



**Convention on the  
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COMMITTEE ON THE RIGHTS OF THE CHILD  
Thirty-eighth session  
10-28 January 2005

**REPORT ON THE THIRTY-EIGHTH SESSION**

**(Geneva, 10-28 January 2005)**

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## **I. ORGANIZATIONAL AND OTHER MATTERS**

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

1. As at 28 January 2005, the closing date of the thirty-eighth session of the Committee on the Rights of the Child, there were 192 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 on [www.ohchr.org](http://www.ohchr.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 91 States parties and signed by 117 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 90 States parties and signed by 110 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 on [www.ohchr.org](http://www.ohchr.org).

3. The texts of the declarations, reservations or objections made by States parties with respect to the Convention are reproduced in document CRC/C/2/Rev.8.

4. At its fifty-ninth session, the General Assembly agreed with the request of the Committee to work simultaneously in two chambers during 2006 (starting with the pre-sessional working group meeting of October 2005) in order to increase the working capacity of the Committee and decrease the existing backlog of reports.

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

5. The Committee on the Rights of the Child held its thirty-eighth session at the United Nations Office at Geneva from 10 to 28 January 2005. The Committee held 26 meetings. An account of the Committee's deliberations at its thirty-eighth session is contained in the relevant summary records (see CRC/C/SR.1000-1010; 1013-1022 and 1025).

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

6. All the members of the Committee attended the thirty-eighth session. A list of members, together with an indication of the duration of their terms of office, is provided in annex I to the present report. Mr. Ibrahim Al-Sheddi (absent from 10 to 14 January 2005), Ms. Joyce Aluoch (absent from 10 to 14 January 2005), Ms. Moushira Khattab (absent on 14 and 20 January 2005), Mr. Hatem Kotrane (absent on 14 and 20 January 2005), Mr. Lothar Krappmann (absent on 14 January 2005), and Ms. Marilia Sardenberg (absent from 10 to 14 January 2005) were not able to attend the session in its entirety.

7. At the Committee's 1000th meeting, held on Monday 10 January 2005, Ms. Alison Anderson, who was nominated by the Government of Jamaica following the resignation of Ms. Marjorie Taylor on 5 July 2004, made her solemn declaration as a member of the Committee.
8. The following United Nations bodies were represented at the session: Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Children's Fund (UNICEF), Office of the United Nations High Commissioner for Refugees (UNHCR).
9. The following specialized agencies were also represented at the session: International Labour Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Health Organization (WHO).
10. 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*

Arab Organization for Human Rights, Amnesty International, 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, International Baby Food Action Network.

**D. Agenda**

11. At its 1000th meeting, on 10 January 2005, the Committee adopted the following agenda on the basis of the provisional agenda (CRC/C/145):
  1. Adoption of the agenda.
  2. Solemn declaration by the new member of the Committee.
  3. Organizational matters.
  4. Submission of reports by States parties.

5. Consideration of reports of States parties.
6. Cooperation with other United Nations bodies, specialized agencies and other competent bodies.
7. Methods of work of the Committee.
8. General comments.
9. Future meetings.
10. Other matters.

#### **E. Pre-sessional working group**

12. In accordance with a decision of the Committee at its first session, a pre-sessional working group met in Geneva from 4 to 8 October 2004. All the members except Mr. Ibrahim Al-Sheddi, Mr. Luigi Citarella, Ms. Yanghee Lee, Ms. Marilia Sardenberg and Ms. Marjorie Taylor participated in the working group. Representatives of OHCHR, ILO, UNICEF, UNESCO, UNHCR and WHO 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.

13. The purpose of the pre-sessional working group is to facilitate the Committee's work under articles 44 and 45 of the Convention, 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.

14. Mr. Jakob Egbert Doek chaired the pre-sessional working group, which held nine meetings, at which it examined lists of issues put before it by members of the Committee relating to the initial report of one country (Albania) the second periodic reports of six countries (Austria, Belize, Ecuador, Luxembourg, Nigeria and Togo) and two third periodic reports (Bolivia and Sweden). 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 25 November 2004.

#### **F. Organization of work**

15. The Committee considered the organization of its work at its 1000th meeting, held on 10 January 2005. The Committee had before it the draft programme of work for the thirty-eighth session, prepared by the Secretary-General in consultation with the Chairperson of the Committee, and the report of the Committee on its thirty-seventh session (CRC/C/143).

### **G. Future regular meetings**

16. The Committee decided that its thirty-ninth session would take place from 17 May to 3 June 2005 and that its pre-sessional working group for the fortieth session would meet from 6 to 10 June 2005.

## **II. REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION AND THE OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT**

### **A. Submission of reports**

17. The Committee had before it the following documents:

(a) Notes by the Secretary-General on initial reports by States parties due in 1992 (CRC/C/3), 1993 (CRC/C/8/Rev.3), 1994 (CRC/C/11/Rev.3), 1995 (CRC/C/28), 1996 (CRC/C/41), 1997 (CRC/C/51), 1998 (CRC/C/61) and 1999 (CRC/C/78); and on periodic reports by States parties due in 1997 (CRC/C/65), 1998 (CRC/C/70), 1999 (CRC/C/83), 2000 (CRC/C/93), 2001 (CRC/C/104) and 2002 (CRC/C/117);

(b) Note by the Secretary-General on States parties to the Convention and status of the submission of reports (CRC/C/144);

(c) Note by the Secretary-General on the follow-up to the consideration of initial reports by States parties to the Convention (CRC/C/27/Rev.11);

(d) Note by the Secretary-General on areas in which the need for technical advice and advisory services has been identified in the light of the observations adopted by the Committee (CRC/C/40/Rev.20);

(e) Note by the Secretariat on methods of work of the Committee: Compilation of the conclusions and recommendations adopted by the Committee on the Rights of the Child (CRC/C/19/Rev.10).

18. The Committee was informed that, in addition to the 10 reports that were scheduled for consideration by the Committee at its current session and those which had been received prior to the Committee's thirty-eighth session (see CRC/C/143, para. 16), the Secretary-General had received the second periodic reports of the United Republic of Tanzania (CRC/C/70/Add.26), and of the Marshall Islands (CRC/C/93/Add.8), and the third periodic reports of Lebanon (CRC/C/129/Add.7) and of Mexico (CRC/C/125/Add.7). The Committee also received the initial reports of Bangladesh (CRC/C/OPAC/BGD/1) and El Salvador (CRC/C/OPAC/SLV/1) under the Optional Protocol on the involvement of children in armed conflict and the initial report of Norway (CRC/C/OPSA/NOR/1) under the Optional Protocol on the sale of children, child prostitution and child pornography.

19. As at 28 January 2005, the Committee had received 182 initial reports, 90 second periodic reports and 14 third periodic reports. A total of 259 reports (182 initial reports, 75 second periodic and 2 third periodic reports) have been considered by the Committee. The Committee further received 6 initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography and 10 under the Optional Protocol on the involvement of children in armed conflict. So far, the Committee considered two initial reports under the Optional Protocol on the involvement of children in armed conflict.

20. At its thirty-eighth session, the Committee examined initial and periodic reports submitted by 10 States parties under article 44 of the Convention. It devoted 20 of its 26 meetings to the consideration of reports (see CRC/C/SR.1001-1010; 1013-1022; and 1025).

21. The following reports, listed in the order in which they were received by the Secretary-General, were before the Committee at its thirty-eighth session: Bahamas (CRC/C/8/Add.50), Islamic Republic of Iran (CRC/C/104/Add.3), Albania (CRC/C/11/Add.27), Austria (CRC/C/83/Add. 8 and CRC/OPAC/AUS/1); Sweden (CRC/C/125/Add.1), Bolivia (CRC/C/125/Add.2), Luxembourg (CRC/C/104/Add.5), Togo (CRC/C/65/Add.27), Nigeria (CRC/C/70/Add.24) and Belize (CRC/C/65/Add.29).

22. By note verbale dated 12 October 2004, the Government of Brazil transmitted its observations to the Committee concerning the concluding observations (CRC/C/15/Add.241) adopted at its thirty-seventh session.

23. 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.

24. 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.

## **B. Consideration of reports**

### **Concluding observations: Sweden**

25. The Committee considered the third periodic report of Sweden (CRC/C/125/Add.1), at its 1001st and 1002nd meetings (see CRC/C/SR.1001 and 1002), held on 11 January 2005, and adopted at its 1025th meeting, held on 28 January 2005, the following concluding observations.

#### **A. Introduction**

26. The Committee welcomes the submission of the State party's third periodic report prepared in a participatory way, in accordance with the General Guidelines Regarding the Form and Contents of Periodic Reports (CRC/C/58) of 20 November 1996 and submitted in due time.



The Committee welcomes the written replies to its list of issues (CRC/C/Q/SWE/3), which gave a clearer understanding of the situation of children in the State party. It further welcomes the frank dialogue and the replies provided by the members of the inter-ministerial delegation.

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

27. The Committee highly appreciates the follow-up measures taken by the State party to implement its previous recommendations (CRC/C/15/Add.101) made upon consideration of the State party's second periodic report (CRC/C/65/Add.3), including the holding of a public debate in Parliament followed by various legislative, administrative and other measures with a view to implementing the Committee's recommendations, resulting among others, in:

(a) The 1999 National Strategy for the Implementation of the Convention on the Rights of the Child, its update and continuation by a Communication to the Parliament (Comm. 2003/04:47);

(b) The 2000 Plan of Action for National Disability Policy and the amendments of relevant laws to improve the implementation of the rights of children with disabilities;

(c) The amendments of 2002 to the Social Security Act to improve protection of children from abuse;

(d) The non-recognition of the early and forced marriages by the law that entered into force on 1 May 2004;

(e) The entry into force on 1 January 2005 of the amended legislation on intercountry adoption (Bill 2003/04:131);

(f) The various legislative measures to improve the protection of children from sexual abuse and exploitation.

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

### **1. General measures of implementation**

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

28. The Committee welcomes again the implementation of its recommendations made upon consideration of the State party's second periodic report. The Committee, however, regrets that some of the concerns and recommendations have been insufficiently addressed, particularly those contained in paragraphs 11 (discrimination against "children in hiding"), 16 (provision of family counselling services free of charge), 18 (economic disparities) and 19 (bullying). The Committee notes that those concerns and recommendations may be reiterated in the present document.

29. **The Committee urges the State party to make every effort to address the concerns contained in the present concluding observations on the third periodic report.**

**Independent monitoring**

30. The Committee welcomes the enactment of the 2002 Bill reinforcing the role of the Children's Ombudsman and notes with appreciation the many activities undertaken by the Children's Ombudsman for the implementation of children's rights. It is, however, the view of the Committee that further improvements can be accomplished.

31. **The Committee recommends that:**

(a) **The State party consider providing the Children's Ombudsman with the mandate to investigate individual complaints;**

(b) **The annual report of the Children's Ombudsman be presented to the Parliament, together with information about measures the Government intends to take to implement the recommendations of the Children's Ombudsman.**

**Implementation, coordination, evaluation and National Plan**

32. The Committee notes with satisfaction the approval in 1999 by the Parliament of the Strategy for Implementation of the United Nations Convention on the Rights of the Child in Sweden and the subsequent appointment of the Ministry of Health and Social Affairs as coordinating body for the implementation of the Strategy. However, the Committee is concerned that coordination of policies related to the implementation of the Convention is often weak between municipalities, county councils and ministries.

33. **The Committee recommends that a standing structure involving non-governmental organizations (NGOs) as well as relevant ministries, county councils and municipalities be established to coordinate actions between all actors to ensure the implementation of the Convention, including the concluding observations, at all levels.**

**Data collection**

34. The Committee notes with concern that:

(a) No data are available on the total number of children with disabilities;

(b) No data are available on child victims of abuse aged 15 to 18 years;

(c) The total number of children victims of sexual exploitation is not precise.

35. **The Committee recommends that the State party establish coordinated approach between all entities collecting data on children and introduce a comprehensive system of data collection incorporating all the areas covered by the Convention. In particular, the Committee recommends that data on children:**

- (a) **With disabilities be collected and disaggregated by type of disability;**
- (b) **Victims of abuse be separated from that of adults;**
- (c) **Victims of sexual exploitation be more precise.**

### **Training/dissemination of the Convention**

36. The Committee welcomes the information provided in the State party's report on the dissemination of the Convention and the steps taken by the Children's Ombudsman, various NGOs and the National Agency for Education to make the Convention known. The Committee is, however, of the opinion that the spirit of the Convention may not be sufficiently known and understood by children themselves and by all professionals working with and for children, in particular within the judicial system, among politicians and at the municipal level.

37. **The Committee encourages the State party to continue its efforts to provide adequate and systematic training and/or sensitization on children's rights for children and professional groups working with and for children, in particular law enforcement officials, as well as parliamentarians, judges, lawyers, health personnel, teachers, school administrators and others, as required.**

### **Cooperation with civil society**

38. The Committee commends the State party for its excellent cooperation with NGOs. Nevertheless, the Committee notes that this cooperation is often ad hoc.

39. **The Committee recommends that cooperation with NGOs be systematized and structured.**

### **International development cooperation**

40. The Committee notes with appreciation the State party's outstanding performance in the area of international cooperation and development assistance. In this regard, the Committee notes that the State party allocates a significant percentage of its gross domestic product to foreign aid, of which 60 per cent is spent on children or professionals and others who work with, for or on behalf of children or safeguard their interests.

41. **The Committee recommends that the State party continue and strengthen its leading role in international development cooperation projects relating to children, inter alia, by taking into account in its bilateral cooperation with developing countries the concluding observations and recommendations made by the Committee regarding those countries and provide support for their implementation.**

## **2. General principles**

### **Non-discrimination**

42. The Committee welcomes the measures taken by the State party to combat racism, especially as it pertains to children, and to ensure that education of children is directed to the

development of respect for civilizations different from his/her own and of friendship among all peoples, in accordance with article 29 (1) of the Convention. However, the Committee is concerned about reports of racism, especially in schools, and of racist organizations recruiting children from the age of 13.

**43. The Committee recommends that the State party continue strengthening the measures taken to combat racism and xenophobia, including in the field of education.**

**44. The Committee requests that specific information be included, in the next periodic 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 account of the Committee's general comment No. 1 (2001) on the aims of education.**

#### **Best interests of the child**

45. The Committee welcomes the new legislative measures and programmes incorporating the principle of the best interests of the child, in particular the 1998 amendment of the Parental Code, the instructions given to the National Board of Health and Welfare, the 1998 amendment of the Social Services Act, and the Care of Young Persons Act. Nonetheless, the Committee is concerned that the best interests of asylum-seekers and migrant children are not sufficiently taken into consideration in asylum processes.

**46. The Committee recommends that the State party take appropriate and efficient measures in order to ensure that the principle of the best interests of the child form the basis and guide the process and decisions in asylum cases involving children, inter alia, by reforming the guidelines and procedures of the Swedish Migration Board.**

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

47. The Committee welcomes the various programmes and legislative reforms, such as the "influence forums" and the right of the child to have his/her views heard in legal proceedings and in school matters, established by the State party to reinforce the rights of the child to express her/his views freely in all matters concerning her/him and have them duly taken into account. However, the Committee remains concerned that, despite the remarkable efforts, some children and young persons do not feel they have any real influence in matters concerning their life in society.

**48. The Committee recommends that the State party:**

**(a) Ensure that administrative or other decisions relevant to children contain information on how the views of the children were solicited, on the degree to which the views of children were adopted and why;**

**(b) Consider providing children in very conflicting custody and visitation disputes with appropriate assistance.**

### 3. Civil rights and freedoms

#### Access to information

49. The Committee is concerned about the degree of violence accessible to children on the Internet and shown on television early in the evenings. The Committee is further concerned about the insufficient protection of children against child pornography and violent computer games.

50. **The Committee recommends that the State party take all necessary measures, including by enforcing appropriate legislation, providing parental education and awareness-raising of children, to effectively protect children against violence on the Internet, television and computer games, and against the display of child pornography and encourage international cooperation in this respect.**

### 4. Family environment and alternative care

#### Illicit transfer and non-return

51. The Committee notes with appreciation that financial assistance is made available to cover the costs incurred by individuals when restoring illicitly transferred or non-returned children and the review currently under way of the implementation of the Hague Convention No. 28 on the Civil Aspects of International Child Abduction of 1980. However, the Committee notes that there are still a number of pending cases to be solved involving children of mixed marriages.

52. **The Committee recommends that the State party continue strengthening measures to prevent and combat illicit transfer and non-return of children and to solve pending cases, with due regard to the best interests of the child.**

#### Alternative care

53. The Committee is concerned about:

- (a) The increasing number of children placed in institutions rather than in foster homes;
- (b) The fact that the proportion of children with a foreign background who are placed in institutions is higher than that of Swedish children;
- (c) The fact that the National Board of Institutional Care has a self-regulatory role.

54. **The Committee recommends that:**

- (a) **The State party take preventive measures specifically targeted at families with a foreign background, including awareness-raising within social services about the relevance of cultural background and immigrant status, so that help can be given before a situation develops that necessitates the taking of children into care;**

**(b) The regulation of cases where children are taken into care against their will take place under a separate umbrella from that of the National Board of Institutional Care, and that this regulation also ensure the quality of care.**

## **5. Basic health and welfare**

### **Health and health services**

55. The Committee welcomes the information contained in the State party's report on the protection of mothers, infants and school-age children. It is encouraged by the National Action Plan for Healthcare Development (1999/2000:149). However, the Committee notes that this aspect of health care and services is the responsibility of county councils, and, in this respect, is concerned at possible inequalities between the various regions. The Committee is concerned, in particular, about the increasing number of school pupils who feel the effects of stress; the increasing incidence of suicide, bulimia, anorexia, overweight and obesity cases, and the lack of programmes on mental health of children.

**56. The Committee recommends that the State party take the necessary measures:**

- (a) To reduce the stress level of school pupils and help them deal with its effects;**
- (b) To prevent suicide;**
- (c) To address the issue of bulimia and anorexia;**
- (d) To address the issue of overweight and obesity;**
- (e) To strengthen mental health programmes for children, both preventive and interventional.**

### **Adolescent health**

57. The Committee welcomes the efforts taken with regard to sex education in schools, drug and tobacco use and alcohol abuse. However, the Committee remains concerned about the sharp increase in 2002 in abortions among teenagers, and about the prevalence of tobacco and drug use, and of alcohol abuse.

**58. The Committee recommends that the State party increase its efforts to promote adolescent health policies and strengthen the programme of health education in schools. It further recommends measures, including the allocation of adequate human and financial resources, to evaluate the effectiveness of training programmes in health education, in particular as regards reproductive health, and to develop youth-sensitive and confidential counselling, care and rehabilitation facilities that are accessible without parental consent when this is in the best interests of the child. It also recommends that the State party continue its efforts to prevent and combat the use of tobacco and drugs, and the abuse of alcohol.**

## 6. Education, leisure and cultural activities

### Bullying

59. The Committee welcomes the efforts taken to eradicate bullying, such as the incorporation into the Education Act (*Skollagen - 1985:1100*) and into the national curriculum of rules on action to counter bullying, as well as the 2001-2002 campaign against bullying, entitled “Together” (*Tillsammans*). However, the Committee notes that the rules still have to be fully implemented and that bullying against children with disabilities and of foreign origin continues to be a concern.

60. **The Committee recommends that the State party, in its efforts to prevent and combat bullying, pay special attention to children with disabilities and of foreign origins, and that the rules for countering bullying are fully implemented in all schools and other institutions with the involvement of children.**

### Education

61. The Committee welcomes the efforts of the State party to provide free compulsory schooling through the age of 16 years, including universal free pre-schools for children aged 4-5. It is, nevertheless, concerned that:

(a) Children without resident permit, in particular children “in hiding”, do not have access to education;

(b) There are considerable variations in results among the various regions.

62. **The Committee recommends that the State party pursue its efforts to ensure that:**

(a) **All children enjoy the right to education, including children without resident permit, and “children in hiding”;**

(b) **Variations in results and differences between schools and regions are eradicated;**

(c) **Vocational training is made available and that transition from school to work is supported.**

## 7. Special protection measures

### Unaccompanied children

63. The Committee notes the efforts of the State party to address the situation of unaccompanied minors and to enhance the quality of reception and interviewing for asylum-seeking children. However, the Committee is concerned about:

(a) The high number of unaccompanied children having gone missing from the Swedish Migration Board's special units for children without custodians;

(b) The very long processing period for asylum application, which may have negative consequences for the mental health of the child.

**64. The Committee recommends that the State party pursue its efforts in this area, in particular:**

(a) **To ensure a coordinated approach to the collection of information and statistics, allowing a response commensurate to the needs;**

(b) **To increase coordination between the different actors, in particular the police, the social services and Swedish Board of Migration, in order to react efficiently and in a timely manner when children disappear;**

(c) **To consider appointing a temporary guardian within 24 hours of arrival for each unaccompanied child;**

(d) **To continue and strengthen training of professionals working with and for children on the rights of these children;**

(e) **To conduct refugee status determination procedures for children in a child-sensitive manner, in particular by giving priority to applications of children and by considering child-specific forms of persecution when assessing an asylum-seeking child's claim under the Convention relating to the Status of Refugees of 1951.**

### **Family reunification**

65. The Committee is concerned at the excessive length of family reunification procedures for recognized refugees.

**66. The Committee recommends that the State party strengthen the measures taken to ensure that family reunification procedures for recognized refugees are dealt with in a positive, fair, humane and expeditious manner.**

### **Sexual exploitation and trafficking**

67. The Committee notes with appreciation that, following the First World Congress against Commercial Sexual Exploitation of Children, held in Stockholm in 1996, a National Plan of Action was adopted to protect children against sexual abuse and ill-treatment, which was brought up to date in 2001 for the Second World Congress, held in Yokohama, Japan. It also welcomes the proposed revisions to the Criminal Code regarding sexual offences, which, if adopted, will improve the protection of children against sexual exploitation. However, the Committee is concerned at:



- (a) The occurrence of trafficking in children, prostitution and related issues in Sweden and abroad committed by Swedish citizens;
- (b) Reports of cases of sexually abused children as a result of contacts via the Internet;
- (c) The little protection provided by Swedish legislation, due in part to the subjective and incomplete definition of the child under the Penal Code concerning child pornography.

**68. The Committee recommends that the State party:**

- (a) Strengthen the protection measures for children who are using the Internet and the awareness-raising programmes for children about the negative aspects of the Internet, including by working with service providers, parents and teachers;**
- (b) Strengthen measures to reduce and prevent the occurrence of sexual exploitation and trafficking, including by sensitizing professionals and the general public to the problems of sexual abuse of children and trafficking through education, including media campaigns;**
- (c) Strengthen the legislation against possession and production of child pornography, including by prohibiting the display of child pornography on the Internet by service providers, and by revising the definition of the child in the Penal Code concerning child pornography, setting a clear objective age limit at 18 years;**
- (d) Strengthen the legislation allowing the prosecution of Swedish citizens involved in sexual exploitation of children abroad, including by prohibiting the reissuance of passports for persons freed after posting bail;**
- (e) Increase the protection provided to victims of sexual exploitation and trafficking, including prevention, witness protection, social reintegration, access to health care and psychological assistance in a coordinated manner, including by enhancing cooperation with NGOs, 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 in 1996 and 2001 respectively.**

**Juvenile justice**

69. The Committee welcomes the enactment in 2002 of a law on mediation in connection with criminal offences in order to reduce the injurious effects of the crimes, the introduction in 1999 of custodial care and of community youth service as sanctions for young offenders. Nonetheless, the Committee is concerned about the lack of specialized prosecutors and judges to deal with children's issues.

70. **The Committee recommends that the State party review its legislation, policies and budgets to ensure the full implementation of juvenile justice standards, in particular article 37 (b) and article 40, paragraph 2 (b) (ii)-(iv) and (vii) 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), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the day of general discussion on the administration of juvenile justice, held by the Committee in 1995. In this respect, it is specifically recommended that the State party:**

- (a) Ensure that prosecutors and judges dealing with children's issues are all appropriately trained;**
- (b) Ensure that punitive measures are taken only by judicial authorities, with due process and legal assistance;**
- (c) Strengthen preventive measures, such as supporting the role of families and communities, in order to help eliminate the social conditions leading to such problems as delinquency and crime.**

## **8. Optional Protocols to the Convention**

71. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. It further welcomes the indication given by the State party of its intention to ratify soon the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

72. The Committee recommends that the State party:

- (a) Ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;**
- (b) Submit its initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in due time, namely on 20 March 2005.**

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

### **Follow-up**

73. 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 the Council of Ministers or the Cabinet or a similar body, the Parliament, and to provincial or State Governments and Parliaments, where applicable, for appropriate consideration and further action.

### **Dissemination**

74. The Committee further recommends that the third periodic report and the written replies submitted by the State party and the related recommendations (concluding

observations) it 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 Convention, its implementation and monitoring.

#### **10. Next report**

75. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States' responsibilities to children under the Convention includes ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial and the Committee appreciates the State party's performance in this regard. The Committee invites the State party to submit its fourth periodic report, which should not exceed 120 pages (see CRC/C/118), by 1 September 2007.

#### **Concluding observations: Albania**

76. The Committee considered the initial report of Albania (CRC/C/11/Add.27) at its 1003rd and 1004th meetings (see CRC/C/SR.1003 and 1004), held on 12 January 2005, and adopted at its 1025th meeting (see CRC/C/SR.1025), held on 28 January 2005, the following concluding observations.

#### **A. Introduction**

77. The Committee welcomes the submission of the State party's initial report, despite its delay, prepared in accordance with the established guidelines. The Committee welcomes the written replies to its list of issues (CRC/C/Q/ALB/1), which provide an important update to the report. It further notes with appreciation the high-level delegation sent by the State party and welcomes the open dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

#### **B. Positive aspects**

78. The Committee welcomes the participatory and consultative process, which included, inter alia, non-governmental organizations (NGOs) in the preparation of the report.

79. The Committee welcomes in particular:

(a) The adoption of the new Family Code (approved by Law No. 9062) in 2003;

(b) The establishment of an Inter-Ministerial Committee for the Rights of the Child in 2004 by the Council of Ministers and an Inter-Ministerial Group of Experts to facilitate its work;

(c) The ratification of ILO Conventions No. 138 concerning the Minimum Age for Admission to Employment in 1998 and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001;

(d) The ratification of the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption in 2000.

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

80. The Committee notes that the State party continues to face serious economic, social and political challenges posed by the transition period, including high rates of unemployment and poverty, and the brain drain depriving the country of active young people needed, all of which affect the implementation of the Convention.

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

#### **1. General measures of implementation**

##### **Legislation and implementation**

81. The Committee welcomes the process of legislative reform related to human rights in general and more specifically to the rights of the child. Nevertheless, the Committee is concerned at the difficulties the State party is encountering in dealing with customary law and traditional codes (*Kanun*) in its efforts to ensure implementation of the relevant legislation.

**82. The Committee urges the State party to continue relevant legal reform, as well as to take all necessary measures to ensure implementation of all legislation relevant to the Convention in all parts of the country, taking into account the need for judicial reform and capacity-building, including training needs, monitoring mechanisms and the provision of adequate resources for these.**

##### **Coordination**

83. While taking note of the establishment of an Inter-Ministerial Committee for the Rights of the Child that shall supervise, coordinate and monitor the State party's activities with regard to the implementation of the Convention, the Committee notes that a multitude of actors are involved in the implementation of the Convention at the national and local level. The Committee is concerned that this inter-ministerial body may not be equipped with competent personnel or with human and financial resources that are sufficient to realize these goals.

**84. The Committee urges the State party to ensure effective coordination of the implementation of the Convention among ministries, local authorities, representatives of NGOs and other stakeholders involved in its implementation. The newly established Inter-Ministerial Committee should be provided with adequate means for its efficient functioning.**

85. **The Committee recommends that the State party clarify the important role and responsibilities of local authorities in this respect and pay attention to reducing any disparity or discrimination in the enjoyment of rights accorded by the Convention in various parts of the country.**

#### **National plan of action**

86. The Committee welcomes the approval of the National Strategy on Children for 2001-2005 aimed at supporting the most marginalized and vulnerable groups of children, as well as the national plan to combat the sexual exploitation of children, and other endeavours at the national level. However, the Committee is concerned that the necessary structures and financial and human resources have not been provided to allow for implementation of the national plans and other endeavours. The Committee is also concerned at the rather fragmented approach adopted by the State party that may prove difficult to coordinate, causing overlap or gaps in certain areas.

87. **The Committee recommends that the State party ensure that the planned revision of the National Strategy on Children 2006-2010 covers all areas of the Convention, that adequate financial and human resources are provided for its implementation, and that monitoring and coordination mechanisms are ensured. The Committee further recommends that an evaluation of the National Strategy 2001-2005 be undertaken before proceeding with its revision. This process should involve children, NGOs and local government representatives. In addition, the development of targeted plans to strengthen areas of the national strategy needing additional focus, such as trafficking, child labour, human rights education or others, are welcome but should be integrated within the encompassing National Strategy.**

#### **Independent monitoring structures**

88. The Committee welcomes the information related to the establishment of a People's Advocate in 2000, and the recently established Sub-Section on Child Rights within this Office. The Committee notes that plans for the new subsection to expand and regionalize activities are in place. However, the Committee is concerned that the level of awareness among children and adults alike of the services of the Office of the People's Advocate may be limited.

89. **The Committee recommends that the State party provide the new Sub-Section of the People's Advocate with adequate human and financial resources to ensure its full operationalization, including awareness-raising campaigns, and to allow for the receipt of complaints from children and for reporting on developments in the implementation of child rights. In this context, the Committee refers 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 (CRC/GC/2002/2).**

#### **Allocation of resources**

90. The Committee welcomes the information on budget allocations for children in different sections of the national budget, but regrets the lack of a final decision on a budget that corresponds to the demand that the State party provides means "to the maximum extent

of ... available resources” and is concerned that the budgetary allocations may be insufficient, in particular in some of the least developed regions. The Committee is also concerned at the lack of budgets earmarked to the national plans adopted and at the reportedly widespread corruption affecting the full use of the means provided in many different areas, disproportionately impacting the most vulnerable children.

**91. The Committee recommends that the State party review budgetary allocations and pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups, “to the maximum extent of ... available resources”. Furthermore, the State party is encouraged to strengthen its efforts to combat and eliminate corruption.**

#### **Data collection**

92. The Committee notes the difficulties that the State party is encountering in collecting data on children. However, the Committee maintains that such data is crucial for the monitoring and evaluation of progress achieved and impact assessment of policies with respect to children.

**93. The Committee urges the State party to commission the INSTAT Institute to establish a comprehensive system of data collection incorporating all the areas covered by the Convention. Such a system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable, and make possible disaggregating analyses of data. The Committee recommends that the State party continue cooperation with the United Nations Children’s Fund (UNICEF) in this respect.**

#### **Training/dissemination of the Convention**

94. The Committee welcomes the availability of the Convention in Albanian, Romani, Greek, Macedonian and Serbian. It notes however that the Convention may not be sufficiently known and understood throughout the country, including among children themselves, parents and professionals working with and for children both at the central and local levels.

**95. The Committee encourages the State party to continue and strengthen its efforts to make the Convention known and accessible in the appropriate languages. It further urges the State party to provide adequate and systematic training and/or sensitization on children’s rights for children, parents and professional groups working with and for children, in particular law enforcement officials, parliamentarians, judges, lawyers, health and social service personnel, teachers, school administrators and others, as required.**

## **2. Definition of the child**

96. The Committee welcomes the information that the age of marriage is now 18 years for all children and that discrimination contained in previous legislation has been removed. However, the Committee notes the lack of clarity related to the status of children between 14 and 18 years (e.g. in the areas of sexual abuse or exploitation, juvenile justice) and is concerned that children in this age group may not be accorded the special protection or the rights they are entitled to in accordance with the Convention.

97. **The Committee recommends that the State party take all necessary measures to clarify the definition of the child in Albania and that existing legislation be reviewed to ensure that all children under 18 years of age receive the protection they need as provided for in the Convention.**

### **3. General principles**

#### **Non-discrimination**

98. The Committee welcomes the many legislative amendments providing for equal rights to all children, including giving children equal inheritance rights without discrimination based on their status at birth. However, the Committee is concerned that discrimination persists in particular with respect to ethnic minorities, including Roma children, disabled children and children living in remote areas many of whom have reduced access to support and protection. The Committee regrets the lack of information on the efforts made by the State party to counter these forms of discrimination while noting statements that this is primarily a result of mentality and attitudes rather than lack of related legislation. Furthermore, the Committee regrets the general lack of information related to discrimination against girls.

99. **The Committee urges the State party to undertake concerted actions to develop and implement policies aimed at countering the various forms of discrimination in the country. This would include revision of existing legislation, introduction of comprehensive anti-discrimination legislation and conducting educational campaigns to address discrimination against the Roma and other minorities, as well as discrimination on grounds such as disability, sex, birth status or others.**

100. **The Committee requests that specific information be included, in the next periodic 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, and taking account of the Committee's general comment No. 1 (2001) on the aims of education.**

#### **Best interests of the child**

101. The Committee notes the progress reported by the State party in giving primary consideration to the best interests of the child. However, the Committee regrets that the determination of what constitutes the "best interests" seems to be the decision of adults alone involving little consultation with children, even when they are able to state their opinions and interests.

102. **The Committee recommends that the State party strengthen its efforts to ensure that the general principle of the best interests of the child is understood and appropriately integrated into all legal provisions, judicial and administrative decisions, and projects, programmes and services having an impact on children.**

**The right to life, survival and development**

103. The Committee welcomes the information provided in the State party's report relating to legislation that protect the right to life of all persons. However, the Committee is deeply concerned at the practice of vendetta and revenge, which has re-emerged during the 1990s, as well as at the reported occurrence of honour killings (blood feuds). The Committee is concerned that efforts undertaken to counter such occurrences in practice have not helped to eradicate these phenomena.

**104. The Committee urges the State party to strengthen measures to counter the practices of revenge killings as well as others having a destructive impact on the development of the child.**

**Respect for the views of the child**

105. The Committee notes the efforts made to encourage the participation of children within the family and in schools. It also notes that, according to article 356 of the Civil Procedure Code, children may give testimony in court after they have attained the age of 16 years and that the child's opinion may be sought in custody decisions, adoptions, etc. after attaining the age of 10 years or at the age of 14 in relation to citizenship cases. However, the Committee is concerned that the views of the child are not taken into consideration at all before the age of 10 years.

**106. The Committee recommends that the State party continue to promote and facilitate, within the family, schools and other institutions, as well as in judicial and administrative procedures, respect for the views of children and participation in all matters affecting them, in accordance with article 12 of the Convention. It further encourages the State party to provide educational information to parents, teachers and headmasters, government administrative officials, the judiciary, children themselves and society at large with a view to creating an encouraging atmosphere in which children, including those below the age of 10 years, can freely express their views, and where, in turn, these are given due weight.**

107. The Committee welcomes the existence of a helpline for children where they can receive support or express concerns or complaints. But the Committee is concerned at the very limited human and financial resources for this helpline.

**108. The Committee recommends that the State party give full support to the efforts to further develop this helpline, inter alia, through the establishment of a national toll-free number accessible 24 hours a day. It is further recommended that support be given to the helpline so that it can provide, or mobilize among existing services, counselling, rescue and intervention when necessary.**



#### 4. Civil rights and freedoms

##### Birth registration

109. The Committee notes the significant efforts made by the State party to ensure that every child is registered within 30 days after birth. Nevertheless, it appears that those failing to meet the deadline encounter additional difficulties.

110. **The Committee recommends that the State party take appropriate measures to promote the registration of all children, including through facilitating late registration when necessary and paying particular attention to the most vulnerable and marginalized groups. In this context, the State party should ensure that the provisions of article 7 be fully enforced in the light of the principles of non-discrimination (art. 2) and the best interests of the child (art. 3), including the right of the child to know, as far as possible, his or her parents. Meanwhile, immediate access to basic services, such as health and education, should be ensured to children who were not registered at birth, while their registration is being properly prepared.**

##### Freedom of expression

111. The Committee welcomes the guarantee of freedom of expression under article 22 of the Constitution, but recognizes that there is a vacuum in the legislative acts on the practical ways to implement this right for children, as noted by the State party in its report. Furthermore, the Committee is concerned that the prevailing attitudes in the family, in school, in other institutions and in society at large are not conducive to the enjoyment of this right.

112. **The Committee encourages the State party to take all appropriate measures, including legal means, to fully implement article 13, and to introduce measures to promote and guarantee the right of the child to freedom of expression.**

##### Access to information

113. The Committee welcomes that children have improved access to information technologies, but is concerned at the lack of an efficient system to protect children from harmful information, including television programmes, printed material and other media containing, inter alia, violence, racism and pornography and at the accessibility of these to children.

114. **The Committee recommends that the State party enact special legislation and develop appropriate guidelines to protect children from harmful information while fully guaranteeing their access to appropriate information. The Committee further recommends that the State party take into consideration the Committee's recommendations emanating from its day of general discussion on "The child and the media" (see CRC/C/57, paras. 242-257).**

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

115. The Committee notes article 25 of the Constitution and the general provisions of the Criminal Procedure Code, according to which torture and degrading treatment or punishment are prohibited. However, the Committee regrets the lack of relevant practical information in the

report, and is concerned about allegations of ill-treatment and improper use of force, in particular against children, both by public officials and the police in pre-trial detention centres, in prisons and in other institutions in which children are in the care of the State. Furthermore, the Committee is concerned that these allegations have not been investigated promptly by an independent authority.

**116. In light of article 37 (a) of the Convention the State party should take all necessary and effective steps to address the causes and to prevent incidents of ill-treatment of children while in State care, including by adopting a prevention strategy against institutional violence. The Committee further urges the State party to undertake adequate measures to ensure that an effective system is set up for filing complaints about acts of ill-treatment and that such acts receive an appropriate response through the judicial process, in order to avoid impunity for the perpetrators.**

## **5. Family environment and alternative care**

### **Family reunification**

117. The Committee is concerned that family reunification procedures may not always be dealt with in a manner consistent with the general principles (arts. 2, 3, 6 and 12) and in particular, article 10 of the Convention.

**118. The Committee recommends that the State party take all necessary measures to ensure that family reunification procedures are dealt with in a positive, humane and expeditious manner. In this context, the Committee also urges the State party to take measures for the effective implementation of the Law on Integration and Family Reunion of Persons Granted Asylum (Law No. 9098 of 2003) and to enact all necessary by-laws.**

### **Children deprived of their family environment**

119. The Committee welcomes the programmes of development of social services aimed at the deinstitutionalization of children and the shifting towards decentralized and community-based services with a view to improving living standards that are conducive to reintegration. However, the Committee remains concerned that children may be removed from their families because of their health status, or placed in institutions by parents in difficult economic situations.

**120. The Committee recommends that the State party:**

**(a) Take effective measures to strengthen support to families by developing a comprehensive child-centred family policy to enable families to care for their children at home;**

**(b) Improve social assistance and support to families through advice and education to promote positive child-parent relationships;**

**(c) Strengthen efforts in the area of deinstitutionalization ensuring that parallel structures are in place to provide adequate follow-up and reintegration support and services for children who leave institutional care;**

**(d) Establish procedures to ensure that children currently residing in institutions that are being closed down are fully informed and able to participate in deciding on their future placement, and that these children retain their rights to social protection.**

### **Adoption**

121. The Committee welcomes the ratification by the State party of the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and the setting up of the Albanian Committee for Adoption, as well as the priority given to domestic solutions. However, it remains concerned at the occurrence of intercountry adoptions, despite the efforts of the State party to counter such practices, which are not made through the competent authority or accredited body but through individual channels, including cases of sale of children for “adoption”.

122. **The Committee encourages the State party:**

**(a) To ensure that the State programme and subsidiary regulatory instruments necessary for the implementation of the legislation are elaborated;**

**(b) To ensure that sufficient human and other resources are made available for the effective implementation and monitoring of the legislation and that adequate training is provided to the professionals involved;**

**(c) To ensure that cases of intercountry adoption are dealt with in full accordance with the principles and provisions of the Convention, in particular article 21, and the Hague Convention of 1993 and that cooperation in this respect is limited to countries which are also party to the Hague Convention of 1993;**

**(d) To consider ratifying the Hague Convention on the Civil Aspects of International Child Abduction of 1980 and the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children of 1996;**

**(e) To consider seeking technical assistance from the Hague Conference on Private International Law and UNICEF.**

### **Abuse and neglect**

123. The Committee is concerned that “maltreatment” is one of the most acute problems in the Albanian society, as noted by the State party. The Committee notes that domestic violence remains underreported but is common, as are other forms of ill-treatment and abuse, including sexual abuse. Concern is also expressed at the insufficient resources, including lack of adequately trained personnel, to prevent and combat such abuses.

124. **The Committee recommends that the State party:**

- (a) Undertake comprehensive studies on domestic violence, ill-treatment and abuse to understand the causes, scope and nature of these practices;**
- (b) Strengthen its efforts to prevent and combat all forms of physical and mental domestic violence, ill-treatment and abuse as well as to adopt measures and policies to contribute to changing attitudes to violence and abuse within the family;**
- (c) Ensure that a referral system is set-up, that cases of domestic violence and ill-treatment 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 the prevention of stigmatization of victims.**

### **Corporal punishment**

125. The Committee is concerned that corporal punishment remains lawful in the family, and continues to be used as a disciplinary method.

126. **The Committee urges the State party to expressly prohibit 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, and to conduct research into the prevalence of corporal punishment of children in the family.**

## **6. Basic health and welfare**

### **Children with disabilities**

127. The Committee welcomes the establishment of an inter-ministerial group to develop a National Strategy for Persons with Disabilities, but remains concerned at the large number of children with disabilities who are institutionalized, are not included in the mainstream education system, or are without education at all, 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.

128. **The Committee encourages the State party to actively pursue its current efforts and continue:**

- (a) To review existing policies and practices in relation to children with disabilities, taking due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96 of 20 December 1993, annex) and of the Committee's recommendations adopted at its day of general discussion on "The rights of children with disabilities" (see CRC/C/69, paras. 310-339);**

**(b) To pursue efforts to ensure that children with disabilities may exercise their right to education to the maximum extent possible and facilitate their inclusion in the mainstream education system;**

**(c) To undertake greater efforts to make available the necessary professional and financial resources, especially at the local level, and to promote and expand community-based rehabilitation programmes, including parent support groups;**

**(d) To strengthen public awareness campaigns with a view to contributing to changing existing negative attitudes towards children with disabilities;**

**(e) To consider seeking technical cooperation from UNICEF and the WHO in this respect.**

### **Health and health services**

129. The Committee welcomes the information provided by the State party on legislative and other measures aimed at contributing to the protection of mothers, infants and school-age children, such as the joint programme of the Ministry of Health and UNICEF, or the establishment of an Inter-Ministerial Commission for HIV/AIDS in 2000. However, the Committee is concerned at the information on the poor quality of health services in general, particularly in some regions, and more specifically at the high number of children suffering from malnutrition, iodine deficiency and other preventable illnesses. The Committee further notes that despite the marked improvement in infant mortality rates, these remain very high, and that marked disparities in health services between different regions of the country exist.

**130. The Committee recommends that the State party:**

**(a) Strengthen its efforts to ensure allocation of resources (e.g. human and financial), including training of sufficient numbers of health-care professionals, and investments in health-care infrastructure, especially in the most disadvantaged areas of the country, to ensure accessible and quality health services;**

**(b) Address the issues of malnutrition and iodine deficiency through, inter alia, education and promotion of healthy feeding practices.**

### **Adolescent health**

131. The Committee welcomes the legislative and other measures taken by the State party to reduce the use of tobacco, in particular among children under 16 years of age. However, the Committee is concerned at the reported rise in suicide rates among children for which sufficient data is not available and considers that, in general, the health services provided, including mental health services, may not be tailored to the needs of adolescents, thus reducing their willingness to access primary health services. It further notes the concern of the State party that abortion may still be used as a family planning method and that the abortion rates are alarmingly high.

132. **The Committee recommends that the State party:**

(a) **Increase its efforts to promote adolescent health policies, introduce legislation and strengthen programmes of health education in schools;**

(b) **Take measures, including the allocation of adequate human and financial resources, to evaluate the effectiveness of training programmes in health education and to develop youth-sensitive and confidential counselling, care and rehabilitation facilities that are accessible also without parental consent when this is in the best interests of the child;**

(c) **Study the occurrence and causes of suicide to enable the appropriate authorities to improve their understanding of this phenomenon and take appropriate measures to reduce the suicide rates, including by improving preventive and interventional mental health services;**

(d) **Provide access to information on reproductive health and family planning with a view to improving the practice in these areas, including the reduction of recourse to abortion as a method of family planning;**

(e) **Pay due attention to 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.**

#### **Standard of living**

133. The Committee notes the efforts that the State party is making to improve the living standards of families in poverty and of children in institutional care, orphans or other children with special needs. However, the Committee is concerned that a large number of children live in poverty, or in extreme poverty, and that many children do not receive child support maintenance following divorce of their parents, or as the case may be, the amount is largely insufficient.

134. **The Committee encourages the State party to pursue measures to assist parents and others responsible for children by strengthening efforts to improve the standard of living of all children and providing material assistance and support programmes in accordance with article 27 of the Convention. Economic growth should be used to improve the living conditions of families. In addition, the State party is encouraged to consider ratifying the Hague Conventions No. 23 on the Recognition and Enforcement of Decisions relating to Maintenance Obligations and No. 24 on the Law Applicable to Maintenance Obligations.**

#### **7. Education, leisure and cultural activities**

135. The Committee is concerned at the decline of public expenditures on education and notes that data about school attendance, transition rates and dropout rates from different sources are contradictory and make it difficult to assess the effectiveness of the school system. The Committee welcomes the initiatives, introduced in 2000, aimed at enhancing the quality of education and the efforts to reduce dropout rates. However, the Committee notes that parents are liable to punishment by fine for non-attendance of children, which may be counterproductive. The Committee welcomes the addition of a ninth compulsory school year to the second cycle of primary school and regrets that at least one year of pre-school education was not made

compulsory. Furthermore, the Committee is concerned at the reported deterioration of physical conditions in schools, the lack of qualified teaching staff and teaching materials, including the discrepancy between rural and urban areas in this respect, and that many parents hire teachers to provide extra courses in order to compensate for the poor quality of the educational system.

136. **The Committee urges the State party:**

(a) **To strengthen its ongoing efforts to address the problems relating to the training of teachers and to increasing budget allocations with a view to improving the quality of education and physical conditions in schools;**

(b) **To devise more child-sensitive methods to combat repetition and reduce dropout rates and to address the causes thereof, with a view to preventing such occurrences and achieving universal attendance; particular attention in this respect should also be given to the situation of girls;**

(c) **To develop a strategy to improve the quality and relevance of educational opportunities, including vocational training;**

(d) **To consider introducing a compulsory year of pre-school education;**

(e) **To consider seeking technical assistance from UNICEF in this respect.**

137. The Committee shares the concern expressed in the State party's report that much of the cultural and recreational infrastructure does not function in Albania, and that playgrounds are almost non-existent.

138. **The Committee recommends that the State party consider the need for playgrounds and child-friendly parks in city planning and increase efforts to provide more appropriate spaces for children allowing them to enjoy the right to leisure, recreation and cultural activities.**

## **8. Special protection measures**

### **Refugee and internally displaced children**

139. The Committee welcomes the progress made in establishing a clearer legal framework governing the treatment of refugees and the prevention of statelessness, including the progress made in securing access by all refugee and asylum-seeking children to Albanian schools. Nevertheless, the Committee considers that additional steps need to be taken to ensure full compliance of the relevant legislation and practice with the Convention.

140. **The Committee recommends that the State party amend the current asylum legislation by introducing specific provisions ensuring that the best interests and the views of the child are taken into account, in particular during the status determination procedures. It further recommends that pre-screening procedures of foreigners be extended to the border-points with a view to guaranteeing maximum protection to child**

**asylum-seekers and trafficked children, who may otherwise risk refoulement. The provision of adequate training on refugee child issues to all persons involved is highly desirable. The Committee further recommends that the State party consider seeking assistance from UNHCR in this respect.**

### **Unaccompanied children**

141. The Committee notes that the departure of children from Albania to neighbouring countries is a significant problem, and that approximately 4,000 children have left the country unaccompanied by their parents.

**142. The Committee recommends that the State party strengthen its efforts in this area, in particular:**

**(a) To determine and address the causes of such large-scale departure of unaccompanied children and introduce safeguards to reduce the phenomenon, in particular if such children are victims of illegal networks;**

**(b) To ensure a coordinated approach to the collection of information and statistics, allowing a response commensurate to the needs;**

**(c) To strengthen cooperation and accelerate conclusion of agreements with neighbouring countries in order to ensure respect for the rights of these children, as well as their protection and education.**

### **Economic exploitation**

143. The Committee welcomes the ratification by the State party of ILO Convention No. 182 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. It further welcomes the establishment of a special Unit for Child Labour within the Ministry of Labour and Social Affairs in cooperation with ILO-IPEC. However, it also notes that it is widely acknowledged that children in Albania work in the streets, within the family, or elsewhere in exploitative situations or to such an extent that regular school attendance is impeded. Furthermore, the Committee regrets the deficiency of data in this respect.

**144. The Committee recommends that the State party, in accordance with article 32 of the Convention, and ILO Conventions No. 138 concerning the Minimum Age for Admission to Employment and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which the State party has ratified:**

**(a) Take steps to ensure the implementation of article 32 of the Convention, and ILO Conventions Nos. 138 and 182, taking due account of ILO Recommendation concerning Minimum Age for Admission to Employment, 1973 (R146) and Recommendation concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (R190);**



**(b) Vigorously pursue measures, at the national and international level, to dismantle trafficking and exploitation networks;**

**(c) Strengthen efforts to establish control mechanisms to monitor the extent of child labour, including unregulated work, address its 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;**

**(d) Continue ongoing cooperation with ILO-IPEC in this regard.**

**Sexual exploitation/abuse, trafficking and abduction**

145. The Committee notes the concerns expressed by the State party at the extent of the problem of sexual exploitation of children in Albania. It also welcomes the measures taken by the State party to combat trafficking in children, such as the establishment of an anti-trafficking centre in Vlora. However, the Committee notes with concern that the sale of children is not criminalized in domestic legislation, that children reportedly continue to be trafficked, in particular to Italy and Greece, and considers that additional efforts must be vigorously pursued to combat this persistent phenomenon.

146. **The Committee recommends that the State party:**

**(a) Considerably strengthen its efforts to reduce and prevent the occurrence of sexual exploitation, sale of children and trafficking, including by amending legislation and sensitizing professionals and the general public to the problems of sexual abuse of children and trafficking through education, including media campaigns;**

**(b) Strengthen existing cooperation with the authorities of countries from or to which children are trafficked in order to combat the phenomenon and harmonize legislation in this respect;**

**(c) Increase protection provided to victims of sexual exploitation and trafficking, including 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 Global Commitment adopted at the First and Second World Congresses against Commercial Sexual Exploitation of Children, held in 1996 and 2001 respectively;**

**(d) 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 14-18 years age group;**

**(e) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints, in a child-sensitive manner;**

**(f) Proceed with the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as planned.**

### **Street children**

147. The Committee is very concerned that street children represent the most unprotected category of children in Albania and regrets the lack of information in the State party's report in this respect.

148. **The Committee recommends that the State party:**

(a) **Undertake a study to consider elaborating a comprehensive strategy to address the increasing number of street children with the aim of preventing and reducing this phenomenon in the best interests of these children and with their participation;**

(b) **Make additional efforts to provide protection to children living on the street and to ensure their access to education and health services;**

(c) **Strengthen the support and assistance available to families, both as a preventive measure and a measure conducive to the return of children to their families or other settings, as appropriate.**

### **Substance abuse**

149. The Committee is concerned at the increase in drug abuse, in particular among young children, including through the free distribution of drugs by drug dealers with the aim of luring children into drug use, which may occur also in school environments.

150. **The Committee encourages the State party to continue and expand its activities in the area of prevention of substance abuse and use of children in the trafficking of such substances, and to support recovery programmes dealing with child victims of drug abuse. The Committee recommends that the State party consider seeking technical assistance from UNICEF and OHCHR.**

### **Juvenile justice**

151. The Committee welcomes the information provided by the State party on legislative measures taken to improve compliance with the provisions of the Convention. But the Committee is concerned at the lack of implementation of the existing provisions and the lack of an effective juvenile justice system of specialized police prosecutors, judges and social workers to deal with children in conflict with the law.

152. **The Committee recommends that the State party:**

(a) **Ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, as well 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**

**Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the Committee's day of general discussion, held in 1995, on the administration of juvenile justice;**

- (b) Pay in this effort, as a matter of priority, 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 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 and drug addiction;**
- (d) Seek technical assistance from, among others, OHCHR and UNICEF.**

## **9. Optional Protocols to the Convention**

153. The Committee welcomes the statement by the delegation indicating the intention of the State party to ratify the two Optional Protocols to the Convention and urges the State party to pursue and complete its plans in this respect.

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

### **Follow-up**

154. 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 the Council of Ministers or the Cabinet or a similar body, the Parliament, and to provincial or State Governments and Parliaments, where applicable, for appropriate consideration and further action.

### **Dissemination**

155. The Committee further recommends that the initial report and written replies submitted by the State party and related recommendations (concluding observations) it adopted be made widely available, including through 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 Convention, its implementation and monitoring.**

## **11. Next report**

156. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention includes ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some States parties experience difficulties in initiating timely and regular reporting. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its next report by 27 March 2009. This report, which combines the second, third and fourth periodic reports, should not exceed 120 pages (see CRC/C/118), and the Committee expects the State party to report every five years thereafter, as foreseen by the Convention.

### **Concluding observations: Luxembourg**

157. The Committee considered the second periodic report of Luxembourg (CRC/C/104/Add.5) at its 1005th and 1006th meetings (see CRC/C/SR.1005 and 1006), held on 13 January 2005, and adopted at its 1025th meeting (see CRC/C/SR.1025), held on 8 January 2005, the following concluding observations.

#### **A. Introduction**

158. The Committee welcomes the submission of the State party's second periodic report, which was prepared in accordance with the Committee's guidelines, as well as the detailed written replies to its list of issues (CRC/C/Q/LUX/2), which allowed the Committee to have a clear understanding of the situation of children in the State party. It also appreciates the presence of a high-level delegation.

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

159. The Committee notes with appreciation:

- (a) The establishment, by Act of 22 August 2003, of an Ombudsman (Médiateur);
- (b) The establishment, on 26 May 2000, of an independent human rights institution, the Consultative Commission on Human Rights;
- (c) Act of 25 July 2002, establishing a Luxembourg committee on the rights of the child, the "Ombuds-Comité" (ORK);
- (d) The following legislative measures:

- (i) Act of 24 April 2000 introducing the crime of torture in the Criminal Code;
  - (ii) Act of 18 March 2000, establishing a regime of temporary protection for asylum-seekers;
  - (iii) Protection of Young Workers Act of 23 March 2001, transposing into national legislation European Directive 94/33 on the protection of young people at work;
  - (iv) Act of 1 August 2001 on the protection of pregnant workers and workers who have recently given birth or are breastfeeding;
  - (v) Act of 31 May 1999 introducing, inter alia, a new article 384 of the Criminal Code expressly punishing child pornography and providing for the confiscation of all related items;
- (e) The appointment of five intercultural mediators from countries of origin of children of asylum-seekers, with the role of facilitating contact between teachers, families and children.

160. The Committee also wishes to welcome the ratification by the State party of:

- (a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 4 August 2004;
- (b) The Hague Convention No. 33 on Protection of Children and Cooperation in Respect of Intercountry Adoption, on 1 September 2002;
- (c) ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, on 21 March 2001;
- (d) The Rome Statute of the International Criminal Court, on 8 September 2000.

161. The Committee notes with appreciation the State party's contribution to international economic cooperation and the fact that it allocates over 0.7 per cent of its gross domestic product to official development assistance (ODA target).

## **C. Main subjects of concern and recommendations**

### **1. General measures of implementation**

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

162. The Committee notes with satisfaction that various concerns and recommendations (CRC/C/15/Add.92) made upon the consideration of the State party's initial report (CRC/C/41/Add.2) have been addressed through legislative measures and policies. However, it regrets that some of its concerns and recommendations have been insufficiently addressed, particularly those contained in paragraphs 23 (the reservations affecting articles 2, 6, 7 and 15 of

the Convention); 25 (the lack of a comprehensive strategy for children); 27 (the use of the terms “legitimate” and “illegitimate” (natural) children in the Civil Code); 29 (the partial compliance with article 7 of the Convention in relation to the right of children born anonymously to know their parents); 31 (the absence of a provision prohibiting corporal punishment within the family and in care institutions); and 39 (the lack of appropriate infrastructures for detained children). The Committee notes that those concerns and recommendations are reiterated in the present document.

**163. The Committee urges the State party to take all necessary measures to address those recommendations from 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 periodic report.**

### **Reservations**

164. The Committee notes with concern that the State party has not withdrawn its reservations to articles 2, 6, 7 and 15 of the Convention.

**165. The Committee is of the opinion that the reservations regarding articles 2, 6 and 15 are unnecessary and that the reservation to article 7 seems incompatible with the object and purpose of the Convention, but can become unnecessary as well, if the State party implements the Committee’s recommendation contained in paragraph 185 below. Accordingly, the Committee reiterates its previous recommendation to the State party (CRC/C/15/Add.92, para. 23) to consider reviewing its reservations with a view to their withdrawal.**

### **National Plan of Action**

166. While the Committee notes the launching in 1996 of a National Plan of Action against the sexual exploitation of children and that the State party has set priorities and objectives with respect to its policies concerning children (i.e. child participation, right of the child to be informed, drug abuse and violence against children), it notes with concern the lack of a general national plan of action for children and/or a comprehensive policy on children.

**167. The Committee recommends that the State party develop and implement a comprehensive national plan of action for children aimed at the realization of the principles and provisions of the Convention and which takes into account, in particular, the outcome document “A World Fit for Children” adopted by the General Assembly at its special session on children in May 2002.**

### **Coordination**

168. While the Committee notes the recent reorganization of ministries and the creation of a division for the promotion of children’s rights within the Ministry of Family and Integration, it is not clear if and to what extent this has resulted in the necessary coordination of all governmental activities regarding the implementation of the Convention.

169. **The Committee recommends that the State party establish a body at the inter-ministerial level or entrust an existing one within its administration with a clear mandate to coordinate all activities related to the implementation of the Convention, and to provide it with the necessary human and financial resources.**

#### **Independent monitoring**

170. While the Committee commends the adoption of the Act of 25 July 2002 establishing a Luxembourg committee on the rights of the child called Ombuds-Comité, it is concerned about its reported lack of sufficient financial and human resources.

171. **In the light of 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 and of the Principles relating to the status of national institutions in the promotion and protection of human rights (The Paris Principles), the Committee recommends that the State party strengthen the political, human and financial support for the Ombuds-Comité in order to ensure its effective functioning.**

#### **Data collection**

172. The Committee considers that statistical data are crucial for the monitoring and evaluation of progress achieved and impact assessment of policies concerning children. In this respect, while noting that the State party is conscious of this problem and of the negative impact on its policies, the Committee is concerned that statistical data on the situation of children is not sufficient, especially on those belonging to the most vulnerable groups, including unaccompanied and separated refugee and asylum-seeking children, as well as regarding the implementation of the Convention concerning children in conflict with the law.

173. **The Committee recommends that the State party continue and strengthen its efforts to develop a comprehensive system for the collection of comparative and disaggregated data on the Convention. This data should cover all children below the age of 18 years and should be disaggregated by groups of children who are in need of special protection. The State party should also develop indicators to effectively monitor and evaluate progress achieved in the implementation of the Convention and assess the impact of policies affecting children.**

## **2. General principles**

#### **Non-discrimination**

174. While taking note with appreciation of the various programmes aimed at combating discrimination, including the appointment of intercultural mediators from the countries of origin of children of asylum-seekers, the Committee is concerned at the disparities in the enjoyment of rights experienced by children belonging to vulnerable groups, such as children with disabilities and refugee and asylum-seeking children.

175. The Committee is further concerned at the discriminatory attitudes and the emergence of racism, xenophobia and related intolerance towards the Muslim community and other minorities and at their impact on children belonging to these groups.

176. **The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.**

177. **The Committee also requests that specific information be included in the next periodic report, on the measures and programmes relevant to the Convention that have been 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, also taking into account the Committee's general comment No. 1 (2001) on the aims of education.**

178. The Committee welcomes the information that the State party intends to eliminate from its legislation any description of children born out of wedlock, which may have a negative or discriminatory connotation.

179. **The Committee encourages the State party to carry out this modification as soon as possible.**

#### **Best interests of the child**

180. With reference to the information provided by the State party that the Act of 25 July 2002 was the first piece of legislation where the principle of the best interests of the child was explicitly stated, the Committee expresses its concern about the limited integration of this concept into the policies and legislation of the State party.

181. **The Committee recommends that the State party strengthen its efforts to ensure that the general principle of the best interests of the child is understood and appropriately integrated in all legal provisions, in judicial and administrative decisions, as well as in projects, programmes and services affecting children.**

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

182. The Committee notes that, in some respects, the views of the child are not taken fully into account in the State party and that the general principle, as laid down in article 12 of the Convention, is not fully applied within the family, schools and other institutions.

183. **The Committee recommends that the State party continue to promote and facilitate, within the family, schools and institutions, as well as in judicial and administrative procedures, respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention. It further encourages the State party to provide educational information to parents, teachers and headmasters, government administrative officials, the judiciary, children themselves and society at large, with a view to creating an encouraging atmosphere in which children can freely express their views.**



### 3. Civil rights and freedoms

#### **Anonymous birth and preservation of identity**

184. The Committee remains concerned about the fact that the children born anonymously (“under x”) are denied the right to know, as far as possible, their parents, and notes with interest the proposal of the National Consultative Commission on Life Sciences and Health Ethics (CNE) which seems to allow for significant improvements in this regard.

**185. The Committee urges the State party to take all necessary measures to prevent and eliminate the practice of the so-called anonymous birth. In case anonymous births continue to take place, the State party should take the necessary measures so that all information about the parent(s) are registered and filed in order to allow the child to know - as far as possible and at the appropriate time - about his/her parent(s).**

#### **Access to appropriate information**

186. While the Committee appreciates the measures taken by the State party to prevent and combat child pornography on the Internet, as well as the introduction of article 384 of the Criminal Code punishing the possession of pornographic material involving children, it remains concerned about the exposure of children to violence, racism and pornography, especially through the Internet.

**187. The Committee recommends that the State party continue to take all appropriate measures to effectively protect children from being exposed to violence, racism and pornography through mobile technology, video movies, games and other technologies, including the Internet. The Committee further suggests that the State party develop programmes and strategies to use mobile technology, video advertisements and the Internet as a means for raising awareness among both children and parents of information and material injurious to the well-being of children.**

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

188. While noting that the new Act of 16 June 2004 dealing with the reorganization of the State Socio-Educational Centre reduces to 10 days, instead of the previous 20 days, the maximum duration of solitary confinement as a disciplinary sanction for persons under 18 years of age, and provides the child with the possibility of appealing to the juvenile judge, the Committee is still deeply concerned at the use and length of this isolation and at the very harsh conditions depriving the child of almost all contact with the outside world and of any outdoor activity.

**189. The Committee recommends that the State party develop and implement alternative disciplinary sanctions in order to avoid as much as possible the use of solitary confinement, to further reduce the length of this confinement and to improve its conditions, inter alia, by providing persons under 18 with access to an outdoor area for at least one hour a day and giving them access to some kind of recreational facilities. Furthermore, the Committee urges the State party to include, in its next periodic report, specific and detailed information on the use and the conditions of this solitary confinement.**

#### 4. Family environment and alternative care

##### Parental responsibilities

190. The Committee is concerned about the fact that parents automatically lose parental authority over their children when they are placed in foster care or in institutions by the courts, apparently without determining whether such an automatic measure is in the best interests of the child.

**191. The Committee recommends that the State party take all possible measures, including revision of the existing legislation, in order to adequately protect parental rights and parent-child relationship and that the transfer of parental authority be used only in exceptional circumstances and in the best interests of the child.**

##### Periodic review of placement

192. While the Committee notes that placements are reviewed every three years and that Youth Court judges frequently visit minors in institutions, it is concerned that decisions to place young people either in “open centres” (State Socio-Educational Centres) or in “closed centres” (Luxembourg Prison) are given for indeterminate periods and that review intervals are very long.

**193. The Committee recommends that the State party introduce the rule that placement of children in foster care or in institutions may only be ordered for a fixed period, e.g. one year, with the possibility of prolonging the placement for another fixed period, which should provide for a regular review of the conditions of and the need for placement.**

##### Violence, abuse, neglect and maltreatment

194. The Committee continues to be concerned that there is no legislation explicitly prohibiting corporal punishment within the family and that this practice seems to be largely accepted in the society.

195. The Committee, reiterating its previous recommendation, urges the State party to introduce a provision expressly prohibiting corporal punishment within the family, and to strengthen its efforts to raise awareness among parents and caregivers of alternative, non-violent forms of discipline.

196. The Committee is concerned at the number of reported cases of sexual abuse of children.

**197. In the light of article 19 of the Convention, the Committee recommends that the State party undertake a study on violence, more particularly on sexual abuse and violence, in order to assess the extent, causes, scope and nature of such practices. The Committee also recommends that the State party strengthen measures to address ill-treatment of children within the family and to ensure the prevention, timely reporting and prosecution of instances of child abuse.**

## 5. Basic health and welfare

198. The Committee is deeply concerned about the very high number of deaths among children resulting from traffic accidents despite the measures taken by the State party.

199. **The Committee recommends that the State party strengthen as much as possible its efforts to reduce the number of casualties among children caused by traffic accidents, inter alia, by raising awareness through educational campaigns.**

200. The Committee notes with concern the high number of suicides among adolescents in the State party. While welcoming the information that a child psychiatric unit has been recently established within a country hospital, the Committee is concerned about the information that many children from Luxembourg are treated in institutions offering psychiatric assistance to minors across the border in Germany, France or Belgium, owing to the reported lack of an adequate care system, in particular child and juvenile psychiatry, in Luxembourg.

201. **The Committee recommends that the State party use the results of the comprehensive study recently undertaken to address the issue of suicide among the youth as a basis for the formulation of adolescent health policies and programmes. It further recommends that the State party continue to improve the quality and capacity of child and juvenile psychiatry in the country, paying special attention to mental health provisions, both preventive and interventional.**

202. While the Committee notes with appreciation the activities undertaken in this field by the Division of Preventive Medicine, it is very concerned about the abuse of alcohol among youth.

203. **The Committee recommends that the State party increase its efforts to promote adolescent health policies and strengthen the programme of health education in schools, with particular attention to consumption of alcohol by young people.**

## 6. Education, leisure and cultural activities

204. The Committee is concerned about the fact that many children attend schools in neighbouring countries, apparently due to shortcomings in the school system of the State party. The Committee is also concerned about the information that educational facilities for children with behavioural problems and/or learning disabilities are limited in Luxembourg and that, in some cases, these children have been excluded from regular schools and located in facilities for mentally and physically disabled children.

205. **The Committee encourages the State party to improve and/or expand the facilities and opportunities for education in the country. It further recommends that the State party take all necessary steps to put an end to the practice of placing children with learning disabilities and/or behavioural problems in facilities for mentally and physically disabled children.**

206. The Committee notes with satisfaction that refugee and asylum-seeking children have free access to the school system in Luxembourg and that the Ministry of Education has appointed intercultural mediators in order to facilitate the integration of foreigners in the educational system. However, the Committee is still concerned that a large number of foreign children (more than 40 per cent of the school population) are often disadvantaged by the educational programme and teaching methods in Luxembourg, including language problems.

**207. The Committee recommends that the State party consider all possible measures through which foreign children and children of asylum-seekers can be granted equal access to the same standard of services in the field of education. The Committee also encourages the State party to ensure that language does not become an obstacle in education and recommends any initiative, including support classes, to help children to learn the needed languages.**

## **7. Special protection measures**

### **Unaccompanied and separated asylum-seeking children**

208. The Committee is concerned at the fact that unaccompanied and separated asylum-seeking children's accommodation is mainly provided in regular reception centres, together with adult asylum-seekers, and at the lack of foster care, specialized reception centres and qualified personnel working with asylum-seeking children.

209. The Committee is further concerned at the excessive length of asylum procedures, and that, in principle, separated children staying in Luxembourg are not entitled to reunification with their family. It also notes with concern the absence of relevant statistical data with respect to the registration of unaccompanied and separated children.

**210. The Committee recommends that the State party take all the necessary measures for an adequate reception of unaccompanied and separated children applying for asylum in Luxembourg. In particular, the State party should:**

- (a) Address the issue of special protection and assistance rights of these children;**
- (b) Provide supervision by qualified persons to ensure their physical and psychological well-being;**
- (c) Provide the possibility for an appropriate caregiving relationship, such as through foster care or by special reception facilities designed for children;**
- (d) Reduce the length of the procedures for children seeking asylum and deal with application by a child or his/her parents for the purpose of family reunification in a positive, humane and expeditious manner, in the light of article 10 of the Convention;**
- (e) Provide statistical data on the registration of unaccompanied and separated children.**

### **Substance abuse**

211. The Committee is concerned at the high level of use of illicit drugs and substances among adolescents and notes the difficulties confronted by the State party in dealing with this phenomenon.

212. **The Committee recommends that the State party undertake a study to carefully analyse the causes and consequences of this phenomenon as well as its possible links with violent behaviour and the high suicide rate among adolescents in the State party. It further recommends that the State party use the outcome of this study to increase its efforts to prevent the use of illicit drugs and substances.**

### **Sexual exploitation and trafficking**

213. While welcoming the many legislative and other measures taken by the State party to combat and raise awareness of the problem of sexual exploitation, trafficking in persons and child pornography, the Committee is concerned that the conditions of work for women and girls arriving in Luxembourg to work in the entertainment sector are such that they may be exposed to the risk of prostitution and trafficking in human beings.

214. **In the light of article 34 and other related articles of the Convention, the Committee recommends that the State party continue and strengthen its efforts to identify, prevent and combat trafficking in children for sexual and other exploitative purposes, including by undertaking studies to assess the nature and magnitude of the problem and allocating sufficient resources to addressing it.**

215. **The State party is encouraged to ratify the United Nations Convention against Transnational Organized Crime and the two protocols supplementing it: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and the Protocol against the Smuggling of Migrants by Land, Sea and Air. Furthermore, the State party is encouraged to become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

### **Administration of juvenile justice**

216. While the Committee notes the positive steps taken by the State party through the recent adoption of the Act of 16 June 2004, it remains concerned about:

- (a) The placement of persons under 18 in detention centres for adults, resulting in frequent contacts between both groups (even if they live in separate cells);
- (b) The fact that persons under 18 who are in conflict with the law and those having social or behavioural problems are placed in the same structures;
- (c) The fact that persons between 16 and 18 years of age may be referred to ordinary courts and judged as adults in case of crimes of particular gravity;
- (d) The placing of persons under 18 in solitary confinement (see paras. 188 and 189 above).

217. The Committee reiterates its previous recommendation that the State party fully bring the system of juvenile justice into line with the Convention, in particular articles 37, 39 and 40, 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 and the Vienna Guidelines for Action on Children in the Criminal Justice System; and the recommendations of the Committee made at its day of general discussion on juvenile justice (see CRC/C/46, paras. 203-238). In this regard, the Committee recommends that the State party, in particular:

- (a) Establish separate detention facilities for persons under 18;
- (b) 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, and so on;
- (c) Keep persons under 18 who are in conflict with the law separate from persons under 18 with social or behavioural problems;
- (d) Avoid, in all cases, persons under 18 being tried as adults;
- (e) Set up an independent monitoring body to inspect regularly juvenile facilities.

## **8. Optional Protocols to the Convention**

218. The Committee welcomes the information that the State party is taking measures for the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

219. The Committee recommends that the State party complete this action as soon as possible in order to become party to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

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

### **Follow-up**

220. 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 the members of the Council of Ministers or the Cabinet or a similar body, to the Parliament, and to provincial or State Governments and Parliament, where applicable, for appropriate consideration and further action.

## **Dissemination**

221. 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, including through the 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.

## **10. Next report**

222. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States' responsibilities to children under the Convention includes ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some States parties experience difficulties in initiating timely and regular reporting. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its third and fourth periodic reports in one consolidated report by 5 April 2010, i.e. 18 months before the date on which the fourth periodic report is due. The report should not exceed 120 pages (see CRC/C/118), and the Committee expects the State party to report every five years thereafter, as foreseen by the Convention.

### **Concluding observations: Austria (second periodic report under article 44 of the Convention)**

223. The Committee considered the second periodic report of Austria (CRC/C/83/Add.8 and Corr.1) at its 1007th and 1008th meetings (see CRC/C/SR.1007 and 1008), held on 14 January 2005, and adopted at its 1025th meeting (see CRC/C/SR.1025), held on 28 January 2005, the following concluding observations.

#### **A. Introduction**

224. The Committee welcomes the submission of the State party's second periodic report, which was prepared in conformity with the guidelines of the Committee. It also expresses its satisfaction with the detailed written replies to its list of issues (CRC/C/Q/AUT/2), which included extensive statistical data and allowed the Committee to gain a clear understanding of the situation of children in the State party. The Committee also appreciates the presence of a high-level inter-ministerial delegation and the frank and constructive dialogue.

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

225. The Committee notes with appreciation the follow-up measures taken by the State party pursuant to its previous recommendations. It further welcomes:

- (a) The incorporation of children's rights in the Constitutions of the Länder of Upper Austria, Vorarlberg and Salzburg;
- (b) The adoption of the Parent and Child Amendment Act in 2001;
- (c) The establishment of the Austrian Federal Youth Representative Council in 2001;
- (d) The ratification of the two Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, as well as the ratification of ILO Conventions No. 138 concerning Minimum Age for Admission to Employment in 2000 and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001.

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

#### **1. General measures of implementation**

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

226. The Committee notes with satisfaction that various concerns and recommendations (see CRC/C/15/Add.98) made upon the consideration of the State party's initial report have been addressed through legislative measures and policies. However, the recommendations regarding, inter alia, reservations (para. 7), coordinating body (para. 10), budget allocation for international cooperation (para. 12), and juvenile justice (para. 29) have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present concluding observations.

**227. The Committee urges the State party to make every effort to address those recommendations in the concluding observations on the initial report that have not yet been implemented and to address the ones in the present concluding observations.**

##### **Reservations**

228. The Committee takes note of the explanation by the delegation for the non-withdrawal of the reservations to articles 13, 15 and 17, but remains of the opinion that the reservations are - particularly in the light of the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights in 1993 - not necessary.

**229. The Committee recommends that the State party reconsider the need for maintaining the existing reservations and continue and complete its review with a view to the withdrawal of the reservations in line with the Vienna Declaration and Plan of Action.**

##### **Legislation**

230. The Committee welcomes the legislative reforms aimed at improving conformity with the Convention. The Committee also notes that at the federal level the Austrian Convention for the constitutional reform has started in 2003, a reform which intends, inter alia, to include children's



rights in the Constitution. However, the Committee is concerned that some domestic legislation in the State party are not yet in full conformity with the principles and provisions of the Convention, inter alia, with regard to family reunification (art. 10), protection of a child without a family (art. 20) and refugee children (art. 22).

**231. The Committee recommends that the State party continue and strengthen its efforts to incorporate the rights of the child in the Constitution both at Federal and Länder level. The Committee also recommends that the State party take all necessary measures to ensure that its domestic legislation fully conforms with the principles and provisions of the Convention, in particular with regard to articles 10, 20 and 22 thereof.**

### **Coordination**

232. While recognizing efforts to improve policy coordination, the Committee reiterates its previous concern regarding the lack of a specific body, at Federal and Länder level, with a clear mandate to coordinate in a comprehensive manner the implementation of the Convention.

**233. The Committee recommends that the State party undertake all measures to ensure the establishment of a permanent and effective coordination mechanism on the rights of the child at Federal and Länder level and that sufficient financial and human resources are allocated for the effective functioning of such a mechanism.**

### **National Plans of Action**

234. The Committee notes with appreciation that the Government approved in November 2004 a comprehensive National Plan of Action “Young Rights Action Plan” incorporating the objectives and goals of the outcome document “A World Fit for Children”, adopted by the General Assembly Special Session on Children in 2002.

**235. The Committee recommends that the Plan of Action be finally approved by the Parliament and that the State party ensure that sufficient human and financial resources are allocated in a timely manner for its effective implementation and that the Plan of Action should promote and facilitate an active involvement of children and youth, parents and other interested and relevant bodies. It further recommends that the State party develop indicators for monitoring and evaluating the Plan of Action.**

### **International cooperation**

236. While welcoming the establishment of the Austrian Development Agency in 2004 and the State party’s commitment to raising the level of ODA from the current 0.22 per cent of gross domestic product (GDP) to 0.33 per cent by 2006, the Committee expresses concern that the level of development assistance still falls short of the United Nations target of 0.7 per cent of GDP.

**237. In the light of its previous recommendations (see CRC/C/15/Add.98, paragraph 12), the Committee recommends that the State party continue and strengthen its activities in the area of international cooperation and increase its ODA to 0.7 per cent of its GDP, as recommended by the United Nations, paying special attention to the rights of the child in programmes and projects.**

### **Data collection**

238. The Committee notes with appreciation the extensive data provided in the report as well as in the written replies. Nevertheless, the Committee regrets that disaggregated data in certain areas of the Convention are not available, e.g. on asylum-seeking and refugee children, on domestic and intercountry adoptions, and on budgetary expenditure on children with disabilities.

**239. The Committee recommends that the State party strengthen its efforts to develop a system for a comprehensive collection of comparative data on the Convention. This data should cover all children below the age of 18 years and be disaggregated, with specific emphasis on vulnerable groups, including refugee and asylum-seeking children.**

### **Dissemination of the Convention**

240. While noting the efforts undertaken by the State party to make the provisions and the principles of the Convention widely known, the Committee is of the opinion that these efforts need to be strengthened and systematized.

**241. The Committee recommends that the State party pursue its efforts to make the provisions and principles of the Convention widely known and understood by adults and children. The Committee also encourages the State party to undertake a systematic education and training programme on the principles and provisions of the Convention for children, parents and all professional groups working for and with children. It further recommends that the State party include the rights of the child in various pre-service and in-service trainings for those target groups.**

## **2. General principles**

### **Non-discrimination**

242. The Committee notes the positive efforts made by the State party to address racial discrimination, which have also been recognized by the Committee on the Elimination of Racial Discrimination in its concluding observations (CERD/C/60/CO/1). However, the Committee is concerned at the discriminatory attitudes and manifestations of neo-Nazism, racism, xenophobia and related intolerance towards migrant communities and those of certain ethnic backgrounds, and at their impact on children belonging to these groups, as well as towards refugee and asylum-seeking children.

**243. The Committee recommends that the State party increase its efforts to ensure the implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against children belonging to vulnerable groups.**

244. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention that have been 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 the Committee's general comment No. 1 (2001) on the aims of education.**

245. The Committee appreciates the information on the implementation of the Convention in the Länder and districts, for example, in the areas of child and youth welfare and care services, but notes with concern that various disparities exist which could in some instances amount to discrimination.

246. **The Committee recommends that the State party undertake efforts to harmonize the legal framework for child and youth welfare and care services and to introduce minimum standards in compliance with the Convention at the Länder and district level. In addition, the Committee recommends that the State party systematically monitor and evaluate the quality, accessibility and availability of these services.**

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

247. The Committee welcomes the establishment of the Austrian Federal Youth Representative Council in 2001 and of a number of organizations at the local level. It also notes the efforts made with regard to children's participation in the schools. However, the Committee is of the opinion that these efforts should be strengthened.

248. **The Committee recommends that the State party:**

(a) **Strengthen its support to the Federal Youth Representative Council and other local organizations, including through adequate provision of democratic structures and financial resources;**

(b) **In the light of article 12 of the Convention, continue to promote within the family, schools, administrative bodies and other institutions respect for the views of children and to facilitate their participation in all matters affecting them;**

(c) **Reinforce awareness-raising campaigns among the public in general as well as the education and training of professionals with a view to the implementation of this general principle.**

249. The Committee notes with appreciation the activities of the child helpline "Rat auf Draht" and the support provided in that regard by the Government. However, the Committee is concerned that more structural support is needed for the further development and effective operation of this helpline.

250. **The Committee recommends that the State party continue and increase its support for the child helpline in such a structural manner as to ensure that this important instrument enabling children to express their concerns and views and to seek help and advice can operate in the most effective way.**

### 3. Civil rights and freedoms

#### **The right to identity**

251. The Committee is concerned at the practice of anonymous birth in the State party (also known as “baby flaps” or “baby nests”) and notes the information that some data on the parent(s) are collected in an informal manner.

**252. The Committee recommends that the State party undertake all necessary measures to prevent the use of the so-called “baby flaps”. It further recommends that the State party, as a matter of urgency, introduce and implement legal provisions and regulations for the separate registration of all relevant medical and other data, in particular the name and date of birth of the parent(s) and allow the child at an appropriate time to have access to these data.**

#### **Access to appropriate information**

253. While welcoming the State party’s efforts to protect children from harmful media influence, the Committee shares the concern of the State party that the existing legal instruments for the limitation of the dissemination of racist, violent and violence-inducing images, texts and games through the Internet and mass media as well as video computer games need to be reviewed and extended.

**254. The Committee recommends that the State party continue and strengthen its efforts to protect children from harmful information. It further recommends that the State party provide parental education and raise the awareness of children to effectively protect children against violence on the Internet, television and computer games and encourage international cooperation in this respect.**

#### **Protection of privacy**

255. The Committee is concerned at the information from children and adolescents that their right to privacy, for example, with regard to personal correspondence, is not fully respected in everyday life.

**256. The Committee recommends that the State party take the necessary measures, such as awareness-raising and educational campaigns, to improve the understanding of and respect for the child’s right to privacy among parents and other professionals working for and with children.**

### 4. Family environment and alternative care

#### **Family reunification**

257. The Committee is concerned at the length of family reunification procedures and at the fact that it is restricted through the quota system and the age-limit set for children at 15 years.

**258. The Committee recommends that the State party undertake all measures to ensure that family reunification procedures fully comply with article 10 of the Convention.**

### **Abuse, neglect and violence against children**

259. The Committee welcomes the various amendments to the criminal law and criminal procedure on sexual abuse and violence in the family. However, the Committee is concerned about the effectiveness of law enforcement and the recovery of child victims.

260. **The Committee recommends that the State party:**

(a) **Provide for the training of the personnel involved, both in the prosecution process and in the recovery process;**

(b) **Provide programmes for the modification of attitudes and behaviour of abusers and perpetrators;**

(c) **Improve the recovery programmes for child victims;**

(d) **Make an attempt to have a one-stop service where multidisciplinary and intersectoral services are provided.**

### **Corporal punishment**

261. The Committee appreciates that corporal punishment has been prohibited by law in all settings, including in the family, the penal system and institutions of childcare. However, the Committee is concerned that corporal punishment may still be practised in the family.

262. **The Committee recommends that the State party continue its public education and awareness-raising campaigns on non-violent forms of discipline and child-rearing. The Committee also recommends that the State party undertake studies on the prevalence of violence in children's experiences and the negative effects of corporal punishment on the development of children.**

## **5. Basic health and welfare**

### **Adolescent health**

263. While noting the efforts made by the State party, the Committee remains concerned about the health problems faced by adolescents, in particular about drug and tobacco use and alcohol abuse and that the regulation of their consumption by children and adolescents falls within the competence of the Länder. Furthermore, the Committee is concerned at the suicide forums accessible on the Internet where young people can exchange experiences and suicidal thoughts.

264. **The Committee recommends that the State party strengthen its efforts to prevent drug and tobacco use and alcohol abuse and to harmonize the different regulations in the various Länder on this matter. The Committee recommends that the State party undertake practical measures to prevent access to information through the Internet inciting suicide.**

**Harmful traditional practices**

265. While welcoming the legal measures to prohibit and prosecute cases of female genital mutilation, the Committee is concerned that this practice involving girls and young women in the context of immigrant communities still occurs in Austria and abroad where certain children are taken to perform the procedure and brought back.

266. **The Committee recommends that the State party strengthen its efforts to prevent and eliminate this practice by conducting well-targeted and appropriate educational campaigns in the context of religious communities and by considering the possibility of making punishable by law the acts of those involved in the performance of female genital mutilation outside Austria.**

**Right to an adequate standard of living**

267. The Committee notes with appreciation the various measures adopted by the State party to combat poverty, including the adoption of family-related benefits and an increase in child allowances to help families with children. However, the Committee remains concerned at the high rate of poverty, mainly affecting single-parent families, large families and families of foreign origin.

268. **The Committee recommends that the State party take all necessary measures to further reduce and eliminate family poverty, which affects children. It also recommends that the State party continue to provide well-coordinated financial assistance to provide support to economically disadvantaged families, in particular single-parent families and families of foreign origin, so as to guarantee the right of a child to an adequate standard of living. In this regard, efforts should be increased to support, in particular, single mothers re-entering the labour market and to extend good quality and affordable child day-care facilities.**

**6. Special protection measures****Unaccompanied and separated asylum-seeking children**

269. While the Committee acknowledges the efforts undertaken by the State party at the Federal and Länder level to increase the number of adequate accommodation places for unaccompanied and separated asylum-seeking children, it remains concerned that the existing reception facilities are still insufficient compared to the number of applicants and that unaccompanied and separated asylum-seeking children are not systematically assigned guardians.

270. **The Committee recommends that the State party:**

(a) **Ensure that guardians are systematically assigned to unaccompanied and separated asylum-seeking children and that the best interests of the child are duly taken into account;**

(b) **Ensure that all interviews with unaccompanied and separated asylum-seeking children are carried out by professionally qualified and trained personnel;**

**(c) Provide for adequate accommodation, taking into account the state of development of all unaccompanied and separated asylum-seeking children;**

**(d) Fully take into account the principle of the best interests of the child when deciding on the deportation of unaccompanied and separated asylum-seeking children and to avoid their placement in custody pending deportation.**

**Economic exploitation, including child labour**

271. The Committee notes with appreciation the ratification by the State party of ILO Convention No. 138 concerning Minimum Age for Admission to Employment, but remains concerned that domestic legislation continues to permit children from the age of 12 to be involved in light work.

272. **The Committee reiterates its previous recommendation (see CRC/C/15/Add.98, para. 28) that the State party amend its domestic legislation by raising this age to that set in ILO Convention No. 138.**

**Sexual exploitation, pornography and trafficking**

273. The Committee welcomes the State party's efforts in addressing the issue of sexual abuse and child pornography, such as the National Plan of Action of 1998 against Sexual Abuse and Child Pornography on the Internet and the training of the police and other professionals. The Committee also notes the Criminal Law Amendment Act of 2004, which contains a new regulation on trafficking in human beings.

274. **The Committee recommends that the State party:**

**(a) Strengthen its efforts to formulate and effectively implement a National Plan of Action against commercial sexual exploitation and trafficking, as agreed at the First and Second World Congresses against Commercial Sexual Exploitation of Children (1996 and 2001), taking into account the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the existing National Plan of Action of 1998 against Sexual Abuse and Child Pornography on the Internet. International and especially regional cooperation should be further strengthened;**

**(b) Strengthen the capacity of the police and relevant personnel to receive complaints and investigate cases of trafficking and sexual exploitation in a child-sensitive manner, inter alia, by increasing human and financial resources, and where necessary, by providing appropriate training;**

**(c) Promote and support the implementation of the "Code of Conduct for the protection of children from sexual exploitation in tourism";**

**(d) Ensure that children who are victims of trafficking, prostitution and pornography in the State party have access to appropriate recovery and reintegration programmes and services.**

**Juvenile justice**

275. The Committee is concerned about the increasing number of persons below 18 placed in detention, disproportionately affecting those of foreign origin, and that persons below 18 are not always separated from adults.

276. The Committee recommends that the State party:

(a) Ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 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), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the Committee's day of general discussion on the administration of juvenile justice, held in 1995;

(b) In this regard, undertake the following particularly recommended measures:

- (i) Alternative measures for detention, including pre-trial detention, should be strengthened and applied as much as possible in order to ensure that this deprivation of liberty is really a measure of last resort for the shortest time possible;
- (ii) Measures to ensure that persons below 18 held in detention are strictly separated from adult detainees, also during daytime activities;
- (iii) Measures to ensure that the staff in juvenile detention centres are well trained to deal in a proper and adequate manner with the relatively high number of persons below 18 who are of foreign origin;
- (iv) Measures to significantly improve the collection of data on all relevant aspects of the juvenile justice system in order to obtain a clear and transparent picture of the practices;

(c) In the light of article 40, paragraphs 1 and 4, of the Convention, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system, including through adequate education.

**7. Optional Protocols to the Convention**

277. The Committee recommends that the State party submit its initial report under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in due time, i.e. by 6 May 2006.



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

### **Follow-up**

278. 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 the Council of Ministers, the Federal Assembly, and to Länder Governments and Parliaments for appropriate consideration and further action.

### **Dissemination**

279. 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, including through the 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**

280. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee urges the State party to submit its next report by 4 September 2009. This report, which combines the third and fourth periodic reports, should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.

### **Concluding observations: Austria (initial report under article 8 of the Optional Protocol)**

281. The Committee considered the initial report of Austria (CRC/C/OPAC/AUT/1) at its 1008th meeting (see CRC/C/SR.1008), held on 14 January 2005, and adopted at its 1025th meeting, held on 28 January 2005, the following concluding observations.

#### **A. Introduction**

282. The Committee welcomes the submission of the State party's comprehensive initial report, which gives detailed information of the Optional Protocol. The Committee appreciates the frank and constructive dialogue held with the delegation, which included members of the Ministry of Defence to answer specific questions.

#### **B. Positive aspects**

283. The Committee notes with satisfaction that the Austrian National Defence Act has been amended in 2001 in order to reflect the provisions of the Optional Protocol.

284. The Committee welcomes the State party's international and bilateral technical cooperation activities and financial assistance aimed at preventing the involvement of children in armed conflicts and assisting recovery of child victims of armed conflicts and the rehabilitation and recovery of child combatants.

### **C. Principle areas of concern and recommendations**

#### **Voluntary recruitment**

285. The Committee notes that section 9, paragraph 2, of the National Defence Act sets the minimum age of voluntary recruitment at 17 years. It also notes that according to the State party, "no systematic or comprehensive debate took place in Austria" (CRC/C/OPAC/AUT/1, para. 26) regarding a possible review of legislation to increase this age limit to 18 as "the existing legislation reflected consensus on the minimum age".

**286. The Committee recommends that the State party consider the possibility to increase the minimum age for voluntary recruitment to 18 years.**

287. The Committee notes the existence in Vienna of a military school (Militärrealgymnasium) offering a combination of secondary education with military training for students - also called cadets - from age 14 onward, under the joint responsibility of the Federal Ministries of Education and Defence, that "aims to prepare students for a military career (military officers)" (CRC/C/OPAC/AUT/1, para. 42).

**288. With regard to incentives for recruitment, and in light of the fact that a significant proportion of new recruits in the armed forces come from the cadets, the Committee requests the State party, in its next report, to include more detailed information and statistics on its military school and the cadets, in particular on how the activities of the cadets fit with the aims of education, as recognized in article 29 of the Convention and in general comment No. 1 (2001) of the Committee, and on recruitment activities undertaken by the armed forces within the cadet forces.**

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

**289. The Committee requests that the State party provide information in its next report on refugee and migrant children within its jurisdiction that may have been involved in hostilities in their home country and the assistance provided for their physical and psychological recovery and their social reintegration.**

#### **Training/dissemination of the Optional Protocol**

**290. The Committee recommends that the State party continue to develop ongoing and systematic education and training on the provisions of the Convention for all relevant professional groups, in particular military personnel. In addition, the Committee recommends that the State party make the provisions of the Optional Protocol widely known to children, through, inter alia, school curricula.**

## **Dissemination of documentation**

291. In light of article 2, paragraph 2, of the Optional Protocol the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and consider publishing the report along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.

## **Next report**

292. 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 (combined 3rd and 4th) periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 4 September 2009.

## **Concluding observations: Belize**

293. The Committee considered the second periodic report of Belize (CRC/C/65/Add.29) at its 1009th and 1010th meetings (see CRC/C/SR.1009 and 1010), held on 17 January 2005, and adopted at its 1025th meeting (see CRC/C/SR.1025), held on 28 January 2005, the following concluding observations.

### **A. Introduction**

294. The Committee welcomes the submission of the second periodic report of the State party, as well as the written replies to its list of issues (CRC/C/Q/BLZ/2) and expresses its appreciation for the State party's open and self-critical reporting approach in identifying a number of areas of concern. It further notes with appreciation the constructive efforts made by the high-level delegation to provide additional information in the course of the dialogue.

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

295. The Committee takes note of the adoption of several laws aimed at protecting and promoting the rights of the child, inter alia, the adoption, in 1998, of the Families and Children Act, which reformed and consolidated the legislation relating to families and children, and its amendment in 1999, as well as many other laws and rules, for example on nationality, social security, trafficking in persons, etc.

296. The Committee welcomes the establishment in 1999 of an independent Ombudsman with investigative powers and the re-emergence of the National Committee for Families and Children to monitor the implementation of the Convention.

297. The Committee also welcomes the ratification of a number of international and regional human rights instruments, such as the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, the International Covenant on Civil and Political Rights, the

International Convention on the Elimination of All Forms of Racial Discrimination, ILO Convention No. 138 concerning Minimum Age for Admission to Employment, ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and several regional inter-American conventions relating to the rights of the child.

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

298. The Committee acknowledges that natural disasters caused by several hurricanes in the region during the last few years have given rise to a growing number of economic and social difficulties. Natural disasters have largely devastated some regions of the country and their infrastructure affecting the lives of thousands of children. The Committee further notes that a limited number of human, financial and technical resources have impeded progress towards the full realization of children's rights enshrined in the Convention.

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

#### **1. General measures of implementation**

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

299. The Committee notes with satisfaction that various concerns and recommendations (CRC/C/15/Add.99) made upon the consideration of the State party's initial report (CRC/C/3/Add.46) have been addressed through legislative measures and policies. However, some of the concerns it had expressed and recommendations it had made regarding, inter alia, the need to bring domestic legislation into full conformity with the principles and provisions of the Convention (paras. 7 and 14), the priority of adequate budgetary allocations to ensure implementation of the economic, social and cultural rights of children (para. 12), the equal access to birth registration (para. 18), the prohibition of corporal punishment (para. 19), the protection against domestic violence, ill-treatment and sexual abuse (para. 22), the equal enjoyment of all human rights by children with disabilities (para. 26), the legal minimum age of criminal responsibility (para. 30) have not been sufficiently addressed.

300. **The Committee urges the State party to make every effort to address the recommendations in the concluding observations on the initial report that have not yet been implemented, and to address the list of concerns contained in the present concluding observations on the second periodic report.**

#### **Legislation**

301. The Committee appreciates the State party's ongoing efforts to bring its domestic law into conformity with the provisions and principles of the Convention, resulting in recent legislative reforms and amendments, proposals to reform the Criminal Code and the Evidence Act and the review of the laws of Belize completed in 2003 by the National Committee for Families and Children, which will be used as the basis for further reforms.

302. **The Committee recommends that the State party continue to strengthen its efforts to ensure full conformity of its domestic law with the Convention, e.g. by enacting a comprehensive children's code.**

#### **National Plan of Action**

303. The Committee notes with appreciation the State party's commitment to follow up on the outcome document "A World Fit for Children", adopted by the General Assembly at its special session on children (General Assembly resolution S-27/2 of 10 May 2002), by adopting the National Plan of Action for Children and Adolescents in Belize 2004-2015 and by establishing a monitoring and evaluation subcommittee within the National Committee for Families and Children to monitor the progress of the National Plan of Action. With regard to the effective implementation of the Plan of Action, the Committee emphasizes the importance of adequate and timely budgetary allocations.

304. **The Committee recommends that the State party provide adequate human, financial and technical resources for the full and effective implementation of the National Plan of Action for Children and Adolescents in Belize 2004-2015. The Committee recommends that the State party take all necessary measures to ensure a rights-based, open, consultative and participatory process for the implementation of the Plan of Action. The Committee also recommends that the State party involve children and NGOs in the implementation of the National Plan of Action and the development of specific indicators for the periodic monitoring and evaluation of the National Plan of Action. The Committee further recommends that the State party continue to seek technical assistance from, among others, UNICEF and WHO in the course of the implementation process.**

#### **Independent monitoring**

305. The Committee welcomes the establishment of an independent Ombudsman in 1999, but notes that this body is not properly equipped both in terms of its mandate and its human and financial resources to deal with complaints filed by or on behalf of children. The Committee also welcomes the information that the new National Plan of Action for Children and Adolescents in Belize 2004-2015 calls for the exploration of the establishment of an ombudsperson for children.

306. **The Committee recommends that the State party make the exploration mentioned in the previous paragraph a matter of priority in order to establish, as soon as possible, the independent monitoring body in line with the Committee's general comment No. 2 (2002) either as a separate entity or as a division within the existing Ombudsman's office. It also recommends that the State party ensure that this monitoring body is provided with sufficient human and financial resources to perform its mandate.**

### Allocation of resources

307. While noting the devastation caused by hurricanes and the budgetary burden of reconstruction, the Committee is concerned that there are no budget allocations for children, that the resources in the national budget are insufficient to meet the needs of all children and that there are regional disparities, particularly between urban and rural areas, with regard to a range of social indicators.

308. **In the light of article 4 of the Convention, the Committee urges the State party to allocate considerably more resources to children, in particular to the most vulnerable groups of children, including children with disabilities, children living in extreme poverty, abused and neglected children and children belonging to minorities and indigenous children, such as Maya and Garifuna children. While noting with appreciation the development of an investment project with a component on rights-based budgeting with the involvement of the Minister of Finance, the National Human Development Advisory Committee and the National Committee for Families and Children, the Committee recommends that the State party expedite this process as much as possible and ensure its effective implementation. The Committee also recommends that the State party prioritize budgetary allocations to the implementation of the economic, social and cultural rights of children to the maximum extent of available resources. In order to be able to evaluate the impact of expenditure on children, the Committee recommends that the State party identify the yearly budgetary amount and proportion spent on persons under 18 years of age.**

### Data collection

309. The Committee takes note of the establishment, in 1996, of the Social Indicators Committee, which supervises the national social sector statistics and monitors the quality of such statistics. However, the Committee regrets the lack of adequate resources allocated to the Social Indicators Committee and the interruptions in its work. The Committee is concerned at the insufficient data in some areas covered by the Convention, including children with disabilities, migrant children, children living in extreme poverty, abused and neglected children, children within the justice system, children belonging to minorities and indigenous children.

310. **The Committee reiterates its previous recommendation on the adequate data collection mechanism and recommends that the State party strengthen its system for collecting data and formulating indicators in collaboration with the Monitoring and Evaluation Subcommittee of the National Committee for Families and Children as a basis to assess progress achieved in the realization of children's rights and to help design policies to implement the Convention. The data should cover all children below the age of 18 years and be disaggregated by sex and by group of children who are in need of special protection. The Committee recommends that the State party allocate adequate human, financial and other resources to the Social Indicators Committee in order to develop indicators to effectively monitor progress achieved in the implementation of the Convention and seek assistance from international agencies and NGOs.**

### **Cooperation with NGOs**

311. While noting with appreciation the State party's efforts to strengthen cooperation with NGOs, the Committee is concerned that the State party has shifted some of its responsibilities and duties with regard to the implementation of some provisions of the Convention to NGOs without providing them with adequate resources, policies and guidelines.

**312. The Committee reiterates the State party's primary obligations with regard to the implementation of the Convention and recommends that the State party continue its efforts to strengthen cooperation with NGOs and to involve them systematically at all stages in the implementation of the Convention as well as in policy formulation. The Committee recommends that the State party provide NGOs with adequate financial and other resources when they are involved in discharging governmental responsibilities and duties with regard to the implementation of the Convention.**

### **Dissemination of the Convention**

313. While noting the efforts of the State party in disseminating information about the principles and provisions of the Convention and welcoming the inclusion of the Convention in the primary school curriculum, the Committee expresses its concern that the Convention is not disseminated at all levels of society and is not translated into all languages spoken in the country. In addition, the Committee notes that the training and retraining of professionals working with and for children is not systematic.

**314. The Committee recommends that the State party develop creative and child-friendly methods to promote the Convention. It further encourages the State party to make the Convention available in the different languages spoken in the country, including indigenous and minority languages. The Committee recommends further systematic training of professional groups working with and for children, such as judges, lawyers, law enforcement officials, teachers, school administrators and health personnel. With regard to the dissemination of the Convention, the Committee also recommends that the State party seek technical assistance from, among others, OHCHR and UNICEF.**

## **2. Definition of the child**

315. The Committee is deeply concerned about the practice of early marriages and the low minimum age for marriage (14 years), criminal liability (7 years), admission to hazardous work (14 years) and to part-time work (12 years). With regard to the age-limit for sexual consent (16 years; females only), the Committee is concerned that persons under 18 years are not allowed to have any medical counselling, including counselling on reproductive health, without parental consent. The Committee welcomes the information from the Government's delegation that efforts are being made to improve the situation.

316. **The Committee recommends that the State party continue and strengthen its efforts:**

- (a) To raise the minimum age of criminal responsibility to an internationally acceptable level;**
- (b) To raise the minimum age for admission to hazardous work to 18 years;**
- (c) To raise the minimum legal age of marriage for both girls and boys and to undertake awareness-raising campaigns concerning the many very negative consequences resulting from early marriages in order to reduce and prevent this practice;**
- (d) To regulate the possibility for children of a certain age to seek and receive legal and medical counselling without parental consent;**
- (e) To make all provisions for minimum ages more consistent with the provisions and principles of the Convention.**

### **3. General principles**

#### **Non-discrimination**

317. While appreciating that some measures have been taken to promote the principle of non-discrimination against children, such as the enactment in 1998 of the Families and Children Act, which guarantees that all children are of equal status in the application of the Belizean legislation, the Committee is concerned at the persistent discrimination faced by girls, children with disabilities, migrant children, children living in poverty, children belonging to minorities, indigenous children, children infected with or affected by HIV/AIDS, children living in rural areas, and pregnant students and teenage mothers in schools.

318. **In the light of article 2 of the Convention, the Committee recommends that the State party increase its efforts to adopt appropriate legislation, to ensure the implementation of existing laws guaranteeing the principle of non-discrimination, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and more so against all vulnerable groups of children.**

319. **The Committee requests that specific information be included in the next periodic 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, with due regard to the Committee's general comment No. 1 on the aims of education (2001).**

#### **Best interests of the child**

320. In light of article 3 of the Convention, the Committee emphasizes the general principle of the Convention according to which the best interests of the child shall be a primary consideration in all actions concerning children. The Committee is of the view that this principle is not fully reflected in the State party's legislation, policies and programmes at the national and local levels.



321. While acknowledging that the principle of the best interests of the child is included in some laws, e.g. in the Families and Children Act (chapter 173 of the Laws of Belize), the Committee recommends that the State party review its legislation and administrative measures to ensure that article 3 of the Convention is duly reflected therein and that this general principle is taken into account when judicial, administrative, policy, or other decisions are made.

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

322. Despite some good examples of the implementation of article 12 of the Convention and of child participation, the Committee is concerned at the persistence of traditional and authoritarian attitudes in the State party which limit children's right to participate in matters affecting them and to express their views freely.

323. The Committee recommends that the State party strengthen its efforts to promote respect for the views of all children, especially girls, and to facilitate their participation in all matters affecting them within the family, schools and other institutions. Furthermore, the Committee recommends that the State party introduce public awareness-raising campaigns and education programmes for parents to change the traditional authoritarian attitudes and practices and to strengthen children's participation in all spheres of life. The Committee also recommends that the State party seek international assistance from UNICEF, among other agencies.

### **4. Civil rights and freedoms**

#### **Birth registration**

324. While noting the provisions of the Registration of Births and Deaths Act (chapter 157 of the Laws of Belize), which requires registering the birth of children, the Committee remains concerned about the shortcomings in the implementation of this Act and the concrete shortcomings in the birth registration system. The birth registration system should be equally accessible to all parents in the whole territory of the State party. The Committee is also concerned about the unregistered children in the State party and the consequences of non-registration on access by children to education, health and other services.

325. The Committee recommends that the State party implement an efficient and at all stages free-of-charge birth registration system, which covers its territory fully, including through introducing mobile birth registration units and awareness-raising campaigns to reach the most remote areas of its territory. The Committee requests the State party to pay particular attention to the need for improved access to an early birth registration by immigrant parents and parents whose children were born out of wedlock. In addition, the Committee recommends that the State party establish cooperation between the birth registration authority and maternity clinics and hospitals, midwives and traditional birth attendants in order to achieve better birth registration coverage in the country. Meanwhile, children whose births have not been registered and who are without official documentation should be allowed to access basic services, such as health and education, while waiting to be properly registered.

**Nationality**

326. The Committee notes with appreciation the efforts made by the State party, such as the amendments to the Belizean Nationality Act and the Immigration Act as well as the encouraging results of the Amnesty Programme conducted in 1999 which provided undocumented individuals and families with the opportunity to legalize their status, to better safeguard the right of the child to require a nationality. Notwithstanding the positive steps taken by the State party, the Committee is concerned at the high number of immigrant children without any legal status or documentation residing in the territory of the State party.

**327. The Committee recommends that the State party continue its efforts to promote and facilitate the proper registration of all undocumented immigrant children and provide them with the legal status they need.**

**Freedom of thought, conscience and religion**

328. With respect to the right of the child to freedom of thought, conscience and religion, the Committee notes that new information has not been provided since the initial report submitted by the State party.

**329. The Committee requests that the State party provide concrete, updated and detailed information, in the next periodic report, on the implementation of article 14 of the Convention on the right of the child to freedom of thought, conscience and religion and on religious intolerance at schools.**

**Freedom of expression and of peaceful assembly**

330. The Committee is concerned about the limitations on the exercise of the right to freedom of expression by children. The Committee notes with concern the violent incidents during a peaceful student demonstration against a rise in bus fares, which took place in the village of Benque Viejo del Carmen on 24 April 2002, and the reported disproportionate use of force by the police authorities.

**331. The Committee recommends that the State party encourage and facilitate the exercise by children of their right to freedom of expression, including their right to freedom of association and of peaceful assembly, so that they can freely discuss, participate and express their views and opinions on all matters affecting them.**

**Corporal punishment**

332. While noting the awareness-raising campaigns and the promotion of alternative methods of discipline, the Committee reiterates its deep concern that corporal punishment is still frequently practised in the family, in schools and in other institutions, that domestic legislation does not prohibit the use of corporal punishment and that the provisions of the Criminal Code and the Education Act legitimize the use of it.

333. **The Committee, reiterating its previous recommendation, urges the State party:**

(a) **To critically review its current legislation with a view to abolishing the use of force for the purpose of correction and to introduce new legislation prohibiting all forms of corporal punishment of children in the family and within all institutions, including schools and the alternative care system;**

(b) **To extend and strengthen public education and social mobilization campaigns on alternative non-violent forms of discipline and child-rearing, with the participation of children, in order to change public attitudes to corporal punishment and to strengthen its cooperation with the NGOs in this respect;**

(c) **To seek international technical assistance from, among others, UNICEF in this regard.**

## **5. Family environment and alternative care**

### **Parental responsibilities**

334. While noting the State party's efforts to support parents and to develop their parental skills, inter alia, through the Community and Parenting Empowerment Project (COMPAR), the Committee expresses serious concern about the provisions of the Certified Institution (Children's Reformation) Act on "uncontrollable behaviour" according to which parents are able to seek institutional care, primarily within the Youth Hostel, for a child beyond parental control.

335. **The Committee urges the State party to provide parents and children with adequate knowledge, skills and support services and to review its legislation, practices and services with a view to eliminating the concept and expression of "uncontrollable behaviour" of children and to gradually preparing for "deinstitutionalization".**

### **Recovery of maintenance**

336. The Committee is concerned that recovery of maintenance is not sufficiently ensured in practice. It is concerned at the actual implementation and, in some cases, the absence of bilateral agreements for reciprocal enforcement of maintenance orders. The Committee also notes with concern that children of unmarried parents do not have equal right to maintenance as those of married parents.

337. **In the light of article 27, paragraph 4, of the Convention, the Committee recommends that the State party take further measures to ensure the full implementation of legislation on the payment of maintenance as well as to ensure equal right to the recovery of maintenance for all children, irrespective of their parent's marital status. The Committee also recommends that the State party effectively implement and conclude bilateral agreements for reciprocal enforcement of maintenance orders and reconsider establishing a fund to provide support to parents waiting for the decision regarding the maintenance of their child.**

**Adoption**

338. The Committee welcomes the efforts of the State party to improve the practice of foster care, to facilitate adoption, to give preference to domestic over inter-country adoption and to prevent the abuse of adoption, for instance, through trafficking and sale of children. The Committee regrets that the State party has not ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

**339. The Committee recommends that the State party continue and strengthen its efforts to improve and promote foster care and domestic adoption, ensure that its laws, regulations and practices regarding domestic and intercountry adoptions are in full compliance with article 21 of the Convention, and ratify the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.**

**Abuse and neglect, maltreatment and violence**

340. While noting the State party's efforts to combat violence against children and child abuse, including through the Families and Children (Child Abuse) (Reporting) Regulations, the Committee remains gravely concerned at the generally violent environment in which Belizean children are living and at the growing number of cases of murders, abductions, violence in the streets, domestic violence and sexual abuse of minors, especially girls.

**341. The Committee recommends that the State party take all necessary measures:**

**(a) To effectively implement the Families and Children (Child Abuse) (Reporting) Regulations and conduct timely and adequate investigations of cases of child abuse and violence in order to bring perpetrators to justice;**

**(b) To introduce awareness-raising campaigns, with the involvement of children themselves, in order to prevent all forms of violence against children and to combat child abuse, including sexual child abuse, and to change public attitudes and prevailing cultural practices in this respect;**

**(c) To ensure due adherence to all relevant protocols, policies and procedures regarding the management of child abuse cases;**

**(d) To ensure that child victims of violence and abuse have access to "one-stop service" and adequate counselling and multidisciplinary assistance with recovery and reintegration.**

**6. Basic health and welfare****Children with disabilities**

342. The Committee expresses grave concern about the situation of children with disabilities and regrets that de facto discrimination against them still exists. The Committee notes with concern the lack of specific legislation which would ensure full and equal participation in social life, including access to social and health services, education, training, information and communication, rehabilitation, recreation and care, for children with disabilities. The Committee

is concerned about the lack of basic services supporting children with disabilities and of adequate financial and human resources partially caused by the closing of the Disability Services Division, resulting in a situation in which the non-governmental organization CARE-Belize can only provide very limited services for children with disabilities. Furthermore, the Committee expresses its concern about the lack of statistical data on children with disabilities.

**343. The Committee urges the State party, taking into account the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96 of 20 December 1993, annex) and the recommendations adopted by the Committee at its day of general discussion on “The rights of children with disabilities” (see CRC/C/69, paras. 310-339):**

**(a) To enact special legislation dealing exclusively with disability issues, including access to social and health services, rehabilitation, support services, physical environment, information and communication, education, recreation and sports, in order to achieve the objectives of full participation and equality for children with disabilities;**

**(b) To initiate and plan a comprehensive national policy for children with disabilities and to allocate the necessary financial and human resources to implement the plan;**

**(c) To consider the establishment of a national focal point on disability issues to strengthen coordination between governmental and non-governmental actors;**

**(d) To integrate education for children with disabilities into national educational planning and curriculum and to include children with disabilities in the mainstream school system to the extent possible, including by providing the necessary financial and human resources for the training of teachers;**

**(e) To disseminate information concerning the rights and potential of children with disabilities and to raise public awareness of disability;**

**(f) To collect adequate statistical data on children with disabilities, allowing for disaggregated analysis of the problems facing children with disabilities;**

**(g) To seek international assistance from, among others, UNICEF and WHO in this respect.**

#### **Health and health services**

**344.** The Committee welcomes the revised and expanded Care and Growth Chart, which provides a detailed and personal health and development record for all children under 5 years of age. While noting with appreciation the State party’s efforts to improve the primary health care, including the establishment of the National Health Insurance Scheme and the School Health and Physical Education Services (SHAPES) programme, the Committee is nevertheless concerned at the regional disparities in accessibility to health services, the high number of infant deaths and

regional differences in this respect, and the situation of malnutrition among infants and children. The Committee is also concerned at the lack of access to safe drinking water and sanitation in the rural and most remote areas. Furthermore, the Committee reiterates its concern at the low prevalence of breastfeeding.

345. **The Committee recommends that the State party:**

(a) **Prioritize the allocations of financial and human resources to the health sector in order to ensure an equal access to quality health care by children in all areas of the country and to strengthen its efforts to implement the National Health Insurance Scheme;**

(b) **Continue its efforts to improve prenatal care, including training programmes for midwives and traditional birth attendants, and take all necessary measures to reduce infant mortality rates, especially in rural areas;**

(c) **Improve the nutritional status of infants and children, inter alia, through the SHAPES programme;**

(d) **Ensure access to safe drinking water and sanitation in all areas of the country;**

(e) **Strengthen its efforts to implement the National Breastfeeding Policy, adopted in 1998, and encourage exclusive breastfeeding for six months after birth with the addition of an appropriate infant diet thereafter;**

(f) **Seek international assistance, including from UNICEF and WHO, to that effect.**

#### **Adolescent health**

346. While welcoming the reproductive health policy, the Committee is still concerned at the high rates of teenage pregnancies. The Committee is also concerned at the high incidence of substance abuse among adolescents.

347. **In the light of 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), the Committee recommends that the State party strengthen its efforts to implement the Sexual and Reproductive Health Policy and to ensure access to reproductive health services for all adolescents. The Committee also recommends that the State party provide adolescents with accurate and objective information on the harmful consequences of drug and alcohol abuse and increase the availability and accessibility of counselling and support services in this respect. Furthermore, the Committee recommends that the State party collect adequate data on substance abuse among children and adolescents.**

## **HIV/AIDS**

348. The Committee welcomes the National Strategy on HIV/AIDS and free and universal access to voluntary testing, counselling and anti-retroviral drugs. Nevertheless, it remains deeply concerned at the very high incidence of HIV/AIDS in the State party and the adverse consequences suffered by children infected with or affected by HIV/AIDS. The Committee notes with concern the limited availability of preventive programmes and awareness-raising campaigns on HIV/AIDS. The Committee notes that the State party has conducted a rapid assessment of the situation of orphans and vulnerable children in 2004.

349. **With reference to the need to implement the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child (CRC/GC/2003/3) and the Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I), the Committee recommends, in particular, that the State party:**

- (a) Strengthen its efforts to combat HIV/AIDS, including through preventive programmes and awareness-raising campaigns, and to prevent discrimination against children infected with and affected by HIV/AIDS;**
- (b) Undertake a comprehensive study to assess the prevalence of HIV/AIDS, including the number of children infected with and affected by HIV/AIDS, and devise a comprehensive national plan of action for orphans and vulnerable children, including children infected with and affected by HIV/AIDS, using to the extent possible the results of this study and the rapid assessment of the situation of orphans and vulnerable children conducted in 2004;**
- (c) Ensure access to child-sensitive and confidential counselling without parental consent when such counselling is required by a child;**
- (d) Continue to strengthen its efforts to prevent mother-to-child transmission of HIV;**
- (e) Seek international assistance from, among others, UNAIDS and UNICEF, to that effect.**

## **Adequate standard of living**

350. The Committee is concerned at the persistent high rate of children living in poverty, especially in rural areas. It notes the development and implementation of the National Poverty Reduction Strategy. The Committee also notes with appreciation the State party's efforts to facilitate access to nutrition, including through implementing a Food and Nutrition Security Policy for Belize and the feeding programmes of primary schools.

351. **The Committee recommends that the State party take all necessary measures to provide support and material assistance to economically disadvantaged families and to guarantee the right of children to an adequate standard of living. The Committee also**

**recommends that the State party evaluate the impact of the Poverty Reduction Strategy on children and adolescents. The Committee further recommends that the State party increase its efforts to develop and implement the Food and Nutrition Security Policy for Belize and continue to implement the feeding programmes in primary schools.**

## **7. Education, leisure and cultural activities**

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

352. The Committee expresses its concern at the high rate of illiteracy and regional disparities in this respect. While the Committee takes note of a 10-year Education Sector Strategy with an overall objective of achieving universal educational access for children between the ages of 3 and 16 years, it remains concerned about the fact that parents are sometimes charged additional fees, thereby creating financial obstacles to many children and denying them access to education in primary and particularly in secondary schools. The Committee notes the State party's efforts to reduce the high rate of school dropouts, but regrets the deficiencies in the implementation of these initiatives.

353. The Committee is concerned at the discrepancies in the implementation of national policies and principles on education in public and private schools, including the church-based schools. With respect to the treatment of pregnant students and teenage mothers in schools, the Committee expresses its grave concern that the State party does not have a policy to prevent and combat the school-based practices of educational exclusion of these students. The Committee is also concerned about the quality of education and the insufficient teacher training, particularly in the most remote areas of the country.

**354. The Committee recommends that the State party allocate adequate financial, technical and human resources in order:**

**(a) Urgently to take all necessary measures to further reduce the illiteracy rates in the country;**

**(b) To progressively ensure that all children, without any distinction as to gender or ethnic origin, from all areas of the country, have equal access to compulsory and free quality primary education, without any financial obstacles;**

**(c) To conduct a study to assess the causes, nature and extent of school dropouts and to strengthen its efforts to adopt and implement effective measures to prevent and reduce school dropout rates;**

**(d) To pay special attention to the needs of children belonging to vulnerable groups, including girls, migrant children, working children, children living in poverty, children deprived of their liberty, children belonging to minorities and indigenous children, in order to safeguard their right to education at all levels;**

**(e) To address the educational needs of pregnant students and teenage mothers in schools and to introduce a national policy on equal treatment of all students in respect of their right to education at all levels;**



- (f) To provide schoolchildren with adequate psychological counselling services;
- (g) To improve the quality of education throughout the country in order to ensure that it is in conformity with the aims set out in article 29 of the Convention, taking into account the Committee's general comment No. 1 (2001) on the aims of education;
- (h) To provide appropriate training to teachers at all levels of education;
- (i) To seek assistance from UNESCO, UNICEF and other relevant agencies engaged in the field of education.

#### **Leisure, recreation and cultural activities**

355. While acknowledging that some improvements have been achieved, the Committee shares the State party's concern at the insufficient number of cultural and recreational activities and facilities for children.

356. In the light of the recommendations adopted by the Committee at its day of general discussion on "Implementing child rights in early childhood" (see CRC/C/143, paras. 532-563), the Committee recommends that the State party increase its efforts to promote and protect the right of the child to rest, leisure and cultural and recreational activities. The Committee requests the State party to provide in its next periodic report adequate information on the implementation of article 31 of the Convention.

### **8. Special protection measures**

#### **Economic exploitation**

357. The Committee welcomes the ILO-funded pilot project to address child labour problems, but remains concerned at the high rate of working children in Belize and the negative consequences resulting from the exploitation of child labour, such as school dropouts and the negative effects on health caused by harmful and hazardous work. The Committee notes with particular concern the high number of child rural workers and regrets the lack of adequate data on child labour in the country.

358. In the light of ILO Conventions No. 138 concerning Minimum Age for Admission to Employment and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and the relevant provisions of the Convention on the Rights of the Child, the Committee recommends that the State party ensure the full implementation of the child labour provisions, including the provision of non-formal education and training, in order to ensure the development of children to their full potential; take all necessary measures to prevent child labour, including in rural areas, inter alia, by extending the ILO-funded project to those parts of the country, as well as to urban areas; and improve the monitoring of child labour in the country. The Committee encourages the State party to strengthen its cooperation with ILO and its International Programme on the Elimination of Child Labour (IPEC) in this respect.

**Sexual exploitation, child pornography and trafficking**

359. The Committee welcomes the adoption in 2003 of the Trafficking in Persons (Prohibition) Act, which provides special protection for children, and the subsequent establishment of a special Task Force to give greater effect to the implementation of the Act, and notes the State party's efforts to combat sexual exploitation of children, for instance, through the "Stamp Out Child Abuse" campaign. Notwithstanding these positive steps taken by the State party, the Committee is concerned about the sexual exploitation of children, child pornography and trafficking of children in Belize and draws attention to the existing risk factors, such as the growing tourism.

360. The Committee also notes with concern that the sex offence legislation of the State party is discriminatory, leaving boys without equal legal protection from sexual assault and abuse. Furthermore, the reported cases of the so-called "sugar daddies", adult men having sexual relations with girls and providing both girls and their families with monetary and material benefits in exchange for sex, give rise to serious concerns.

361. **The Committee recommends that the State party continue and strengthen its efforts:**

**(a) To conduct a comprehensive study to assess the causes, nature and extent of trafficking and commercial sexual exploitation of children;**

**(b) To take all necessary measures to effectively prevent, and protect all children from, trafficking, sexual exploitation and child pornography, including through implementing the Trafficking in Persons (Prohibition) Act, and to provide the recently established Task Force with adequate financial, human and technical resources;**

**(c) To develop adequate systems of prevention and early detection and investigation of cases of sexual exploitation and ensure that perpetrators are prosecuted;**

**(d) To provide adequate programmes of assistance and reintegration for sexually exploited and/or trafficked children 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;**

**(e) To critically review its sex offence legislation in order to ensure equal legal protection from sexual assault and abuse for girls and boys;**

**(f) To pay particular attention to the phenomenon of the so-called "sugar daddies" and existing risk factors, such as the growing tourism in the region, and to take all necessary preventive measures, in close cooperation with the tourism industry, in this respect;**

**(g) To introduce awareness-raising campaigns for children, parents and other caregivers, in order to prevent trafficking, sexual exploitation and pornography involving children, and to strengthen its cooperation with NGOs in this respect.**

## **Juvenile justice**

362. While noting with appreciation the establishment of the Community Rehabilitation Department in 2001, the Committee reiterates its serious concern at the low minimum legal age of criminal responsibility and the large number of children in detention. The Committee notes the improvements made in the Family Court of Belize, but notes that a juvenile court only exists in Belize City, while juveniles living in other districts are tried in magistrate's courts. The Committee shares the State party's concern that the district-based magistrate's courts continue to fall short of being child-sensitive and adequately trained to be sensitive enough to the provisions of the Convention. With respect to domestic legislation for the administration of juvenile justice, including alternative forms of punishment, the Committee expresses its concern about the deficiencies in the implementation of the said provisions. The Committee is deeply concerned about the fact that children as young as 9 years of age can be sentenced to life imprisonment without provision for parole. Furthermore, the Committee is concerned about the inadequate conditions of the Boot Camp detention unit at the Hattieville Prison.

363. **The Committee recommends that the State party establish a system of juvenile justice that fully integrates into its legislation, policies and practice the provisions and principles of the Convention, in particular articles 37, 39 and 40, 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), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the Day of General Discussion on the Administration of Juvenile Justice, held by the Committee in 1995. In this regard, the State party is recommended to take measures, in particular:**

(a) **To establish juvenile courts staffed with appropriately trained professional staff in each district of the country;**

(b) **To raise the minimum age of criminal responsibility to an internationally accepted level;**

(c) **As regards life imprisonment of children without provision for parole, to urgently review its domestic legislation, particularly the provisions of the Indictable Procedures Act (chapter 96 of the Laws of Belize) and the Court of Appeal Act (chapter 90 of the Laws of Belize), in order to bring its domestic laws into full conformity with the provisions and principles of the Convention;**

(d) **To ensure that detained persons under the age of 18, including in pre-trial detention, are always separated from adults, and that deprivation of liberty is used only as a measure of last resort, for the shortest period of time and in appropriate conditions;**

(e) **In cases where deprivation of liberty is unavoidable and used as a last resort, to improve procedures of arrest and conditions of detention and establish special units within the police for the handling of cases of juveniles in conflict with the law;**

(f) **To seek technical assistance from, among others, OHCHR, the United Nations Office on Drugs and Crime and UNICEF.**

### **Children belonging to minorities and indigenous peoples**

364. With regard to children belonging to minorities and indigenous peoples, such as Maya and Garifuna children, the Committee is concerned about the widespread poverty among them and the limited enjoyment of their rights, particularly concerning their access to social and health services and education. The Committee notes with concern that it is generally difficult for girls belonging to minorities and indigenous peoples to be heard in society and that their right to participate and to be heard in proceedings affecting them is often limited.

365. **The Committee recommends that the State party strengthen its efforts to improve the equal enjoyment of all rights of children belonging to minorities and indigenous peoples, in particular, by prioritizing effective measures to reduce poverty among them. The Committee also recommends that the State party take measures to promote respect for the views of children, especially girls, belonging to minorities and indigenous peoples and facilitate their participation in all matters affecting them.**

## **9. Optional Protocols to the Convention**

366. The Committee welcomes the ratification by the State party in December 2003 of the Optional Protocols to the Convention on the Rights of the Child on children in armed conflict and on the sale of children, child prostitution and child pornography.

367. **In order to be able to examine the implementation of the Optional Protocols, the Committee underlines the importance of a regular and timely reporting practice. The Committee recommends that the State party fully meet its reporting obligations under the Optional Protocols and the Convention.**

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

### **Follow-up**

368. **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 members of the Council of Ministers or the cabinet or a similar body, the Parliament, provincial or State Governments and Parliaments, where applicable, for appropriate consideration and further action.**

### **Dissemination**

369. **The Committee further recommends that the second periodic report and the 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 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 Convention, its implementation and monitoring.

## **11. Next report**

370. In the light of the recommendation on reporting periodicity adopted by the Committee and described in the report on its twenty-ninth session (see CRC/C/114, chap. I), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of State parties' responsibilities to children under the Convention is ensuring that the Committee has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some State parties experience difficulties in initiating timely and regular reporting. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its third and fourth periodic reports in one consolidated report by 1 September 2007, date on which the fourth report is due. The 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.

### **Concluding observations: Bahamas**

371. The Committee considered the initial report of the Bahamas (CRC/C/8/Add.50) at its 1013th and 1014th meetings (see CRC/C/SR.1013 and 1014), held on 19 January 2005, and adopted at its 1025th meeting (see CRC/C/SR.1025), held on 28 January 2005, the following concluding observations.

#### **A. Introduction**

372. The Committee welcomes the submission of the State party's initial report and the written replies to its list of issues (CRC/C/Q/BHS/1), which gave a clearer understanding of the situation of children in the State party. However, it deeply regrets that the report was received 10 years after the date on which it should have been submitted. The Committee is encouraged by the frank and constructive dialogue it had with the high-level delegation of the State party and welcomes the positive reactions to the suggestions and recommendations made during the discussion.

#### **B. Positive aspects**

373. The Committee welcomes the adoption of the Status of Children Act in 2002 which, inter alia, abolished the distinction between children born in wedlock and children born out of wedlock, particularly in relation to intestacy.

374. The Committee also notes with appreciation the adoption of the Inheritance Act in 2002, which makes provision for all children to have equal rights or entitlement in circumstances where property is distributed on intestacy.

375. The Committee welcomes the enactment of the Early Childhood Care Act 2004, which addresses the regulation and management of day-care centres and pre-schools.

376. The Committee welcomes the ratification in 2001 by the State party of ILO Conventions No. 138 concerning Minimum Age for Admission to Employment and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

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

377. The Committee notes the challenges facing the State party, namely the vulnerability to natural disasters, including hurricanes, which have impeded progress towards the full realization of children's rights enshrined in the Convention.

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

#### **1. General measures of implementation**

##### **Reservations**

378. The Committee notes with regret the reservation that the State party has made to article 2 of the Convention, but welcomes the information during the dialogue that, given, inter alia, some recent new laws, the reservation may be withdrawn.

**379. In the light of the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights in 1993, the Committee calls upon the State party to withdraw its reservation to article 2 of the Convention.**

##### **Legislation**

380. The Committee notes with appreciation the efforts undertaken by the State party to harmonize its legislation with regard to children and the reform of the Constitution currently under way which intends, inter alia, to include children's rights in the Constitution. However, the Committee is concerned that the existing legislation in the State party does not fully reflect the principles and provisions of the Convention.

**381. The Committee recommends that the State party expedite its action to include children's rights in the Constitution and take further measures to ensure that the existing legislation conforms fully with the principles and provisions of the Convention, and to ensure its effective implementation.**

##### **Coordination**

382. The Committee notes the information contained in the State party report (para. 14) that the Department of Social Services of the Ministry of Social Services and Community Development has responsibility for coordinating policies relating to children and for monitoring the implementation of the Convention. However, the Committee is concerned at the absence of an inter-ministerial coordinating mechanism.

383. **The Committee recommends that the State party establish an inter-ministerial body with a strong mandate and sufficient human and financial resources in order to ensure effective coordination between all actors involved in the implementation of the Convention.**

#### **National Plan of Action**

384. While noting that social sectors of various ministries have come together towards the development of a National Plan of Action, the Committee remains concerned that this process has not yet been finalized.

385. **The Committee encourages the State party to increase its efforts to develop and implement, using a participatory approach, a comprehensive National Plan of Action for the full implementation of the Convention, incorporating the objectives and goals of the outcome document “A World Fit for Children” adopted by the General Assembly at its special session on children, held in 2002.**

#### **Independent monitoring**

386. The Committee is concerned at the absence of an independent mechanism with a mandate to regularly monitor and evaluate progress in the implementation of the Convention and which is empowered to receive and address individual complaints.

387. **In view of 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 (CRC/GC/2002/2), the Committee encourages the State party to develop and establish an independent and effective mechanism in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (General Assembly resolution 48/134 of 20 December 1993, annex). This institution should be provided with adequate human and financial resources, easily accessible to children; deal with complaints from children in a child-sensitive and expeditious manner; and provide remedies for violations of their rights under the Convention.**

#### **Resources for children**

388. While noting the substantial budgetary allocation in social services and infrastructure, particularly in the area of health and education, the Committee is nevertheless concerned that budgetary allocations are insufficient to respond to national and local priorities for the protection and promotion of children’s rights.

389. **The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups “to the maximum extent of ... available resources and, where needed, within the framework of international cooperation”, using a rights-based approach.**

### **Data collection**

390. The Committee is concerned at the lack of disaggregated and analytical data on persons under the age of 18 years in all areas covered by the Convention, including the most vulnerable groups, children living in poverty, children with disabilities and immigrant children. It also notes that such data are crucial for the monitoring and evaluation of progress achieved and the formulation and assessment of policies with respect to children.

**391. The Committee recommends that the State party establish an effective mechanism for the systematic collection of disaggregated quantitative and qualitative data incorporating all areas of the Convention and covering all persons under 18 years. Furthermore, the Committee recommends that the State party make use of indicators and data in the formulation and assessment of policies and programmes for the effective implementation of the Convention.**

### **Dissemination of the Convention**

392. The Committee is concerned at the lack of a systematic plan to introduce training on and awareness of the principles and provisions of the Convention among children and professional groups working for and with children.

**393. 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 alike. It also recommends the introduction of adequate and systematic training of all professionals working for and with children, in particular parliamentarians, judges, magistrates, law enforcement officials, teachers, health personnel, social workers and personnel in childcare institutions.**

### **Cooperation with civil society**

394. Noting the significant steps taken by the State party to facilitate the establishment of NGOs, the Committee remains concerned that insufficient efforts have been made to systematically involve civil society, particularly in the area of civil rights and freedoms, in the implementation of the Convention.

**395. The Committee recommends that the State party consider a systematic approach to involving civil society, especially children's associations and human rights-based NGOs, through all stages in the implementation of the Convention, including with respect to civil rights and freedoms.**

## **2. Definition of the child**

396. The Committee is concerned that the minimum age for access to employment (14 years) is not in harmony with the age at which compulsory education ends (16 years). The Committee is also concerned at the low minimum legal age of criminal responsibility (10 years). The Committee welcomes the information provided during the dialogue that plans exist to improve the laws and regulations in this respect.



397. **The Committee recommends that the State party:**

(a) **Raise the minimum age for admission to employment to 16 years in order to harmonize it with the age at which compulsory education ends;**

(b) **Raise the minimum age of criminal responsibility to an internationally acceptable level.**

### **3. General principles**

#### **Non-discrimination**

398. The Committee is concerned that societal discrimination persists against vulnerable groups of children, including children living in poverty, Haitian immigrant children and children with disabilities and that the Constitution does not prohibit discrimination on the grounds of disability.

399. **The Committee recommends that the State party:**

(a) **Strengthen, in the current process of reforming the Constitution, the existing provisions on non-discrimination and ensure observance of the principle of non-discrimination in full compliance with article 2 of the Convention;**

(b) **Adopt further appropriate legislation (e.g. a separate law on non-discrimination);**

(c) **Adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.**

400. **The Committee requests that specific information be included, in the next periodic 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 account of the Committee's general comment No. 1 (2001).**

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

401. The Committee is concerned that, due to certain traditional attitudes in the society, children have limited opportunities to freely express their views in schools, courts or within the family.

402. **The Committee recommends that the State party promote and facilitate respect for the views of children and ensure their participation in all matters affecting them in all spheres of society, particularly in the family, schools, courts and relevant administrative bodies, in accordance with article 12 of the Convention. It further recommends that the State party provide educational information to professionals working with and for children on children's right to participate in all matters affecting them and to have their views taken into account.**

#### 4. Civil rights and freedoms

##### **Birth registration**

403. The Committee is concerned that, although parents are required by law to register the birth of their children, the number of children who are not registered at birth is significant mainly due to the geographical features of the country.

404. **In the light of article 7 of the Convention, the Committee urges the State party to increase its efforts to ensure the registration of all children at birth by conducting awareness-raising campaigns and establishing mobile registration units in remote and less populated islands. The Committee also recommends that children without birth registration certificates be given access to social services.**

##### **Corporal punishment**

405. The Committee expresses its concern at the fact that corporal punishment is still widely practised in the family, in schools, and in institutions, and that domestic legislation does not explicitly prohibit its use.

406. **The Committee recommends that the State party:**

(a) **Expressly prohibit corporal punishment by law in the family, schools and other institutions;**

(b) **Conduct awareness-raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention, especially article 28, paragraph 2.**

#### 5. Family environment and alternative care

##### **Alternative care**

407. The Committee is concerned that the so called "children with uncontrollable behaviour" can be placed in an institution at the parent's or parents' request.

408. **The Committee urges the State party to provide parents and children with adequate knowledge, skills and support services and to review its legislation, practices and services with a view to eliminating the concept and expression of "uncontrollable behaviour" of children and to gradually prepare for "de-institutionalization".**

409. The Committee notes the lack of information in the State party's report on the informal system of foster care and adoption placement.

410. **The Committee recommends that the State party provide, in its next periodic report, detailed information, including measures undertaken to regulate the informal forms of alternative care.**

### **Recovery of maintenance**

411. The Committee welcomes the efforts made by the State party to ensure payment of child maintenance, usually by fathers, but is concerned at the rather large percentage of fathers who are defaulting on child maintenance payments.

412. **The Committee recommends that the State party carry out its plans to further strengthen the legal instruments for the enforcement of child maintenance orders, and continue and strengthen its international/bilateral cooperation with regard to the recovery of maintenance abroad.**

### **Child abuse, neglect and violence**

413. The Committee notes the efforts made by the State party, including programmes and activities to sensitize parents to child abuse, such as parenting workshops and the Child Abuse Prevention Month. The Committee also notes the appointment of the National Child Protection Council and the establishment of a National Child Abuse Hotline at the Department of Social Services in 1997. However, the Committee is concerned that this service is underused by the public.

414. **The Committee recommends that the State party take the necessary measures to prevent child abuse, neglect and violence in and outside the family, inter alia, by:**

(a) **Undertaking a comprehensive study on the scope and nature of child abuse and neglect;**

(b) **Developing an effective reporting system with timely and adequate investigations and child-sensitive protection in order to bring perpetrators to justice;**

(c) **Ensuring that victims of violence have access to counselling, and assistance with recovery and reintegration;**

(d) **Strengthening further the capacity and role of the National Child Protection Council;**

(e) **Conducting awareness-raising campaigns to publicize the National Child Abuse Hotline.**

## **6. Basic health and welfare**

### **Children with disabilities**

415. The Committee takes note of the 2000 Census Report, which provides mainly quantitative information but lacks specific details on persons with disabilities. The Committee is concerned at the societal discrimination experienced by children with disabilities, the inaccessibility of buildings and transportation for them and the absence of an inclusive policy. The Committee is particularly concerned that children with disabilities in less populated islands suffer particular disadvantage regarding access to services.

416. **In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities and the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339), the Committee recommends that the State party ensure the integration of these children into mainstream education. In this respect, the State party should take into account the principle of non-discrimination and accessibility to all services, including public buildings and transportation, and specifically address the situation of children in less populated islands.**

#### **Health and health services**

417. The Committee welcomes the information provided in the report regarding the steady reduction in infant mortality rates, the improvement in health-care delivery and the legislation enacted in 2000 to regulate health professionals and health-care facilities. However, the Committee remains concerned at the marked difference in the quality of health care between the private and the public providers.

418. **The Committee recommends that the State party take all necessary measures to reduce the gap in quality of health care between public and private hospitals by strengthening the role of the Public Hospital Authority.**

#### **Adolescent health**

419. The Committee is concerned at the high rate of teenage pregnancies and drug abuse among adolescents.

420. **The Committee recommends that the State party increase its efforts to establish and promote adequate adolescent health services, including mental health and reproductive health services. It also recommends that the State party take all necessary measures to prevent drug abuse and to provide therapeutic, recovery and reintegration services for drug abusers.**

#### **HIV/AIDS**

421. The Committee welcomes the various plans and policies to address HIV/AIDS and the fact that universal and free testing and treatment with antiretroviral drugs have resulted in a decrease in mother-to-child transmission, but remains concerned at the increasing incidence of HIV/AIDS among adolescents.

422. **The Committee recommends that the State party continue its efforts to prevent the spread of HIV/AIDS, especially among adolescents, focusing on education and awareness-raising as well as on integrating respect for the rights of the child into the development and implementation of its HIV/AIDS policies and strategies on behalf of children infected with and affected by HIV/AIDS, as well as their families, in accordance with the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child (CRC/GC/2003/3).**

## **7. Education, leisure and cultural activities**

423. The Committee notes with appreciation that the largest share of the national budget is allocated to education and that primary and secondary education is free in public schools for all children in the State party. It also notes that the PACE Programme (Providing Access to Continued Education Programme) ensures that pregnant teenagers are given an opportunity to complete their education. However, the Committee remains concerned at the dropout rates within the formal public education system, especially among boys. It is further concerned at the lack of human rights education as part of the school curriculum.

424. **The Committee recommends that the State party:**

- (a) Further strengthen efforts to bring dropouts back to school and to other training programmes;**
- (b) Ensure that standards of education are maintained uniformly in all islands;**
- (c) Include human rights education in the official curriculum at all levels of education.**

## **8. Special protection measures**

### **Economic exploitation, including child labour**

425. The Committee appreciates the progress made by the State party in addressing the issue of child labour, including the adoption of the Employment Act in 2001. However, the Committee is concerned at the relatively high prevalence of child labour in the State party and the insufficient protection from hazardous forms of work involving children between 14 and 18 years of age.

426. **The Committee recommends that the State party establish a definition of hazardous work, in conformity with the rules set out in ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, and explicitly prohibit the employment of children between 14 and 18 years in work that is likely to harm their health, safety and morals. It further recommends that the State party take the necessary measures to improve the effectiveness of the labour inspectorate and other forms of monitoring child labour in order to ensure full compliance with the rules of the Employment Act 2001 regarding working conditions for children from 14 to 18 years of age.**

### **Sexual exploitation and child pornography**

427. The Committee notes the results of the Rapid Assessment, completed by ILO in 2002, of the situation of children engaged in the worst forms of child labour in the State party and expresses its concern at the number of children involved in prostitution and child pornography. The Committee is also concerned at the lack of specific data on this issue and of targeted measures to address it.

428. **The Committee recommends that the State party:**

(a) **Undertake a comprehensive study on children involved in the commercial sex industry and use the data to design policies and programmes to prevent commercial sexual exploitation of children, including through the development of a National Plan of Action on Commercial Sexual Exploitation of Children, as agreed at the First and Second World Congresses against Commercial Sexual Exploitation of Children, held in 1996 and 2001;**

(b) **Adopt adequate measures to combat child pornography;**

(c) **Strengthen recovery and reintegration programmes for the victims;**

(d) **Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute cases of sexual exploitation in a child-sensitive manner that respects the privacy of the victim.**

#### **Juvenile justice**

429. While recognizing the efforts made by the State party in this domain, the Committee remains concerned at the incompatibility of the juvenile justice system with the provisions and principles of the Convention. It is especially concerned at the fact that the age of criminal responsibility, fixed at 10 years, is too low. Furthermore, the Committee is concerned at the fact that persons below 18 may be detained with adults.

430. **The Committee recommends that the State party:**

(a) **Raise the age of criminal responsibility to an internationally acceptable level;**

(b) **Ensure that the Children and Young Persons (Administration of Justice) Act reflects the international juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, as well 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 and the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the day of general discussion on the administration of juvenile justice, held by the Committee in 1995;**

(c) **Provide children with legal and other appropriate assistance at all stages of the proceedings;**

(d) **Ensure that children who are detained or imprisoned are separated from adults;**

(e) **Improve training programmes on relevant international standards for all professionals involved with the system of juvenile justice;**

(f) **Seek international technical assistance from UNICEF, OHCHR and relevant regional bodies.**

## **9. Optional Protocols to the Convention**

431. The Committee notes that the State party has not yet ratified the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

432. **The Committee recommends that the State party ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.**

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

### **Follow-up**

433. **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 members of the cabinet, the Parliament and local governments for appropriate consideration and further action.**

### **Dissemination**

434. **The Committee further recommends that the initial report and written replies submitted by the State party and the related recommendations (concluding observations) it 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 Convention, its implementation and monitoring.**

## **11. Next report**

435. **In the light of the recommendation on reporting periodicity adopted by the Committee and described in the report on its twenty-ninth session (see CRC/C/114, chap. I), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its second, third and fourth periodic reports in one consolidated report by 21 March 2008, date on which the fourth report is due. The 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.**

### **Concluding observations: Iran, Islamic Republic of**

436. The Committee considered the second periodic report of the Islamic Republic of Iran (CRC/C/104/Add.3) at its 1015th and 1016th meetings (see CRC/C/SR.1015 and 1016), held on 20 January 2005, and adopted at its 1025th meeting (see CRC/C/SR.1025), held on 28 January 2005, the following concluding observations.

#### **A. Introduction**

437. The Committee welcomes the submission of the second periodic report of the State party, as well as the written replies to its list of issues (CRC/C/RESP/71), which provided a better understanding of the progress achieved in the implementation of the Convention since the initial report. The Committee appreciates the presence of a high-level delegation, which provided additional information in the course of the dialogue.

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

438. The Committee welcomes:

(a) Article 30 of the Constitution which provides for free education for all citizens up to secondary school, and the fact that over 90 per cent of children aged 6 to 10 years have access to primary education;

(b) The adoption in 2003 of the Law on the Protection of Children and Adolescents, and the related establishment of the Office on the Protection of the Rights of Women and Children in the Judiciary;

(c) The ratification in 2002 by the State party of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;

(d) The signing of the Rome Statute of the International Criminal Court, on 31 December 2000.

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

##### **1. General measures of implementation**

##### **The Committee's previous concluding observations**

439. While acknowledging that the period between the consideration of the initial report and the submission of the second periodic report was rather short, the Committee regrets that the State party did not provide information on its follow-up actions regarding most of the Committee's previous concluding observations (CRC/C/15/Add.123) following consideration of the State party's initial report (CRC/C/41/Add.5), such as in relation to reservations (para. 7), the definition of the child (para. 20), freedom from discrimination on grounds of sex (para. 24), the right to life (paras. 28 and 30) and juvenile justice (para. 54). The Committee notes that many of the same concerns and recommendations are reiterated in the present concluding observations.



440. **The Committee urges the State party to make every effort to give adequate follow-up to its previous concluding observations and to take measures to implement those contained in the present document.**

### **Reservations**

441. The Committee deeply regrets that no review has been undertaken of the broad and imprecise nature of the State party's reservation since the submission of the initial report. It reiterates its concern that the nature of the general reservation potentially negates many provisions of the Convention and raises concern as to its compatibility with the object and purpose of the Convention.

442. **In the light of article 51, paragraph 2, of the Convention, the Committee reiterates its previous recommendation that the State party review the general nature of its reservation with a view to withdrawing it, or narrowing it, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights of 1993.**

### **Legislation**

443. The Committee notes the various legislative measures undertaken by the State party and referred to in its response to the list of issues (CRC/C/RESP/71) and welcomes, in particular, the information provided by the delegation that the Bill on the Establishment of Juvenile Courts has been approved by the Council of Ministers and has been submitted to the *Majlis*, a bill which, inter alia, abolishes the death penalty for crimes committed by persons under 18. The Committee also notes that this Bill has yet to be approved by the Council of Guardians before it becomes law.

444. **The Committee recommends that the State party take, as a matter of the highest priority, all possible measures to secure the final official approval of this new law and to ensure its full implementation. It further recommends that the State party continue to strengthen its legislative efforts by undertaking a comprehensive review of its domestic legislation so as to ensure its full conformity with the principles and provisions of the Convention.**

### **Coordination**

445. The Committee is concerned that no progress has been made in administrative coordination at the national and local levels of government. It is also concerned that implementation of the Convention at the local and regional levels is insufficient, owing to the lack of a coordinating mechanism.

446. **The Committee recommends that the State party strengthen coordination among the various governmental bodies and mechanisms involved in children's rights, at both the national and local levels, with a view to developing a comprehensive policy on children and ensuring effective evaluation of the implementation of the Convention.**

**Independent monitoring**

447. While noting the State party's efforts to improve monitoring, especially through the establishment of the National Committee, for the purposes of reviewing the implementation of the Committee's concluding observations on the State party's initial report, the functioning of the Islamic Human Rights Commission and the collaboration between the State party and UNICEF to establish a monitoring mechanism, the Committee remains concerned that a permanent and independent mechanism to monitor the implementation of the Convention has not yet been established.

448. **The Committee recommends that the State party, in accordance with 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, establish a statutory, independent institution, adequately staffed and resourced, with the mandate to determine priorities and regularly to monitor and evaluate progress in the implementation of the Convention. The Committee also recommends that the State party continue to seek assistance from, among others, UNICEF and OHCHR.**

**Allocation of budgetary resources**

449. Despite some information in this regard, the Committee is concerned that the information provided by the State party on the allocation of budgetary resources is limited, and that insufficient attention has been paid to article 4 of the Convention regarding the implementation to the "maximum extent of ... available resources" of the economic, social and cultural rights of children.

450. **The Committee recommends that the State party:**

(a) **Develop a budgeting system that would allow expenditure linked to children's issues as a percentage of the national budget to be clearly identified, in order to have a clear picture of the actual allocation of resources and a systematic assessment of the impact of those allocations on the implementation of children's rights;**

(b) **Allocate an appropriate budget for social services for children belonging to the most vulnerable groups.**

**Data collection**

451. The Committee is concerned at the lack of an adequate data collection mechanism in the State party allowing for the systematic and comprehensive collection of disaggregated quantitative and qualitative data for all areas covered by the Convention in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children.

452. **The Committee recommends that the State party:**

(a) **Establish a system whereby disaggregated data are collected on all persons under 18 years of age for all areas covered by the Convention (e.g. victims of abuse, children living in remote areas, children with disabilities, children of poor households, adolescent health), and use such data to assess progress and design policies and programmes to implement the Convention;**

(b) **Continue to seek technical assistance from relevant United Nations agencies, in particular from UNICEF.**

#### **Cooperation with NGOs**

453. While noting with appreciation the State party's efforts to strengthen cooperation with NGOs by involving them in the National Committee in charge of drafting the State party's report, the Committee remains concerned that such cooperation is selective and limited.

454. **The Committee urges the State party to continue to strengthen its cooperation with all NGOs, particularly those dealing with children, at all stages of the implementation of the Convention.**

#### **Dissemination and training**

455. While welcoming the initiatives undertaken to date to disseminate information on children's rights, including the joint programmes between the State party and UNICEF, the Committee is concerned that insufficient measures have been taken to disseminate and raise awareness of international human rights standards, including the Convention, in a systematic and targeted manner.

456. **The Committee recommends that the State party strengthen and implement systematically measures to disseminate the Convention among all relevant professionals, providing them with systematic and regular training in its provisions, and take specific measures to make the Convention available to and known by all children.**

### **2. Definition of the child**

457. The Committee reiterates its deep concern that the age of majority is set at pre-defined ages of puberty for boys at 15 and for girls at 9, because it implies that boys from 15 to 18 years and girls from 9 to 18 years are not covered by the provisions and principles of the Convention. The Committee notes the increase in the age of marriage for girls from 9 to 13 years (while that of boys remains at 15) and is seriously concerned at the very low minimum ages and the related practice of forced, early and temporary marriages.

458. **The Committee urges the State party to review its legislation so that the age of majority is set at 18 years of age and that minimum age requirements conform with all the principles and provisions of the Convention and with internationally accepted standards, and in particular that they are gender neutral, in the best interests of the child, and ensure that they are enforced. It should also take the necessary steps to prevent and combat forced, early and temporary marriages.**

### 3. General principles

#### **The right to non-discrimination**

459. The Committee is deeply concerned at the persisting discrimination against girls and women, in particular in their role as parents, reflected in various legal provisions and practices (e.g. the requirement that a child's father or paternal grandfather only may give his permission for the issuance of a passport for a child under 18 years. Consequently, in a case in which the parents are separated and the mother of the child resides in another country, the child may only leave Iran to visit his/her mother if the father permits the child to do so.). The Committee is equally concerned at discrimination on the grounds of religion and birth. As to the latter, it is concerned that insufficient information has been provided on children born out of wedlock, in particular with respect to the discrimination against and stigmatization of these children, who are particularly vulnerable.

460. **The Committee recommends that the State party promptly review all its legislation to ensure that it is non-discriminatory and gender-neutral and that it is enforced. Moreover, the State party should take effective measures, including enacting or rescinding, as appropriate, civil and criminal legislation to prevent and eliminate discrimination on the grounds of sex, religion and other grounds, in compliance with article 2 of the Convention.**

461. **The Committee requests that specific information be included in the next periodic 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 account of the Committee's general comment No. 1 (2001).**

#### **Best interests of the child**

462. The Committee regrets that in all actions or decision-making relating to children the general principle of the best interests of the child, as provided for under article 3 of the Convention, continues not to be a primary consideration, including in matters relating to family law. In particular, the Committee regrets that article 1169 of the Civil Law relating to the custody of children after divorce prevents the court from taking the best interests of the child into account. In the Committee's view, custody determined solely on the basis of a child's age is both arbitrary and discriminatory against the mother.

463. **The Committee reiterates its previous recommendation that the State party review its legislation and administrative measures to ensure that article 3 is reflected therein and implemented in all actions concerning children.**

#### **Right to life**

464. The Committee notes the statement made by the delegation of the State party during the consideration of the second periodic report that in view of the Bill on the Establishment of Juvenile Courts currently pending before Parliament, executions of persons for having

committed crimes before the age of 18 have been suspended. The Committee deplores the fact that such executions have continued since the consideration of the State party's initial report, including one such execution on the day the second report was being considered.

**465. The Committee urges the State party to take the necessary steps to immediately suspend the execution of all death penalties imposed on persons for having committed a crime before the age of 18, to take the appropriate legal measures to convert them into penalties in conformity with the provisions of the Convention and to abolish the death penalty as a sentence imposed on persons for having committed crimes before the age of 18, as required by article 37 of the Convention.**

466. The Committee reiterates its serious concern at article 220 of the Penal Code, which provides that fathers who kill their child, or their son's child, are only required to pay one third of the blood money to the mother, and are subjected to a discretionary punishment, in the event that the mother makes a formal complaint.

**467. The Committee recommends that the State party take the necessary measures, including the amendment of the offending article of the Penal Code, to ensure that there is no discriminatory treatment for such crimes and that prompt and thorough investigations and prosecutions are carried out.**

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

468. The Committee regrets that little progress has been made concerning respect for the views of the child in judicial decisions, including concerning custody, divorce, administrative decisions, in the family, at school and society at large, owing to the traditional societal attitudes towards children, and that the State party has insufficiently informed the public about the right of children to participate in all matters affecting them. The Committee is concerned that the child's view is only represented through the father or paternal grandfather or other appointed guardian and not directly by the child.

**469. In the light of article 12 of the Convention, the Committee recommends that the State party promote the right of children to express their views fully in all matters affecting them at school, within the family, in the courts and administrative bodies and in society in general. In this regard, the Committee recommends that the State party adopt and implement appropriate legislation, and undertake awareness-raising campaigns and educational programmes on the implementation of the principle of "respect for the views of the child". The Committee also recommends that the State party seek assistance from, among others, UNICEF in this regard.**

### **4. Civil rights and freedoms**

#### **Nationality**

470. The Committee is concerned about discrimination against children on account of their father's nationality. It notes with concern that while a child whose father is an Iranian national is considered to have Iranian nationality, a child whose mother is Iranian and who has married a non-Iranian without getting the official consent of the Government, will not be recognized as an

Iranian national. The Committee is concerned that this situation currently affects a large number of children whose mothers are Iranian and fathers Afghan and who consequently have neither a birth certificate nor a nationality.

**471. The Committee recommends that all children are registered at birth and acquire an irrevocable nationality without discrimination.**

#### **Right to birth registration**

472. The Committee is concerned about information that a large number of Iranian children, particularly those living in rural areas, are still not registered at birth and that birth registration is required for school enrolment. It is also concerned about reports that a large number of children born of non-Iranian parents, and in particular Afghan parents who have not registered in Iran, will similarly remain unregistered, thereby excluding them from obtaining a refugee registration card.

**473. In the light of article 7 of the Convention, the Committee encourages the State party to adopt all appropriate measures to ensure the registration of all children at birth, including all refugee children born in rural areas. Such measures should include the establishment of mobile registration offices and, for children not yet registered, registration units in schools. In this context, the State party should ensure that the provisions of article 7 are fully enforced in conformity with the principles of non-discrimination (art. 2) and of the best interests of the child (art. 3), including the right of the child to know, as far as possible, his or her parents. Meanwhile, immediate access by children not registered at birth to basic services, such as health and education, should be ensured, while the registration of these children is properly prepared.**

#### **Freedom of expression and of assembly**

474. The Committee remains concerned that, although freedom of expression and of assembly is formally recognized in the Constitution, the protection of this freedom is restricted by the requirement to interpret it in accordance with Islamic principles without clarifying at the outset the basis on which an action or expression is considered to be in keeping with such principles.

**475. The Committee reiterates its recommendation, expressed in its previous concluding observations, that the State party establish clear criteria for determining whether a given action or expression is in accordance with Islamic law and the Convention in order to avoid arbitrary interpretations.**

#### **Freedom of thought, conscience and religion**

476. The Committee is concerned that little progress has been made in the area of freedom of religion and notes that members of unrecognized religions continue to be discriminated against and do not have the same rights as those of recognized religions, for example with regard to access to social services. In addition, it continues to be concerned at reports that these minorities, in particular the Baha'i minority, are subjected to harassment, intimidation and imprisonment on account of their religious beliefs.

477. **The Committee recommends that the State party take effective measures, including enacting or rescinding legislation, to prevent and eliminate discrimination on the grounds of religion or belief and ensure that members of minority religions are not imprisoned or otherwise ill-treated on account of their religion and that access to education for their children is provided on an equal footing with others.**

#### **Access to information**

478. The Committee is concerned that access to information and material from a diversity of national and international sources is very limited for persons under 18 years of age in the State party.

479. **The Committee recommends that the State party take appropriate measures to allow access to appropriate information from a diversity of sources, especially those aimed at the promotion of the child's social, spiritual and moral well-being and physical and mental health.**

#### **Protection from torture and inhuman or degrading treatment or punishment**

480. The Committee deeply regrets that, under existing laws, persons below the age of 18 who have committed a crime can be subjected to corporal punishment and sentenced to various types of torture or other cruel, inhuman or degrading treatment or punishment, such as amputation, flogging or stoning, which are systematically imposed by judicial authorities and which the Committee considers to be totally incompatible with article 37 (a) and other provisions of the Convention.

481. **In the light of the consideration of the Bill on the Establishment of Juvenile Courts, the Committee urges the State party to take all the necessary measures to ensure that persons who committed crimes while under 18 are not subjected to any form of corporal punishment and to immediately suspend the imposition and the execution of sentences of amputation, flogging, stoning and other forms of cruel, inhuman or degrading treatment or punishment.**

### **5. Family environment and alternative care**

#### **Child abuse and corporal punishment**

482. The Committee continues to be concerned about legislation that provides for corporal punishment within the family. While welcoming the new Law on the Protection of Children and Adolescents (2003), which includes the prohibition of all forms of molestation and abuse of children and the obligation to report cases of child abuse, the exceptions stated therein continue to legally allow various forms of violence against children. More particularly, several articles of the Civil and Penal Code have been excluded, including article 1179 of the Civil Law and article 59 of the Penal Code, which gives parents the right to physically discipline their children within non-defined "normal limits". In the Committee's view, such exceptions contribute to the abuse of children inside and outside the family and contravene the principles and provisions of the Convention, in particular article 19. The Committee also notes with concern that certain forms of sexual abuse of children or grandchildren are not explicitly prohibited.

483. **The Committee recommends that the State party:**

(a) **Continue and strengthen its efforts, including through legislative and other measures, to prohibit and prevent all forms of physical and mental violence against children, including corporal punishment and sexual abuse, in the family, in schools, and in other institutions, and take the necessary legislative measures to ensure that all those who sexually abuse children are punished without discrimination;**

(b) **Initiate public education campaigns against the use of all forms of violence against children and encourage alternative forms of discipline;**

(c) **Promote and support the effective operation of the child helpline, established in 2001, to allow children to seek advice and counselling in cases of, inter alia, abuse and neglect;**

(d) **Ensure the protection of victims of child abuse, including during investigation and court proceedings of child abuse cases. Such protection should include the provision of legal assistance, psychosocial assistance, child medical experts and the necessary facilities for hearing child abuse cases in court, such as video recording or closed-circuit television.**

#### **Institutional and alternative care**

484. The Committee welcomes the information, in paragraphs 95 and 96 of the State party's report, that one of its priorities will be the development of child adoption in its lawful form and the provision of counselling services in that regard, but remains concerned at the lack of a clear legal and policy framework for various forms of alternative care, such as fostering, or *kafalah*. It is particularly concerned about the large number of orphaned children born out of wedlock, the large number of long-term orphans resulting from the Bam earthquake currently in institutional care, and the temporary placement of the children of drug addicts, who may be obliged to stay in institutional care for long periods, as well as the poor quality of supervision, monitoring and training of the staff of these institutions. It is also concerned about reports that a certain number of girls from these institutions are married off upon reaching the marriageable age (13 years).

485. **The Committee recommends that the State party develop and implement legislative and other measures, policies and procedures to ensure that children do receive, when necessary, adequate alternative care, preferably in their own immediate families or extended families or in care of a family nature in the form of foster care, or *kafalah*, which fully respects the provisions of the Convention, in particular articles 20 and 21. In this regard, the Committee encourages the State party to undertake, as a self-recognized priority in its written replies, action to maintain and promote service standards for, inter alia, foster families, "pseudo-families" and institutional care. The Committee further recommends that the State party ratify the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption and seek technical assistance and advice on these issues from, among others, the Hague Conference on Private International Law and UNICEF.**



### **Children in prison with their mothers**

486. The Committee is concerned about the large number of children living in prisons with their mothers and about their living conditions and the regulation of their care if they are separated from their mothers in prison.

487. **The Committee recommends that the State party develop and implement clear guidelines on the placement of children with their mothers in prison (e.g. the age of the children, the length of stay, contact with the outside world and movement in and out of prison) and ensure that the living conditions in prisons are adequate for the child's development in accordance with article 27 of the Convention. It further recommends that the State party develop and implement adequate alternative care for children who are removed from prison and allow them to maintain personal relations and direct contact with their mothers remaining in prison.**

## **6. Basic health and welfare**

### **Children with disabilities**

488. While welcoming the programmes undertaken by the State party on the causes and prevention of disabilities, the Committee is concerned at the low number of disabled children attending school and the lack of information provided by the State party on attempts to integrate disabled children into the mainstream school system since the consideration of the initial report. It is also concerned at the low level of financial support received by these children and their families.

489. **In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities and of the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities, the Committee recommends that the State party adopt measures to integrate children with disabilities into mainstream education, including adopting the necessary measures to adapt schools to receiving children with different kinds of disability. The Committee recommends that the State party undertake at the same time public campaigns with a view to raising the level of awareness of the general public of the rights of the child.**

### **Nutrition**

490. While welcoming the establishment and success of the primary health-care system, the Committee is concerned that despite a specific programme designed to address the problem of nutrition the percentage of moderately and severely underweight, stunted and wasted children remains static.

491. **The Committee recommends that the State party make concerted efforts to combat malnutrition, inter alia, by completing and implementing the national Nutritional Strategy for Children.**

## Adolescent health

492. The Committee is concerned at the insufficient information provided by the State party in relation to adolescent health, particularly with respect to reproductive health and initiatives undertaken to halt and reverse the spread of HIV/AIDS.

493. **In the light of its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee recommends that the State party take measures to address adolescent health issues and develop a comprehensive policy to provide adolescents in both urban and rural areas with reproductive health counselling and services, including family life education, especially on the effects of early marriage and on family planning, as well as to prevent and combat HIV/AIDS and the harmful effects of drugs. As the most vulnerable group exposed to these risks, young people should be given priority in the fight against HIV/AIDS and the increase in drug abuse. In this respect, the State party is encouraged to seek technical assistance from United Nations agencies such as WHO, UNAIDS, UNICEF, the United Nations Office on Drugs and Crime and the United Nations Population Fund.**

## 7. Education, leisure and cultural activities

### Education

494. Although the Committee notes the high level of literacy in Iran and the measures taken by the State party to increase school enrolment and lower dropout rates, it remains concerned that not all children are enrolled in or graduate from primary school. Working children, children living on the streets and children without complete personal documents, particularly refugee children with binational parents, have reduced access to schools. It is also concerned that refugee children are currently only being enrolled in schools if their parents have registered with the authorities, and that the enrolment of refugee children is not currently being offered free of charge. It is further concerned about well-documented information that a large number of Baha'i students were not admitted to university on the grounds of their religious affiliation.

495. The Committee is also concerned about the disparity that continues to exist between boys and girls; the high dropout rates of girls in rural schools upon reaching puberty; the lack of female teachers in rural areas; long distances between homes and schools, which keep girls at home, particularly after primary school; and the lack of mobile schools for nomadic children, as well as the remarkable differences in the personal and material equipment between schools in urban and rural areas and between the most and least developed provinces, resulting in unequal educational opportunities. In addition, it regrets that the decision to expand compulsory education beyond the five years of primary school has been delayed for many years.

496. **While welcoming the State party's initiatives with respect to youth, the Committee encourages the State party to continue its efforts to reach its goal of universal basic education and recommends that the State party:**

(a) **Expand compulsory and free education beyond the fifth year of primary school and develop and implement such a plan without further delay;**

- (b) Ensure that all children, including refugee children, have equal educational opportunities on all levels of the educational system without discrimination based on gender, religion, ethnic origin, nationality or statelessness;**
- (c) Eliminate all disparities in resources provided to schools in urban and rural areas in order to guarantee equal educational opportunities throughout the country;**
- (d) Better equip schools with textbooks, and other materials, and well-trained teachers, particularly female teachers, and introduce active, creative, and cooperative learning methods in schools to promote children's capacities in a knowledge-based economy and society;**
- (e) Continue and reinforce its collaboration with the OHCHR to incorporate human rights education, including the Convention on the Rights of the Child, into the school curriculum.**

## **8. Special protection measures**

### **Refugee and migrant children**

497. While welcoming the efforts made by the State party so far in the repatriation of Iraqi and Iranian refugee children and their families, and noting the State party's commitment to include children of Afghan and Iraqi refugees in the recent registrations of Afghans and Iraqis residing in Iran, the Committee is concerned at reports of the deportation of unaccompanied children, mostly Afghans, back to their country of origin, and the lack of access by humanitarian organizations to these children. It is concerned at reports of unaccompanied children arriving in Iran from neighbouring countries, in particular Afghanistan, allegedly for the purpose of exploitation. The Committee is further concerned about the fate of Afghan children and their families who are not in a position to return to Afghanistan for different reasons, including their strong links with Iran or the fact that the mother of the family is Iranian.

498. **The Committee recommends that the State party:**

- (a) Allow immediate access by humanitarian organizations and United Nations agencies to all unaccompanied children in the State party;**
- (b) Discontinue the practice of deporting unaccompanied children under 18 years of age back to Afghanistan and take the necessary steps to reunite all unaccompanied children with their families or take effective measures to integrate these children into society;**
- (c) Ensure that Afghan families who are not in a position to return to Afghanistan are not forcibly deported but assisted to integrate into society;**
- (d) Ensure that all refugee children are registered and have full access to free education, health and other services;**
- (e) Continue its cooperation with UNHCR and other United Nations agencies.**

## **Street children**

499. The Committee continues to be concerned about the large number of children living and/or working in the streets, particularly in urban centres such as Tehran, Isfahan, Mashhad, and Shiraz. It regrets that the State party could not present studies on the extent and nature of the problem and is concerned that the centres known as “Khaneh Sabz”, “Khaneh Shoush” and “Khaneh Reyhane” homes, which were established to assist these children, albeit in a limited capacity, have been closed down. It is equally concerned at reports of the round-up and arrest of Afghan children in the streets despite the fact that they were registered with the authorities, and that as a “condition” for their release the authorities request that their parents register for repatriation. The Committee welcomes the policy of the State party to reunite children with their families, whenever possible, and notes the State party’s assurances that these children are assembled in centres for further assistance and not arrested with police methods.

500. **The Committee recommends that the State party:**

**(a) Take measures to address the large and increasing number of street children, with the aim of protecting these children, especially girls, and of preventing and reducing this phenomenon, in particular through assistance to families and the provision of adequate housing and access to education;**

**(b) Ensure that street children are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development, providing official documents when necessary;**

**(c) Ensure that child victims of physical, sexual and substance abuse are provided with recovery and reintegration services, protection from arbitrary and/or unlawful arrest and maltreatment by the police, and effective services for reconciliation with their families and community;**

**(d) Ensure that all Afghan children rounded up on the streets are released and are not used to push their parents to repatriate;**

**(e) Collaborate with NGOs working with street children in the State party and seek technical assistance from relevant United Nations and other international organizations.**

## **Drug abuse**

501. The Committee is concerned at reports that drug abuse is on the increase, that the age of addiction has decreased, that there is a lack of statistical data in this regard and that a programme initiated in 1997 does not seem to be effective.

502. **The Committee recommends that the State party take the necessary measures to increase awareness of drug abuse, to prevent and eliminate this problem, inter alia, by strengthening the implementation of the 1997 programme and to include the children themselves, parents, teachers and other professionals in these efforts.**

### **Economic exploitation**

503. While welcoming the ratification on 8 June 2002 by the State party of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, the Committee remains concerned at the large number of children below the age of 15, particularly in rural areas, who are involved in child labour, especially in the informal sector, including carpet weaving and other traditional family businesses. The Committee also notes that although article 79 of the Labour Code sets the minimum age of access to employment at 15, other legislation, including the Agricultural Code, sets that age at 12.

504. **The Committee recommends that the State party:**

- (a) Review its legislation on the minimum age of access to employment so that the minimum age of 15 applies in all situations of labour;**
- (b) Reconsider the existing list of prohibited forms of worst labour with a view to reducing and eliminating existing exceptions;**
- (c) Vigorously pursue enforcement of minimum-age standards, including requiring employers to have, and produce on demand, proof of age of all children working on their premises;**
- (d) Provide labour inspectors with all the necessary support, including child labour expertise, with a view to enabling them to monitor effectively at the State and local level the implementation of labour law standards and to receive and address complaints of violations;**
- (e) Consider ratifying ILO Convention No. 138 concerning Minimum Age for Admission to Employment and adopting accordingly explicit legislation and measures to protect children from economic exploitation through labour in the informal sector, including family enterprises, agricultural activities and as domestic labour, and that technical inspections be extended to these areas;**
- (f) Seek technical assistance from ILO in order to establish an IPEC programme in Iran.**

### **Trafficking**

505. The Committee is concerned about reports of trafficking and sale of persons under 18 years of age, particularly young girls from rural areas, facilitated by “temporary marriages” (*siqeh*) - marriages which last from 1 hour to 99 years. It is also concerned at reports of the trafficking of such persons from Afghanistan to Iran, who are apparently sold or sent by their families in Afghanistan for exploitation, including cheap labour.

506. **Considering that the sale and trafficking of children is a criminal offence, the Committee recommends that the State party take all appropriate legislative and administrative measures to prevent and eliminate this phenomenon and to ensure that traffickers are prosecuted, convicted and punished.**

### **Administration of juvenile justice**

507. The Committee welcomes the efforts of the State party to improve the laws with regard to persons below 18 in conflict with the law, in particular the Bill on the Establishment of Juvenile Courts mentioned in paragraph 443 above. However, it deplores the information referred to in paragraph 464 above that, despite the statement of the delegation made during the consideration of the second periodic report that in view of that bill, executions, torture and other cruel, inhuman or degrading treatment or punishment of persons for having committed crimes before the age of 18 have been suspended, such executions and ill-treatment have continued since the consideration by the Committee of the State party's initial report. The Committee remains concerned at the persisting poor quality of the rules and practices in the juvenile justice system, reflected, inter alia, in the lack of statistical data, the limited use of specialized juvenile courts and judges, the low age of criminal responsibility, the lack of adequate alternatives to custodial sentences, and the imposition of torture and other cruel or inhuman punishment and in particular of the death penalty.

508. **The Committee reiterates its recommendation contained in paragraph 444 above that the State party take, as a matter of the highest priority, the necessary measures for the approval and implementation of the Bill on the Establishment of Juvenile Courts and ensure that it complies with the provisions of the Convention, in particular articles 37, 39 and 40, as well as with 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), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the day of general discussion on the administration of juvenile justice, held by the Committee in 1995. In this respect, the Committee urges the State party, in particular:**

- (a) **To suspend immediately, for an unlimited period of time, the imposition and execution of the death penalty for crimes committed by persons under 18, and to take all measures to implement paragraph 465 of the present concluding observations;**
- (b) **To suspend immediately the imposition and execution of all forms of torture and other cruel, inhuman or degrading treatment or punishment, such as amputation, flogging or stoning, for crimes committed by persons under 18;**
- (c) **To continue to improve the quality and availability of specialized juvenile courts and judges, police officers and prosecutors;**
- (d) **To develop and implement alternatives to custodial sentences;**
- (e) **To ensure that persons under 18 are provided with legal assistance of good quality throughout the process;**
- (f) **To develop and implement adequate support, counselling and other services so as to promote integration into society of juveniles who have been in conflict with the law and in particular those who have been deprived of their liberty;**

(g) To train judges and other professionals also in the area of social rehabilitation of children;

(h) To seek technical assistance from and cooperation with, among others, OHCHR and UNICEF.

## **9. Optional Protocols to the Convention**

509. The Committee notes that the State Party has not ratified the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

510. The Committee recommends that the State party ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

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

### **Follow-up**

511. 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 members of the Council of Ministers, the cabinet or a similar body, and, where appropriate, to provincial or State Governments and the *Majlis* for appropriate consideration and further action.

### **Dissemination**

512. 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, including through the 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.

## **11. Next report**

513. In the light of the recommendation on reporting periodicity adopted by the Committee and described in CRC/C/139, the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its third and fourth

**periodic reports in one consolidated report by 11 February 2010, i.e. 18 months before the date on which the fourth periodic report is due. This consolidated 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.**

#### **Concluding observations: Togo**

514. The Committee considered the second periodic report of Togo (CRC/C/65/Add.27), submitted on 6 January 2003, at its 1017th and 1018th meetings (see CRC/C/SR.1017 and 1018), held on 24 January 2005, and adopted at its 1025th meeting (see CRC/C/SR.125), held on 28 January 2005, the following concluding observations:

##### **A. Introduction**

515. The Committee welcomes the submission of the State party's second periodic report despite the delay in its submission, its shortness and the little information it contained, as well as the detailed written replies to its list of issues (CRC/C/Q/TGO/2). It further notes with appreciation the presence of a high-level delegation sent by the State party and welcomes the frank dialogue that allowed for a better understanding of the situation of children's rights in Togo.

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

516. The Committee welcomes the recent ratification by the State party of a number of important human rights instruments, such as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2004, ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2000, the African Charter on the Rights and Welfare of the Child in 1998 and the United Nations Convention against Transnational Organized Crime in 2004, as well as the drafting of a children's code.

517. The Committee is encouraged by:

- (a) The translation and relatively wide publication and distribution of the Convention on the Rights of the Child and of the previous concluding observations of the Committee;
- (b) The creation of the *Comités régionaux* for the implementation of the Convention;
- (c) The adoption of a strategy on education in 1998;
- (d) The adoption in 1998 of a law prohibiting female genital mutilation.

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

518. The Committee notes that the State party is among the group of least developed countries and that a large part of the population lives below the poverty line.



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

### **1. General measures of implementation**

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

519. The Committee regrets that many of the concerns and recommendations (CRC/C/15/Add.83) it made upon consideration of the State party's initial report (CRC/C/3/Add.42) have been insufficiently addressed, especially those regarding coordination among governmental bodies (para. 32), the development of a data-collection system (para. 33), the persistence of discriminatory practices (para. 36), birth registration (para. 39), corporal punishment (para. 40), child abuse, including ill-treatment within the family (para. 44) and harmful traditional practices (para. 48).

**520. The Committee urges the State party to make every effort to address those recommendations in the concluding observations on the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.**

#### **Legislation**

521. The Committee welcomes article 140 of the Constitution of 1992, giving primacy to international conventions over domestic laws and regulations. However, the Committee remains concerned that the draft *Code de l'enfant*, as finalized in 2001, still contains a number of discrepancies with the Convention.

**522. While noting the revision under way of the *Code de l'enfant*, the Committee recommends that the State party:**

**(a) Revise, as a matter of priority, domestic law and especially the draft *Code de l'enfant* through a participatory process, involving various ministries, children, civil society and international agencies in order to ensure full compliance with the Convention;**

**(b) Following such revision, ensure speedy adoption and implementation of the revised Code;**

**(c) Working together with the different districts, undertake a comprehensive review of the existing legislation in order to identify areas where legal reform is required to bring all laws into full conformity with the Convention.**

#### **Coordination**

523. While noting the mandate of coordination given to the National Committee for the Promotion and Protection of Children's Rights (CNE) and to the *Direction générale de la protection de l'enfance*, the Committee is concerned at the lack of clear structures and mechanisms for the effective coordination of measures of implementation of the Convention.

**524. The Committee recommends that the State party strengthen the coordination, at all levels, of the implementation of the Convention:**

**(a) By providing a designated coordinating body within the governmental structure, such as CNE if it is reinforced, with a clear mandate and with adequate human and financial resources for its coordinating role;**

**(b) By involving civil society, in particular NGOs, in the process.**

**The State party is encouraged to seek technical assistance from UNICEF, among others.**

### **Independent monitoring**

**525. The Committee is concerned at the lack of an independent monitoring body for the implementation of the Convention as well as at the lack of independence and resources for the National Commission on Human Rights.**

**526. The Committee recommends that the State party, in accordance with 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, establish an efficient and independent body with a clear mandate for monitoring and evaluating progress made in the implementation of the Convention. If the National Commission on Human Rights is entrusted with this mandate, the Committee recommends that the State party:**

**(a) Take appropriate measures to ensure the independence and impartiality of the National Commission on Human Rights;**

**(b) Strengthen the financial and human resources of the National Commission on Human Rights;**

**(c) Ensure the accessibility to children of the National Commission on Human Rights, in particular by ensuring that it is able to receive, investigate and address complaints by children, in a manner which is child-sensitive and ensures the privacy and protection of victims, as well as to undertake monitoring, follow-up and verification activities.**

**527. The State party is further encouraged to seek technical cooperation in this regard from, among others, OHCHR and UNICEF.**

### **National Plan of Action**

**528. The Committee is concerned at the lack of a mid- and long-term comprehensive national policy and plan of action for the promotion and protection of the rights of all children in the State party.**

**529. The Committee strongly recommends that the State party adopt and implement, in consultation and cooperation with relevant partners, including civil society, a national plan of action and a national policy for the implementation of the Convention, with mid- and**

long-term targets, that covers all areas of the Convention and takes into account the outcome document “A World Fit for Children”, adopted by the General Assembly at its special session on children held in 2002, and provides for adequate follow-up mechanisms. The State party is encouraged to ensure that adequate resources are available for the implementation of the National Plan of Action and to seek international assistance in this respect, including from OHCHR and UNICEF.

#### **Resources for children**

530. The Committee is concerned at reports of widespread corruption, which has a negative impact on the level of resources available for the implementation of the Convention. It is also concerned at the sharp decrease in public expenditure on education and health. It is further concerned at the lack of funds available for children living below the poverty line and for those who are in need of alternative care.

531. **The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by:**

(a) **Prioritizing budgetary allocations to ensure implementation of the economic, social, cultural and other rights of children;**

(b) **Establishing an integrated poverty reduction programme that incorporates the rights of children.**

#### **Data collection**

532. The Committee regrets the lack of statistical data in the State party’s report and is concerned at the lack of an adequate data-collection mechanism within the State party to permit the systematic and comprehensive collection of quantitative and qualitative data for all areas covered by the Convention allowing for disaggregated data analysis.

533. **The Committee recommends that the State party continue to improve its system of data collection to cover all areas of the Convention and ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention. The State party is further encouraged to strengthen its technical cooperation with, among others, UNICEF and the United Nations Development Programme to ensure the speedy establishment of a centralized system for data collection and analysis.**

#### **Dissemination of the Convention**

534. The Committee notes with appreciation the efforts undertaken by the State party to translate and disseminate the Convention into national languages. The Committee is, however, of the opinion that these measures are insufficient and need to be further strengthened and implemented in an ongoing, comprehensive and systematic manner.

535. **The Committee recommends that specific measures be taken to make the Convention available to and known by children, parents, teachers, the police, health and social workers, local leaders and other professionals working with children.**

## **Cooperation with NGOs**

536. The Committee is concerned about the little involvement of civil society and NGOs in the implementation of the Convention, in particular at the policy-making level.

**537. The Committee recommends that the State party strengthen its cooperation with NGOs by involving more systematically NGOs and other sectors of civil society working with and for children throughout all stages of the implementation of the Convention.**

## **2. General principles**

### **Discrimination**

538. While noting the efforts made by the State party to address the issue, the Committee notes with concern that societal discrimination persists against vulnerable groups of children, in particular girls and children with disabilities. In particular, the Committee reiterates the concern of the Human Rights Committee (CCPR/CO/75/TGO of 28 November 2002) and of the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.61 of 21 May 2001) about “continuing discrimination against ... girls with respect to access to education, employment and inheritance”.

**539. With reference to the recommendations made in this regard by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, the Committee urges the State party to undertake an in-depth review of all its legislation, including the Individuals and Family Code and the Nationality Code of 1998, in order to fully guarantee the application of the principle of non-discrimination in domestic laws and compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups, especially girls and children with disabilities, and children living in remote areas.**

540. The Committee requests that specific information be included, in the next periodic 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 account of the Committee’s general comment No. 1 (2001) on the aims of education.

### **Best interests of the child**

541. The Committee is concerned that in actions concerning children, the general principle of the best interests of the child, as contained in article 3 of the Convention, is not a primary consideration, including in matters relating to family law (e.g. custody under the law is determined by the child’s age rather than the child’s best interests).

**542. The Committee recommends that the State party review its legislation and administrative measures to ensure that the principle of the best interests of the child is explicitly incorporated therein and that it is a primary consideration in all decisions, programmes and policies concerning children, at the national and local level, in courts, in schools and other institutions, in the family and in society at large.**

## **Right to life**

543. The Committee is deeply concerned about reports of killing, in certain areas, of children born with disabilities, malformations, skin discoloration, as well as of children born with teeth, or from mothers who died during delivery.

544. **While taking note of the discussions that took place with the authors of these killings, the Committee urges the State party urgently to take all necessary measures to prevent their occurrence, to prosecute those responsible for such crimes and to raise awareness among the population at large of the need to eradicate such practices.**

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

545. The Committee welcomes the fact that children may be heard in court hearings and that awareness-raising campaigns for parents have been undertaken. It also welcomes the activities of the National Children's Parliament. However, the Committee remains concerned that opportunities for the child to express his/her own views in the family, in schools and in the community are still scarce and rarely go beyond the step of representation.

546. **The Committee recommends that the State party review its legislation and administrative measures to ensure that article 12 of the Convention is duly reflected and taken into consideration in courts, in schools and other institutions, in the family, in local communities and in society at large. In particular, the Committee recommends that the State party:**

(a) **Evaluate and assess the functioning of the Children's Parliament and its impact on decision-making, and provide guidance and support for the continuation of its activities in a democratic manner;**

(b) **Conduct awareness-raising activities with a view to increasing understanding of the values of a meaningful child and youth participation;**

(c) **Develop an effective child and youth participation strategy.**

## **3. Civil rights and freedoms**

### **Birth registration and right to nationality**

547. The Committee is concerned that mothers cannot pass their nationality to their children, and that children born out of wedlock or children with foreign fathers may, in some instances, be denied Togolese citizenship and/or left stateless.

548. The Committee, while noting the various efforts made by the State party in this regard, is concerned at the low rate of registration of birth, largely due to the lack of awareness on the part of the population of the registration procedure, to high fees and to long distances to the civil registry service centres.

549. **The Committee recommends that the State party reform its citizenship laws, including the Nationality Code of 1998, in order to ensure the transmission of citizenship through both the maternal and paternal line, in accordance with article 32 of the Constitution of 1992.**

550. **The Committee also recommends that the State party strengthen its efforts and enact appropriate legislation, supported by awareness-raising campaigns concerning the importance of birth registration and by a reorganization of civil registry services in local communities, in order to achieve 100 per cent birth registration at the earliest time possible, and to ensure the registration of children who had not been registered at birth. Meanwhile, children who have no birth registration certificates should be allowed access to basic services, such as health and education, while preparing to be registered properly.**

### **Corporal punishment**

551. **The Committee is deeply concerned that corporal punishment of children remains legally and socially accepted, and consequently is common in families and schools and other institutions for children, despite the Committee's previous recommendations (CRC/C/15/Add.83) and the Order of the Ministry of Education issued in 1980.**

552. **The Committee recommends that the State party:**

(a) **Adopt a law effectively prohibiting all forms of corporal punishment of children in the family, in schools, in detention centres, in other forms of childcare institutions and in the community;**

(b) **Take effective measures to prohibit the use of violence against children, including corporal punishment, by parents, teachers and other caregivers;**

(c) **Undertake well-targeted public awareness campaigns on the negative impact of corporal punishment on children, and provide teachers and parents with training on non-violent forms of discipline as an alternative to corporal punishment.**

### **Access to information**

553. **The Committee is concerned that access to information and material from a diversity of national and international sources is very limited for persons under 18 years of age in the State party. The Committee is further concerned at the little protection provided to children from viewing offensive and pornographic materials.**

554. **The Committee recommends that the State party take appropriate measures to allow access to appropriate information from a diversity of sources, especially those aimed at the promotion of the child's social, spiritual and moral well-being and physical and mental health.**

#### **4. Family environment and alternative care**

##### **Adoption**

555. The Committee is concerned about the vague adoption procedures, the occurrence of informal adoption and the absence of mechanisms to review, monitor and follow up adoption, especially intercountry adoptions.

**556. The Committee recommends that the State party take all necessary measures to protect adopted children even in the extended family, including by establishing a system to monitor and supervise effectively the system of adoption of children, in the light of article 21 of the Convention. The Committee further recommends that the State party consider ratifying the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.**

##### **Family support and recovery of maintenance**

557. The Committee is concerned that many children live with single mothers or in a vulnerable socio-economic family environment, and that recovery of maintenance from fathers is weak.

**558. The Committee recommends that the State party take all necessary measures:**

**(a) To provide children in single-parent families or other vulnerable socio-economic environment with adequate support, counselling or other services;**

**(b) To strengthen the legal and other instruments for an effective recovery of maintenance and develop international cooperation in this regard.**

##### **Abuse, neglect and violence against children**

559. The Committee is concerned at the large number of children victims of violence, abuse and neglect, including sexual abuse, in schools, in detention centres, in public places and in the family.

**560. The Committee recommends that the State party:**

**(a) Adopt a law effectively prohibiting all forms of violence, abuse and neglect of children;**

**(b) Expand current efforts to address the problem of child abuse and neglect, including sexual abuse;**

**(c) Ensure that there is a national and local system for receiving, monitoring and investigating complaints, and when necessary prosecuting cases, in a manner which is child-sensitive and ensures the privacy and protection of victims;**

**(d) Ensure that all victims of violence, abuse and neglect have access to counselling, redress and assistance with recovery and social reintegration;**

**(e) Provide children with alternative protection and care, and ensure that institutionalization is used only as a measure of last resort.**

## **5. Basic health and welfare**

### **Children with disabilities**

561. While noting the installation of access ramps in hospitals for disabled and the promulgation on 23 April 2004 of the Act 2004/005 on the social protection of persons with disabilities, the Committee is concerned that children do not have access to health-care services in the first place. In addition, the Committee is concerned that:

- (a) Only very few children with disabilities have access to education and employment services;**
- (b) Education programmes do not prioritize services for disabled children;**
- (c) There is no policy for the integration of children with disabilities.**

562. **The Committee recommends that the State party:**

**(a) Take all necessary measures, including appropriate allocation of human and financial resources, to ensure the thorough implementation of the Act 2004/005 on the protection of persons with disabilities;**

**(b) Ensure the collection and use of adequately disaggregated and comprehensive data in the development of policies and programmes for children with disabilities;**

**(c) Review the situation of these children in terms of their access to suitable health care, education services and employment opportunities;**

**(d) Adopt an integration policy, allocate adequate resources to strengthen services for children with disabilities, support their families and train professionals in the field;**

**(e) Take note of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities and of the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities;**

**(f) Seek assistance in this regard from, among others, UNICEF and WHO.**



## **Health services**

563. While acknowledging the improvements in the health-care sector, in particular the establishment of clinics in rural areas and the activities implemented to improve the nutrition of children, the Committee is particularly concerned at the increasing infant mortality rate, the high child and maternal mortality rates, the low birth weight, child malnutrition, the low breastfeeding rate, the low rate of immunization, the prevalence of infectious diseases, mosquito-borne diseases, including malaria, and the lack of access to safe drinking water and sanitation. The Committee is further concerned about the disparity between the number of health centres in rural and urban areas.

564. **The Committee recommends that the State party:**

**(a) Develop and implement a long-term comprehensive policy with a strong emphasis on early childhood development and community health in which measures will be taken:**

- (i) To decrease reduce significantly infant and maternal mortality rates;**
- (ii) To ensure universal access to maternal and child health-care services and facilities, including in rural areas;**
- (iii) To strengthen its efforts to ensure that all children have access to basic health care, in both urban and rural areas;**
- (iv) To prioritize the provision of safe drinking water and sanitation services, especially in rural areas;**
- (v) To prevent malnutrition, malaria and other mosquito-borne diseases;**
- (vi) To immunize as many children and mothers as possible;**
- (vii) To promote exclusive breastfeeding until the age of 6 months;**

**(b) Seek in this regard technical assistance from, among others, UNICEF.**

## **HIV/AIDS**

565. While noting the measures taken to prevent the transmission of HIV/AIDS from mothers to children and the creation of the National Committee on HIV/AIDS Prevention, the Committee is concerned about the prevalence of HIV/AIDS and that no education for youth on HIV/AIDS exists.

566. **The Committee recommends that the State party:**

**(a) Increase its efforts to prevent HIV/AIDS, taking into account, inter alia, the Committee's general comment No. 3 (2003) and the International Guidelines on HIV/AIDS and Human Rights;**

**(b) Strengthen its measures to prevent mother-to-child transmission, inter alia, by combining and coordinating it with the activities to reduce maternal mortality, and take adequate measures to address the impact on children of the HIV/AIDS-related deaths of parents, teachers and others, in terms of children's reduced access to family life, adoption, emotional care and education;**

**(c) Strengthen its efforts to raise awareness of HIV/AIDS among adolescents, particularly among those belonging to vulnerable groups and among the population at large, notably to reduce discrimination against children infected with or affected by HIV/AIDS;**

**(d) Seek further technical assistance from, among others, UNICEF, WHO and UNAIDS.**

### **Adolescent health**

567. While noting the existence of a family planning information programme, the Committee remains concerned at the large number of early pregnancies. The Committee is further concerned that this issue remains a problem for adolescents and that there is no organized system of reproductive health counselling and services, nor education on sexually transmitted infections for youth.

568. **The Committee recommends that the State party develop a comprehensive policy on adolescent health that promotes collaboration between State agencies and NGOs in order to establish a system of formal and informal education on HIV/AIDS and sexually transmitted infections, and ensures access to reproductive health counselling and services for all adolescents, even when married.**

### **Harmful traditional practices**

569. The Committee welcomes the promulgation of Act No. 98-106 prohibiting female genital mutilation. However, the Committee is deeply concerned at its persistence along with other practices harmful to the health of children, particularly the girl child, including forced and early marriages, dowry disputes, initiation rites such as scarification, and rites regarding girls training in voodoo priesthood.

570. **While noting the measures taken to combat harmful traditional practices, the Committee recommends that the State party:**

**(a) Evaluate the campaign against female genital mutilation undertaken in 1998 in collaboration with the Division for the Advancement of Women and UNICEF;**

**(b) Strengthen existing measures and adopt further measures, including by establishing and implementing international and bilateral agreements and programmes with neighbouring States and by working with traditional and religious leaders, to ensure that harmful traditional practices are effectively banned;**

(c) **Using the media, raise awareness within the family and extended family and among traditional and religious leaders of the harmful impact of female genital mutilation and other harmful traditional practices on the psychological and physical health and welfare of the girl child as well as her future family;**

(d) **Assist and empower practitioners of female genital mutilation to find an alternative source of income;**

(e) **Continue discussions with voodoo priests to ensure that the best interests of the girl child are protected at all times;**

(f) **Continue and strengthen its cooperation in this regard with, among others, UNICEF and the Division for the Advancement of Women.**

## **6. Education, leisure and cultural activities**

571. The Committee is concerned that public spending on education is low, that primary education is not free and that the enrolment rate, especially of girls, is low. The Committee is also concerned that, despite the waiving or reducing of fees for girls and economically disadvantaged children, education is not free, that secondary education is not affordable to many children, and consequently that universal compulsory free education has not been achieved.

572. The Committee is further concerned about:

- (a) The high repetition and dropout rates;
- (b) The high illiteracy rate;
- (c) The low level of qualification of teachers;
- (d) The very high number of pupils per teacher;
- (e) The lack of pre-school and day-care centres;
- (f) Reports of sexual harassment by teachers of their pupils.

573. The Committee is concerned about the lack of leisure and play areas and activities available to children.

574. **The Committee recommends that the State party:**

(a) **Ensure, as a matter of priority, that at least primary education is compulsory and free;**

(b) **Ensure that girls and boys, from urban and rural areas, all have equal access to educational opportunities, without any financial obstacles;**

(c) **Ensure that teachers are adequately trained and paid;**

**(d) Take the necessary measures to prevent and punish the abuse of school pupils by teachers, including sexual harassment and economic exploitation, inter alia, by promoting the hiring of female teachers;**

**(e) Improve teaching and learning methods to lower repetition and dropout rates and encourage children to continue education through secondary school;**

**(f) Take appropriate measures to introduce human rights, including children's rights, into the school curricula;**

**(g) Implement additional and effective measures to promote early childhood education and continue its efforts to reduce illiteracy rates;**

**(h) Continue and strengthen cooperation with UNESCO, UNICEF and other partners in improving the education sector.**

**575. In the light of article 31 of the Convention, the Committee recommends that the State party take the necessary measures to set up appropriate playgrounds and leisure activities for children.**

## **7. Special protection measures**

### **Economic exploitation**

**576. The Committee welcomes the ratification by the State party of ILO Conventions No. 138 concerning Minimum Age for Admission to Employment in 1984 and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2000 and the strategies implemented to prevent and combat child labour. Nevertheless, it remains concerned at the large number of children working in the informal sector, in factories, as domestic servants, and on the streets.**

**577. The Committee recommends that the State party further strengthen the implementation of the Programme on the Elimination of Child Labour launched in 2001 by the Ministry of the Civil Service, Labour and Employment and ensure that it establishes mechanisms to reach and to protect children employed in the informal sector.**

**578. The Committee recommends that the State party continue its efforts to eliminate child labour, in particular by addressing the root causes of child economic exploitation through poverty eradication and access to quality education, as well as by developing a comprehensive child labour monitoring system in collaboration with NGOs, community-based organizations, law enforcement personnel, labour inspectors and ILO-IPEC.**

### **Drug abuse**

**579. The Committee welcomes the adoption on 18 March 1998 of Act No. 98/008 on drugs control and the setting up in 1996 of the National Anti-Drug Committee (CNAD) and in 2000 of the National Anti-Drugs Plan. However, the Committee remains concerned about the large number of children, in particular street children, using and selling drugs.**

580. **The Committee recommends that the State party:**

- (a) Provide children with accurate and objective information about substance use, including tobacco use, and protect them from harmful misinformation through comprehensive restrictions on tobacco advertising;**
- (b) Develop recovery services for children who are victims of substance abuse;**
- (c) Seek cooperation with and assistance from, among others, WHO and UNICEF.**

#### **Street children**

581. The Committee is concerned at the large number of children living and working on the streets, at the vulnerability of these children to various forms of violence, including sexual abuse and economic exploitation, at the lack of a systematic and comprehensive strategy to address the situation and protect these children, and at the very poor registration and tracing of missing children by the police.

582. **The Committee recommends that the State party:**

- (a) Develop a comprehensive strategy to address the root causes of the large number of street children, with the aim of reducing and preventing this phenomenon, including by strengthening the capacities of the families;**
- (b) Ensure that street children are provided with adequate nutrition and shelter as well as with health care and educational opportunities in order to support their full development;**
- (c) Provide street children with adequate protection from abuse and violence, and with assistance when they are victims of such violence;**
- (d) Facilitate the recovery and social reintegration, especially through strengthening family relationships, of street children;**
- (e) Ensure adequate registration and effective tracing of missing children;**
- (f) Provide psychosocial support to street children when they return to their families;**
- (g) Seek technical cooperation in this regard from, among others, UNICEF.**

#### **Sexual exploitation and prostitution**

583. While noting the efforts made by the State party to prevent and combat sexual exploitation of children, the Committee is concerned that:

- (a) Little data is available on the extent and patterns of sexual exploitation and prostitution of children;**

(b) Existing legislation intended to protect children from sexual exploitation and prostitution is neither sufficient nor effective;

(c) Child victims of sexual exploitation often do not receive adequate protection and/or recovery assistance.

**584. The Committee recommends that the State party:**

**(a) Undertake a national study on the extent and pattern of the phenomenon;**

**(b) Enact a law providing adequate protection to children victims of sexual exploitation, including trafficking, child pornography and prostitution;**

**(c) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute cases, in a child-sensitive manner that protects the child victims and respects their privacy;**

**(d) Prioritize recovery assistance and ensure that education and training as well as psychosocial assistance and counselling are provided to victims, and ensure that victims who cannot return to their families are not institutionalized.**

#### **Sale, trafficking and abduction**

585. The Committee welcomes the adoption of the National Plan of Action on the fight against child trafficking for commercial exploitation and labour in 2001 as well as the establishment of the *Comités de vigilance*. However, the Committee is concerned that the Plan of Action did not sufficiently involve civil society and is not efficiently implemented. It is further concerned that trafficking of children is not a separate offence under the law, despite the prevalence of the phenomenon. The Committee is further concerned at the lack of measures taken to combat and protect children from sale, trafficking and abduction.

**586. The Committee recommends that the State party:**

**(a) Establish trafficking of children as a separate offence;**

**(b) Upgrade its system of data collection to cover sale, trafficking and abduction of children, and ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects;**

**(c) Ensure effective programmes for child protection, prosecution of offenders, repatriation, recovery and preventive programmes for victims;**

**(d) Take effective measures to strengthen law enforcement, including immigration laws, intensify efforts to raise awareness among communities of the sale, trafficking and abduction of children, and prosecute the perpetrators;**

**(e) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;**

**(f) Continue its efforts to establish bilateral and multilateral agreements with neighbouring countries to prevent the sale, trafficking and abduction of children, to facilitate their protection and safe return to their families and to implement reintegration programmes for the victims.**

### **Juvenile justice**

587. The Committee is concerned about the absence of a juvenile justice system compatible with the provisions and principles of the Convention, particularly about:

- (a) The very limited number of qualified judges for juveniles;
- (b) The long pre-trial detention periods;
- (c) The lack of alternatives to detention for persons under 18 in conflict with the law;
- (d) The lack of access to free legal advice;
- (e) The fact that persons under 18 are often detained with adults and in very poor conditions.

588. **The Committee recommends that the State party review its legislation, policies and budgets to ensure the full implementation of juvenile justice standards, in particular article 37 (b) and article 40, paragraph 2 (b) (ii)-(iv) and (vii) 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), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the Committee's day of general discussion on the administration of juvenile justice, held in 1995. In this respect, it is specifically recommended that the State party:**

- (a) Take immediate measures to ensure that deprivation of liberty is used only as a last resort and for the shortest appropriate period of time and in appropriate conditions;**
- (b) Develop alternative measures to deprivation of liberty;**
- (c) In cases where deprivation of liberty is unavoidable:**
  - (i) Improve procedures of arrest and conditions of detention;**
  - (ii) Ensure that persons under 18 are not detained with adults;**
  - (iii) Ensure that children are only detained for the shortest time possible;**
- (d) Establish special units within the police for the handling of cases of persons under 18 in conflict with the law;**

- (e) **Guarantee availability of legal advice and of specialized judges for juveniles in all jurisdictions;**
- (f) **Establish rehabilitation and reintegration programmes;**
- (g) **Collect and analyse systematically information on the juvenile justice system and on cases of persons under 18 in situations of conflict with the law, with a view to obtaining reliable statistics and data;**
- (h) **Seek technical cooperation from, among others, OHCHR and UNICEF.**

## **8. Optional Protocols to the Convention**

589. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the signing of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

590. **The Committee recommends that the State party consider ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. It further invites the State party to submit its initial report under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in due time, i.e. on 2 August 2006.**

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

### **Follow-up**

591. **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 members of the Council of Ministers, the Parliament and to provincial authorities for appropriate consideration and further action.**

### **Dissemination**

592. **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, 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 Convention, its implementation and monitoring.**

## **10. Next report**

593. **The Committee, aware of the delay in the State party's reporting, wishes to underline the importance of a reporting practice that is in full compliance with the rules set out in article 44 of the Convention. Children have the right that the Committee in charge of regularly examining the progress made in the implementation of their rights, does have the opportunity to do so. In this regard, regular and timely reporting by**



**States parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its third and fourth periodic reports in one consolidated report by 1 September 2007, date on which the fourth periodic report is due. The State party should consider seeking technical assistance in this regard from OHCHR and UNICEF. The consolidated 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.**

### **Concluding observations: Bolivia**

594. The Committee considered the third periodic report of Bolivia (CRC/C/125/Add.2) at its 1019th and 1020th meetings (see CRC/C/SR.1019 and 1020), held on 25 January 2005, and adopted, at its 1025th meeting (see CRC/C/SR.1025), held on 28 January 2005, the following concluding observations.

#### **A. Introduction**

595. The Committee welcomes the submission of the State party's third periodic report, which follows the guidelines for reporting (CRC/C/15/Add.95), the written replies to its list of issues (CRC/C/Q/BOL/3) and additional information provided. The Committee also notes with appreciation the frank and open dialogue with the high-level delegation of the State party, which allowed for a better understanding of the situation of children in Bolivia.

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

596. The Committee welcomes a number of positive developments in the reporting period, including:

(a) The entry into force of the Code for Children and Adolescents in June 2000 (Law 2026 of 1999);

(b) The promulgation of the Law on Municipalities (Law 2028 of 1999) under which municipal governments are to establish local children's authorities for the implementation of children's rights (*defensorías municipales de la niñez y adolescencia*);

(c) The amendment to article 4 of the Civil Code, which sets the age of majority at 18;

(d) The establishment of the Vice-Ministry for Youth, Children and the Elderly under the Ministry for Sustainable Development;

(e) The implementation in cooperation with ILO-IPEC, of a programme to eradicate the worst forms of child labour;

(f) The ratification of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption in January 2002;

(g) The ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in May 1999 and of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in July 2003;

(h) The ratification of the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in July 2003, and on the involvement of children in armed conflict, in December 2004.

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

597. The Committee notes that a number of factors continue to negatively affect the situation of children and impede the full implementation of the Convention, including political instability, difficulties and conflict in the social and economic spheres, structural poverty and large disparities in income distribution.

### **D. Principal subjects of concern, suggestions and recommendations**

#### **1. General measures of implementation**

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

598. While noting that the first part of the report provides specific reference to the concluding observations, the Committee regrets that some of the recommendations it made (see CRC/C/15/Add.95) on the State party's second periodic report (CRC/C/65/Add.1) have not been sufficiently addressed, including those contained in paragraphs 23 (conditions of children living in institutions), 28 and 29 (economic and sexual exploitation of children) and 30 (juvenile justice).

**599. The Committee urges the State party to make every effort to address the previous recommendations, which have been only partly implemented or not implemented at all, and the list of recommendations contained in the present concluding observations.**

##### **Legislation and implementation**

600. While welcoming the measures taken to bring national legislation into conformity with the Convention, such as the adoption of the Code for Children and Adolescents, the Committee is concerned that national legislation in some areas is still not in full conformity with the Convention. It is also concerned that new legislation is not fully implemented in practice.

**601. The Committee urges the State party to take all necessary measures to fully harmonize its legislation with the Convention and to ensure the effective implementation of all legislation relevant to the rights of the child, taking into account training needs, monitoring mechanisms and the provision of adequate resources. The Committee also urges the State party to ensure that the rights of the child are incorporated into the new Constitution currently under consideration.**

## Coordination

602. The Committee expresses concern at the limited capacity of existing institutions, such as the Vice-Ministry for Youth, Children and the Elderly, to ensure an intersectoral and integrated approach to the implementation of policies for children. It regrets, in this respect, that the national council for children provided for in the Code for Children and Adolescents of 1999 has not been established yet. The Committee takes note that the council is due to be established in February 2005 by a presidential decree specifying the multisectoral composition of the council, which will include civil society organizations as well as children and youth.

**603. The Committee recommends that the State party strengthen the institutional capacity of existing institutions, including the Vice-Ministry for Youth, Children and the Elderly, inter alia by increasing their human and financial resources. It also recommends that the State party pursue its efforts towards the creation of the national council for children, and of subnational councils in all departments and municipalities of the country. The State party is encouraged to seek technical assistance from, among others, UNICEF and the Inter-American Children's Institute in this regard.**

## Independent monitoring structures

604. While appreciating the work done by the Office of the Ombudsman (*Defensor del Pueblo*) in the area of children's rights, the Committee notes the absence of a national independent mechanism with a specific mandate to receive complaints from children and regularly monitor and evaluate progress in the implementation of the Convention.

**605. The Committee recommends that the State party establish either a deputy ombudsman, a section within the Office of the Ombudsman, or a separate children's ombudsman, supported with sufficient human and financial resources, for an independent and effective monitoring of the implementation of children's rights in accordance with the Committee's general comment No. 2 (2002).**

606. While welcoming the establishment of local children's authorities for the implementation of children's rights (*defensorías municipales de la niñez y adolescencia*), the Committee regrets that this decentralized service designed to protect the rights of the child still does not cover all regions, and that adequate funding has not been allocated to these institutions to ensure their effective functioning.

**607. The Committee recommends that the State party take the necessary measures to achieve the establishment of *defensorías* in all municipalities, as envisaged in the Code for Children and Adolescents, and to ensure their effective functioning, including by raising awareness among municipal authorities of the importance of these bodies to the protection of children.**

### **National Plan of Action**

608. While noting the existence of various parallel national programmes and plans of action, such as the National Plan of Action on Children and Adolescents at Risk and the Project for the Defence of the Rights of Children and Adolescents, the Committee regrets that subsequent to the Ten-Year Plan of Action for Women and Children (1992-2002), no new national plan of action on children has, as yet, been formulated.

609. **The Committee recommends that the State party adopt a comprehensive national plan of action on children and ensure that it is rights based, reflects cultural diversity, covers all areas of the Convention, and takes into account the outcome document “A world fit for children”, adopted by the General Assembly at its special session on children held in 2002. The State party should allocate sufficient resources towards its realization and the effective functioning of the body that will be charged with its promotion, coordination and monitoring. The State party should also ensure the coordinated and integrated implementation of the different national programmes and plans of action for children and allocate sufficient resources to their implementation.**

### **Data collection**

610. Despite some improvements in the system of data collection, the Committee remains concerned about inadequate mechanisms to collect, systematize and analyse disaggregated statistical data on children and adolescents. In particular, it regrets the lack of data on education, children with disabilities, children who need special protection and indigenous children.

611. **The Committee recommends that the State party continue to strengthen its efforts to develop a system for the comprehensive collection of comparative and disaggregated data on the Convention. The data should cover all children below the age of 18 years and be disaggregated by sex and by groups of children who are in need of special protection. The Committee recommends that the State party develop indicators to effectively monitor and evaluate progress achieved in the implementation of the Convention and assess the impact of policies that affect children. The State party is encouraged to seek technical assistance from UNICEF and the Inter-American Children’s Institute in this respect.**

### **Resources for children**

612. The Committee notes with concern that budget allocations for children, including public policies for the protection of rights, social services and education, are insufficient to implement the rights of all children. The low execution rate of budgets in the social area is also a cause for concern.

613. **The Committee recommends that the State party strengthen its efforts to significantly increase the proportion of the budget allocated to the realization of children’s rights to the “maximum extent ... of available resources”, including through international cooperation, giving special attention to children belonging to economically disadvantaged groups. The State party should ensure that international cooperation in its various forms supports national plans to implement the Convention.**

## **Training/dissemination of the Convention**

614. While welcoming the translation of the Convention into Aymará, Quechua and Guaraní and the production of a popular version of the Convention, the Committee remains concerned about the low awareness of the Convention among professionals working with and for children and among the general public, especially among children themselves.

615. **The Committee encourages the State party:**

(a) **To take effective measures to disseminate information on the Convention and its implementation among children and parents, civil society and all sectors and levels of government;**

(b) **To develop systematic and ongoing training programmes on human rights, including children's rights, for all persons working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, teachers, social workers, health personnel and, especially, children themselves);**

(c) **To seek international assistance from UNICEF, the Inter-American Children's Institute, international NGOs and other international organizations.**

## **2. Definition of the child**

616. While welcoming the abandoning of the use of a biological criterion for puberty and the age of maturity, in line with its previous recommendations (CRC/C/15/Add.95, para. 16), the Committee is concerned at the low legal minimum age for contracting marriage and that different minimum legal ages for marriage are set for girls (14) and boys (16).

617. **The Committee recommends that the State party set the minimum age for marriage for girls and for boys at a higher and equal level. The State party is also advised to undertake awareness-raising campaigns and other measures to prevent early marriages.**

## **3. General principles**

### **Non-discrimination**

618. The Committee is deeply concerned about the significant disparities in the State party in the implementation of the rights enshrined in the Convention, reflected in a range of social indicators like enrolment in and completion of education, infant mortality rates and birth registration, indicating persistent discrimination against indigenous children, girls, children with disabilities and children living in rural areas.

619. **In light of article 2 of the Convention, the Committee recommends that the State party intensify its efforts to prevent and eliminate all forms of de facto discrimination against indigenous children, children with disabilities, girls and children living in rural areas.**

### **Best interests of the child**

620. The Committee notes that the Code for Children and Adolescents stipulates that the principle of the best interests of the child, contained in article 3 of the Convention, is a primary consideration in all measures concerning children. However, the Committee is concerned that this principle is not given adequate attention in national legislation and policies and that awareness of its significance is low among the population.

**621. The Committee recommends that the State party take measures to raise awareness of the meaning and practical application of the principle of the best interests of the child and ensure that article 3 of the Convention is duly reflected in its legislation and administrative measures.**

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

622. The Committee welcomes the efforts of the State party to promote and implement the right of children to express their views and actively participate at various levels of society. However, it remains concerned at the persistence of traditional attitudes in the State party which, among other things, limit children's right to participation and to express their views. It notes with concern the limited possibilities available to children to participate in and express their views in decision-making procedures affecting them, particularly in schools and communities.

**623. In light of article 12 of the Convention, the Committee recommends that the State party:**

**(a) Strengthen its efforts to promote within the family, schools, and other institutions respect for the views of children, especially girls, and facilitate their participation in all matters affecting them;**

**(b) Strengthen national awareness-raising campaigns to change traditional attitudes that limit children's right to participation;**

**(c) Continue to strengthen children's participation in councils, forums, children's parliaments and the like;**

**(d) Regularly review the extent to which children's views are taken into consideration, including their impact on relevant policies and programmes.**

## **4. Civil rights and freedoms**

### **Birth registration**

624. While noting the efforts made by the State party to ensure that all births are registered and that all children are issued birth certificates, the Committee is concerned that a large number of children in the State party do not have a birth certificate. It also notes with concern the large proportion of indigenous children who are not registered with the Civil Registry.

625. **The Committee recommends that the State party strengthen its efforts to ensure that children are registered at birth and organize, through special measures and in accordance with the law, the registration of children who were not registered at birth, giving special attention to indigenous children, including by providing for such registration free of charge. The Committee also recommends that the State party undertake efforts to raise awareness of the importance of birth registration for children for the full enjoyment of their rights.**

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

626. The Committee is concerned at reported cases of police brutality against children in the State party.

627. **The Committee recommends that the State party adopt measures to prevent and eliminate all kinds of institutional violence. It also recommends that the State party ensure that alleged cases of police brutality against children are duly investigated and that those responsible for such crimes are prosecuted.**

#### **Corporal punishment**

628. The Committee expresses deep concern that, despite its prohibition in the Code for Children and Adolescents, corporal punishment is still widely used within the family and in schools and other institutions.

629. **The Committee recommends that the State party take effective measures, including through public awareness campaigns, to promote positive, participatory and non-violent forms of discipline as an alternative to corporal punishment at all levels of society, and to effectively implement the law prohibiting corporal punishment.**

### **5. Family environment and alternative care**

#### **Children deprived of their family environment**

630. The Committee is concerned about the large number of children separated from their parents who are living in institutions in the State party, despite the State party's intention to reduce the number of institutionalized children. It also notes with concern that parents in some cases place their children in institutions for economic reasons.

631. **The Committee recommends that the State party take effective measures to reduce institutionalization of children by undertaking well-targeted efforts to return children to their parents and by strengthening and supporting the system of foster care and, whenever appropriate, domestic adoption. The State party should ensure that placements in institutions are periodically reviewed.**

#### **Children with an imprisoned parent**

632. The Committee reiterates its concern about the situation of children living in prisons with one of their parents and about the living conditions of these children and the regulation of their care if they are separated from their parent in prison.

633. **The Committee recommends that the State party develop and implement clear guidelines on the placement of children with their parent in prison, in instances where this is considered to be in the best interest of the child (e.g. the age of the children, the length of stay, contact with the outside world and movement in and outside the prison) and ensure that the living conditions in prisons are adequate for the child's development, as required by article 27 of the Convention. It further recommends that the State party develop and implement adequate alternative care for children who are removed from prison, which is regularly supervised and allows the child to maintain personal relations and direct contact with its parent remaining in prison.**

### **Adoption**

634. The Committee welcomes measures taken to strengthen the protection of the rights of adopted children. However, the Committee is concerned about the limited understanding and acceptance in the State party that domestic adoptions are more desirable than intercountry adoptions, the lack of mechanisms to prepare prospective adoptive parents, and the lack of mechanisms to follow up and monitor the situation of adopted children and children placed in foster care. The Committee is also deeply concerned about the continuing occurrence of illegal adoptions.

635. **The Committee recommends that the State party develop and implement a comprehensive adoption policy and raise awareness of the importance of domestic adoption. As stipulated in article 21 (b) of the Convention, intercountry adoption should be considered an alternative means of childcare only if an adoptive family or foster care placement cannot be found within the country. Effective mechanisms to review, monitor and follow up adoption of children should be established. The Committee urges the State party to strengthen its efforts to prevent illegal adoptions and to ensure that its legislation and practice on national and international adoptions is brought into line with article 21 of the Convention and the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, respectively. The central authorities should be provided with adequate resources to regulate and monitor the activities of international adoption agencies in the State party.**

### **Abuse and neglect, maltreatment and violence**

636. The Committee remains deeply concerned at the extent of abuse and violence within the family. While noting that new legal protection measures have been introduced by the Code for Children and Adolescents, the Committee regrets the lack of a clear national policy to combat these phenomena.

637. **The Committee recommends that the State party strengthen its current efforts to address the problem of domestic violence and child abuse, including by:**

(a) **Ensuring the effective implementation of the relevant provisions of the Code for Children and Adolescents;**



- (b) Undertaking public education campaigns about the negative consequences of ill-treatment and prevention programmes, including family development programmes, that promote positive, non-violent forms of discipline;**
- (c) Ensuring that all victims of violence have access to counselling and assistance with recovery and reintegration;**
- (d) Providing adequate protection to child victims of abuse in their homes.**

## **6. Basic health and welfare**

### **Children with disabilities**

638. The Committee regrets the lack of official data on the number of children with disabilities in the State party and that children with disabilities continue to face various forms of discrimination. The Committee also notes with concern the lack of public assistance and special education for children with disabilities; the large number of children with disabilities who do not attend any form of school education, especially in rural areas; and the lack of an integration policy in general for these children.

639. **The Committee recommends that the State party take all necessary measures:**

- (a) To address all issues of discrimination, including social discrimination and discrimination against children with disabilities in rural areas;**
- (b) To collect accurate statistical data on children with disabilities;**
- (c) To ensure and monitor the implementation of the Equality of Opportunity Act and Policy and to take into consideration the Standard Rules on the Equalization of Opportunities for Persons with Disabilities;**
- (d) To provide equal educational opportunities for children with disabilities, including by providing the necessary support and ensuring that teachers are trained to educate children with disabilities within regular schools.**

### **Basic health and welfare**

640. The Committee welcomes the improvement of primary health-care coverage, including the basic health insurance scheme (SUMI) that provides free medical care for children up to 5 years of age and their mothers. The Committee is concerned, however, that not all children, especially indigenous children, benefit from SUMI. It also remains deeply concerned that post-natal health care is still inadequate and that mortality rates and other health indicators are significantly worse in rural areas. The Committee is further concerned that, despite a significant decrease, infant mortality rates remain very high, and well above the regional average. Furthermore, the Committee is deeply concerned at the high levels of malnutrition among children in the State party and at the limited use of breastfeeding. While noting that the prevalence rate of HIV/AIDS is relatively low in the State party, the Committee expresses concern at its considerable increase in recent years.

641. **The Committee recommends that the State party continue to strengthen its efforts in improving the health situation of children in the State party and their access to quality health services in all areas of the country, particularly rural areas. It also recommends that the State party take measures to ensure that all children benefit from SUMI. Furthermore, the State party should ensure that mothers are encouraged to rely exclusively on breastfeeding for six months after birth, with the addition of appropriate infant diet thereafter. The Committee also recommends that the State party complete and implement the draft law on HIV/AIDS.**

#### **Adolescent health**

642. The Committee is concerned about the large number of teenage pregnancies and sexually transmitted infections (STIs), as well as the lack of programmes on sexual and reproductive health. It is also concerned at the high incidence of alcohol and tobacco abuse in the State party.

643. **The Committee recommends that the State party pay close attention to adolescent health, taking into account the Committee's general comment No. 4 (2003). In particular, the State party is encouraged to strengthen sexual and reproductive health education for adolescents, especially in schools, with a view to reducing the incidence of teenage pregnancies and STIs, and to provide teenage pregnant girls with the necessary assistance and access to health care and education. The Committee also recommends that the State party continue and strengthen measures to address the issue of alcohol and tobacco abuse among children.**

#### **Social security and childcare services and facilities; standard of living**

644. While welcoming the formulation of Bolivia's poverty reduction strategy, which sets out a national plan of action up to 2015, the Committee notes with concern the persistent high rate of poverty in the State party, especially in rural areas.

645. **The Committee recommends that the State party take the necessary measures to ensure the continuing implementation of the national poverty reduction strategy, targeting the most disadvantaged regions and groups and ensuring that the needs of all children are met and their rights duly protected. The State party is encouraged to seek international cooperation and assistance whenever necessary.**

### **7. Education, leisure and cultural activities**

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

646. While welcoming the recent reform of the education system and the increase in coverage of both primary and secondary education achieved in the last years, the Committee is concerned at continuing low enrolment rates, especially among girls and indigenous children; the considerable disparities in the coverage and quality of education between urban and rural areas;

and high dropout rates and persistently high illiteracy rates, particularly among rural and indigenous children and girls. The Committee is also concerned at the low percentage of children enrolled in pre-primary education. The lack of access to educational programmes for juvenile offenders is also a cause of concern.

**647. The Committee encourages the State party:**

**(a) To provide sufficient funding to ensure free education at all levels of primary and secondary education;**

**(b) To strengthen efforts to bridge the gaps in the coverage and quality of education throughout the country;**

**(c) To strengthen efforts to bridge the gender disparity in education, giving special attention to promoting the education of rural girls;**

**(d) To take measures to identify the causes of the high dropout rate in schools, particularly in rural areas, and to take steps to address the situation;**

**(e) To strengthen educational and vocational programmes for children who do not attend regular school education;**

**(f) To ensure that all juvenile offenders have access to adequate educational and vocational programmes in detention centres;**

**(g) To ensure the accessibility of pre-school programmes with the assistance of communities at the local level;**

**(h) To take steps to provide adequate training to teachers and improve the quality of teaching and learning methods;**

**(i) To ratify the UNESCO Convention against Discrimination in Education of 1960.**

#### **Aims of education**

**648. The Committee notes the absence of a national educational plan for human rights education in the State party.**

**649. The Committee recommends that the State party adopt and implement a national educational plan for human rights education, taking into account the Committee's general comment No. 1 (2001) on the aims of education.**

## 8. Special protection measures

### Refugee children

650. The Committee notes with concern the lack of specific procedures for providing special care and assistance to children, in particular unaccompanied minors and separated children, under the refugee determination system.

**651. The Committee recommends that the State party establish a fully functioning and comprehensive refugee status determination mechanism, ensuring full respect for the principle of non-refoulement, and, in particular, introduce specific procedures for the treatment of unaccompanied and separated minors.**

### Economic exploitation

652. While welcoming the measures taken by the State party to combat the worst forms of child labour, including through cooperation with ILO-IPEC, the Committee expresses its deep concern at the widespread occurrence of child labour in the State party and at the absence of rights-based policies to protect the rights of children and adolescents involved in child labour. The Committee is particularly concerned about the large number of child domestic workers, who are vulnerable to abuse, and about children working in mines, on sugar cane plantations and in other hazardous conditions.

**653. The Committee urges the State to strengthen measures to combat child labour. It recommends, in this regard, that the State party formulate, in a participatory manner, a strategy and plan of action to eliminate the worst forms of child labour as well as to safeguard the rights of working children. The Committee also recommends that the State party strengthen the labour inspectorate to ensure the effective implementation of child labour laws, including the prohibition against employing children under the age of 18 in harmful or hazardous work. The State party is encouraged to give priority to children working in the sugar cane and mining industries and to child domestic workers, with special attention to the rights of the girl child, and to continue to seek assistance from ILO-IPEC in this respect.**

### Use of harmful substances

654. The Committee notes with concern the increasing number of children who use drugs and harmful substances in the State party.

**655. The Committee recommends that the State party:**

**(a) Formulate a rights-based plan of action for the protection of children and adolescents from the dangers of drugs and harmful substances, and involve children in its formulation and implementation;**

**(b) Provide children with accurate and objective information about the harmful consequences of substance abuse;**

- (c) Ensure that children using drugs and harmful substances are treated as victims and not as criminals;**
- (d) Develop recovery and reintegration services for child victims of substance abuse;**
- (e) Seek cooperation with and assistance from WHO and UNICEF.**

**Sexual exploitation and trafficking**

656. The Committee is concerned about the extent of sexual exploitation and trafficking of children for this or other purposes, in particular economic exploitation, and about the lack of effective programmes to address this problem.

657. **In light of articles 34 and 35 and other related articles of the Convention, the Committee recommends that the State party:**

- (a) Conduct a comprehensive study to assess the causes, nature and extent of trafficking in children for various purposes, including commercial sexual exploitation;**
- (b) Proceed with plans to amend the Penal Code so as to make the exploitation and trafficking of children criminal offences;**
- (c) Strengthen measures and adopt multidisciplinary and multisectoral approaches to prevent and combat trafficking in children and sexual exploitation of children and adolescents;**
- (d) Undertake awareness-raising campaigns, particularly for parents;**
- (e) Ensure that trafficked children and children who have been subjected to sexual and economic exploitation are always treated as victims and that perpetrators are prosecuted;**
- (f) Provide adequate programmes of assistance and reintegration for sexually exploited and/or trafficked children 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;**
- (g) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, signed by the State party in December 2000;**
- (h) Collaborate with NGOs working on these issues and seek technical assistance from, among others, the Inter-American Children's Institute and UNICEF.**

## **Street children**

658. The Committee expresses concern at the rise in the number of street children in the State party.

659. **The Committee recommends that the State party strengthen its efforts to provide assistance to street children, including health care; reintegration services for physical, sexual and substance abuse; services for reconciliation with families; and education, including vocational and life-skills training. The Committee also recommends that the State party cooperate and coordinate its efforts with civil society and undertake a study on the nature and extent of the problem. The State party is encouraged to seek technical assistance from UNICEF, among others.**

## **Administration of juvenile justice**

660. The Committee welcomes the legislative improvements in the rules applicable to children in conflict with the law. However, it is concerned that the juvenile justice system still has serious shortcomings in practice, such as the lack of adequate alternatives to pre-trial and other forms of detention, the very poor living conditions of juveniles detained in police stations or other institutions, the length of pre-trial detention and the fact that according to the information provided in the written replies thousands of persons below the age of 18 are detained with adults.

661. **The Committee recommends that the State party take the necessary measures to ensure that the rules, regulations and practice of the juvenile justice system are in conformity with articles 37, 39 and 40 of the Convention and other relevant international standards and are applied with respect to all persons below 18 years who are in conflict with the law. In this regard, the Committee more specifically recommends that the State party:**

**(a) Develop and implement alternatives to pre-trial and other forms of detention in order to ensure that deprivation of liberty is really a measure of last resort for the shortest time possible;**

**(b) Develop and implement adequate socio-educational programmes and appropriate probation and parole arrangements for juvenile offenders;**

**(c) Take the necessary measures to significantly improve the living conditions of juveniles deprived of their liberty and ensure that they are separated from adults;**

**(d) Ensure that new detention centres for juveniles are not located in remote areas and are equipped with the necessary facilities for the rehabilitation of juveniles;**

**(e) Continue and strengthen the training on the Convention and other relevant legislation for those responsible for administering juvenile justice;**

**(f) Seek assistance from OHCHR, the Centre for International Crime Prevention, regional institutions and UNICEF.**

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

### **Follow-up**

662. 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 the members of the National Congress, departmental councils and municipal governments for appropriate consideration and further action.

### **Dissemination**

663. The Committee further recommends that the third periodic report, the written replies submitted by the State party and the related recommendations (concluding observations) adopted by the Committee be made widely available, including (but not exclusively) through the Internet, 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.

## **10. Next report**

664. The Committee expects to receive the fourth periodic report of the State party, which should not exceed 120 pages (see CRC/C/118), on 2 September 2007, the date on which it is due.

## **Concluding observations: Nigeria**

665. The Committee considered the second periodic report of Nigeria (CRC/C/70/Add.24) at its 1023rd and 1024th meetings held on 26 January 2005, and adopted at the 1025th meeting held on 28 January 2005, the following concluding observations.

### **A. Introduction**

666. The Committee welcomes the State party's second periodic report, although it was submitted with considerable delay, and the written replies to its list of issues (CRC/C/Q/NGA/2). The Committee notes with appreciation the high-level inter-ministerial delegation sent by the State party and welcomes the open and frank dialogue that took place, as well as the participation of the speaker of the Children's Parliament which gave a clearer understanding of the situation of children in the State party.

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

667. The Committee welcomes the initiatives taken by the State party to reform its laws relating to children to bring them in line with the requirements of the Convention, in particular the adoption of the Child Rights Act in May 2003.

668. In addition, the Committee notes the adoption of the following laws aimed at enhancing the implementation of the Convention:

(a) The Anti-human Trafficking Law, in July 2003; and

(b) Various State legislation addressing child rights, including the Ebonyi State Law on the Abolition of Harmful Traditional Practices Affecting the Health of Women and Children (2001); Edo State Female Genital Mutilation Prohibition Law (2000); Edo State Criminal Code (Amendment) Law (1999); Cross River State Girl-Child Marriages and Female Circumcision (Prohibition) Law (2000).

669. The Committee welcomes the establishment of the Children's Parliament in Nigeria both at the State and national level and of the Child Rights Information Bureau (CRIB) in the Ministry of Information.

670. The Committee welcomes the ratification of the 1973 ILO Convention No. 138 concerning Minimum Age for Admission to Employment and the 1999 ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour by the State party in October 2002.

671. The Committee notes with appreciation the ratification of the African Charter on the Rights and Welfare of the Child by the State party in July 2001.

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

672. The Committee acknowledges challenges faced by the State party, namely the long-standing ethnic, religious and civil strife, economic constraints including poverty, unemployment and the heavy debt burden, which may have impeded progress to the full realization of children's rights enshrined in the Convention.

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

#### **1. General measures of implementation**

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

673. The Committee regrets that many of the concerns and recommendations (CRC/C/15/Add.61) it made upon consideration of the State party's initial report (CRC/C/8/Add.26) have been insufficiently addressed, especially those regarding the mainstreaming of customary law and regional and local legislation (para. 27), allocation of resources (paras. 28 and 33), training and awareness-raising on children's rights (para. 30), data collection (para. 31), non-discrimination (para. 34), children with disabilities (para. 35), harmful traditional practices (para. 36), health-care services (para. 37), education (para. 38), juvenile justice (para. 39), abuse and neglect (paras. 40 and 43), economic exploitation (para. 41) and sexual exploitation (para. 42).

674. **The Committee urges the State party to make every effort to address those recommendations contained in its concluding observations on the initial report that have not yet been implemented, and to address the list of concerns contained in the present concluding observations on the second periodic report.**



## Legislation

675. The Committee, while noting that 20 states are in the process of enacting the 2003 Child Rights Act (CRA), remains concerned that, to date, only 4 out of 36 states have enacted the CRA. The Committee is also concerned that many of the existing legislation at federal, State and local level in the State party, in particular the religious and customary laws, do not fully comply with the principles and provisions of the Convention.

**676. The Committee recommends that the State party engage all efforts and resources necessary for the effective implementation of the rights and principles enshrined in the Child Rights Act, and ensure as a matter of priority that the Act is duly adopted in all states. The Committee further urges the State party to take all necessary measures to ensure that all of its domestic and customary legislation conform fully with the principles and provisions of the Convention, and ensure its implementation.**

## Coordination

677. While noting the existence of the Department of Child Development in the Ministry of Women's Affairs and Social Development and the National Child Rights Implementation Committee (NCRIC) as bodies entrusted with the responsibility of monitoring compliance with the Convention, the Committee is seriously concerned about the apparent lack of coordination among national and State level authorities on strategies, policies and programmes affecting children.

678. The Committee is also concerned by the serious lack of resources allocated to the Department of Child Development in the Ministry of Women's Affairs and Social Development and the National Child Rights Implementation Committee, as well as the lack of authority vested in these bodies.

**679. The Committee recommends that the State party take all necessary measures to establish an effective body or structure for the coordination of the implementation of the Convention with adequate resources and appropriate authority, strategy and plans.**

**680. The Committee also recommends that the Department of Child Development in the Ministry of Women's Affairs and Social Development and the National Child Rights Implementation Committee are strengthened and given adequate financial support, so as to ensure their effectiveness.**

## National Plan of Action

681. The Committee welcomes the development of a National Plan of Action, but is concerned that it is limited and does not cover all areas of the Convention.

**682. The Committee recommends the State party to develop a more comprehensive, rights-based national plan of action with a time frame up to 2015, which covers all areas of the Convention and incorporates the objectives and goals of the outcome document entitled: "A World Fit for Children" of the 2002 United Nations General Assembly Special Session for Children, as well as the Millennium Development Goals. In this**

**exercise, the Committee urges the State party to allocate sufficient human and economic resources for its implementation and to use a participatory approach, involving NGOs and children.**

### **Independent monitoring**

683. The Committee welcomes the existence of the National Human Rights Commission (NHRC) in Nigeria and its regional offices and the appointment of a Special Rapporteur on Child Rights within the NHRC. However, the Committee remains concerned that the mandate of the NHRC does not provide for sufficient resources to deal with children's rights and individual complaints. The Committee also appreciates the efforts undertaken by the State party to inform the general public and children in particular about the NHRC and the Special Rapporteur on Child Rights, but is concerned that the number of cases involving children is quite limited.

**684. The Committee recommends the State party to further strengthen the activities of the NHRC and the Special Rapporteur on Child Rights in accordance with the Committee's general comment No. 2 (2002), by, inter alia, providing it with adequate human and financial resources and by enhancing the Special Rapporteur's capacity to deal with complaints from children in a child-sensitive and expeditious manner, as well as ensuring his/her accessibility, e.g. through establishment of a special toll-free telephone hotline for children.**

### **Resources for children**

685. The Committee, aware of the economic difficulties facing the State party due in part to the widespread corruption, and the generally uneven distribution of resources, remains concerned that its welfare system is under a tremendous resource strain. In particular, the Committee is seriously concerned that there is a severe lack of financial resources allocated to the protection and promotion of children's rights.

**686. With a view to strengthening implementation of article 4 of the Convention and in the light of articles 2, 3 and 6, the Committee recommends that the State party prioritize, as a matter of urgency, budgetary allocations and efficient budget management, to ensure the implementation of the rights of children to the maximum extent of available resources, where needed, within the framework of international cooperation.**

### **Data collection**

687. While noting that some data collection efforts have been made by the State party, in particular the new initiative to develop databases on children in need of special protection, the Committee remains concerned at the absence of comprehensive and up-to-date statistical data in the State party's report and the lack of an adequate national data collection system on all areas covered by the Convention that allows for disaggregated data analysis. The Committee reiterates that such analysis is crucial for the formulation, monitoring and evaluation of progress achieved and impact assessment of policies with respect to children.

688. **The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age, urban/rural area and by regions/states. This system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable. It further encourages the State party to use these indicators and data in the formulation of laws, policies and programmes for the effective implementation of the Convention. The Committee recommends that the State party seek technical assistance from, inter alia, UNICEF and ILO in this regard.**

#### **Dissemination**

689. While taking note of the efforts made by the State party to disseminate the principles and provisions of the Convention, including the work of the CRIB, the Committee is of the view that these measures need to be strengthened. The Committee is also concerned at the lack of a systematic plan to introduce training and awareness among professional groups working for and with children.

690. **The Committee recommends that the State party:**

(a) **Strengthen its efforts to ensure that the provisions of the Convention are widely known and understood by adults and children alike;**

(b) **Systematically involve community leaders in sensitization programmes to combat certain harmful traditional practices and customs which may have negative bearings on the full implementation of the Convention;**

(c) **Undertake systematic education and training on the provisions of the Convention for all professional groups working for and with children, in particular parliamentarians, judges, lawyers, law enforcement officials, civil servants, municipal and local workers, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers;**

(d) **Introduce human rights education including the rights of the child, into the school curricula, beginning in primary schools; and**

(e) **Seek technical assistance from, among others, the Office of the High Commissioner for Human Rights and UNICEF.**

#### **2. Definition of the child**

691. While noting that the Child Rights Act provides a clear definition of the child, the Committee remains concerned at the wide variety of minimum ages that exist in the states of the State party, including unclear definitions of the child, and that many of these minimum ages are too low.

692. **In order to improve the situation the Committee reiterates its recommendation (para. 12) that the State party should undertake all possible measures to have the Child Rights Act enacted in all states of the State party, and urges the State party to continue and strengthen its efforts to further harmonize the various minimum ages and/or definitions in its domestic legislation and set them at an internationally acceptable level.**

### **3. General principles**

#### **Non-discrimination**

693. While noting that discrimination is prohibited under the Constitution, and that the drafting of an Anti-Discrimination Bill is under way, the Committee regrets the absence of concrete information on the actual enjoyment of the principle of non-discrimination by children in Nigeria. The Committee reiterates its previous concern that children belonging to vulnerable groups, including girls, children living in poverty, children born out of wedlock, children with disabilities and children belonging to minority groups continue to face serious and widespread discrimination. The Committee is also concerned that the State party regards unnecessary any initiatives to prevent and combat racial discrimination given its position that social and ethnic tension, racism and xenophobia are minimal in the State party.

694. **The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination, and to adopt appropriate legislation, where necessary, to ensure that all children within its jurisdiction enjoy all rights set out in the Convention without discrimination, in accordance with article 2.**

695. **The Committee requests that specific information be included, in the next periodic report, on the 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 general comment No. 1 (2001).**

#### **Right to life**

696. In the context of the respect for the inherent right to life of a person under 18, the Committee is seriously concerned about the applicability of the death penalty to persons below 18 under the sharia law, and emphasizes that such a penalty is a violation of articles 6 and 37 (a) of the Convention.

697. **The Committee urges the State party to abolish by law the imposition of the death penalty for crimes committed by persons under 18 years of age and replace the already issued death sentences for persons under 18 with a sanction in accordance with the Convention.**

#### **Best interests of the child and respect for the views of the child**

698. While noting the existence of institutional structures whose objectives are to ensure the best interests of the child and respect for the views of the child such as Children's Clubs in schools and the Children's Parliament at the national level, the Committee is concerned that

two general principles of the Convention, as laid down in articles 3 and 12 are not fully applied and duly integrated into the implementation of the policies and programmes of the State party. Given the prevalence of the traditional views on the place of children in the hierarchical social order, the Committee is concerned that children's opinions are not given sufficient consideration and that respect for the views of the child remains limited within the family, at schools, in the courts and before administrative authorities and in the society at large.

**699. The Committee encourages the State party to pursue its efforts to ensure the implementation of the principles of the best interests of the child and respect for the views of the child. In this connection, the Committee recommends the State party to fully support the functioning and further development of the Children's Parliament, both at the national and State level, and to promote the full implementation of the right of the child to participate actively in the family, at school, within other institutions and bodies, and generally in society. The general principles should also be incorporated in all policies and programmes relating to children. Awareness-raising among the public at large as well as educational programmes on the implementation of these principles should be reinforced.**

#### **4. Civil rights and freedoms**

##### **Birth registration**

700. While acknowledging the work of the National Population Commission and the African Refugee Commission whose mandate includes birth registration, the Committee is concerned that the alarmingly low rate of birth registration, in particular in rural areas, is a reflection of the generally low awareness among parents of the importance of birth registration and its consequences on the full enjoyment of fundamental rights and freedoms by children, in particular, access to education and health, the right to know and be cared for by parents. The Committee also notes that the birth registration of children of foreign parents and refugee parents can be problematic.

**701. In the light of article 7 of the Convention, the Committee urges the State party to adopt a short-term as well as a long-term approach in its strengthened efforts to ensure the registration of all children at birth, including through the development of mobile registration units and increased outreach activities and awareness-raising campaigns for families, birth attendants and traditional leaders. The Committee further recommends that the State party ensures coordination between relevant ministries and institutions involved in birth registration processes, and provide necessary social infrastructure to facilitate birth registration in rural communities. Meanwhile, children who have no birth registration should be allowed to access basic services, such as health and education, while preparing to be registered properly.**

##### **Corporal punishment**

702. The Committee takes note that article 221 of the Child Rights Act prohibits corporal punishment in judicial settings, and that a ministerial note has been sent to schools notifying them of the prohibition of corporal punishment in schools. Nevertheless, in light of article 19

of the Convention, the Committee remains concerned that corporal punishment is still widely practised in the penal system as a sanction, as well as in the family, in schools and in other institutions. In particular, the Committee is concerned about:

- (a) Articles 9 and 11 (2) of the Children and Young Persons Law which provides for the sentencing of juvenile offenders to whipping and corporal punishment;
- (b) Article 18 of the Criminal Code which provides for whipping;
- (c) Article 55 of the Penal Code which provides for the use of physical corrective measures;
- (d) Sharia legal code to children prescribing penalties and corporal punishment such as flogging, whipping, stoning and amputation, which are sometimes applied to children; and
- (e) Legal provisions that tolerate, if not promote, corporal punishment at home, in particular article 55 (1) (a) of the Penal Code and article 295 of the Criminal Code.

**703. The Committee recommends that the State party:**

- (a) Abolish or amend all legislation prescribing corporal punishment as a penal sentence, in particular the Children and Young Persons Law;**
- (b) Expressly prohibit corporal punishment by law in all settings, in particular in the family, schools and other institutions; and**
- (c) Conduct awareness-raising campaigns to ensure that positive, participatory, non-violent forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention, especially article 28, paragraph 2, as an alternative to corporal punishment at all levels of society.**

## **5. Family environment and alternative care**

### **Childcare services**

704. Given the large number of working mothers who require childcare in the State party, the Committee is concerned with the quality of childcare provided in private and public day-care facilities. The Committee also notes with concern that there are no measures in place to support single parents. The Committee is also concerned by the lack of resources in these facilities to enable full physical, mental and intellectual development of children.

**705. The Committee recommends that the State party adopt a programme to strengthen and increase capacities of childcare facilities in the State party, inter alia, through the strengthening of existing structures including childcare centres and extended families. The Committee recommends that appropriate training be given to all professionals working with children in childcare facilities and that sufficient resources are allocated to public childcare facilities. The Committee further urges the State party to establish**

**standards and procedures, guaranteed in legislation, for alternative care, including in the areas of health, education and safety and in accordance with the principles and provisions of the Convention. The Committee recommends that the State party seek assistance from UNICEF in this regard.**

**Children deprived of a family environment and alternative care**

706. In view of the information that cases of abandoned children are common and that the number of HIV/AIDS orphans is rapidly increasing, the Committee is concerned that the State party does not have a comprehensive and well-resourced policy programme in place for the protection of orphans, and that current facilities available for the alternative care of children deprived of their family environment are qualitatively and quantitatively insufficient and many children do not have access to such assistance. In addition, the Committee expresses concern at the lack of appropriate training of staff and of a clear policy regarding the review of placements of children in alternative care. In addition, the Committee is concerned that children themselves are not heard prior to and during their placement.

707. **The Committee recommends that the State party:**

- (a) Urgently adopt a programme to strengthen and increase alternative care opportunities for children including, inter alia, introduction of effective legislation, reinforcement of existing structures like the extended family, improved training of staff and allocation of increased resources to relevant bodies;**
- (b) Establish standards and procedures, guaranteed in legislation, for alternative care, including in the areas of health, education and safety and in accordance with the principles and provisions of the Convention;**
- (c) Systematize the hearing of the views of the child concerning his/her placement;**
- (d) Provide for regular periodic review of the placement of children in institutions;**
- (e) Ratify the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption;**
- (f) Seek assistance from UNICEF in this regard.**

**Violence, abuse and neglect**

708. The Committee is deeply concerned about:

- (a) Traditional and discriminatory attitudes and behaviour towards women and children, contributing to violence, abuse, including sexual abuse, neglect, killing, torture and extortion;**

(b) Generally high level of acceptance of domestic violence among law enforcement officials and court personnel; and

(c) Lack of adequate measures taken by the State party to prevent and combat violence, abuse and neglect against women and children.

**709. The Committee urges the State party to strengthen considerably its efforts to prevent and combat violence in society, including violence against women and children, in the context of the family, as well as in schools and other environments. In this regard, the Committee recommends the State party to take the following specific actions:**

(a) Carry out public education campaigns about the negative consequences of violence and ill-treatment of children and promote positive, non-violent forms of conflict resolution and discipline, especially within the family and in the educational system and in institutions;

(b) Take all legislative measures to prohibit all forms of physical and mental violence, including sexual abuse, against children in all contexts in society, as well as take effective measures for the prevention of violent acts committed within the family, in schools and by the police and other State agents, making sure that perpetrators of these violent acts are brought to justice, putting an end to the practice of impunity;

(c) Give attention to addressing and overcoming sociocultural barriers, especially the submission and acceptance of maltreatment on the part of girls and women, which inhibit them from seeking assistance;

(d) Provide care, recovery and reintegration for child victims of direct or indirect violence and ensuring that the child victim is not re-victimized in legal proceedings and that his/her privacy is protected;

(e) Train parents, teachers, law enforcement officials, care workers, judges and health professionals in identification, reporting and management of ill-treatment cases, using a multidisciplinary approach;

(f) Use as a guidance for further actions the recommendations of the Committee adopted on its days of general discussion (CRC/C/100, para. 688 and CRC/C/111, paras. 701-745); and

(g) Seek assistance from, among others, UNICEF and WHO.

## **6. Basic health and welfare**

### **Children with disabilities**

**710.** The Committee reiterates its previous concern at the widespread discrimination against children with disabilities, both within the family and in society in general, especially in rural areas, and notes that many of the causes of disability in Nigeria are preventable. The Committee is particularly concerned at the lack of comprehensive government policy specifically addressing the rights of disabled children. The Committee is further concerned at the poor quality in the



delivery and management of services for children with disabilities and the lack of sufficient funding for such services. The Committee is particularly concerned at the limited number of trained teachers and professionals working with children with disabilities, as well as the insufficient efforts made to facilitate their inclusion in the education system and the society in general.

**711. In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities and the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities, the Committee recommends that the State party:**

- (a) Undertake a comprehensive study to assess the situation of children with disabilities in terms of their access to suitable health care, education services and employment opportunities;**
- (b) Establish a comprehensive policy for children with disabilities and allocate adequate resources to strengthen services for them, support their families and train professionals in the field;**
- (c) Reinforce its efforts to develop early detection programmes to prevent disabilities;**
- (d) Encourage the integration of children with disabilities into the regular educational system and their inclusion into society, inter alia by giving more attention to special training for teachers and making the physical environment, including schools, sports and leisure facilities and all other public areas, accessible for children with disabilities;**
- (e) Undertake awareness-raising campaigns to sensitize the public about the rights and special needs of children with disabilities, as well as children with mental health concerns; and**
- (f) Seek technical cooperation for the training of professional staff, including teachers, working with and for children with disabilities from, among others, UNICEF and WHO.**

#### **Basic health and health services**

712. The Committee takes note of efforts made by the State party to improve its health system, including the Baby Friendly Hospital Initiative and the Integrated Management for Childhood Illness, as well as the establishment of the National Programme on Immunization Agency. Nevertheless, the Committee remains gravely concerned at the alarmingly high rate of infant, child and maternal mortality, and the high incidence of major illnesses affecting children, including polio, malaria and diarrhoea as well as the low rate of immunization coverage in the country, particularly in the northern regions, and of malnutrition and the low rates of exclusive breastfeeding. The Committee is also concerned at the very low level of knowledge among

mothers on basic health issues, such as about the use of oral rehydration solutions (ORS) for diarrhoea. The Committee, while acknowledging the adoption of the new National Water Supply and Sanitation Policy, also remains concerned at the access to safe drinking water and sanitation, particularly in rural areas.

**713. The Committee recommends that the State party:**

**(a) Address, as a matter of urgency, the very high mortality rates among infants, children and mothers, by, inter alia, stepping up the immunization programmes and improving antenatal and post-natal care;**

**(b) Continue taking all appropriate measures to improve the health infrastructure, particularly in rural areas, including through international cooperation, in order to ensure access to basic health-care services which are adequately staffed and stocked with appropriate resources, including basic medicines for all children;**

**(c) Take measures to introduce awareness-raising programmes for women, on the importance of, inter alia, prenatal and post-natal health care, preventive measures and treatment for common illnesses; immunization and balanced diet for the healthy development of children;**

**(d) Strengthen their data collection system, inter alia, with regard to important health indicators, ensuring timeliness and reliability of both quantitative and qualitative data and using it for the formulation of coordinated policies and programmes for the effective implementation of the Convention;**

**(e) Ensure universal access to drinking water and sanitation services.**

#### **Adolescent health**

714. The Committee is concerned that insufficient attention has been given to adolescent health issues by the State party, including developmental, mental and reproductive health concerns. The Committee is also concerned by the high proportion of teenage pregnancies in the State party.

**715. The Committee recommends that the State party:**

**(a) Undertake a comprehensive study to assess the nature and extent of adolescent health problems and, with the full participation of adolescents, use this as a basis to formulate adolescent health policies and programmes with a particular focus on the prevention of sexually transmitted infections (STIs), especially through reproductive health education and child-sensitive counselling services, and take into account the Committee's general comment No. 4 (2003);**

**(b) Further strengthen developmental and mental health counselling services as well as reproductive health counselling and make them known and accessible to adolescents;**

**(c) Continue to work with international agencies with expertise in health issues relating to adolescents, inter alia, UNFPA and UNICEF.**

## **HIV/AIDS**

716. The Committee welcomes the efforts made by the State party to prevent and control HIV/AIDS including the establishment of the National Action Committee on AIDS, as well as the recent introduction of testing, counselling and PMTCT (Preventing Mother-to-Child Transmission) in some areas. However, it remains concerned about the high incidence of the infection and its wide prevalence in Nigeria, as well as the lack of knowledge especially among women on modes of transmission and prevention of HIV/AIDS. The Committee is deeply concerned at the very serious impact of HIV/AIDS on the cultural, economic, political, social and civil rights and freedoms of children infected with or affected by HIV/AIDS, including the Convention's general principles and with particular reference to the rights to non-discrimination, health care, education, food and housing, as well as to information and freedom of expression. The Committee is also particularly concerned that according to UNAIDS estimates, there are over 1 million AIDS orphans, making Nigeria the country with the highest number of AIDS orphans worldwide.

**717. The Committee recommends that the State party continue its efforts in preventing the spread of HIV/AIDS and providing treatment, and further integrate respect for the rights of the child into the development and implementation of its HIV/AIDS policies and strategies on behalf of children infected with and affected by HIV/AIDS, as well as their families, taking into consideration the recommendations the Committee adopted at its day of general discussion on children living in a world with HIV/AIDS (CRC/C/80, para. 243), and involve children and traditional leaders when implementing this strategy.**

## **Forced and/or early marriages**

718. While acknowledging that the minimum age of marriage is set federally at 18 years, the Committee notes with concern that the legislation of most states and the customary law allows for early marriages, and girls can be forced into marriage as soon as they reach puberty. The Committee is particularly concerned at the reports of a large number of young women suffering cases of vesico-vaginal fistula, a condition caused by giving birth when the cervix is not well developed. The Committee is further concerned that such girls, once married, are not afforded protection and that the enjoyment of their rights as children is not ensured as enshrined in the Convention.

**719. The Committee recommends that the State party amend existing legislation to prevent early marriages. It also recommends to the State party that it take measures to ensure that when underage girls are married, they continue fully enjoying their rights as set out in the Convention. The Committee also recommends that the State party develop sensitization programmes, involving community and religious leaders and society at large, including children themselves, to curb the practice of early marriages.**

### **Harmful traditional practices**

720. The Committee welcomes the introduction of a bill on violence against women in Parliament in May 2003, aimed to prohibit forms of violence such as harmful traditional practices and domestic violence, including marital rape. However, it reiterates its concern at the widespread and continuing existence of harmful traditional practices in the State party, most notably the practice of female genital mutilation, as well as scarification and ritual killing of children which pose very serious threats to children, in particular girl children.

721. The Committee is concerned at the lack of legal prohibition and sufficient interventions on the part of the State party to address harmful traditional practices. The Committee is also concerned at the lack of support services available to protect girls who refuse to undergo female genital mutilation and of services to rehabilitate girl victims of that practice.

**722. The Committee recommends that the State party, as a matter of urgency, take all necessary measures to eradicate all traditional practices harmful to the physical and psychological well-being of children, by strengthening awareness-raising programmes. The Committee further recommends the State party to adopt federal legislation prohibiting such practices and encourage further legal changes at the State level, in particular, female genital mutilation, as well as measures to provide support for girls at risk and girls who refuse to undergo female genital mutilation, and provide recovery services for victims of this harmful traditional practice.**

### **Social security**

723. In view of the high proportion of children living in poverty in the State party, the Committee notes with concern the lack of reliable information regarding the coverage of the social security plans in place vis-à-vis the needs of children and their families. The Committee reiterates that such data is crucial for the monitoring and evaluation of progress achieved and impact assessment of policies with respect to children. The Committee is also concerned that the social security system currently in place in the State party is not in full compliance with article 26 of the Convention.

**724. The Committee recommends that the State party:**

**(a) Upgrade its system of data collection on the coverage of the social security plans currently in place, and ensure that all data and indicators are used to evaluate and revise these plans whenever necessary; and**

**(b) Make efforts to revise or/and establish a social security policy along with a clear and coherent family policy in the framework of poverty reduction strategy, as well as effective strategies for using the social safety net benefits to further the rights of children.**

### **7. Education, leisure and cultural activities**

725. The Committee welcomes that education was given the highest priority in the State party's annual budget. It also notes with appreciation the initiatives of some State Governments to facilitate children's access to education and to increase school enrolment,

including the “school meal plus programme” and the development of the Strategy for Acceleration of Girls’ Education in Nigeria (SAGEN). The Committee also welcomes efforts made by the State party, in cooperation with the civil society, to implement early childhood education programmes. However, in the light of the Committee’s general comment No. 1 on article 29 (1) of the Convention (aims of education), the Committee remains concerned about the various number of problems in the State party’s education system, including:

- (a) Unavailability in many parts of Nigeria of free, compulsory and universal primary education, despite the constitutional guarantee;
- (b) High illiteracy, particularly among girls and women;
- (c) Generally low level of, and regional disparities in, the quality of education in the State party, especially with regard to resources, facilities and the level of teaching;
- (d) Gender and regional disparities in school enrolment;
- (e) High levels of absenteeism and school dropout rates, in part due to school fees which constitute a burden to parents in sending children to schools;
- (f) Mandatory requirement by law in some states of segregation of boys and girls in schools; and
- (g) Segregation of refugees and displaced children in separate schools from other children.

726. **The Committee recommends that the State party:**

- (a) **Take appropriate measures, in order to ensure that at the least, primary education is compulsory, free and universal for all children;**
- (b) **Prioritize equal accessibility to educational opportunities for girls and boys from urban and rural areas;**
- (c) **Take necessary measures to remedy the low quality of education and to ensure better internal efficiency in the management of education;**
- (d) **Build better infrastructure for schools and provide quality training for teachers;**
- (e) **Seek to further implement participatory measures to encourage children to stay in school during the period of compulsory education;**
- (f) **Take additional steps, including non-formal education programmes, to address the high illiteracy rates;**
- (g) **Ensure that children who drop out of school and pregnant teenagers are provided with the opportunity to resume their studies;**

**(h) Ensure that education opportunities are provided for children suffering from HIV/AIDS;**

**(i) Ensure that refugee and asylum-seeking children are placed in schools in the local community, to facilitate their integration;**

**(j) Increase availability of vocational training programmes for young people, in particular, for girls, with the view to facilitate their access to the labour market, and in this connection, ratify the 1989 UNESCO Convention on Technical and Vocational Education; and**

**(k) Seek further technical assistance from UNICEF and UNESCO, among others.**

## **8. Special protection measures**

### **Refugee/internally displaced children**

727. The Committee notes that communal clashes linked to political, religious and ethnic differences have led to a large population of internally displaced persons in the State party, and that Nigeria is a host to a large group of refugees from neighbouring countries such as Chad, Sierra Leone and Liberia. The Committee is concerned about the situation of refugee and internally displaced children living in refugee camps, and regrets the paucity of information with regard to these children in the State party report and the State party's position that the issue of asylum-seeking children do not arise in Nigeria. The Committee is particularly concerned about reports of sexual exploitation of refugee girls and women within and outside of the camps, including female teenagers who are forced into prostitution. The Committee is also concerned that the incidence of teenage pregnancy is high in the camp.

728. **The Committee recommends that the State party:**

**(a) Seek to ensure, as a matter of priority, that all displaced and refugee children and their families have access to health and education services, and that all their rights contained in the Convention are protected, including the right to be registered at birth;**

**(b) Take measures to ensure that appropriate reproductive health education and child-sensitive counselling services are provided to adolescents living in camps;**

**(c) Take immediate measures to ensure that all displaced and refugee women and children are protected from all forms of sexual abuse and exploitation and that perpetrators are duly prosecuted;**

**(d) Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;**

(e) **Include in its next periodic report detailed information pertaining to the situation of refugee and internally displaced children, including unaccompanied minors; and**

(f) **Continue its collaboration with, among others, UNHCR.**

#### **Children affected by communal conflict**

729. The Committee is deeply concerned by the impact of communal conflicts on children in Nigeria. The Committee is alarmed by the reports of indiscriminate extrajudicial killings in these conflicts, where children as well as adults are routinely killed, shot to death and burnt. The Committee is seriously concerned at the direct effects of this violence on child victims, including child combatants, and about the severe physical and psychological trauma inflicted upon them. The Committee notes that the State party has signed but not yet ratified the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict.

**730. The Committee recommends the State party to take all possible measures to prevent the occurrence of communal conflicts, and to develop a comprehensive policy and programme for implementing the rights of children who have been affected by conflict, and allocate human, technical and financial resources accordingly. In particular, the Committee recommends that the State party:**

(a) **Develop, in collaboration with NGOs and international organizations, a comprehensive system of psychosocial support and assistance for children affected by conflict, in particular child combatants, unaccompanied IDPs and refugees, returnees;**

(b) **Take effective measures to ensure that children affected by conflict can be reintegrated into the education system, including through the provision of non-formal education programmes and by prioritizing the restoration of school buildings and facilities and provision of water, sanitation and electricity in conflict-affected areas; and**

(c) **Ratify the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict as a matter of priority.**

#### **Drug abuse**

731. While acknowledging the efforts made by the State party to combat drug abuse, trafficking and drug-related violence, the Committee remains concerned at the high incidence of substance abuse by children in Nigeria, including the use of cannabis, psychotropic substances, heroin, cocaine and volatile organic solvents, as well as abuse of local plants. The Committee is also concerned by the reports of the increasing involvement of young people in drug-related crimes. It is also concerned at the lack of specific legislation prohibiting the sale, the use and the trafficking of controlled substances applying children, and also of treatment programmes in this regard.

**732. The Committee recommends that the State party undertake a comprehensive study to assess the nature and extent of drug abuse by children, and to take action to combat the phenomenon, including through general poverty reduction strategies and**

**public education awareness campaigns. The Committee further encourages the State party to ensure that children who abuse drug and substance have access to effective structures and procedures for treatment, counselling, recovery and reintegration. The Committee further recommends that the State party seek cooperation with, and assistance from, WHO and UNICEF.**

### **Street children**

733. In view of the increasing number of children living and working on the street and street families, the Committee regrets the lack of information about specific mechanisms and measures to address their situation.

734. **The Committee recommends that the State party:**

**(a) Undertake a comprehensive study on the causes and scope of this phenomenon and establish a comprehensive strategy to address the high and increasing number of street children with the aim of preventing and reducing this phenomenon;**

**(b) Ensure that street children are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development;**

**(c) Ensure that these children are provided with recovery and reintegration services when victims of physical, sexual and substance abuse; protection from police brutality; and services for reconciliation with their families and community.**

### **Sexual exploitation and child pornography**

735. The Committee is of the view that implementation of the existing legislation is not effective, and is deeply concerned that the number of children who fall victim to sexual exploitation is on the increase in the State party. The Committee also notes with concern that reports of sexual assaults and rape of young girls are on the increase, especially in the north. The Committee is concerned that children victims of sexual exploitation often do not receive adequate protection and/or recovery assistance, but may even be treated as perpetrators of a crime.

736. **The Committee recommends that the State party:**

**(a) Undertake a comprehensive study to examine the sexual exploitation of children and child pornography, gathering accurate data on its prevalence;**

**(b) Take appropriate legislative measures and develop an effective and comprehensive policy to prevent and combat sexual exploitation of children and child pornography, including the factors that place children at risk of such exploitation;**

**(c) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute cases, in a child-sensitive manner that protects children and respects the privacy of the victim;**



- (d) Prioritize recovery assistance and ensure that education and training as well as psychosocial assistance and counselling are provided to victims, and that victims that cannot return to their families are provided with adequate alternative solutions and are institutionalized only as a last resort;**
- (e) Avoid criminalizing child victims of sexual exploitation in all circumstances; and**
- (f) Implement appropriate policies and programmes for the prevention, recovery and 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.**

### **Economic exploitation**

737. The Committee notes with appreciation the State party's ratification of the ILO Convention No. 138 concerning Minimum Age for Admission to Employment and the ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in October 2002. However, it remains concerned at the significant number of children in Nigeria working as domestic servants, in plantations, in the mining and quarrying sector, and as beggars on the streets. The Committee is also concerned that exploitation and abuse commonly take place in the context of extended family fostering and apprenticeship.

738. The Committee is also gravely concerned by the reports of forced child labour taking place in the State party. While acknowledging efforts made by the State party and United Nations agencies to reduce this phenomenon, the Committee regrets that the outcomes of such efforts have been poor.

739. **The Committee recommends that the State party:**

- (a) Continue and strengthen its efforts to eliminate child labour, in particular by addressing the root causes of child economic exploitation through poverty eradication and to develop a comprehensive child labour monitoring system in collaboration with NGOs, community-based organizations, law enforcement personnel, labour inspectors and ILO-IPEC;**
- (b) Make every effort, including preventive measures, to ensure that those children who do work do so in accordance with international standards, do not work under conditions which are harmful to them, receive appropriate wages and other work-related benefits and continue to have access to formal education and other developmental opportunities; and**
- (c) Take action to implement all policies and legislation relevant to child labour, inter alia, through awareness-raising and educational campaigns for the public on the protection of the rights of children.**

**Sale, trafficking and abduction**

740. The Committee notes with appreciation the serious and exemplary efforts undertaken by the State party to combat child trafficking, including establishment of bilateral anti-trafficking agreements and introduction of joint border controls. The Committee further welcomes the enactment of the law prohibiting human trafficking in July 2003, the creation of the National Agency for Prohibition of Trafficking in Persons (NAPTIP), and the Presidential appointment of the Special Assistant for Human Trafficking and Child Labour in June 2003. The Committee also notes the signature of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others in 2003, and the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in 2002, by the State party.

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

**(a) Improve its system of data collection on the sale, trafficking and abduction of children, and ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects;**

**(b) 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 develop joint plans of action between and among the countries involved;**

**(c) Continue to take measures to facilitate children's protection, safe return to their families and reintegration in society, through inter alia, recovery and reintegration programmes;**

**(d) Strengthen the NAPTIP and allocate sufficient resources to ensure that it is able to perform these functions effectively;**

**(e) Ratify the Hague Convention on the Civil Aspects of International Child Abduction;**

**(f) Continue its cooperation with, inter alia, UNICEF and IOM.**

**Juvenile justice**

742. The Committee notes with appreciation the efforts made by the State party to reform the Juvenile Justice Administration (JIA), including the establishment of a National Working Group on Juvenile Justice Administration in 2002 and the introduction of the draft National Policy on Child Justice Administration in Nigeria for discussion. However, the Committee remains gravely concerned that the juvenile justice system in the State party, in particular, the sharia court system, does not conform to international norms and standards, in particular that:

- (a) Until the enactment of the Child Rights Act in all states, wide disparities remain in the minimum age of criminal responsibility, some much too low by international standards;
- (b) Juvenile offenders are frequently subjected to physical assaults by the police and custodial officers;
- (c) Placement of persons below 18 in the same detention and prison facilities with adults;
- (d) Excessive length of detention, which in some cases can last as long as eight years;
- (e) Excessive length of time before the hearing of cases;
- (f) Persons below 18 are often tried in adult courts;
- (g) Persons below 18 are often not legally represented during their trials;
- (h) Some children are detained for “status offences” such as vagrancy, truancy or wandering, or at the request of parents for “stubbornness or for being beyond parental control”;
- (i) Serious overcrowding and the poor conditions of homes and juvenile centres for persons below 18 in conflict with the law, as well as prisons in which they are placed;
- (j) Lack of trained professionals working in such institutions;
- (k) Absence of assistance towards the rehabilitation and reintegration of persons below 18 following judicial proceedings; and
- (l) Article 12 of the Child and Young Persons Act and article 319 (2) of the Criminal Code, as well as the sharia Penal Codes in 12 northern states which allow for imposition of death penalty on persons below 18.

743. Despite the State party's claim that there are no discrepancies between the provisions of the Convention and the sharia laws with regard to the rights of children, the Committee remains deeply concerned by the sentencing of persons below 18 years to cruel, inhuman and degrading treatment such as stoning, flogging, whipping and amputation by sharia courts. The Committee is further concerned that under section 95 of the sharia Penal Code, persons aged 7 to 18 years can be subjected to the punishment of confinement in a reform institution, or 20 strokes of cane, or with fine, or both.

**744. The Committee recommends the State party to review its legislation, policies and budgets to ensure the full implementation of juvenile justice standards, in particular article 37 (b) and article 40, paragraph 2 (b) (ii)-(iv) and (vii) 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), the United Nations Rules for the Protection of**

**Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System and in the light of the Committee's 1995 Day of General Discussion on the Administration of Juvenile Justice.**

745. In this respect, the Committee urges the State party to, in particular:

- (a) Ensure that the minimum age for criminal responsibility is applicable in all 36 states forming the State party by taking measures and actions as recommended in paragraph 676 above;
- (b) Guarantee that all persons below 18 have the right to appropriate legal assistance and defence and ensure speedier fair trials for them;
- (c) Develop and implement alternative measures for deprivation of liberty in order to really make detention a measure of last resort for the shortest possible time;
- (d) In cases where deprivation of liberty is unavoidable, ensure that the conditions of detention are in full compliance with, in particular, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;
- (e) Amend, as a matter of urgency, the Child and Young Persons Act and the Criminal Code, as well as the sharia Penal Codes to abolish death penalty as well as cruel, inhuman and degrading treatment on juvenile offenders, and in the meantime take measures, as a matter of priority, to ensure that persons under 18 are not sentenced to torture, cruel, inhuman and degrading forms of sanction such as flogging and amputation by sharia courts;
- (f) Introduce, as a matter of priority, training programmes on relevant international standards for all professionals involved in the system of juvenile justice and establish special units within the police for the handling of cases of persons below 18 in conflict with the law;
- (g) Make every effort to establish a programme of rehabilitation and reintegration of juveniles following judicial proceedings;
- (h) Enact an amendment to the Children and Young Persons Act, prohibiting all forms of corporal punishment in penal institutions;
- (i) Seek technical assistance from, among others, OHCHR and UNICEF.

**9. Optional Protocols to the Convention on the Rights of the Child**

746. The Committee notes that the State party has signed but not yet ratified the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution, child pornography, and on the involvement of children in armed conflict.

747. The Committee recommends that the State party immediately ratify and implement the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution, child pornography, and on the involvement of children in armed conflict.

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

### **Follow-up**

748. The Committee recommends the State party to take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the Council of Ministers or the Cabinet or a similar body, the Parliament, and to provincial or State Governments and Parliaments, when applicable, for appropriate consideration and further action.

### **Dissemination**

749. The Committee further recommends that the initial report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available, including through 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 Convention, its implementation and monitoring.

## **11. Next report**

750. In light of the recommendation on reporting periodicity adopted by the Committee and described in the report on its twenty-ninth session (CRC/C/114), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by States parties is crucial. The Committee invites the State party to submit its third and fourth periodic reports in one consolidated report by 18 May 2008, i.e. the due date of the fourth periodic report. This consolidated report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.

## **III. COOPERATION WITH UNITED NATIONS AND OTHER COMPETENT BODIES**

751. 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:

- Representatives of UNHCR;
- Members of the Canadian Standing Committee on Human Rights;
- The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Manfred Novak.

752. In the framework of the OHCHR project “Comprehensive Support to the African Union in Strengthening the Promotion and Protection of Human Rights”, three members of the African Committee on the Rights and Welfare of the Child were invited to attend as observers at the third week of the thirty-eighth session of the Committee, from 24 to 28 January 2005. This provided an occasion for members of both bodies to meet and discuss common issues of interest. Members of the African Committee also met with representatives of OHCHR, UNICEF and the NGO Group for the Convention on the Rights of the Child.

#### **IV. FUTURE DAY OF GENERAL DISCUSSION**

753. At its 1025th meeting, held on 28 January 2005, the Committee adopted the outline for its 2005 day of general discussion on “Children without parental care”, to be held on 16 September 2005 (see annex II).

#### **V. FOLLOW-UP ACTIVITIES**

754. With the support of UNICEF, OHCHR organized the Sub-Regional Workshop on the Implementation of the Concluding Observations of the Committee on the Rights of the Child, from 11 to 13 November 2004 in Bangkok. The Workshop was hosted by the Government of Thailand and attended by participants from Cambodia, Indonesia, Lao People’s Democratic Republic, Thailand and Viet Nam as well as by representatives of United Nations entities and by four members of the Committee, Ms. Saisuree Chutikul, Mr. Jakob Egbert Doek, Ms. Yanghee Lee and Ms. Nevena Vuckovic-Sahovic. The event was addressed to government officials of the five States parties, representatives of the civil society, including national experts, and parliamentarians as well as representatives of national human rights institutions.

755. On 13 and 19 January 2005, the Chair and some concerned members of the Committee met to discuss possible subregional workshops on follow-up to its recommendations, to be possibly organized during 2005 in Qatar and Argentina.

756. On 2 December 2004, the Chairperson of the Committee on the Rights of the Child addressed a letter to the Chairperson of the sixtieth session of the Commission on Human Rights concerning the decision entitled “Children without parental care” adopted by the Committee at its thirty-seventh session (see CRC/C/143). The decision noted the frequency with which the Committee’s concluding observations on States parties addressed serious difficulties regarding care provision for children in informal or formal fostering, including kinship care and adoption or residential facilities, often recommending the strengthening and regular monitoring of alternative care measures. The decision recommended, inter alia, that the Commission on Human Rights at its sixty-first session, consider establishing a working group to prepare draft United Nations guidelines for the protection and alternative care of children without parental care.

## **VI. GENERAL COMMENTS**

757. The Committee discussed the advancement of drafts of its five forthcoming general comments: unaccompanied and asylum-seeking children; fundamental principles in the juvenile justice system; the rights of indigenous children; implementing child rights in early childhood, and the rights of children with disabilities.

## **VII. PROVISIONAL AGENDA FOR THE THIRTY-NINTH SESSION**

758. The following is the draft provisional agenda for the thirty-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. General comments.
8. Future meetings.
9. Other matters.

## **VIII. ADOPTION OF THE REPORT**

759. At its 1025th meeting, held on 28 January 2005, the Committee considered the draft report on its thirty-eighth session. The report was adopted unanimously by the Committee.

**Annex I**

**MEMBERSHIP OF THE COMMITTEE ON THE RIGHTS OF THE CHILD**

<u>Name of member</u>	<u>Country of nationality</u>
Mr. Ibrahim Abdul Aziz AL-SHEDDI*	Saudi Arabia
Ms. Ghalia Mohd Bin Hamad AL-THANI*	Qatar
Ms. Joyce ALUOCH*	Kenya
Ms. Saisuree CHUTIKUL*	Thailand
Mr. Luigi CITARELLA*	Italy
Mr. Jacob Egbert DOEK**	Netherlands
Mr. Kamel FILALI**	Algeria
Ms. Moushira KHATTAB**	Egypt
Mr. Hatem KOTRANE**	Tunisia
Mr. Lothar Friedrich KRAPPMANN**	Germany
Ms. Yanghee LEE*	Republic of Korea
Mr. Norberto LIWSKI**	Argentina
Ms. Rosa Maria ORTIZ**	Paraguay
Ms. Awa N'Deye OUEDRAOGO**	Burkina Faso
Ms. Marilia SARDENBERG*	Brazil
Ms. Lucy SMITH*	Norway
Ms. Marjorie TAYLOR**	Jamaica
Ms. Nevena VUCKOVIC-SAHOVIC*	Serbia and Montenegro

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\* Term expires on 28 February 2005.

\*\* Term expires on 28 February 2007.



## **Annex II**

### **OUTLINE FOR THE 2005 DAY OF GENERAL DISCUSSION ON “CHILDREN WITHOUT PARENTAL CARE”**

1. In accordance with rule 75 of its provisional rules of procedure, the Committee on the Rights of the Child has decided to devote periodically one day of general discussion to a specific article of the Convention or to a child rights theme.
2. At its thirty-seventh session, the Committee decided to devote its next day of general discussion to the subject “Children without Parental Care”. It will take place on Friday, 16 September 2005, during the fortieth session of the Committee, at the United Nations Office at Geneva.
3. The purpose of the day of general discussion is to foster a deeper understanding of the contents and implications of the Convention as they relate to specific topics. The discussions are public. Government representatives, United Nations human rights mechanisms, as well as United Nations bodies and specialized agencies, NGOs and individual experts are invited to take part.

#### **The Context: Children without Parental Care in the Convention on the Rights of the Child**

4. The importance of family in children’s lives is emphasized throughout the Convention. It is raised in the preamble, which notes that “the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities ...” and also that “the child, for the full and harmonious development of his or her personality, should grow up in a family environment, an atmosphere of happiness, love and understanding”.
5. The Convention on the Rights of the Child includes a number of articles that serve to make clear States’ obligations to support families in this role, and to remove children from parental care only if certain conditions are met. Article 5 calls for States parties to respect the responsibilities, rights and duties of parents or other legal guardians. Article 10 encourages measures to promote family reunification, as well as regular contact between the child and both parents in the event of separation. The responsibility of both parents for the care of their children is outlined in article 18, which also enjoins States parties to support parents in their child-rearing responsibilities. Parents’ primary financial responsibilities towards their children are stated in article 27, along with the obligation of States to provide material assistance and support programmes in case of need. Finally, article 9 identifies States’ responsibilities to prevent separation of children from their parents against their will, except when necessary and in their best interest, such as in situations of abuse or neglect, and sets requirements for judicial review in such cases. The same provision also calls for the possibility for all parties, including children, to participate and make their views known in all proceedings covering separation issues.

6. The Convention also requires States parties to ensure appropriate substitute care for all children who are without parental care for whatever reason. Article 20 is devoted entirely to this question, covering the responsibility of the State to provide alternative care in such cases. States are expected to set standards for all institutions and services with a childcare role, including those run by private commercial or non-profit service providers (article 3). Children who have been placed in out-of-home care settings are also entitled to a regular review of their placement, as established by article 25.

7. Despite the thorough attention to this topic within the Convention, and the existence of certain supplementary instruments that provide further guidance on some of the areas covered,<sup>a</sup> the Committee, at its thirty-seventh session, adopted a decision calling for the development of United Nations guidelines for the protection of children without parental care. The Committee's recognition of the need for these standards is based on the significant number of children currently orphaned or otherwise separated from their parents due to a large variety of reasons, including armed conflict, violence, poverty, disability, AIDS, and family and social breakdown, and the projections for this number to grow; the frequency with which the Committee, in reviewing States parties periodic reports, observes serious difficulties regarding care provision for children in informal or formal fostering, including kinship care and adoption, or residential facilities, and often recommends the strengthening and regular monitoring of alternative care measures; and the realization that precise guidance available to States working to meet their obligations with respect to suitable alternative care remains partial and limited.

### **Approach and objectives of the day of general discussion**

8. The decision to have a day of general discussion on "Children without Parental Care" arises from these same concerns, and has as its aim to contribute to the same overarching objective as the proposed guidelines, to namely improve implementation of the Convention on this topic. The discussion should thus focus on those aspects of the issue that have been identified as most problematic for States parties to address, and which would therefore benefit from the views and experiences of the wide range of partners the discussion day is able to bring together. Given the concerns raised and experiences gathered to date in the Committee's efforts to address this issue, it is proposed that participants to this meeting be divided in two working groups.

9. The day of general discussion will focus on identifying practical solutions and steps for ensuring the rights of children are respected.<sup>b</sup> In particular, for each of the issues being discussed, participants will be expected to consider:

- What types of legal frameworks are most likely to ensure that the rights of the child are safeguarded before, during and after separation from parents?
- What family support and alternative care policies can be recommended to help prevent and reduce separation and ensure the most appropriate use of alternative substitute care?
- What opportunities exist for increasing the participation of children in measures to keep them in safety with their family, and in other decisions about their care, including those pertaining to removal, alternative care placements, and reunification?

### **Working Group 1: The role of States in preventing and regulating separation**

10. The discussion of children without parental care tends to take as its starting point children who are already separated. The Convention makes clear both the responsibility of parents to care for their children, and the obligation of States to support them, legally and otherwise, in carrying out this role. This working group would address the practical measures which are or could be used by States in support of this function, and also help further clarify the conditions for removal of a child from his or her parent's care.

11. There are a number of measures that States parties can take to support parents in their parenting role. These may include family assistance grants, childcare facilities, parenting education, community-based assistance programmes, including support for families raising children with disabilities, among others. Participants will be expected to consider the following questions:

- What evidence is there of the effectiveness of these measures in preventing separation? What lessons may be learned from situations where, despite such services, the rate of children who are separated from their parents remains high?
- What other steps can or are being taken by States to support families in their child-rearing role and discourage unnecessary separation of children from their parents? Are there also measures which may be inappropriate; that is, not in a child's best interests, nor in line with the provisions of the Convention?
- What legal and other mechanisms are there or can be employed by States to facilitate family reunification, both in situations of migration as well as when separation has occurred due to armed conflict or refugee situations?

12. The decision to remove a child from the care of his or her parents is among the most significant that a State may make from the child's point of view. It is a decision which should be taken with a great deal of care and consideration, and with a careful weighing of the child's best interests as the primary deciding factor. The range of State action in this area is, however, varied, with some States rarely if ever, taking action, and others who extend the definition of justified removal beyond evidence of abuse and exploitation to include poverty. The questions related to this aspect are:

- What criteria should be used in making decisions about removal?
- What processes are most appropriate for making decisions about removal? How should children themselves participate in or contribute to this decision?
- What considerations should be taken into account when deciding whether removal should be temporary or permanent?

## **Working Group 2: Meeting the challenges of out-of-home care provision**

13. The challenges facing States parties in providing appropriate care for children who do need it are many, and it would not be possible for the day of discussion to cover all of them. Setting in place appropriate systems and regulatory mechanisms that ensure that only children truly in need of care enter the system, and providing foster care that truly meets children's need for a safe and nurturing family environment, are just two examples of the major tasks that States must carry out in their efforts to fulfil article 20 of the Convention. Therefore, rather than to try to cover this vast area, this working group would be expected to examine topics that have either been considered controversial - as is the case of provision of residential care - or those which seem most urgent and difficult, given the realities of countries coping with HIV/AIDS and/or armed conflict.

14. In a list of care options which should be available, article 20 mentions institutional care last and it is often interpreted as meaning that this type of care should be a last resort. Indeed, there is both ample scientific evidence as well as general agreement that long-term institutional care is potentially damaging to children's development, especially for children who are placed when very young, or those who spend a significant portion of their childhood in institutional care. However it is also recognized that some children, particularly those who are older when they enter care, do not actually want to be in a family setting, at certain points at least. The questions to be examined on this aspect are as follows:

- What conditions/safeguards need to be in place to ensure that a decision on institutional placement decision complies with the rights of the child?
- What systems, monitoring mechanisms and minimum standards need to be in place to ensure that residential care, when used appropriately, will be a positive (or constructive?) experience for the children involved?
- What are the opportunities for enhanced child participation, not only in the decision-making process, but also in his or her daily life as a resident in an institutional care setting?

15. The largest concentration of children in need of alternative substitute care are often those who are orphaned or otherwise separated from their parents due to both temporary emergencies such as armed conflict, and longer term emergencies, such as HIV/AIDS. Many such children live in countries where the State, for various reasons, may have less developed systems to cope with children's need for alternative care. This gap is however, frequently addressed both by the communities they come from who may arrange informal foster care, as well as by external partners, including development agencies, NGOs and faith-based organizations who may support fostering and/or residential care arrangements. The questions related to this aspect are:

- What is the role of the State in regulating the provision of care in such situations?
- In what ways can informal foster care, including kinship care, which constitutes the main mechanism of care in such situations, be better supported, and the well-being and safety of children in these forms of care monitored?

## PARTICIPATION IN THE DAY OF GENERAL DISCUSSION

16. The day of general discussion is a public meeting at which government representatives, representatives of United Nations bodies and specialized agencies, NGOs, including indigenous organizations and youth groups, and individual experts are welcome. The meeting will be held during the fortieth session of the Committee, at the Office of the United Nations High Commissioner for Human Rights (Palais Wilson, Geneva), on Friday, 16 September 2005.

17. The format of the discussion day is meant to allow participants to exchange views in a frank and open dialogue. The Committee therefore asks participants to avoid presenting formal statements during the discussion day. Written contributions are invited on the issues and topics mentioned, within the framework outlined above. In particular, the Committee is interested in receiving information about best practices and child participation within the four aforementioned sub-themes. Contributions should be sent before 1 July 2005 electronically to:

[CRCgeneraldiscussion@ohchr.org](mailto:CRCgeneraldiscussion@ohchr.org)

Secretariat, Committee on the Rights of the Child  
Office of the United Nations High Commissioner for Human Rights, UNOG-OHCHR  
CH-1211 Geneva 10  
Switzerland

18. For more information on submission and registrations, please see the guidelines posted on the Committee's webpage at: <http://www.ohchr.org/english/bodies/crc/discussion.htm>

### Notes

<sup>a</sup> The 1986 Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption, Nationally and Internationally; the Protection of Children and Cooperation in respect of the Hague Convention Intercountry Adoption, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) and the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.

<sup>b</sup> In order to keep the work and discussions focused on main issues during the day of general discussion, the Committee decided not to address adoption-related issues, even though obviously adoption is a related field.

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