular attention to people with low literacy skills.**

(22) **The Committee recommends the reinforcement of systematic training of all professional groups working for and with children, including teachers, police, lawyers, judges, health personnel, social workers and personnel of childcare institutions, including those in rural and remote areas. The Committee suggests that the State party seek technical assistance from UNICEF and the Office of the United Nations High Commissioner for Human Rights (OHCHR) for the above recommendations.**

*Cooperation with civil society*

(23) The Committee is seriously concerned over the limitations placed upon certain organizations of civil society and in particular regrets the severe administrative and practical restrictions upon the operation of international and national NGOs, in particular those working in the area of human rights and humanitarian assistance for children.

(24) The Committee strongly recommends the State party to respect the indispensable role played by civil society in furthering the implementation of the Convention and encourages the active, positive and systematic involvement of civil society, including international and national NGOs, in the promotion of children's rights, including their participation in the follow-up to the concluding observations of the Committee.

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

*Non-discrimination*

(25) The Committee notes as positive that the principle of non-discrimination is incorporated in the Constitution as well as efforts to narrow the gender gap. The Committee also recognizes efforts by the State party to reduce regional disparities by the establishment of more colleges and hospitals, yet notes that regional disparities remain a concern. Furthermore, the Committee is concerned that de facto discrimination against certain groups of children persists, particularly with regards to girls, children living in poverty, children affected by and/or infected with HIV/AIDS, orphans and children belonging to nomadic and pastoralist minorities.

**(26) The Committee recommends that the State party make combating discrimination against vulnerable groups a national priority. In particular, the Committee recommends the State party to design programmes which enable the girl to access her rights without discrimination and to raise awareness among all stakeholders and society at large of the value of the girl child. Furthermore, in relation to other forms of discrimination, the Committee urges the State party to take adequate measures to ensure the practical application of provisions guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a comprehensive strategy to eliminate regional disparities as well as discrimination on any grounds and against all vulnerable groups.**

(27) The Committee regrets that information was not included in the report on the measures and programmes relevant to the Convention 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 (2001) on the aims of education. The Committee requests that specific information, as outlined above, be provided in the next periodic report.

*Best interests of the child*

(28) The Committee appreciates the efforts of the State party to incorporate the best interest of the child into certain decision-making processes, however is concerned that there is little evidence that the best interests is a primary consideration by the legislative, executive and judicial branches of power.

**(29) The Committee recommends that the State party ensure that the principle of the best interests of the child be formally incorporated into the legislative, executive and judicial branches of power by inter alia including reference to the best interests of the child in legislation and other actions such as children in cases of divorce, child protection, adoption and juvenile justice; ensuring that procedures of the executive include reference to the best interests of the child; and that members of the judiciary are aware of the Convention and its implications.**

*Respect for the views of the child*

(30) While noting with appreciation the efforts made by the State party to implement the principle of respect for the views of the child, notably in custody and adoption cases, the Committee remains concerned over the lack of adequate opportunities for children to express their views and that traditional societal attitudes limit the consideration given to children's views, including in the community, schools and within the family. The Committee is furthermore concerned that sufficient legal provisions have not been implemented to guarantee the right of the child to be heard in judicial and administrative proceedings affecting the child.

**(31) The Committee recommends that the State party strengthen its efforts to ensure that children's views are given due consideration in the community, the family, the schools and to guarantee the right of the child to be heard in any judicial and administrative proceedings affecting the child, in accordance with article 12 of the Convention. In this context, the Committee encourages the State party to take into account the recommendations adopted by the Committee following the day of general discussion on the right of the child to be heard, held on 15 September 2006.**

**3. Civil rights and freedoms (articles 7, 8, 13–17 and 37 (a) of the Convention)**

*Birth registration*

(32) **The Committee, while noting the reported efforts by the State party to improve the rate of birth registration, is concerned over the lack of adequate institutional structures, especially at the regional and sub-regional level, to ensure birth registration and is still concerned at information indicating that large numbers of children, in particular those of minorities, are neither registered at birth nor at a later stage.**

(33) **The Committee reiterates its concern from the previous periodic review and urges the State party to strengthen and further develop measures to ensure that all children born within the national territory, including those of minorities and living in remote areas, are registered. Furthermore, the Committee urges the State party to create institutional structures at all levels that are accessible and free in order to implement effective birth registration, e.g. by introducing mobile units, especially in rural and remote areas and internally displaced persons and refugee camps. The Committee recommends the State party to seek technical assistance from UNICEF for the implementation of these recommendations.**

*Freedom of expression*

(34) The Committee is concerned over the severe restriction on the freedom of expression and the lack of free media, which has a negative impact on children's right to access information.

**(35) The Committee urges the State party to remove unnecessary restrictions on the media in order to guarantee that children can access information and exercise their right to freedom of expression in accordance with articles 13 and 17 of the Convention.**

*Freedom of religion*

(36) The Committee is deeply concerned over measures by the State party to confiscate certain child orphanages and kindergartens as well as the detention of children belonging to certain religious denominations that are not recognized by the State party.

(37) **The Committee urges the State party to lift restrictions, release children detainees and respect the rights of children belonging to all religious denominations to exercise their right to freedom of religion.**

*Corporal punishment*

(38) The Committee notes that the provision on corporal punishment in the Transitional Penal Code only applies to children under 15 when endangering gravely their physical and mental health and that “reasonable chastisement” remains permitted. The Committee is concerned that corporal punishment is still widely practised in the home, the schools and other settings.

(39) The Committee recommends that the State party prohibit corporal punishment by law and enforce the prohibition in all settings, including in the family, the schools and alternative childcare. It also recommends that the State party conduct awareness-raising campaigns to ensure that alternative forms of discipline are used, in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28, paragraph 2, while taking due account of the general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment. The Committee also recommends the State party to seek technical assistance from UNICEF in order to implement relevant programmes in the school environment.

*Torture and degrading treatment*

(40) The Committee is seriously concerned over the information that children, including those in high schools, are victims of torture, cruel and degrading treatment by the police and military. In particular, the Committee expresses concern at information indicating detentions and ill-treatment directed against children who seek to avoid military service.

(41) **The Committee urges the State party to take effective measures to protect all children from torture, cruel, inhuman and degrading treatment. The Committee emphasizes the urgent need to investigate and sanction those responsible for having committed abuses. The Committee recommends that the State party ensure that all child victims of torture, cruel and degrading treatment are provided access to physical and psychological recovery and social reintegration as well as compensation, giving due consideration to the obligations enshrined in article 39 of the Convention.**

**4. Family environment and alternative care (articles 5, 18 (paragraphs 1–2), 9–11, 19–21, 25, 27 (paragraph. 4) and 39 of the Convention)**

*Family environment*

(42) The Committee is concerned over the high number of vulnerable families due the aftermath of the armed conflict, poverty, HIV/AIDS as well as the absence of one parent due to obligatory military service, detention or exile.

(43) **The Committee recommends that the State party take all necessary measures to ensure the allocation of appropriate financial and other support to programmes that support parents in the exercise of their responsibilities. In particular the Committee recommends the State party to provide effective support programmes for children in vulnerable families, such as those mentioned above.**

*Children without parental care*

(44) The Committee while noting as positive the efforts by the State party to prioritize alternative care for children in a community setting and reduce the number of children in institutions. However, the Committee remains concerned over the lack of accurate data on

the number of affected children and over the high number of orphans, including HIV/AIDS orphans as well as refugee and displaced children, in relation to the measures and resources available to them.

(45) **The Committee recommends that the State party, while taking into account the recommendations issued by the Committee following its day of general discussion on children without parental care, held on 16 September 2005, undertake the necessary measures to protect the rights of children without parental care and address their needs with a focus on, inter alia:**

(a) **Improved assistance to extended families who care for children of parents who have died of AIDS and for child-headed households;**

(b) **Further promotion of and support for family-type and community based forms of alternative care for children deprived of parental care, in order to reduce the dependence on institutional care;**

(c) **Providing training for staff in alternative care settings and access to complaints mechanisms for the children;**

(d) **Adequate monitoring of alternative care facilities on the basis of established regulations;**

(e) **Continued reunification with their birth family when appropriate for children receiving alternative care.**

#### *Adoption*

(46) The Committee notes as positive that domestic adoptions are given priority and the intention of the State party to ensure that legislation relating to adoption is brought into conformity with the Convention. The Committee however regrets the lack of information and data in relation to adoptions.

(47) **The Committee recommends that the State party evaluate its adoption practices and enact legislation in accordance with the best interest of the child and articles 20, paragraph 3, and 21 of the Convention. The Committee also recommends the State party to consolidate its data collection system and provide more information on domestic and inter-country adoptions. Furthermore, the Committee recommends that the State party ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption in order to avoid the sale of children through illegal adoptions.**

#### *Child abuse*

(48) The Committee notes the inclusion of provisions on sexual abuse in the Transitional Penal Code, however regrets that adequate information on child abuse is lacking in the State party report.

(49) **The Committee recommends that the State party:**

(a) **Take the necessary measures to prevent child abuse and neglect;**

(b) **Establish effective mechanisms to receive, monitor though collection of data and investigate reports of cases of child abuse and, when required, initiate prosecutions of perpetrators in a manner that is child sensitive and ensures the privacy of the victims;**

(c) **Provide children victims of sexual or other forms of abuse with the necessary psychological and other support for their full recovery and social reintegration,**

- (d) Carry out preventive public education campaigns about the consequences of the abuse and ill-treatment of children;
- (e) Provide support for the operation of a 24-hour three-digit toll free helpline for children;
- (f) Finalize and adopt the national plan of action on violence and abuse against children;
- (g) Seek technical assistance from inter alia UNICEF.

*Follow-up to the United Nations study on violence against children*

(50) With reference to the United Nations study on violence against children, the Committee recommends that the State party:

(a) Take all necessary measures to implement the recommendations of the United Nations study on violence against children (A/61/299) taking into account the outcome and recommendations of the Regional Consultation for Eastern and Southern Africa, held in South Africa from 18 to 20 July 2005. In particular, the Committee recommends that the State party pay particular attention to the following recommendations;

- (i) Prohibit all forms of violence against children;
- (ii) Strengthen national and local commitment and action;
- (iii) Promote non-violent values and awareness-raising;
- (iv) Enhance the capacity of all who work with and for children;
- (v) Ensure accountability and end impunity;

(b) Use the recommendations of the United Nations study as a tool for action in partnership with civil society and, in particular, with the involvement of children to ensure that all children are protected from all forms of physical, sexual and psychological violence and to gain momentum for concrete and time-bound actions to prevent and respond to such violence and abuse; and

(c) Seek technical cooperation in this respect from OHCHR, UNICEF and the World Health Organization (WHO), and other relevant agencies, inter alia, the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office on Drugs and Crime (UNODC), as well as NGO partners.

5. **Basic health and welfare (articles 6, 18, paragraph 3, 23, 24, 26, 27, paragraphs 1–3, of the Convention)**

*Children with disabilities*

(51) The Committee notes as positive the assistance provided by the State party to children with disabilities, in particular the measures undertaken to improve access to education. The Committee however notes that further measures are required in order to extend the coverage of assistance and rehabilitation to all children with disabilities, particularly in rural and remote areas.

(52) The Committee recommends that the State party, while taking into account the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations issued by the

Committee following its day of general discussion on children with disabilities, held on 6 October 1997, take all necessary measures to:

- (a) Continue raising awareness of children with disabilities, including their rights, special needs and potential, in order to change prevailing prejudices against children;
- (b) Collect adequate disaggregated statistical data on children with disabilities and use such data in developing policies and programmes to promote their equal opportunities in society, paying particular attention to children living in remote areas of the country;
- (c) Provide children with disabilities with access to adequate social and health services, as well as to quality education;
- (d) Ensure that professionals working with and for children with disabilities, such as medical, paramedical and related personnel, teachers and social workers are adequately trained.

*Health and health services*

(53) The Committee notes improvements regarding infant, under-five and maternal mortality rates but remains deeply concerned that these remain very high. The Committee notes efforts by the State party to improve health services to remote areas and the construction of new hospitals. However, it remains concerned that medical facilities are still primarily concentrated in the urban areas, resulting in exclusion of large parts of the population, in particular those belonging to minorities, of access to necessary health services. It is also concerned over the low coverage of vaccinations, the prevalence of malaria and the high incidence of malnutrition.

(54) **The Committee recommends that the State party take all necessary measures to strengthen its programmes for improving health care by supporting programmes with adequate and clearly allocated resources, while paying particular and urgent attention to mortality rates, vaccination uptakes, nutrition status, breastfeeding rates and the management of communicable diseases and malaria. Specifically, the Committee recommends that the State party pay specific attention to the urban/rural divide and target financial allocations in order to address the disparities in access to services, also bearing in mind measures required to improve the access for children of minority groups.**

(55) Furthermore, Committee notes with appreciation the tradition in the State party of an overall high level of breastfeeding rates, to maintain this high rate the committee recommends State party, inter alia, to promote:

- (a) Exclusive breastfeeding for 6 months;
- (b) Adoption of the International Code for Marketing of Breast-milk Substitutes.

*HIV/AIDS*

(56) The Committee welcomes the information by the State party that anti-retroviral treatment is available free of charge. However, it notes the challenges involved in ensuring its accessibility to all those who need it. The Committee is concerned over the increasing HIV/AIDS infection rates and notes that children, and in particular adolescent girls in urban areas, are highly vulnerable to contracting HIV/AIDS. The Committee is concerned that prevention of mother to child transmission (PMTCT) services are inadequate, that testing and counselling services are insufficient and that there is a lack of a legal framework and

strategy on how to support and counteract discrimination against children who have contracted or lost their parents to HIV/AIDS.

**(57) The Committee recommends, with reference to its general comment No. 3 (2003) on HIV/AIDS and the rights of the child and to the International Guidelines on HIV/AIDS and Human Rights, the State party to:**

**(a) Ensure the full and effective implementation of a comprehensive policy to prevent HIV/AIDS with adequate targeting of areas and groups that are the most vulnerable;**

**(b) Strengthen its efforts to combat HIV/AIDS, including through awareness-raising campaigns;**

**(c) Ensure access to child-sensitive and confidential testing and counselling, without the need for parental consent;**

**(d) Strengthen and expand its efforts and services to prevent mother-to-child transmission of HIV;**

**(e) Develop a legal framework and strategy in order to protect children and prevent discrimination against children infected with and affected by HIV/AIDS;**

**(f) Seek international assistance from, among others, UNAIDS and UNICEF, to that effect.**

#### *Adolescent health*

(58) The Committee is concerned that insufficient attention has been paid to adolescent health issues, including developmental, mental and reproductive health concerns. The Committee is specifically concerned over the situation of girls due to the high incidence of early pregnancies, as these have a negative impact on their health.

**(59) The Committee recommends that the State party, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child:**

**(a) Undertake a comprehensive study to assess the nature and extent of adolescent health problems and, with the participation of adolescents, use it as a basis to formulate adolescent health policies and programmes with a particular focus on the prevention of early pregnancies and sexually transmitted infections (STIs);**

**(b) Ensure improved sex and reproductive health education in schools;**

**(c) Strengthen reproductive health services and make them known and accessible to adolescents.**

#### *Harmful traditional practices*

(60) The Committee, while noting with appreciation efforts by the State party to eradicate female genital mutilation (FGM) through the proclamation No. 158 of 2007 aimed at abolishing the practice and that the State party has designed a five year strategic plan to eradicate harmful traditional practices, reiterates its serious concern over the very high incidence of FGM, which still affects nearly 90 per cent of girls. The Committee, while noting awareness-raising efforts about the harmful impact of FGM, is concerned that such measures need to be strengthened and mainstreamed in a sustainable manner.

**(61) The Committee recommends the State party to continue and strengthen its efforts including through effectively enforcing the criminalization of female genital mutilation. Furthermore, the Committee recommends that the national plan of action**

**be implemented in a comprehensive manner and that adequate resources be allocated for its implementation, in particular in rural areas. Awareness-raising campaigns on the negative effects on the health of children, especially girls, should systematically and consistently be mainstreamed, targeting all segments of the society including the general public as well as community, traditional and religious leaders. The Committee further recommends the State party to provide retraining, where appropriate, for practitioners of female genital mutilation and support them to find alternative sources of income.**

(62) The Committee reiterates its concern, as stated in the previous concluding observations, that while the Constitution and the Civil Code formally set 18 years-old as the minimum age to enter into marriage, customary laws do not have the same minimum marriage age and are often applied differently to boys and girls. The Committee notes that in practice many children, especially girls, are married between the ages of 13 and 15. The Committee is furthermore concerned over reports which indicate that the rate of child marriages is increasing.

**(63) The Committee, while noting the efforts undertaken by the State party in this regard, recommends that the State party enforce legislation on the minimum age of marriage at 18 and develop further sensitization programmes involving community, traditional and religious leaders as well as society at large, including children themselves, in order to curb the practice of early marriage.**

#### *Standard of living*

(64) The Committee is deeply concerned at the widespread poverty in the State party and the large numbers of children who do not enjoy the right to an adequate standard of living, including access to food, clean drinking water, adequate housing and sanitation.

**(65) The Committee recommends that, in accordance with articles 4 and 27 of the Convention, the State party improve its coordination and reinforce its efforts to allocate adequate human and financial resources to provide support and material assistance, with a particular focus on the most marginalized and disadvantaged families, and to guarantee the right of children to an adequate standard of living. In this connection, the Committee recommends that the State party give particular priority to the rights and needs of children when drafting and implementing national development plans and poverty reduction strategy papers. The Committee recommends the State party to conduct a child centred policy targeting the elimination of child poverty.**

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

(66) The Committee welcomes the improved enrolment rates in schools of all levels, in particular in kindergarten and community centres, the increased budget allocation for education, the provision of education in various languages, as well as, improved collection of statistics of the school attendance of children. The Committee however is concerned that the literacy rate remains high as access to primary education is insufficient and net enrolment still low. Furthermore, the Committee is concerned at the large number of school dropouts; overcrowding in classrooms; the low rate of transition to secondary school; the limited provisions for vocational training; the insufficient number of trained teachers and available school facilities; and the poor quality of education. The Committee is concerned that considerable challenges still hamper eliminating inequalities which disadvantage children's access to education, in particular in rural regions and among nomadic groups, and on the basis of ethnicity and sex. Finally, the Committee notes the information given during the dialogue that schools and military camps are separated, but is still concerned

over information that secondary school students have to undergo obligatory military training.

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

(a) **Ensure that primary education is free and compulsory and take the necessary measures to ensure that all children are enrolled in primary education;**

(b) **Increase public expenditure for education, in particular primary education, with specific attention to improving access and addressing sex, socio-economic, ethnic and regional disparities in the enjoyment of the right to education;**

(c) **Train more teachers, especially female, and improve school facilities, notably water and sanitation, in particular in rural areas and among nomadic groups;**

(d) **Undertake additional efforts to ensure access to adaptable informal education of high quality to vulnerable groups, including street children, orphans, refugee and displaced children, children with disabilities and child domestic workers, inter alia by addressing indirect and hidden costs of school education;**

(e) **Further expand preschool facilities supplied with qualified teachers, make them free of costs and make special attempts to include children from vulnerable and school distant groups at early ages;**

(f) **Ensure that secondary school students do not have to undertake obligatory military training;**

(g) **Strengthen vocational training, including for children who have left school before completion;**

(h) **Include human rights education as part of the curriculum;**

(i) **Seek technical assistance from UNESCO and UNICEF, in particular to improve access to education for girls.**

**7. Special protection measures (articles 22, 30, 38, 39, 40, 37 (b)–(d), 32–36 of the Convention)**

*Refugee and internally displaced children*

(68) The Committee regrets that the State party has not ratified the 1951 Convention relating to the Status of Refugees and does not adequately collaborate with humanitarian agencies in order to ensure protection of internally displaced children.

(69) **The Committee urges the State party to:**

(a) **Ratify the 1951 Convention relating to the Status of Refugees;**

(b) **Extend further cooperation with humanitarian agencies in order to assist refugee and internally displaced children;**

(c) **Take all measures to guarantee protection of refugee children in line with international human rights and refugee law, while taking into account the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin.**

*Children in armed conflict*

(70) The Committee welcomes that the minimum age for recruitment is set to 18; however, it is concerned over reports of forced underage recruitment and at the detention

and ill-treatment of boys under the age when they are required to serve their compulsory military service. Furthermore, the Committee is concerned over the lack of physical and psychological recovery for children affected by armed conflict, in particular those who were displaced and separated from their parents and those affected by landmines.

(71) **The Committee urges the State party to:**

(a) **Take all possible measures to prevent the recruitment of children and enforce its legislation strictly;**

(b) **Provide physical and psychological recovery measures for all children affected by armed conflict, including those separated from their parents and landmine victims, while paying particular attention to female-headed households;**

(c) **Consider ratification of the Rome Statute of the International Criminal Court;**

(d) **Resume support to the operation of the United Nations Peacekeeping Mission in Ethiopia and Eritrea (UNMEE) in order to seek sustainable peace in the region.**

*Street children*

(72) The Committee, while noting information in the State party report regarding measures taken to protect street children, is concerned over the increasing number of street children, especially in major urban centres, and that these children are often victims of drug abuse, sexual exploitation, harassment and victimization by members of the police force. Furthermore, the Committee is concerned at the stigmatization of street children and negative attitudes in society towards them based upon their deprived social condition.

(73) **The Committee recommends the State party to:**

(a) **Undertake a systematic assessment of the situation of street children in order to obtain an accurate picture of its root causes and magnitude;**

(b) **Develop and implement with the active involvement of street children themselves a comprehensive policy which should address the root causes, in order to prevent and reduce this occurrence;**

(c) **Provide, in coordination with NGOs, street children with the necessary protection, adequate health-care services, shelter, education and other social services;**

(d) **Support family reunification programmes, when it is in the best interests of the child.**

*Economic exploitation, including child labour*

(74) The Committee notes the information from the State party regarding child work being mostly to help parents, but is concerned over information about widespread child labour and over the lack of comprehensive measures to ensure that children are protected from economic exploitation and the worst forms of child labour.

(75) **The Committee urges the State party to develop and implement, with the support of ILO, UNICEF, and NGOs, a comprehensive assessment study and a plan of action to prevent and combat child labour, in full compliance with ILO Convention No. 138 (1973) concerning Minimum Age for Admission to Employment, which the State party has ratified. Furthermore, the Committee reiterates its recommendation that the State party ratify the ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.**

*Sexual exploitation and sexual abuse*

(76) The Committee welcomes the initiatives by the State party to combat sexual exploitation of children, including the establishment of a national plan of action against sexual exploitation of children. Nevertheless, the Committee is concerned over the rising numbers of children, especially girls, who are victims of sexual exploitation and sexual abuse. The Committee notes that the majority of cases remain in impunity. Furthermore, the Committee is deeply concerned at the lack of information in the State party report on the extent of the problem and the number of children affected.

(77) **The Committee recommends that the State party:**

**(a) Undertake a comprehensive study to document the number of children victims of sexual exploitation and abuse and to identify the root causes of the problem;**

**(b) Carry out awareness-raising educational measures to prevent and eliminate sexual exploitation;**

**(c) Train professionals, in particular those working with the administration of justice, in order to receive, investigate process complaints in a child-sensitive manner that respects the privacy of the victim;**

**(d) Ensure adequate resources in order to investigate cases of sexual abuse and exploitation and prosecute and impose adequate sentences for such crimes;**

**(e) Implement a comprehensive policy, with the participation of NGOs, for the prevention, recovery and social reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Yokohama Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children.**

*Juvenile justice*

(78) The Committee regrets the absence of a child friendly juvenile justice system in the country and reiterates its concern that children between 15 and 17 are tried as adults. The Committee is concerned that deprivation of liberty is not used as a measure of last resort and at the lack of separation of children from adults in pretrial detention.

(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”) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (“the Riyadh Guidelines”) the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (“the Havana Rules”), and in the light of the Committee’s day of general discussion on the administration of juvenile justice. In particular, the Committee recommends that the State party:**

**(a) Develop a juvenile justice system, with specialized juvenile courts, which ensures that all children are tried as such. Children under 18 should not be tried as adults;**

**(b) Improve training programmes on relevant international standards for all professionals involved with the system of juvenile justice such as judges, police officers, defence lawyers and prosecutors;**

**(c) Provide children, both victims and accused, with adequate legal assistance throughout the legal proceedings;**

(d) Be guided in this respect by the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20);

(e) Ensure that detention and institutionalisation of child offenders is only resorted to as a last resort;

(f) Seek technical assistance and other cooperation from the Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.

*Children belonging to a minority group*

(80) The Committee notes the lack of information on children belonging to minority groups in the report of the State Party.

**(81) The Committee urges the State party to provide information on the fulfilment of the rights of children belonging to minority groups in its next periodic report.**

**8. Ratification of international human rights instruments**

(82) The Committee is of the opinion that the ratification of or accession to other international core human rights instruments would strengthen the efforts of the State party to meet its obligations in guaranteeing the full realization of rights of all children under its jurisdiction.

**(83) The Committee encourages the State party to ratify or accede to all core international human rights instruments and ensure prompt compliance and implementation with reporting requirements in order to promote and improve the overall protection of human rights.**

**9. Follow-up and dissemination**

*Follow-up*

**(84) The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, inter alia by transmitting them to the members of the Cabinet, the Parliament, and to regional and sub-regional authorities, when applicable, for appropriate consideration and further action.**

*Dissemination*

**(85) The Committee further recommends that the second and third periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available in the languages of the country, including (but not exclusively) through the Internet to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.**

**10. Next report**

**(86) The Committee invites the State party to submit its fourth report, by 1 September 2011. This report should not exceed 120 pages (see CRC/C/118). Furthermore, the Committee reminds the State party that the reports under the Optional Protocols were due on the 16 May 2007 and recommends that both reports be submitted at the same time.**

(87) The Committee also invites the State party to submit a core document in accordance with the requirements of the common core document set out in the “harmonized guidelines on reporting, to the international human rights treaty monitoring bodies” approved by the fifth Inter-Committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).

#### **IV. Cooperation with United Nations and other competent bodies**

33. Before and during the meeting of the pre-sessional working group and the session, the Committee held various meetings with United Nations bodies and specialized agencies, as well as with other competent bodies, in the framework of its ongoing dialogue and interaction with those bodies in the light of article 45 of the Convention. The Committee met with:

- UNICEF Deputy Regional Directors, to discuss modalities of strengthening cooperation
- UNICEF, Global Policy Section, regarding the Asian regional Conference on Women and Children – The Human Rights Relationship, held in Bangkok in December 2007
- Early Childhood Development Indicators Group to continue exchange of views regarding the development of indicators
- Students from IUKB in Sion to hear about research regarding the desirability of developing an individual complaints mechanism under the Convention
- Representative of Brazil and UNICEF to discuss progress on the draft Guidelines on Children without Parental Care
- Special Rapporteur on the Right to Education to discuss issues of common interest and in particular the upcoming day of general discussion on Education in Situations of Emergency
- Norberto Liwski of the Instituto Interamericano del Niño, la Niña y Adolescentes (IIN) to hear about IIN efforts to follow up on the concluding observations of the Committee

#### **V. Methods of work**

34. At its 1342nd meeting on 6 June 2008 the Committee decided to request the General Assembly to approve its request to work in two chambers for a period of four sessions, and related pre-sessional working groups, beginning with its pre-sessional working group in September 2009 (Annexed).

35. At its 1342nd meeting the Committee welcomed the initiative of non-governmental organisations for the development of an optional protocol to the Convention on the Rights of the Child on individual complaints and an inquiry procedure. The Committee wished to encourage States parties to consider this issue seriously and noted the Committee would follow any discussions closely.

## **VI. General comments**

36. The Committee postponed discussion on the drafts of its forthcoming general comments on the right of the child to express views and be heard and on indigenous children and their rights to its future sessions.

## **VII. Future day of general discussion**

37. At its 1341st meeting, held on 5 June 2008, the Committee discussed organizational matters relating to its discussion day on the right of the child to education in emergency situations (articles 28 and 29 of the Convention), scheduled to take place during the Committee's forty-ninth session on 19 September 2008.

## **VIII. Future meetings**

38. The following is the draft provisional agenda for the forty-ninth session of the Committee:

1. Adoption of the agenda.
2. Organizational matters.
3. Submission of reports by States parties.
4. Consideration of reports of States parties.
5. Cooperation with other United Nations bodies, specialized agencies and other competent bodies.
6. Methods of work of the Committee.
7. Day of general discussion.
8. General comments.
9. Future meetings.
10. Other matters.

## **IX. Adoption of the report**

39. At its 1342nd meeting, held on 6 June 2008, the Committee considered the draft report on its forty-eighth session. The report was adopted unanimously by the Committee.

## Annex I

## Membership of the Committee on the Rights of the Child

<i>Name of member</i>	<i>Country of nationality</i>
Ms. Agnes Akosua <b>Aidoo</b> *	Ghana
Ms. Alya Ahmed Bin Saif <b>Al-Thani</b> **	Qatar
Ms. Joyce <b>Aluoch</b> **	Kenya
Mr. Luigi <b>Citarella</b> *	Italy
Mr. Kamel <b>Filali</b> *	Algeria
Ms. Maria <b>Herczog</b> *	Hungary
Ms. Moushira <b>Khattab</b> *	Egypt
Mr. Hatem <b>Kotrane</b> *	Tunisia
Mr. Lothar Friedrich <b>Krappmann</b> *	Germany
Ms. Yanghee <b>Lee</b> **	Republic of Korea
Ms. Rosa Maria <b>Ortiz</b> *	Paraguay
Mr. David Brent <b>Parfitt</b> **	Canada
Mr. Awich <b>Pollar</b> **	Uganda
Mr. Dainius <b>Puras</b> *	Lithuania
Mr. Kamal <b>Siddiqui</b> **	Bangladesh
Ms. Lucy <b>Smith</b> **	Norway
Ms. Nevena <b>Vuckovic-Sahovic</b> **	Republic of Serbia
Mr. Jean <b>Zermatten</b> **	Switzerland

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\* Term expires on 28 February 2001.

\*\* Term expires on 28 February 2009.

## Annex II

### **Decision of the Committee on the Rights of the Child to request approval from the General Assembly at its sixty-third session to work in two chambers**

**(Adopted on 6 June 2008)**

In view of the number of States parties to the Convention on the Rights of the Child, which now stands at 193, and to its Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, which now stand at 126 and 120, respectively, and their reporting obligations, the current status of submission of reports and the projected future submission of reports, the Committee on the Rights of the Child is convinced that effective and timely implementation of its responsibilities under article 44 of the Convention and articles 8 and 12 of its Optional Protocols require that it be granted more meeting time during 2009, 2010 and 2011.

Currently, the number of reports awaiting review stands at over 80, and the average delay between submission and consideration is close to three years. The Committee has continued to keep its working methods under review and seeks to consider 10 reports at each session. The decision of the Committee, adopted at its thirty-seventh session in 2004, to work in two chambers was implemented in 2006. In the course of that year, the reports of 48 States parties were considered and the backlog of reports awaiting review was eliminated, thereby encouraging the submission of overdue reports by many States parties. In order to address the current backlog and to encourage timely reporting, so as to ensure appropriate monitoring of the Convention and its Optional Protocols, the Committee has concluded that it would require eight additional weeks of meetings of its sessions and four additional weeks of pre-session meetings, which would be convened from mid-2009 to 2011.

**The Committee therefore requests the General Assembly, at its sixty-third session, to approve the present request and to provide appropriate financial support to enable the Committee to work in two chambers as of October 2009 for its fifty-third pre-session working group and as of January 2010 for its fifty-third session. The functioning of the two-chamber system would be in place for four sessions until the Committee's fifty-sixth session in January 2011.**

The Committee would consider the reports of States parties during its regular sessions, in two parallel chambers, each consisting of nine members of the Committee, taking due account of equitable geographical distribution, thereby increasing the number of reports of States parties to be examined from 10 to 16 per session, which, over four sessions, would result in an increase in the number of reports considered from 40 to 64 reports. The Committee would meet for 10 working days during each three-week session in parallel chambers and in parallel working groups for the duration of its one-week pre-session working groups.