



# Convention on the Rights of the Child

Distr.: General  
4 March 2021

Original: English  
English, French and Spanish only

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## Committee on the Rights of the Child

### List of issues prior to submission of the combined third to sixth periodic reports of South Africa\*

1. The State party is requested to submit in writing the information requested below (21,200 words maximum), if possible before 15 February 2022. The replies should take into consideration the Committee's recommendations contained in its concluding observations (CRC/C/ZAF/CO/2) adopted on 27 October 2016. The Committee may take up all aspects of children's rights set out in the Convention and its Optional Protocols during the dialogue with the State party.

#### I. New developments

2. The Committee requests the State party to provide:

(a) Information on the adoption or reform of laws, policies and programmes, and any other type of measures taken, such as the creation or reform of institutions, that are significant for the implementation of the Convention, the Optional Protocol thereto on the involvement of children in armed conflict and the Optional Protocol thereto on the sale of children, child prostitution and child pornography;

(b) Information on the measures taken to ensure the protection of the rights of children in the context of the coronavirus disease (COVID-19) pandemic and to mitigate its adverse impacts, in view of the statement of the Committee of 8 April 2020 on the effects of the COVID-19 pandemic;

(c) Any other information that the State party considers relevant in this regard and that is not covered in the replies to the questions below, including information on obstacles and challenges faced.

3. The Committee also requests the State party to provide information on how a child rights-based approach is integrated into the planning, implementation and monitoring of measures for achieving the Sustainable Development Goals, including with regard to the participation of children and data collection, and how such measures promote the realization of children's rights under the Convention and the Optional Protocols thereto.

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\* Adopted by the pre-sessional working group on 11 February 2021.



## **II. Rights under the Convention and the Optional Protocols thereto**

### **A. General measures of implementation (arts. 4, 42 and 44 (6))**

#### **Legislation**

4. Please provide information on measures taken:
  - (a) To fully incorporate the provisions of the Convention into the domestic legal system, including in national legislation, through such acts as the Children's Amendment Bill;
  - (b) To conduct an assessment of the extent to which national legislation and practices comply with the Convention;
  - (c) To ratify the Optional Protocol to the Convention on a communications procedure, signed by the State party on 13 August 2012;
  - (d) To fulfil its reporting obligations under the Optional Protocol to the Convention on the involvement of children in armed conflict, overdue since 25 October 2011.

#### **Comprehensive policy and coordination**

5. Please provide information on the measures taken:
  - (a) To ensure that the development and implementation of national policies affecting children encompass all areas covered by the Convention and are supported by sufficient human, technical and financial resources;
  - (b) To amend the Medium-Term Strategic Framework 2019–2024 to include children as a national priority;
  - (c) To implement the revised national plan of action and ensure that the newly established Office on the Rights of the Child has the mandate and adequate resources to fulfil its leadership and coordination role.

#### **Allocation of resources**

6. Please provide detailed information on the measures taken:
  - (a) To incorporate a child rights approach into the State budgeting process, for example by implementing a tracking system for the allocation and use of resources for children and undertaking assessments of the budget needs of children to ensure the sufficient and equitable allocation of resources for promoting and protecting children's rights in all provinces and for the social and child protection sectors;
  - (b) To eradicate corruption and ensure a transparent, accountable and participatory budgeting process, in particular by involving children;
  - (c) To ensure that children, in particular those in vulnerable situations, are not affected by regressive measures taken in response to the COVID-19 pandemic and the potential consequences of the economic crisis triggered by those measures.

#### **Data collection**

7. Please update the Committee on the efforts made to improve the collection and quality of disaggregated data relating to the implementation of the Convention, in particular data on child victims of violence, sexual exploitation and abuse and on children in disadvantaged or vulnerable situations, including children with disabilities and children with albinism. Please inform the Committee on the measures taken to ensure that data is collected in a coordinated fashion and shared among relevant State agencies and used for the formulation and monitoring of policies and programmes for the implementation of children's rights.

**Dissemination, awareness-raising and training**

8. Please provide information on awareness-raising programmes for children, parents and the general public on the Convention, the Optional Protocols thereto and the Committee's previous concluding observations. Please also provide information on the systematic training of all professional groups working with and for children, particularly the judiciary and the police, including the border police, on the Convention and the Optional Protocols thereto.

**Independent monitoring**

9. Please provide information on the measures taken:

(a) To provide the South African Human Rights Commission with sufficient resources to receive, investigate and address complaints raised by children;

(b) To provide the Commissioner responsible for children's rights with sufficient resources to guarantee the effective promotion and protection of children's rights.

**Children's rights and the business sector**

10. Please describe the measures taken:

(a) To strengthen the implementation and monitoring of the regulatory framework for industries and enterprises, including the reporting and sanctioning dimensions, in particular for the extractive industries, to ensure that their activities domestically and abroad do not adversely impact the enjoyment of children's rights, including through environmental pollution and child labour;

(b) To require companies to undertake environmental and health impact assessments with public consultation and to make full public disclosure of the impacts on children's rights of and their plans to address them;

(c) To guarantee children's rights, including to life, development, non-discrimination, health and an adequate standard of living, in the context of the growth in offshore petroleum exploration, drilling and extraction.

**B. Definition of the child (art. 1)****Minimum age of marriage**

11. Please inform the Committee on the legislative measures taken to ensure that the minimum age for marriage is established at 18 years for both boys and girls.

**C. General principles (arts. 2–3, 6 and 12)****Non-discrimination**

12. Please provide information on the measures taken:

(a) To implement the policy commitments on prohibiting discrimination against children on all grounds, in line with the Convention, including those contained in the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance, the white paper on inclusive education, the white paper on the rights of persons with disabilities and the National Integrated Early Childhood Development Policy;

(b) To eliminate, in practice, the exclusion and discrimination in accessing basic social and child protection services faced by black children, children living in rural areas and in urban informal settlements, children living in poverty and in households headed by unemployed persons, girls, children living with HIV/AIDS, children with disabilities, indigenous children, stateless, migrant, asylum-seeking and refugee children, children in street situations, lesbian, gay, bisexual, transgender and intersex children and children with albinism and to address the heightened exposure of these children to violence, abuse and harassment.

**Best interests of the child**

13. Please inform the Committee about the measures taken:

(a) To undertake mandatory child rights impact assessments for any proposed policy, legislative, regulatory, budget, international cooperation or other administrative decision that affects children and their enjoyment of their rights;

(b) To ensure that the right of the child to have his or her best interests taken as a primary consideration is appropriately integrated into and consistently applied in all legislative, administrative and judicial proceedings and decisions.

**Respect for the views of the child**

14. Please provide information on the measures taken to address the traditional attitudes and practices of caregivers and professionals working with and for children regarding child participation and to promote the meaningful participation of children in the family, in the community, at school and in decisions affecting them, including on climate change.

**D. Civil rights and freedoms (arts. 7–8 and 13–17)****Birth registration, statelessness and nationality**

15. With reference to the Committee’s previous concluding observations (CRC/C/ZAF/CO/2, para. 32), please provide information on the legislative, administrative and practical steps taken or envisaged:

(a) To guide and monitor the implementation of sections 2 (2) and 4 (3) of the South African Citizenship Act (Act No. 88 of 1995);

(b) To ensure that all stateless children born in the State party, irrespective of residency status, have access to citizenship;

(c) To ensure universal birth registration, including by removing barriers and simplifying access to birth registration, in particular for stateless and adopted children and for unaccompanied and separated migrant children, and by removing fees and other punitive measures for late registration;

(d) To ensure that the lack of a birth certificate does not hinder access to child protection services and basic social services, particularly education and access to justice.

**Access to appropriate information**

16. Please describe the measures taken:

(a) To improve access to information, including by developing child-friendly versions of key policy documents;

(b) To improve digital inclusion for children and promote equality of access and affordability of online services and connectivity, particularly for children in rural areas and children with disabilities.

**E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)****Freedom of the child from all forms of violence, including sexual exploitation and gender-based violence**

17. Please provide information on the measures taken or envisaged:

(a) To define domestic violence as a criminal offence in a gender-sensitive way in the Domestic Violence Act (Act No. 116 of 1998);

(b) To prohibit, in line with the judgment of the Constitutional Court in *Freedom of Religion South Africa v. Minister of Justice and Constitutional Development and Others*, the administration of “reasonable and moderate parental chastisement” by adopting the

Children's Amendment Bill and by strengthening efforts to eradicate all forms of corporal punishment in practice;

(c) To address endemic causes of violence against children, including gender-based violence and violence against children with albinism, such as poverty, inequality and behavioural practices that often result in underreporting and serve as a justification for domestic violence and sexual abuse of children;

(d) To establish comprehensive protection, prevention and early intervention infrastructure with multisectoral interventions and build the capacity of families, caregivers and communities to protect children from all forms of violence;

(e) To establish strong accountability mechanisms for gender-based violence and allocate to them sufficient technical, human and financial resources;

(f) To address the growing risk of online sexual and commercial exploitation and abuse of children;

(g) To address the incidents of sexual abuse of girls in schools by teachers and male students and ensure reporting, accountability and prosecution;

(h) To ensure the availability of legal support and child-friendly confidential complaint mechanisms in schools, alternative care settings, foster care systems and emergency accommodation and age-friendly information on access to counselling and redress, including compensation and rehabilitation.

### **Harmful practices**

18. With reference to the Committee's previous concluding observations (CRC/C/ZAF/CO/2, para. 40), please provide information on the legislative and practical steps taken to prohibit and eradicate all forms of harmful practices carried out on children in the State party, including the abduction of girls for the purpose of forced marriage (*ukuthwala*), child and forced marriage, so-called "virginity testing", witchcraft, female genital mutilation, polygamy, violent or harmful initiation rites and intersex genital mutilation.

## **F. Family environment and alternative care (arts. 5, 9–11, 18 (1)–(2), 20–21, 25 and 27 (4))**

### **Children deprived of a family environment and adoption**

19. Please explain the measures taken:

(a) To develop national and provincial strategies for the provision of an adequate number of child and youth care centres, as required under the Children's Act (Act No. 38 of 2005);

(b) To operationalize the kinship care arrangements provided for in the National Child Care and Protection Policy and ensure adequate material support to kinship care providers;

(c) To strengthen formal alternative care structures;

(d) To strengthen monitoring of residential institutions, including with a view to verifying whether they adhere to minimum norms and standards, whether they provide protection from violence and abuse, care and individual development plans and whether they enable the reporting, monitoring and remedying of maltreatment of children;

(e) To develop a regulatory framework for customary adoption and a system for monitoring such adoption.

## **G. Children with disabilities (art. 23)**

20. With reference to the Committee's previous concluding observations (CRC/C/ZAF/CO/2, paras. 44 and 46), please update the Committee on efforts made:

(a) To develop a comprehensive law and policy based on a human rights model of disability that addresses the full range of issues relevant to the rights of children with disabilities;

(b) To adopt an action plan at the national, regional and local levels to develop community support services in urban and rural areas to families of children with disabilities, covering support for assistive devices, guides and sign language interpreters, among others;

(c) To ensure that all children with disabilities have access to and benefit from early childhood education, early development programmes and inclusive education;

(d) To provide children with disabilities with rehabilitation and reasonable accommodation for their full inclusion in all areas of public life, including education and leisure, play and cultural activities;

(e) To promptly investigate reports of abuse of children with disabilities in schools, in school hostels and in the care system and to prosecute those responsible.

## **H. Basic health and welfare (arts. 6, 18 (3), 24, 26, 27 (1)–(3) and 33)**

### **Health and health services**

21. With reference to the Committee's previous concluding observations (CRC/C/ZAF/CO/2, paras. 48–54), please update the Committee on efforts made:

(a) To address the root causes of the high rates of infant and child mortality;

(b) To eradicate under-5 mortality caused by preventable diseases and malnutrition and eliminate stunting caused by inadequate nutrition;

(c) To develop a comprehensive, child-centred nutrition programme to tackle the root causes of all forms of malnutrition, including the growing problem of obesity, and indicate the special measures taken to expand school feeding programmes in the context of COVID-19;

(d) To ensure access to free, high-quality primary health services and personnel, particularly in rural areas;

(e) To expand child immunization coverage, particularly with regard to tuberculosis;

(f) To develop a national strategy on breastfeeding and implement the International Code of Marketing of Breast-milk Substitutes.

### **Adolescent health**

22. With reference to the Committee's previous concluding observations (CRC/C/ZAF/CO/2, para. 50), please provide information on the measures taken:

(a) To ensure access to age-appropriate reproductive health services, including free and safe abortion and post-abortion services to girls;

(b) To address the consequences of female genital mutilation, including by ensuring access to free treatment for obstetric fistula;

(c) To protect the rights of pregnant teenagers, adolescent mothers and their children;

(d) To expand coverage for children receiving antiretroviral treatment, paediatric HIV diagnosis, testing and treatment and to reduce the risk of HIV infection among girls;

(e) To ensure comprehensive education on sexual and reproductive health and rights, including information on family planning, contraceptives and the risks related to early pregnancies, as well as on the prevention and treatment of sexually transmitted infections;

(f) To address alcohol and substance abuse by adolescents, which can lead to fetal alcohol spectrum disorders, alcohol-related car crashes and domestic and sexual violence.

#### **Impact of climate change on the rights of the child and environmental health**

23. Please provide information on the measures taken:

(a) To ensure that the activities of private and public companies, in particular companies in the fossil fuel industry, take into consideration the impact of climate change on the rights of the child;

(b) To ensure that the greenhouse gas emission targets and deadlines are compliant with the international commitments set forth in the Paris Agreement, to phase out the domestic use and export of fossil fuels and to accelerate the transition to renewable energy;

(c) To integrate the special vulnerabilities and needs and the views of children into policies and programmes addressing the issues of climate change and disaster risk management, and increase children's awareness and preparedness for climate change and natural disasters;

(d) To minimize children's exposure to hazardous chemicals in their food and everyday products;

(e) To enforce clean air standards, to ensure that polluters are monitored and sanctioned, to ensure access to justice and to protect children who live near air-polluting industries.

#### **Standard of living**

24. Please provide information on the measures taken:

(a) To improve access to water, sanitation and hygiene for children and to prioritize their access in disaster situations and informal urban settlements;

(b) To address the root causes of multidimensional child poverty and inequality;

(c) To increase the child support grant in view of growing unemployment and poverty and ensure that children without birth certificates can access it;

(d) To ensure access by all children to adequate and affordable housing.

### **I. Education, leisure and cultural activities (arts. 28–31)**

#### **Education, rest, leisure, recreation and cultural and artistic activities**

25. Please inform the Committee of the measures taken:

(a) To improve access to, enrolment in and the quality of early childcare and education, including by strengthening support for parents and caregivers;

(b) To provide access to free and quality basic education for all children, prioritizing access to education by children facing multiple forms of discrimination;

(c) To prevent children from leaving school early and being excluded from school owing to poverty, family commitments, disability or pregnancy;

(d) To improve the quality of education, including the quality and availability of school facilities, educational materials, teaching staff, curricula and access to technology, and improve educational outcomes, particularly in literacy and numeracy;

(e) To reduce corruption and mismanagement of funds, which have an adverse impact on the infrastructure and the supply of materials in schools;

(f) To address any disproportionate impact on the right of children in disadvantaged situations of closing early childhood development centres and schools in response to the COVID-19 pandemic;

(g) To provide children, in particular children with disabilities, asylum-seeking, refugee and migrant children and children in disadvantaged socioeconomic situations, with accessible and inclusive sporting, recreational, leisure, cultural and artistic activities.

## **J. Special protection measures (arts. 22, 30, 32–33, 35–36, 37 (b)–(d) and 38–40)**

### **Asylum-seeking and refugee children and children in situations of migration**

26. With reference to the Committee's previous concluding observations (CRC/C/ZAF/CO/2, para. 62), please provide an update and information on the measures taken:

(a) To promptly register undocumented, unaccompanied and separated children and to align migration and child protection regulatory frameworks and systems to address the needs of migrant children;

(b) To provide asylum-seeking, refugee and migrant children with unhindered and speedy access to birth registration, documentation, education, health care and social protection services, and the option of permanent settlement in the State party;

(c) To expeditiously and completely cease the detention of children in irregular migration situations;

(d) To strengthen systematic and disaggregated data collection on migrant, asylum-seeking and refugee children, in particular unaccompanied and/or undocumented children.

### **Indigenous children**

27. With reference to the Committee's previous concluding observations (CRC/C/ZAF/CO/2, para. 66), please provide an update on any progress made in terms of legally recognizing the rights of indigenous peoples, including Khoisan peoples, with full recognition of the rights of indigenous children; preventing evictions and displacements; and promoting indigenous languages, including through the provision of bilingual education to indigenous children in their own languages.

### **Economic exploitation, including child labour, and children in street situations**

28. Please provide information on the measures taken:

(a) To improve the monitoring and enforcement of laws and policies on child labour, including the worst forms of child labour, and to prosecute and impose penalties that are commensurate with the gravity of the crime on those who economically exploit and abuse children;

(b) To provide children living in street situations with adequate support, including health services, social services, psychological support and education;

(c) To reunite children living in street situations with their families, whenever feasible and appropriate, taking into consideration the best interests of the child;

(d) To investigate any abuse of children in street situations and to prosecute and sanction those responsible.

### **Administration of child justice**

29. Please inform the Committee of the measures taken:

(a) To revise regulations and directives and to provide adequate resources for the effective implementation of the Child Justice Amendment Act (Act No. 28 of 2019);

- (b) To implement non-custodial measures and promote diversion programmes;
- (c) To ensure that detention, including custody and pretrial detention, is used as a last resort and for the shortest possible period of time, that children are not detained with adults and that detention conditions are compliant with international standards, including with regard to access to education and health-care services;
- (d) To provide rehabilitation and reintegration services for children leaving detention.

#### **Child victims and witnesses of crimes**

30. With reference to the Committee's previous concluding observations (CRC/C/ZAF/CO/2, para. 74), please provide information on the measures taken:

- (a) To develop legislation providing protection and support to child victims and witnesses of crimes in criminal justice proceedings, particularly in cases of sexual offences;
- (b) To improve reporting of and prosecution for sexual offences and to ensure the full psychological and physical protection and the rehabilitation of child victims and witnesses of crimes.

### **K. Optional Protocol on the sale of children, child prostitution and child pornography**

31. Please inform the Committee of the measures taken to implement the recommendations contained in the Committee's concluding observations on the report submitted by the State party under article 12 (1) of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography (CRC/C/OPSC/ZAF/CO/1), in particular the legislative, policy and administrative measures taken:

- (a) To establish a comprehensive data-collection system covering all areas of the Optional Protocol;
- (b) To explicitly define and criminalize all offences referred to in articles 2 and 3 of the Optional Protocol, including the sale of children through illegal adoption, for the purpose of transferring their organs for profit and for engaging them in forced labour;
- (c) To decriminalize the possession by children and the consensual sharing among children of self-generated sexual content or material representing themselves;
- (d) To prevent and combat sexual exploitation and abuse in the tourism and travel sector and online;
- (e) To establish mechanisms and procedures for the early detection and identification of children who are victims of offences prohibited under the Optional Protocol and to ensure that they have access to victim support services from the date that a report is made;
- (f) To promptly investigate reports of offences covered by the Optional Protocol, to prosecute the accused, to punish the perpetrators and to provide adequate support and redress for children who are victims.

### **III. Statistical information and data**

32. The statistical information and disaggregated data provided by the State party should cover the period since the consideration of its previous reports on the implementation of the Convention and the Optional Protocols thereto. The data should be disaggregated by age, sex, ethnic origin, national origin, type of disability, geographical location and socioeconomic status.

33. The provision of tables presenting trends over the reporting period is recommended and explanations or comments on significant changes that have taken place over the reporting period should also be provided.

**A. General measures of implementation (arts. 4, 42 and 44 (6))**

34. Please provide information on the budget lines regarding children and the social sectors, indicating the amount allocated to each budget line and its proportion in terms of the total national budget.

**B. General principles (arts. 2–3, 6 and 12)**

35. Please provide data, disaggregated as described in paragraph 32 above, on:

(a) Cases of discrimination affecting children, prosecutions brought before the courts under legislation governing non-discrimination and the sanctions imposed on perpetrators;

(b) Deaths of children caused by abuse, neglect, violence, substance abuse, suicide and road accidents.

**C. Civil rights and freedoms (arts. 7–8 and 13–17)**

36. Please provide data, disaggregated as described in paragraph 32 above, on:

(a) Information and communications technology-related violations of children's rights;

(b) The number of such cases that have been investigated and prosecuted.

**D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

37. Please provide data, disaggregated as described in paragraph 32 above, on:

(a) The number of cases in which children have been victims of violence and neglect, including corporal punishment, physical abuse, domestic violence and sexual exploitation and abuse, that have been reported to the authorities, the number of such cases that have been investigated and resulted in prosecutions and the sanctions imposed on perpetrators, further disaggregated by type of offence;

(b) The number of children who have received protective measures and multidisciplinary remedies as victims and/or witnesses of violence and neglect, in particular physical and sexual abuse and exploitation.

**E. Family environment and alternative care (arts. 5, 9–11, 18 (1)–(2), 20–21, 25 and 27 (4))**

38. Please provide data, disaggregated as described in paragraph 32 above, on the number of:

(a) Families and children receiving child support grants and economic and other types of support services;

(b) Children in residential care, the number of institutions/group homes and the length of stay;

(c) Children in family- and community-based care;

(d) Children adopted domestically and internationally;

(e) Children of incarcerated parents.

**F. Children with disabilities (art. 23)**

39. Please provide data, disaggregated as described in paragraph 32 above, on children with disabilities:

- (a) Receiving economic and other types of support services;
- (b) Living with their families;
- (c) Living in family- and community-based care;
- (d) Living in residential care, the number of institutions/group homes and the length of stay;
- (e) Attending regular schools and separate schools;
- (f) Reporting violence and abuse, including sexual violence, the number of investigations and prosecutions carried out and the sentences imposed on perpetrators.

**G. Basic health and welfare (arts. 6, 18 (3), 24, 26, 27 (1)–(3) and 33)**

40. Please provide data, disaggregated as described in paragraph 32 above, on:

- (a) Infant and under-5 mortality rates;
- (b) Children suffering from malnutrition, stunting and obesity;
- (c) Child deaths due to preventable diseases;
- (d) Immunization;
- (e) Adolescent mothers;
- (f) Sexual and reproductive health services available to adolescents;
- (g) Children suffering from drug, alcohol and tobacco abuse and children suffering from fetal alcohol spectrum disorders;
- (h) Paediatric and mental health services and professionals specialized in young children and adolescents, particularly in rural areas;
- (i) Children living below the poverty line and in extreme poverty.

**H. Education, leisure and cultural activities (arts. 28–31)**

41. Please provide data, disaggregated as described in paragraph 32 above, on:

- (a) Children not attending primary and secondary school;
- (b) Children dropping out of school, including children with disabilities, girls and teenage mothers;
- (c) Cases of bullying, violence, sexual abuse and harassment in schools;
- (d) Children attending early childhood education, including children with disabilities, and the average years of attendance.

**I. Special protection measures (arts. 22, 30, 32–33, 35–36, 37 (b)–(d) and 38–40)**

42. Please provide data, disaggregated as described in paragraph 32 above, further disaggregated by accompanied or unaccompanied status, on:

- (a) Asylum-seeking, refugee and migrant children;
- (b) Asylum-seeking, refugee and migrant children who are in detention;

- (c) Asylum-seeking, refugee and migrant children attending school and with access to health care;
  - (d) Children in an irregular migration status.
43. Please provide data, disaggregated as described in paragraph 32 above, on:
- (a) Children working in hazardous conditions;
  - (b) Cases of child labour investigated and leading to prosecution and the sanctions imposed on employers found to have been involved in child labour;
  - (c) Children in street situations.
44. Please provide data, disaggregated as described in paragraph 32 above, further disaggregated by type of crime, on:
- (a) Children in detention, including in pretrial detention, in facilities such as police cells and prisons, and the average length of stay;
  - (b) Children referred to diversion and non-custodial sentencing options;
  - (c) Children detained together with adults and the average length of stay;
  - (d) Children who have been provided with access to rehabilitation and reintegration services.

**J. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography**

45. Please provide data, disaggregated as described in paragraph 32 above, on:
- (a) The number of reported cases involving the sale of children, child prostitution or child pornography;
  - (b) The number of such cases that have been investigated and led to prosecution and the sanctions imposed;
  - (c) The number of child victims of such crimes who have been provided with recovery assistance or compensation.
-