



**Convention on the  
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD  
Thirty-seventh session  
13 September - 1 October 2004

**REPORT ON THE THIRTY-SEVENTH SESSION**  
**(Geneva, 13 September - 1 October 2004)**

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**I. DECISION ADOPTED BY THE COMMITTEE ON THE RIGHTS  
OF THE CHILD AT ITS THIRTY-SEVENTH SESSION**

**Children without parental care**

*The Committee on the Rights of the Child,*

*Bearing in mind* that the Convention on the Rights of the Child recognizes the child's right to be cared for by his or her parents and to benefit from protection while in the care of parent(s), legal guardian(s) or any other person who has the care of the child, and specifying that it is the obligation of States parties to provide suitable alternative care when a child is temporarily or permanently unable to remain within his or her family environment,

*Recognizing* the frequency with which its concluding observations provided to States parties following periodic consideration of their reports address serious difficulties regarding the provision of care for children in informal or formal fostering, including kinship care and adoption, or in residential facilities, often recommending the strengthening and regular monitoring of alternative care measures,

*Recalling* the recommendation, made following its day of general discussion on State violence against children in 2000, that States parties should develop the use of alternative measures in order to avoid long-term placement of children in institutions that do not provide the type of setting children need not only for survival, but also for development, including psychological, mental, spiritual, moral and social development, in a manner compatible with human dignity and to prepare the child for individual life in a free society, in accordance with article 6, paragraph 2, of the Convention,

*Reiterating* the concern expressed at its 1997 day of general discussion on children with disabilities regarding the institutionalization of children with disabilities,

*Recognizing* that, notwithstanding the existence of the Convention on the Rights of the Child and certain other international instruments,<sup>1</sup> precise guidance available to States working to meet their obligations with respect to suitable alternative care remains partial and limited,

*Noting with concern* the significant number of children who have been orphaned or otherwise separated from their parents for a large variety of reasons, including conflict, violence, poverty, AIDS and social breakdown, and that this number is projected to grow,

1. *Welcomes* the efforts made by regional and inter-agency bodies to define principles and standards of care for children without parental care, notably the recommendation

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<sup>1</sup> Relevant instruments include the 1986 Declaration of Social and Legal Principles relating to the Protection and Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally, 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 the Committee of Ministers of the Council of Europe to member States on children's rights in residential institutions, and the inter-agency guiding principles on unaccompanied and separated children;

2. *Notes with great appreciation* that an increasing number of States parties are reviewing their policies of institutionalization of children and have introduced various alternative care measures and programmes in order to offer improved protection of the rights of children without parental care, and encourages the other State parties to undertake similar reviews;

3. *Recommends* that the Commission on Human Rights:

(a) Consider establishing at its sixty-first session in 2005 a working group to prepare draft United Nations guidelines for the protection and alternative care of children without parental care, for adoption by 2008;

(b) Request the Office of the United Nations High Commissioner for Human Rights, the United Nations Children's Fund, the World Health Organization, other interested intergovernmental bodies and international non-governmental organizations to provide, in consultation with the Committee on the Rights of the Child, information and support to the working group in pursuance of this objective;

(c) Request a report to be submitted on progress achieved in this regard for consideration at its sixty-second session in 2006.

## **II. ORGANIZATIONAL AND OTHER MATTERS**

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

1. As at 1 October 2004, the closing date of the thirty-seventh 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 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 82 States parties and signed by 116 States. The Optional Protocol entered into force on 12 February 2002. Also 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 83 States parties and signed by 109 States. It entered into force on 18 January 2002. The two Optional Protocols to the Convention were adopted by the General Assembly in resolution 54/263 of 25 May 2000 and opened for signature and ratification or accession in New York on 5 June 2000. An updated list of States that have signed, ratified or acceded to the Convention 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.

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

4. The Committee on the Rights of the Child held its thirty-seventh session at the United Nations Office at Geneva from 13 September to 1 October 2004. The Committee held 28 meetings (972nd-999th). An account of the Committee's deliberations at its thirty-seventh session is contained in the relevant summary records (CRC/C/SR.972-74; 977-978; 981-982; 987-994; and 999).

## **C. Membership and attendance**

5. All the members of the Committee attended the thirty-seventh session. A list of the 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 between 20 September and 1 October 2004), Mrs. Moushira Khattab (absent between 16 to 17 and 27 September 2004), Ms. Hattem Kotrane (absent between 14 and 17 September 2004), Ms. Joyce Aluoch (absent between 13 and 24 September), Ms. Sardenberg (absent from 24 September to 1 October) were not able to attend the session in its entirety.

6. At its 973rd meeting, held on 14 September 2004, the Committee approved the nomination of Ms. Alison Anderson (Jamaica), in accordance with article 43, paragraph 7, of the Convention. Ms. Anderson was nominated by the Government of Jamaica to replace Ms. Marjorie Taylor, who resigned on 5 July 2004.

7. 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).

8. 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).

9. Representatives of the following non-governmental organizations were also in attendance at the session:

### *General consultative status*

International Council of Women, International Movement ATD Fourth World, Zonta International.

### *Special consultative status*

Arab Organization for Human Rights, Amnesty International, Coalition against Trafficking in Women, Defence for Children International, Friends World Committee for Consultation (Quakers), International Commission of Jurists, International Confederation of Free Trade Unions, International Confederation of Social Workers, International Federation of Women in Legal Careers, International Federation Terre des Hommes, International Service for Human Rights, International Social Service, 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**

10. Also at the 972nd meeting, the Committee adopted the following agenda on the basis of the provisional agenda (CRC/C/141):

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. Day of general discussion.
9. Future meetings.
10. Other matters.

**E. Pre-sessional working group**

11. In accordance with a decision of the Committee at its first session, a pre-sessional working group met in Geneva from 7 to 11 June 2004. All the members except Mr. Ibrahim Al-Sheedi, Ms. Saisuree Chutikul, Ms. Yanghee Lee 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.

12. 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.

13. Mr. Doek chaired the pre-sessional working group. The group held eight meetings, at which it examined lists of issues put before it by members of the Committee relating to the initial

reports of six countries (Angola, Antigua and Barbuda, Bahamas, Botswana, Brazil and Equatorial Guinea) and the second periodic reports of two countries (Kyrgyzstan, Islamic Republic of Iran and Croatia). 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 5 August 2004.

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

14. The Committee considered the organization of its work at its 972nd meeting, held on 13 September 2004. The Committee had before it the draft programme of work for the thirty-seventh session, prepared by the Secretary-General in consultation with the Chairperson of the Committee, and the report of the Committee on its thirty-sixth session (CRC/C/140).

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

15. The Committee noted that its thirty-eighth session would take place from 10 to 28 January 2005 and that the pre-sessional working group for the thirty-ninth session would meet from 31 January to 4 February 2005.

### **III. REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION**

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

16. 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 of 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 the States parties to the Convention and the status of submission of reports (CRC/C/142);

(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) 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.11).

17. The Committee was informed that, in addition to the nine 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-sixth session (see CRC/C/140, para. 16), the Secretary-General



had received the initial report of Saint Lucia (CRC/C/28/Add.23), the second periodic reports of Thailand (CRC/C/83/Add.15) and Latvia (CRC/C/83/Add.16), and the third periodic report of Colombia (CRC/C/129/Add.6).

18. As at 1 October 2004, the Committee had received 182 initial, 88 second periodic and 12 third periodic reports. A total of 222 reports (172 initial and 50 second periodic) have been considered by the Committee.

19. The Committee was informed that the following initial reports had been received under the Optional Protocol on the involvement of children in armed conflict since the end of its thirty-sixth session: Finland (CRC/C/OPAC/FIN/1), Austria (CRC/C/OPAC/AUS/1), Italy (CRC/C/OPAC/ITA/1), Andorra (CRC/C/OPAC/AND/1), Switzerland (CRC/C/OPAC/CHE/1), Denmark (CRC/C/OPAC/DEN/1) and Iceland (CRC/C/OPAC/ISL/1).

20. It was also informed that the following initial reports had been received under the Optional Protocol on the sale of children, child prostitution and child pornography: Morocco (CRC/C/OPSA/MOR/1), Italy (CRC/C/OPSA/ITA/1), Kazakhstan (CRC/C/OPSA/KAZ/1), Andorra (CRC/C/OPSA/AND/1) and Iceland (CRC/C/OPSA/ISL/1).

21. At its thirty-seventh session, the Committee examined initial and second periodic reports submitted by seven States parties under article 44 of the Convention. It devoted 14 of its 28 meetings to the consideration of reports (see CRC/C/SR.972). The following nine reports, listed in the order in which they were received by the Secretary-General, were scheduled to be examined by the Committee at its thirty-seventh session: Brazil (CRC/C/3/Add.65), Botswana (CRC/C/51/Add.9), Islamic Republic of Iran (CRC/C/104/Add.3), Croatia (CRC/C/70/Add.23), Bahamas (CRC/C/8/Add.50), Kyrgyzstan (CRC/C/104/Add.4), Equatorial Guinea (CRC/C/11/Add.26), Angola (CRC/C/3/Add.66) and Antigua and Barbuda (CRC/C/28/Add.22).

22. 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.

23. By letter dated 22 July 2004, the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva requested the postponement of the consideration of its second periodic report by the Committee, scheduled for 15 September 2004. This request was granted by the Committee.

24. By note verbale dated 9 September 2004, the Permanent Mission of the Bahamas to the United Nations requested the postponement of the consideration of its initial periodic report by the Committee, scheduled for 21 September 2004. This request was granted by the Committee.

25. 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 report submitted by the States parties and in the summary records of the relevant meetings of the Committee.

## **B. Consideration of reports**

### **Concluding observations: Brazil**

26. The Committee considered the initial report of Brazil (CRC/C/3/Add.65), at its 973rd and 974th meetings (see CRC/C/SR.973 and CRC/C/SR.974), held on 14 September 2004, and adopted at the 999th meeting (CRC/C/SR.999), held on 1 October 2004, the following concluding observations.

#### **A. Introduction**

27. The Committee welcomes the initial report submitted by the State party, which was prepared in accordance with its guidelines. However, it deeply regrets that the report was received more than 10 years after the date it should have been submitted. The Committee welcomes the written replies to its list of issues (CRC/C/Q/BRA/1), which gives updated information on the situation of children in the State party.

28. The Committee notes with appreciation the high-level delegation sent by the State party and expresses its satisfaction for the State party's self-critical approach in identifying a number of areas of concern. It further notes the frank dialogue and the positive reactions to the suggestions and recommendations made during the dialogue.

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

29. The Committee welcomes the adoption of the 1988 Constitution of Brazil, which includes human rights principles and gives absolute priority to children's rights in article 227. This inclusion represents a significant advance in the recognition of children as persons with rights.

30. The Committee notes the adoption of the Statute of the Child and Adolescent (ECA), Law No. 8069 of 1990, which includes the rights provided for in the Convention on the Rights of the Child and therefore considers the principle of indivisibility and interdependence of human rights.

31. The Committee notes with appreciation the enactment of Law 9299 of 7 August 1996, which transfers from military to civil jurisdiction the right to hear cases of felonious homicide committed by members of the military police.

32. The Committee takes note of the adoption of Law 9455 of 7 April 1997, which defines and punishes the crime of torture as a non-bailable crime whose perpetrator is not entitled to mercy or amnesty and whose principals, accessories, as well as those who, being in a position to prevent the crime, abstain from doing so shall be held liable pursuant to article 5, XLIII, of the 1988 Constitution.

33. The Committee welcomes the establishment of the National Council on the Rights of Children and Adolescents (CONANDA) and of a system of Councils of Rights at federal, State and municipal levels and Guardianship Councils with the aim to promote and protect the rights of children and adolescents.

34. The Committee notes with appreciation the ratification in 2004 of the two 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.

35. The Committee welcomes the ratification of the Hague Convention No. 33 on the Protection of Children and Cooperation in Respect of Intercountry Adoption.

36. The Committee welcomes the ratification of International Labour Organization Conventions No. 138 concerning the minimum age for admission to employment and 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**

37. The Committee notes with extreme concern the dramatic inequalities based on race, social class, gender and geographic location which significantly hamper progress towards the full realization of the children's rights enshrined in the Convention.

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

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

##### **Legislation**

38. The Committee welcomes the legislative measures undertaken by the State party with a view to strengthening the promotion and protection of children's rights. The Committee also notes that the application of a considerable part of the Convention falls within the competence of the federal States and municipalities, and is concerned that this may lead, in some instances, to situations where the minimum standards of the Convention are not applied to all children due to legal, policy and financial differences at the State and municipal levels.

**39. The Committee recommends that the State party ensure the full implementation of relevant legislation, in particular the Statute of the Child and Adolescent. The Committee also urges the federal Government to ensure that federal States and municipalities are aware of their obligations under the Convention and that the rights in the Convention have to be implemented in all States and municipalities through legislation and policies and other appropriate measures.**

##### **Coordination**

40. The Committee notes the multitude of actors involved in the implementation of the Convention but is concerned at the lack of coordination between them, at municipal, State and national levels despite the existence of the National Council on the Rights of Children and Adolescents.

**41. The Committee recommends that the State party develop an adequate system of coordination at all levels in order to ensure full implementation of domestic law and the Convention, in accordance with recommendations made by the Committee on Economic,**

**Social and Cultural Rights (E/C.12/1/Add.87), and by some of the United Nations Special Rapporteurs. The Committee recommends that the State party refer to its general comment No. 5.**

### **National Plan of Action**

42. The Committee notes that a National Plan of Action “Presidente Amigo da Criança e do Adolescente Plan” for the year 2004-2007 has been prepared, incorporating the objectives and the goals of the outcome document entitled “A World Fit for Children” following the 2002 General Assembly special session on children. It is also encouraged by the establishment of an Inter-Ministerial Commission, coordinated by the Special Secretariat for Human Rights for the implementation of this plan.

43. **The Committee encourages the State party to ensure that the new Plan of Action covers all areas of the rights of the child and ensure that sufficient human and financial resources are timely provided for its effective implementation at all levels. The Committee also recommends that the State party ensure a wide participation for the implementation of such plan.**

### **Independent monitoring**

44. The Committee is concerned at the absence of an independent mechanism in compliance with the Paris Principles, with a mandate regularly to monitor and evaluate progress in the implementation of the Convention and which is empowered to receive and address individual complaints, including from children.

45. **In the light of its general comment No. 2 on national human rights institutions, the Committee encourages the State party to establish an independent and effective mechanism in accordance with the Paris Principles (General Assembly resolution 48/134, annex). This institution should be provided with adequate human and financial resources and should be easily accessible to children, dealing with complaints from children in a child sensitive and expeditious manner and provide remedies for violations of their rights under the Convention. The Committee recommends that the State party seek technical advice from the Office of the United Nations High Commissioner for Human Rights and the United Nations Children’s Fund (UNICEF).**

### **Allocation of resources**

46. The Committee, while welcoming the increase of the federal social expenditure during the period covered by the report, including the creation of funds related to children, it remains concerned at the lack of information on budget allocations at State and municipal levels. Furthermore, the Committee is concerned that budgetary allocations were distributed without duly taking into account the regional disparities and the need of the most vulnerable groups.

47. **The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by prioritizing and, given recent positive economic developments, by increasing budgetary allocations to ensure at all levels the implementation of the rights of children, in particular those belonging to marginalized and**

**economically disadvantaged groups, including children of African descent and indigenous children “to the maximum extent of ... available resources and, where needed, within the framework of international cooperation”.**

#### **Data collection**

48. The Committee takes note of the extensive statistical data provided in the report and in the written replies to the list of issues. Nevertheless, it regrets the lack of a disaggregated national data collection system on all areas covered by the Convention, which limits the State party’s capacity to adopt adequate policies and programmes, in particular with regard to prevention and combating violence against children.

49. **The Committee recommends that the State party strengthen and centralize its mechanism to integrate and analyse systematically disaggregated data on all children under 18 for all areas covered by the Convention, with special emphasis on the most vulnerable groups (i.e., indigenous children, children of African descent, children with disabilities, abused and neglected children, children living in extreme poverty and children in conflict with the law). The Committee urges that the State party use these indicators and data effectively in the formulation of legislation, policies and programmes for effective implementation of the Convention. In this regard, the Committee recommends that the State party seek technical assistance from, inter alia, UNICEF and other appropriate regional mechanisms, including the Inter-American Children’s Institute.**

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

50. While appreciating the efforts made by the State party to raise awareness of the Statute of the Child and Adolescent, the Committee is of the opinion that these measures need to be strengthened, especially in terms of the dissemination of the Convention. The Committee is also concerned at the lack of a systematic plan to continue training and raising awareness among professional groups working for and with children.

51. **In the light of article 42 of the Convention, the Committee encourages the State party to:**

(a) **Continue to strengthen its programme for the dissemination of the information on the Convention and its implementation among children and parents, civil society and all sectors and levels of Government;**

(b) **Provide adequate and systematic training and/or sensitization on children’s rights for all persons working with and for children, such as parliamentarians, judges, lawyers, law enforcement and health personnel, teachers, school administrators, social workers and especially children themselves;**

(c) **Implement the recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture, the Special Rapporteur on the sale of children, child prostitution and child pornography, related to provisions of training.**

### **Cooperation with NGOs**

52. The Committee notes with appreciation the cooperation between the State party and NGOs in the implementation of projects related to children's rights. However, the Committee is of the opinion that such cooperation needs to be further improved.

53. **The Committee encourages the State party to strengthen its cooperation with NGOs and other sectors of civil society working with and for children and, in particular, to consider involving them more systematically throughout all stages of the implementation of the Convention.**

## **2. General principles**

### **Non-discrimination**

54. The Committee welcomes the fact that the Constitution of 1988 criminalizes acts of racism by not giving the right to bail or prescription and by subjecting them to imprisonment. The Committee notes the recent measures adopted by the federal Government, including the cultural diversity programme and Civil Code Law 10.406/02, which regulates the citizenship of the Brazilian Indian, since it abolishes the previous status of being a relatively "incapable" citizen. However, the Committee is concerned that discrimination is still present against some ethnic groups, such as Brazilians of African descent, in some cultural and social practices and by the persistent level of unequal social development in regions, specifically in the North and Northeast regions, which in many instances amount to discrimination.

55. **The Committee urges the State party to take adequate measures to ensure the implementation of existing laws and policies guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups, including all necessary special measures to address the rather persistent inequalities that exist against some ethnic groups such as Brazilian of African descent in the State party. The Committee further recommends that the State party continue to carry out comprehensive public education campaigns and undertake all necessary proactive measures to prevent and combat negative societal attitudes and practices.**

56. **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 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in 2001 and taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

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

57. The Committee welcomes the fact that the principle of the best interests of the child is integrated into the Constitution of 1988 and the Statute of the Child and Adolescent (ECA). However, the Committee remains concerned that this principle is not yet systematically

integrated into the implementation of policies and programmes affecting children. Furthermore, the Committee is concerned that there is insufficient research and training for professionals in this respect.

**58. The Committee recommends that the principle of “best interests of the child”, established in article 3 of the Convention, be duly reflected in all legislative acts, policies and programmes as well as in judicial and administrative decisions affecting children. The Committee also recommends that training for professionals as well as awareness-raising among the public at large on the implementation of this principle should be reinforced.**

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

59. While the Committee notes that the right to life, survival and development is integrated into domestic legislation, it remains extremely concerned at the number of children murdered, as reported by the Special Rapporteur on extrajudicial, summary or arbitrary executions in Brazil in her 2004 report, which stated that the perpetrators of those crimes are mainly military policemen or former policemen (E/CN.4/2004/7/Add.3).

**60. The Committee urges the State party to take, as a matter of the highest priority, all necessary measures to prevent the killing of children, to fully investigate each of those serious violations of children’s rights, to bring the perpetrators to justice and to provide the family of the victims with adequate support and compensation.**

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

61. The Committee welcomes the efforts made by the State party to promote respect for the views of the child. However, the Committee remains concerned that traditional attitudes towards children in society limit the effective respect for their views, within the family, schools, other institutions and society at large.

**62. The Committee recommends that the State party ensure that children’s views are given due consideration, in accordance with article 12 of the Convention, in the family, at schools, in the courts, and in all relevant administrative and other informal processes concerning them. This should be undertaken through, inter alia, the adoption of appropriate legislation and policies, the training of professional, awareness-raising of the public at large and the establishment of specific creative and informal activities in and outside schools. The Committee recommends that the State party seek technical cooperation from UNICEF.**

### **3. Civil rights and freedoms**

#### **Birth registration**

63. The Committee welcomes the information provided by the State party, particularly that the federal Constitution ensures the civil registration of birth and death certificates for the poor free of charge. The Committee also notes that, pursuant to the December 1987 law No. 9,534, the civil registration of birth is free of charge. However, the Committee is concerned that, as

noted by the State party, although recognized as a universal right, many children remain unregistered, particularly on the periphery of large cities, in rural and remote areas and in the lands of the indigenous population. This impedes the full exercise of children's rights.

**64. The Committee recommends that the State party improve its system of birth registration, so as to cover its territory fully, taking into account regional disparities, and that it adopt measures that facilitate birth registration, particularly aimed at the poorest and most marginalized children.**

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

65. The Committee notes that the 1997 Law on Torture, the Penal Code and the Statute of the Child and Adolescent (ECA) strongly prohibit torture and ill-treatment. Nevertheless, the Committee is deeply concerned by the gap existing between the law and its implementation, as a significant number of cases of torture, inhuman and degrading treatment have been reported over the last years, including by the Special Rapporteur on the question of torture (E/CN.4/2001/66/Add.2).

**66. The Committee urges the State party to implement fully its legislation and to take into account the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, in particular with regard to effective measures to combat impunity. The Committee urges the State party to include in its next periodic report information, about the number of cases of torture, inhuman and/or degrading treatment of children reported to the authorities or relevant agencies, the number of perpetrators of such acts who have been sentenced by the courts and the nature of these sentences.**

#### **Corporal punishment**

67. The Committee expresses its concern that corporal punishment is widely practised in the State party and that no explicit legislation exists in the State party to prohibit it. Corporal punishment is used as a disciplinary measure in penal institutions, "reasonable" punishment is carried out in schools and "moderate punishment" is lawful in the family.

**68. The Committee recommends that the State party explicitly prohibit corporal punishment in the family, school and penal institutions, and to undertake education campaigns that educate parents on alternative forms of discipline.**

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

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

69. The Committee is concerned at the large number of children living in institutions and their precarious living conditions. The Committee is also concerned that very often residential care programmes are not governed by any specific regulation; this may undermine protection of children's rights and these programmes are not well monitored.



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

**(a) Undertake a comprehensive study to assess the situation of children placed in institutions, including their living conditions and services provided;**

**(b) Develop programmes and policies to prevent the placement of children in institutions, inter alia, by providing support and guidance to the most vulnerable families, taking into account existing social programmes, by running awareness-raising campaigns, and when needed, by developing alternative care measures, such as foster care;**

**(c) Continue pursuing all necessary measures to allow children placed in institutions to return to their families whenever possible and consider the placement of children in institutions as a measure of last resort;**

**(d) Set clear standards for existing institutions and ensure periodic review of the placement of children, in the light of article 25 of the Convention.**

**Adoption**

71. The Committee welcomes the ratification by the State party of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993. However, it regrets the lack of statistical data on domestic and intercountry adoption and it expresses its concern that the State party does not provide sufficient safeguards against trafficking and sale of children for the purpose of, inter alia, adoption.

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

**(a) Strengthen monitoring and supervising effectively the system of adoption of children in the light of article 21 and other relevant provisions of the Convention and to make sure that intercountry adoption is a measure of last resort;**

**(b) Take necessary measures for an effective implementation of the Hague Convention, including by providing the central authority with adequate human and financial resources;**

**(c) Collect in a systematic and on-going manner statistical data and relevant information on both domestic and intercountry adoption; and**

**(d) Implement the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2004/9/Add.2).**

**Abuse and neglect**

73. The Committee is deeply concerned at the high number of children victims of violence, abuse and neglect, including sexual abuse, in schools, in institutions, in public places and in the family.

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

- (a) Carry out preventive public education campaigns about the negative consequences of ill-treatment of children;**
- (b) Take the measures necessary to prevent child abuse and neglect;**
- (c) In addition to existing procedures, establish effective child-sensitive procedures and preventive mechanisms to receive, monitor and investigate complaints, including through the intervention of social and judicial authorities where necessary, to find appropriate solutions, paying due regard to the best interests of the child;**
- (d) Give attention to addressing and overcoming sociocultural barriers that inhibit victims from seeking assistance;**
- (e) Seek assistance from, among others, UNICEF and the World Health Organization (WHO).**

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

### **Children with disabilities**

**75.** The Committee notes that the 1988 federal Constitution establishes protection for the rights of persons with special needs, and welcomes the establishment of the National Council for the Rights of Persons with Special Needs (CONADE) and the National Coordination for the Integration of Persons with Special Needs (CORDE). Nevertheless, it remains concerned at the very poor living conditions of children with disabilities, their lack of integration in schools and society and at prevailing societal discriminatory attitudes towards them.

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

- (a) Establish an appropriate definition of disability and, on the basis of the definition, make a reassessment of the number of persons with disability, in order to formulate a comprehensive policy for children with disabilities;**
- (b) Take measures to eliminate physical and architectural barriers to the access and use of persons with disability to public buildings, transport, etc.;**
- (c) Take effective measures to collect adequate and disaggregated statistical data on children with disabilities and use such data in developing policies and programmes to prevent disabilities and to assist children with disabilities;**
- (d) Reinforce its efforts to develop early-detection programmes to prevent and remedy disabilities;**
- (e) Establish special education programmes for disabled children and include them in the regular school system to the extent possible;**

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

**(g) Increase resources, both financial and human for special education, including vocational training, and the support given to families or children with disabilities;**

**(h) Take into account the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendation adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339);**

**(i) Seek technical cooperation for the training of professional staff, including teachers, working with and for children with disabilities from, among others, UNICEF and WHO.**

### **Health and health services**

77. The Committee welcomes the State party's efforts to improve Brazil's health level, in particular the establishment of the Minimum Healthcare Allocation (PAB) in 1998. The Committee further notes the reduction of the incidence of child mortality as well as the positive changes observed in the child profile and in the HIV/AIDS incidence. Nevertheless, it is concerned at the low percentage of the population who are covered by at least one health plan and at the inequality in access to health services. The Committee is also concerned about health conditions, particularly of children who reside in rural areas, resulting in marked disparities in the quality of health services provided and of the lower socio-economic segments of the population in the North and North-east regions.

78. **The Committee urges that the State party continue to develop the health system, ensuring the provision of the highest standard of health for all children, paying special attention to children in rural and geographically remote areas as well as those belonging to low-income families.**

### **Adolescent health**

79. The Committee notes the efforts undertaken by the State party to implement the right to health of adolescents, in particular the adolescent health programme. However, it is concerned by the high rates of early pregnancy that mainly affect the socially underprivileged segments of the society. The Committee is also concerned at the inadequate emphasis on mental health care.

80. **The Committee recommends that the State party further improve the adolescent health programme addressing, specifically, reproductive health issues, sex education and mental health. The Committee also recommends that the State party take into account the Committee's general comment No. 4 on adolescent health and development in the context of the Convention on the Rights of the Child (CRC/GC/2003/4).**

**Standard of living**

81. While taking into account the high priority given by the State party in implementing policies and programmes with a view to fighting hunger and poverty, the Committee notes that Brazil is a country with a relatively high level of development, and shares the concerns of the Committee on Economic, Social and Cultural Rights related to the persistent and extreme inequalities and imbalances in the distribution of wealth and resources (E/C.12/1/Add.87, para. 17). The Committee is concerned that the lives of a great number of children are marked by poverty, difficult access to, and deficient quality of, public services.

82. **The Committee highly recommends that the State party:**

- (a) Continue to strengthen its policies and programmes to combat the factors responsible for the increasing number of children living in extreme poverty;**
- (b) Take measures in order to effectively reach the poorest segment of the population, by offering equal access to health, education, housing and other social services;**
- (c) Develop programmes and policies to ensure that all families have adequate resources and facilities.**

**6. Education, leisure and cultural activities**

83. The Committee welcomes the efforts undertaken by the State party to improve school attendance and the positive results regarding the access of girls to school. The Committee also takes note of the steps made to include issues related to personality development, human rights and citizenship into school curricula. However, it remains concerned about the remarkable disparities of access, regular attendance, dropouts and retention of children in schools across the country affecting particularly the poor, the *mestizo* children, those of African descent and children living in remote areas. The Committee is further concerned about the low quality of education in many schools to the extent that there are many children who, despite several years of school attendance, cannot read and write or do basic calculations.

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

- (a) Increase its expenditure on education and ensure the allocation of budgets at all levels, while devising policies that take into account the Committee's general comment No. 1 on the aims of education;**
- (b) Strengthen its efforts to improve the quality of education, inter alia, by revising school curricula, introducing child-centred and active teaching and learning methods and integrating human rights education;**
- (c) Increase the completion rate of primary education and ensure that primary education always be free of charge;**
- (d) Seek technical cooperation from, inter alia, UNESCO and UNICEF.**

## **7. Special protection measures**

### **Economic exploitation**

85. The Committee welcomes the Programme to Eradicate Child Labour (PETI), however it is deeply concerned at the high rates of informal employment of children, in particular in domestic labour.

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

(a) **Strengthen the Programme to Eradicate Child Labour by supporting income-generating initiatives for the families of children attended by the programme;**

(b) **Improve the labour inspection system and in particular empower it to monitor and report on the practice of domestic labour by children;**

(c) **Provide former child workers with appropriate recovery and educational opportunities.**

### **Sexual exploitation, trafficking**

87. The Committee welcomes the decision of the State party's President, to make the fight against child sexual exploitation a priority of his Government. However, the Committee is deeply concerned by the wide occurrence of sexual exploitation and related issues, as also noted in the report of the Special Rapporteur on the sale of children, child prostitution, and child pornography following his mission to Brazil in 2003 (E/CN.4/2004/9/Add.2).

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

(a) **Encourage and facilitate the reporting on incidents of sexual exploitation, investigate, prosecute and impose appropriate sanctions on any perpetrator of the alleged violations;**

(b) **Provide protection to victims of sexual exploitation and trafficking, especially prevention, social reintegration, access to health care and psychological assistance in a culturally appropriate and coordinated manner, including by enhancing cooperation with non-governmental organizations and with neighbouring countries; and**

(c) **Follow-up on the recommendation made by the Special Rapporteur that specialized criminal courts for child victims of crimes, together with specialized units of the public prosecutor's and specialized police precincts for the protection of children and adolescents should be established.**

**Street children**

89. The Committee expresses its grave concern at the significant number of street children and the vulnerability of these children to extrajudicial killings, various forms of violence, including torture, sexual abuse and exploitation, and at the lack of a systematic and comprehensive strategy to address the situation and protect these children, and the very poor registration of missing children by the police.

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

(a) **Develop a comprehensive strategy to address the high number of street children, with the aim of reducing and preventing this phenomenon;**

(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, and provide them with adequate protection and assistance.**

**Substance abuse**

91. While taking note of the establishment of the National Anti-Drug Secretariat and studies undertaken by the State party, the Committee is deeply concerned at the significant increase of use of psychotropic drugs by students in schools.

92. **The Committee recommends that the State party complete a study in order to better define the root causes and extent of this phenomenon, so as to take efficient measures to prevent and combat it.**

**Juvenile justice**

93. The Committee notes the establishment of juvenile courts. Nevertheless, it is concerned at the lack of clear guarantees for a fair and speedy trial and of the enforcement of rules for pre-trial detention. The Committee is also concerned that socio-educative measures are not frequently applied and therefore, as a result, a large number of persons below age 18 are in detention, and at the very poor conditions of detention. The Committee is also concerned at the numerous reports of ill-treatment of young inmates, the very limited possibilities for the rehabilitation and reintegration into society of juveniles following judicial proceedings; and the sporadic training of judges, prosecutors and prison staff in children's rights.

94. **The Committee recommends that the State party continue its efforts to improve the system of juvenile justice in all States of the federation in line with the Convention, in particular articles 37, 40 and 39, and 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 Guidelines for Action on Children in the Criminal Justice System.**

95. As part of this process, the Committee particularly recommends that the State party:

- (a) Fully implement the relevant rules of the statute concerning juvenile justice, including the socio-educative measures in all the territory of the State party;
- (b) Provide the means and encouragement so that persons under 18 in conflict with the law be handled, as far as possible, without resorting to judicial proceedings;
- (c) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time, limit by law the length of pre-trial detention and ensure that the lawfulness of this detention is reviewed by a judge without delay and regularly;
- (d) Provide persons under 18 with legal or other assistance at an early stage of judicial proceedings;
- (e) Protect the rights of persons under 18 deprived of their liberty and improve their conditions of detention and imprisonment, notably by establishing special institutions for persons under 18 with conditions suitable to their age and needs and by ensuring the accessibility to social services in particular health care and education, in all detention centres in the State party; and in the meantime by guaranteeing separation from adults in all prisons and in pre-trial detention places all over the country;
- (f) Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prisons guards, and establish an independent, child-sensitive and accessible system for receiving and dealing with complaints;
- (g) Ensure that children remain in regular contact with their families while in the juvenile justice system, notably by informing parents when their child is detained;
- (h) Introduce regular medical examination of persons under 18 who are deprived of their liberty by independent medical staff;
- (i) Introduce training programmes on relevant international standards for all professionals involved in the system of juvenile justice;
- (j) Make every effort to establish a programme of recovery and social rehabilitation of juveniles following judicial proceedings;
- (k) Take into consideration the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238);
- (l) Request technical assistance in the area of juvenile justice and police training from, among others, the Office of the United Nations High Commissioner for Human Rights, UNICEF and the Inter-American Children's Institute.

**Children belonging to a minority or indigenous group**

96. The Committee welcomes the fact that social organization, customs, languages, creeds and traditions are recognized to indigenous communities in the Constitution of 1988. However, as noted by the State party, the Indian Statute promotes for an integration which is not in accordance with the principle of respect for diversity of cultures. The Committee also welcomes the fact that, according to law 10.406/02, indigenous people are no longer considered “relatively incapable citizens”. It also welcomes the efforts made by the State party to stimulate bilingual education. However, the Committee is deeply concerned by the low standard of living of indigenous children, low educational opportunities and quality of health services, and malnutrition.

97. **The Committee urges the State party to pursue measures to effectively address the gap in life opportunities of indigenous children. Training and awareness-raising activities should be provided to break social prejudice, in order to revert the historical logic of colonization, which jeopardizes any chance of attaining genuinely equal treatment.**

98. **The Committee also recommends that the State party take adequate measures in order to provide protection for the rights of indigenous children, in particular their rights to preserve historical and cultural identity, customs, traditions and languages in accordance with the Constitution, and taking into account the recommendations adopted by the Committee on its day of general discussion on the rights of indigenous children in September 2003.**

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

99. **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, when applicable, for appropriate consideration and further action.**

**Dissemination**

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

**9. Next report**

101. **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 Convention's implementation. In this regard, regular and timely reporting by State 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 second, third and fourth periodic reports by 23 October 2007, due date of the fourth periodic report. The 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.**

### **Concluding observations: Botswana**

102. The Committee considered the initial report of Botswana (CRC/C/51/Add.9), submitted on 10 January 2003, at its 977th and 978th meetings (see CRC/C/SR.977 and CRC/C/SR.978), held on 16 September 2004, and adopted at the 999th meeting (CRC/C/SR.999), held on 1 October 2004, the following concluding observations.

#### **A. Introduction**

103. The Committee welcomes the submission of the State party's initial report, despite the fact that it was submitted with considerable delay, and the written replies to its list of issues (CRC/C/Q/BWA/1), which gave a better understanding of the situation of children in the State party. It also notes the open and constructive dialogue it had with the State party's high-level delegation.

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

104. The Committee welcomes the adoption of a National Programme of Action for the Children of Botswana for the period 1993-2003, the establishment of the District Child Welfare Committees and of a National Child Welfare Committee.

105. The Committee takes note with appreciation the establishment of the National AIDS Council, chaired by the President, and of the recently revised National Policy on HIV/AIDS.

106. The Committee welcomes the State party's ratification in 2000 of 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.

107. The Committee also welcomes the ratification of the African Charter on the Rights and Welfare of the Child.

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

108. The Committee notes that the large-scale HIV/AIDS epidemic has had a serious negative impact on the overall development of the State party and in particular on the implementation of children's rights.

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

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

#### **Reservations**

109. The Committee notes with regret the reservation that the State party has made to article 1 of the Convention, but welcomes the information during the dialogue that the reservation will be withdrawn as soon as the review of the law is completed.

**110. The Committee recommends that the State party withdraw its reservation to article 1 of the Convention at the earliest time possible by expediting the law review process.**

#### **Legislation**

111. The Committee notes with appreciation the comprehensive review of the Children's Act of 1981 with a view to harmonizing it with the provisions of the Convention. However, it remains concerned that this process has been slow and that the current act is outdated and does not fully take into account the Convention's principles and provisions. The Committee is also concerned that the Convention is not incorporated in the domestic legislation and therefore cannot be invoked before a court of law. Furthermore, customary laws and traditions do not fully reflect the principles and the provisions of the Convention.

**112. The Committee recommends that the State party complete its general review of the Children's Act as soon as possible and use the recommendations from that review as a basis for the necessary changes of the law in order to bring it in conformity with the principles and provisions of the Convention. It further recommends that the State party expedite this process of change of the law as much as possible and ensure the implementation of the revised Children's Act. The Committee also recommends that the Convention be incorporated in domestic law and to undertake the necessary steps to bring customary law in conformity with the Convention.**

#### **Coordination**

113. The Committee is concerned at the situation of the National Child Welfare Committee, which apparently remains inactive, mainly due to lack of human and financial resources.

**114. The Committee also recommends that the State party provide the National Child Welfare Committee with the necessary and adequate human and financial resources, as to enable it to effectively play its fundamental role as the main implementing and coordinating body for children's rights. If necessary, the State party should seek international assistance in this regard.**

#### **National plans of action**

115. The Committee welcomes the adoption of a National Programme of Action on Children for the period 1993-2003 and the information that a successor National Plan of Action (NPA) for the period 2004-2013 is currently being developed. However, the Committee is concerned that

the National Plan of Action may lack clear provisions on monitoring and coordination of its implementation and that the delay in its evaluation has resulted in a delay in formulating the successor NPA.

**116. The Committee recommends that the State party expedite the evaluation of the previous National Plan of Action and ensure that the new NPA covers all areas of the rights of the child.**

#### **Independent monitoring**

117. While taking note of the establishment of the Office of the Ombudsman in 1997, the Committee expresses its concerns at the fact that the Office lacks the necessary human and financial resources for proper functioning. The Committee is also concerned at the lack of awareness of the role of the Ombudsman among people, especially children.

**118. With reference to general comment No. 2 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 recommends that the State party provide the Office of the Ombudsman with the necessary human and financial resources for an adequate performance of its function, in particular to strengthen its capacities to deal with and adequately address complaints from children or others concerning the violation of children's rights and to improve accessibility of the Office for Children, including via systematic information campaigns and a free telephone line.**

#### **Resources for children**

119. The Committee, while appreciating the commitment of the State party in providing resources for social expenditure, remains concerned that budgetary allocations are insufficient to respond to national and local priorities for the promotion and protection of children's rights.

**120. The Committee recommends that the State party allocate more resources for 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, including children and families infected and affected by HIV/AIDS "to the maximum extent of ... available resources and, where needed, within the framework of international cooperation".**

**121. In this regard, the Committee also recommends that the State party ensure that regional and other free trade agreements do not have a negative impact on the implementation of children's rights and, more specifically, that these will not affect the possibility of providing children and other victims of HIV/AIDS with effective medicines for free or at the lowest price possible.**

#### **Data collection**

122. The Committee welcomes the statistical data provided in the written replies but is concerned at the absence of a mechanism to systematically collect and analyse disaggregated quantitative and qualitative data on persons under the age of 18 years in all areas covered by the

Convention, especially the most vulnerable groups, including children living in poverty, children living in rural and the most remote areas, children with disabilities, refugee children, indigenous children and street children.

123. The Committee recommends that the State party develop a comprehensive system for collecting disaggregated data as a basis to assess progress achieved in the realization of children's rights and to help design policies to implement the Convention. It also recommends that the State party seek technical assistance from, inter alia, the United Nations Children's Fund (UNICEF).

### **Dissemination of the Convention**

124. The Committee, while taking note of the efforts undertaken by the State party in awareness-raising campaigns, remains concerned that professional groups, children, parents and the general public are not sufficiently aware of the Convention and the rights-based approach enshrined therein. In addition, the Committee is concerned that the Convention is not sufficiently disseminated at the local level, particularly in rural and the most remote areas.

**125. 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 reinforcement of adequate and systematic training of all professional groups working for and with children, in particular judges, lawyers, law enforcement personnel, traditional chiefs, teachers, school administrators, health personnel, including psychologists and social workers, and personnel of childcare institutions. In addition, the Committee recommends that the State party incorporate human rights, especially the Convention on the Rights of the Child, into the school curricula at all levels. The Committee suggests that the State party seek technical assistance from, among others, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and UNICEF.**

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

126. While acknowledging that the State party is aware of the lack of legislative clarity regarding the definition of the child, the Committee would like to reaffirm the fact that the various ages defined in the current legislation are not in conformity with the Convention.

**127. With reference to paragraph 11 of these concluding observations, the Committee recommends that the State party expedite the necessary legislative reform in order to establish a definition of the child in conformity with article 1 of the Convention of the Rights of the Child and also applicable with customary law.**

## **3. General principles**

### **Non-discrimination**

128. The Committee is concerned that, as noted by the State party, the Constitution is inconsistent with the non-discrimination provision of the Convention. The Committee is also concerned that societal discrimination persists against vulnerable groups of children, including

children with disabilities, street and rural children, children born out of wedlock, orphans and fostered children and children affected or infected by HIV/AIDS. The Committee is deeply concerned at the situation of girls, in particular adolescent girls who, as acknowledged by the State party, suffer marginalization and gender stereotyping, compromising their educational opportunities and are more vulnerable to sexual violence, abuse and HIV/AIDS.

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

**(a) Amend the existing legislation and adopt new laws to ensure that all children within its territory enjoy all rights set out in the Convention without discrimination, in accordance with article 2;**

**(b) Prioritize and target social services for children belonging to the most vulnerable groups;**

**(c) Pay special attention to the situation of girls through education campaign, participation, support and protection of girls;**

**(d) Include specific information in the next periodic report on the measures, legislative and otherwise, undertaken by the State party to combat discrimination on any grounds and against all vulnerable groups.**

**130. 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 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in 2001, taking into account general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

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

131. The Committee notes with concern the information that the principle of the best interests of the child is not fully applied and duly integrated into the State party's legislation and into the implementation of the policies and programmes.

**132. The Committee recommends that the State party take all appropriate measures to ensure that the principle of the best interests of the child is appropriately integrated into all legislation and judicial and administrative decisions as well as into projects, programmes and services which have an impact on children. The Committee encourages the State party to take all necessary measures to ensure that customary law does not impede the implementation of this general principle, notably through raising awareness among community leaders.**

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

133. The Committee welcomes the organization of a Children's Forum in 2001. However, the Committee remains concerned that the opinions of children are not given sufficient consideration and that respect for the views of the child remains limited within the family, at schools, in courts, administrative authorities and in the society at large.

134. **In the light of article 12 of the Convention, the Committee recommends that the State party:**

(a) **Promote and facilitate, within the family, the schools, the courts and administrative bodies, inter alia, through the adoption of legislation, respect for the views of children and their participation in all matters affecting them, in accordance with their age and maturity;**

(b) **Provide educational information to, among others, parents, teachers, government administration officials, the judiciary, traditional leaders and society at large on children's rights to participate and to have their views taken into consideration.**

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

##### **Birth registration**

135. While the Committee welcomes the amendments to the Birth and Death Registration Act of 1998 that ensures the compulsory registration of both, throughout the State party, it is concerned at the significant number of children who are not yet registered at birth, particularly in remote areas.

136. **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, including through awareness-raising campaigns.**

##### **Corporal punishment**

137. The Committee notes with deep concern that corporal punishment is permissible under the State party laws and is used as a way of disciplining children at home, as a disciplinary measure by schools as stipulated in the Education Act and as a sanction in the juvenile justice system.

138. **The Committee strongly recommends that the State party take legislative measures to expressly prohibit corporal punishment in the family, schools and other institutions and to conduct awareness-raising campaigns to ensure that positive, participatory, non-violent forms of discipline are administrated 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**

##### **Parental responsibilities**

139. The Committee notes with concern that there is an increasing number of children without adequate parental support due to various reasons, inter alia, the lack of child support by fathers.

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

(a) **Take all necessary measures to provide parents and families in particularly difficult circumstances with the necessary financial and other support as much as possible;**

(b) **Take the necessary legislative and other measures to ensure that the best interests of the child are of primary consideration and that guardianship with one of the parents after divorce is not automatically granted to the father;**

(c) **Take measures to improve the enforcement of child support by fathers, in particular of children born out of wedlock, inter alia, by providing mothers with information about the legal provisions in this regard and with the necessary legal or other assistance free of charge for mothers who cannot afford it, not only for initiating legal actions but also for enforcing court decisions.**

#### **Alternative care**

141. While noting the efforts undertaken to develop guidelines for alternative care placements, the Committee is concerned at:

(a) The lack of legislation governing alternative care in the State party and the long delays in adopting such legislation;

(b) The excessive number of children deprived of their family environment.

142. **The Committee urges that the State party:**

(a) **Undertake without further delay the necessary steps for the full and effective implementation of the Alternative Care Guidelines and for the drafting and adoption of legislation governing the various forms of alternative care, including those provided by civil society organizations in compliance with the Convention;**

(b) **Better coordinate and provide adequate financial support to civil society involved in the area of child support.**

#### **Adoption**

143. The Committee is also concerned that the rules and the procedures of the Adoption Act are not applicable under customary law.

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

(a) **Expedite the review of the Adoption Act in order to bring existing rules and practices regulating adoption into full compliance with the Convention to ensure that in cases of informal adoption, the rights of the child are well protected to encourage formal domestic adoptions;**

(b) **Consider ratifying the Hague Convention No. 33 on the Protection of Children and Cooperation in Respect of Intercountry Adoption.**

**Child abuse and neglect**

145. While taking note that the Women's Affairs Department commissioned a study in 1998 on the socio-economic implications of violence against women, the Committee remains concerned at the increasing level of domestic violence, at both physical and sexual abuse of children and at the lack of a comprehensive legal and policy framework.

146. **In the light of articles 19 and 39 of the Convention, the Committee recommends that the State party:**

(a) **Adopt legal measures and comprehensive and responsive policies which will help to change attitudes and improve the prevention and treatment of cases of violence against children;**

(b) **Introduce an effective system for reporting cases of abuse, including sexual abuse, of children;**

(c) **Properly investigate cases of violence against children through a child-sensitive judicial procedure and impose sanctions on perpetrators, with due regard to the right to privacy of the child;**

(d) **Take measures to ensure the care and rehabilitation of victims as well as perpetrators;**

(e) **Take measures to prevent the criminalization and stigmatization of child victims of abuse; and**

(f) **Seek technical assistance from, among others, UNICEF and the World Health Organization (WHO).**

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

147. While welcoming the formulation of a national policy on the care of people with disabilities, the Committee is concerned that children with disabilities are still discriminated against and often considered "an embarrassment" by their parents, are not adequately integrated in the society or in the mainstream school system and do not have adequate access to social services, including health care, especially those living in remote areas.

148. **In the light of the Standards Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on the rights of the children with disabilities (CRC/C/69, paras. 310-339), the Committee recommends that the State party continue to strengthen its efforts to combat discriminatory attitudes towards children with disabilities, particularly amongst children and parents, and promote their participation in all aspects of social and cultural life. The State party should also ensure that all children with disabilities have access to health care facilities and education and, wherever possible, they are integrated into the mainstream education system.**



## **Health services**

149. The Committee notes with appreciation the developments in the primary health care strategy, notably the decentralization and mobile units as well as the dialogue conducted with traditional leaders to ensure that health care strategies are complementary. Nevertheless, it remains concerned at the regional disparities in the health service provisions as well as the still high maternal mortality rates.

**150. The Committee recommends that the State party continue to strengthen its primary health care strategy by ensuring adequate staffing and providing the highest attainable standard of health for all children. The Committee recommends that the State party reduce regional disparities and lower maternal mortality rates by improving prenatal care services and providing training of birth attendants in healthy midwifery practices.**

## **HIV/AIDS**

**151. While welcoming the establishment of the National AIDS Council, chaired by the president, the National AIDS Coordinating Council, the National Policy on HIV/AIDS, the Prevention of Mother to Child Transmission Programme and the programme for AIDS orphans, the Committee shares the serious concern of the State party at the still exceedingly high prevalence rate of HIV/AIDS, especially among women in their child-bearing years compounded, in part, by inappropriate traditional practices, stigmatization and lack of knowledge on prevention methods.**

**152. In the light of general comment No. 3 on HIV/AIDS and the rights of children (CRC/GC/2003/3), the Committee urges the State party to strengthen its efforts in combating the spread and effects of HIV/AIDS by, inter alia, training professionals, conducting education campaigns on prevention, improving the prevention of mother to child transmission programme, by providing free and universal antiretroviral medication and improving protection and support for AIDS orphans.**

## **Adolescent health**

153. The Committee is concerned at the high incidence of teenage pregnancies, the inadequate reproductive health services and at the lack of mental health services for adolescents.

**154. In the light of general comment No. 4 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 establish adequate health care services for adolescents, focusing on reproductive and mental health programmes.**

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

155. The Committee is concerned at the information that primary education is not free for non-nationals and that the State party is considering introducing fees for parents who can afford it. The Committee is also concerned that primary education is not compulsory and at the high dropout rates in particular of girls in secondary schools, partly due to pregnancies.

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

- (a) **Take all necessary measures, legislative and administrative, to ensure that primary education is free and compulsory as required in article 28 of the Convention;**
- (b) **Continue to strengthen the activities providing pregnant girls with ongoing access to education (before and after giving birth);**
- (c) **Take measures to reduce school repetition and dropout rates;**
- (d) **Strengthen its efforts to improve the quality of education by revising curricula, introducing child-centred and active teaching and learning methods;**
- (e) **Expand the system of vocational training and improve its quality;**
- (f) **Seek international technical assistance from, inter alia, UNICEF and UNESCO.**

## **8. Special protection measures**

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

157. While noting the ratifications made by the State party concerning International Labour Organization Conventions No. 138 concerning the minimum age for admission to employment and No. 182 concerning the worst forms of child labour, the Committee notes with concern the information in the State party's report that child labour is a serious problem.

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

- (a) **Undertake studies to assess the incidence and nature of child labour, in particular the worst forms of child labour;**
- (b) **Improve the system and quality of labour inspection;**
- (c) **Seek international technical assistance; inter alia, from ILO and UNICEF.**

### **Sexual exploitation**

159. The Committee is concerned at the increasing incidence of sexual exploitation and abuse of children as mentioned in the State party report.

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

- (a) **Undertake a study of children involved in commercial sexual exploitation and use its 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) Train law-enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints, in a child-sensitive manner that respects the privacy of the victim;**

**(c) Prioritize recovery assistance and ensure that education and training as well as psychosocial assistance and counselling are provided to victims.**

### **Juvenile justice**

161. While recognizing the efforts made by the State party in this domain, including the establishment of the New School of Industry in 2002 for children in conflict with the law, the Committee remains concerned that the juvenile system is not yet compatible with the provisions and principles of the Convention. It is especially concerned at the fact that the age of criminal responsibility, fixed at 8 years, is too low.

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

**(a) Ensure the full implementation of juvenile justice standards and, 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) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), and in the light of the Committee's 1995 discussion day on the administration of juvenile justice;**

**(b) Raise the age of criminal responsibility to an internationally acceptable standard;**

**(c) Ensure that detained children are always separated from adults, and that deprivation of liberty is used as a last resort, for the shortest appropriate time and in appropriate conditions;**

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

**(e) Seek technical assistance in developing and enforcing the juvenile justice system from, inter alia, UNICEF and OHCHR.**

### **9. Optional Protocols to the Convention on the Rights of the Child**

163. The Committee notes that the State party has acceded to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and signed the Optional Protocol on the involvement of children in armed conflict.

164. **The Committee recommends that the State party ratify the Optional Protocol to the Convention on the involvement of children in armed conflict.**

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

### **Follow-up**

165. 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, when applicable, for appropriate consideration and further action.

### **Dissemination**

166. The Committee further recommends that the initial report and written replies submitted by the State party and related recommendations (concluding observations) that 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**

167. In the light of the recommendation on reporting periodicity adopted by the Committee (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 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. 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 and third reports in one consolidated report by 15 April 2007, the due date for the submission of the third report. Such a 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.

### **Concluding observations: Croatia**

168. The Committee considered the second periodic report of Croatia (CRC/C/70/Add.23) at its 981st and 982nd meetings (see CRC/C/SR.981 and 982), held on 20 September 2004, and adopted at the 999th meeting (CRC/C/SR.999), held on 1 October 2004, the following concluding observations.

#### **A. Introduction**

169. The Committee welcomes the submission of the State party's second periodic report, which followed the established guidelines, as well as the detailed written replies to its list of issues (CRC/C/Q/HRV/2), which gave a clearer understanding of the situation of children in the State party. It further welcomes the constructive and informative dialogue.

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

170. The Committee welcomes:

- (a) The adoption of the Act on the Ombudsperson for Children in 2003;
- (b) The amendments to the Family Act, the Criminal Code and the Criminal Procedure Act in 2003;
- (c) The adoption of the Asylum Law in 2003;
- (d) The withdrawal of its reservation on article 9, paragraph 1, of the Convention in 1998.

171. The Committee welcomes the State party's ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography in 2002.

172. The Committee also welcomes the State party's ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and of the Rome Statute of the International Criminal Court in 2001.

173. The Committee further welcomes the State party's ratification of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001 and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in 2003.

**C. Principal subject of concern and recommendations****1. General measures of implementation****Committee's previous recommendations**

174. The Committee notes with satisfaction that various concerns and recommendations (CRC/C/15/Add.52 of 13 February 1996) made upon the consideration of the State's initial report (CRC/C/8/Add.19) have been addressed through legislative measures and policies. However, it regrets that some of its concerns and recommendations, regarding, inter alia, non-discrimination in the repossession of their property by returned refugees (para. 15), international cooperation to resolve the problem of property (para. 26) and training programmes to promote the process of national reconciliation and national dialogue (para. 24), which are all relevant to the implementation of children's rights, and the situation of children in institutions or in foster care (para. 25) have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present document.

**175. The Committee urges the State party to continue to strengthen the efforts to address those recommendations contained in the concluding observations on the initial report that have not yet been implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations.**

**Legislation and implementation**

176. The Committee notes that new laws have been adopted by the State party to harmonize its domestic legislation with international human rights standards and, in particular, with the provisions and principles of the Convention since the review of the State party's initial report. However, the Committee remains concerned about the effective implementation of all legislation relevant to the Convention.

**177. In light of its previous recommendations, the Committee recommends that the State party:**

**(a) Continue to take all effective measures to bring domestic law and practice into line with the principles and provisions of the Convention;**

**(b) Ensure the effective implementation of all legislation relevant to the Convention and make it known to the population.**

**Coordination and national plans of action**

178. The Committee welcomes the elaboration of the National Action Programme for Children in 1998 and the establishment of the Council for Children as the institution responsible for monitoring its implementation. Despite some improvements in the composition and functioning of the Council, the Committee is concerned about the reluctant or non-implementation of recommendations of the Council by the various ministries and the implementation of the National Action Programme for Children. It is also concerned about the insufficient coordination between the existing and newly created government bodies dealing with the welfare of children.

**179. The Committee recommends that the State party take all necessary measures to ensure the effective functioning of the Council for Children, including appropriate follow-up to its recommendations by State authorities and bodies, and implement the National Action Programme for Children. It also recommends that the State party enhance coordination between the different governmental bodies involved in the implementation of the Convention.**

**Independent monitoring**

180. The Committee welcomes the establishment of the Office of the Ombudsperson for Children in 2003 and the presence of the Ombudsperson at the dialogue, but the Committee is concerned at the need for ongoing and sufficient political, human and financial support for the functioning of this office.

**181. In light of its general comment No. 2 on national human rights institutions and the Paris Principles (General Assembly resolution 48/134, annex), the Committee recommends that the State party continue and strengthen its political, human and financial support for the Office of the Ombudsperson for Children in order to facilitate and promote its effective functioning, in particular at the local level outside the capital of the State party.**

**Allocation of resources**

182. The Committee is concerned about the lack of disaggregated data with regard to resources allocated for children at the national and local levels.

183. **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 and cultural rights of children, in particular those belonging to economically disadvantaged groups and minority ethnic groups, “to the maximum extent of ... available resources”; and**

(b) **Identifying the amount and proportion of the State and local governments budgets spent on children in the public, private and NGO sectors in order to evaluate the impact and effect of the expenditures and also, in view of the costs, the accessibility, quality and effectiveness of the services for children in the different sectors.**

**Data collection**

184. The Committee is concerned about the lack of disaggregated statistical data and other information on the situation of children, especially those belonging to different ethnic groups and the most vulnerable groups and in particular with respect to girl children, street children, disabled children, displaced, refugee and asylum-seeking children, children from minority groups and Roma children.

185. **The Committee recommends that the State party take effective measures to ensure the availability of reliable data regarding persons under 18 years old, disaggregated by age, gender and ethnic origin, and to identify appropriate disaggregated indicators with a view to addressing all areas of the Convention and all groups of children in society, in order to evaluate progress achieved and the difficulties hampering the realization of children’s rights.**

**Training and dissemination**

186. The Committee welcomes the training activities undertaken by the State party since its initial report but remains concerned about the lack of detailed information on this issue, specifically on training activities and programmes to raise public awareness about the Convention undertaken by the State party since its initial report.

187. **The Committee recommends that the State party strengthen its efforts to disseminate the principles and provisions of the Convention and to undertake systematic education and training for all professional groups working for and with children, and also strengthen its efforts to raise public awareness about the Convention, in particular among children themselves and among parents.**

## **2. General principles**

### **Non-discrimination**

188. The Committee acknowledges the various efforts undertaken by the State party to follow up its previous recommendations but remains concerned at the de facto discrimination against ethnic and national minorities and Roma and foreign children, and at incidents of harassment and expressions of hatred, which have a negative effect on the development of children. The Committee joins the Committee on the Elimination of Racial Discrimination in its concern as it relates to the lack of legal provisions prohibiting incitement to racial discrimination and violence, and about the adequacy of efforts to investigate and prosecute persons responsible for fomenting ethnic hatred (see CERD/C/60/CO/4, para. 12).

**189. The Committee reiterates its recommendation that the State party should take measures aimed at developing a culture of tolerance in the society at large through all possible channels, including the schools, the media and the law.**

**190. In accordance with article 2 of the Convention, the Committee recommends that the State party carefully and regularly evaluate existing disparities in the enjoyment by children of their rights and undertake on the basis of that evaluation the necessary steps to prevent and combat discriminatory disparities. It also recommends that the State party strengthen its administrative and judicial measures to prevent and eliminate de facto discrimination against children belonging to minorities, especially Roma and foreign children.**

**191. 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 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa, in 2001, and taking account of general comment No. 1 (2001) on the aims of education.**

### **The best interests of the child**

192. The Committee values the fact that the State party holds the principle of the best interests of the child to be of vital importance in the development of legislation, programmes and policies concerning children and is aware of the progress made in this respect, but remains concerned that it is not fully applied and duly integrated in the implementation of the policies and programmes of the State party or in administrative and judicial decisions.

**193. The Committee recommends that the principle of “the best interests of the child” contained in article 3 be systematically implemented in judicial and administrative decisions as well as in programmes, projects and services with regard to children in various situations, in particular children belonging to vulnerable and minority groups.**



**Right to life**

194. The Committee notes with concern the relatively high number of deaths and injuries among children due to traffic and domestic accidents despite the various measures taken by the State party to address this problem.

195. **The Committee recommends that the State party continue and strengthen as much as possible its efforts to prevent traffic and domestic accidents, inter alia by systematic enforcement of existing regulations and by ongoing awareness-raising via educational campaigns.**

**Respect for the views of the child**

196. The Committee welcomes the efforts made by the State party to promote respect for the views of the child. The Committee remains concerned that the general principle laid down in article 12 of the Convention is insufficiently respected in families, schools and other institutions and not fully applied and duly integrated in practice in judicial and administrative decisions and in the implementation of the laws, policies and programmes of the State party.

197. **The Committee recommends that further efforts be made to ensure the implementation of the principle of respect for the views of the child. In this connection, particular emphasis should be placed on the right of every child to participate in the family, at school, within other institutions and bodies and in society at large, with special attention to vulnerable and minority groups. This general principle should also be reflected in all laws, judicial and administrative decisions, policies and programmes relating to children. Awareness-raising among the public at large as well as education and training of professionals on the implementation of this principle should be reinforced and regular reviews should be undertaken on the extent to which children's views are taken into consideration and the impact of these measures on children themselves.**

**3. Civil rights and freedoms****Right to a name and nationality**

198. The Committee welcomes the efforts made by the State party to reform its legislation in accordance with the provisions and principles of the Convention but it remains concerned about the different types of access to citizenship, which mainly affect children from minority groups, especially Roma children.

199. **The Committee recommends that the State party undertake measures to ensure that all provisions of the Croatian Law on Citizenship are in conformity with article 7 of the Convention and that the law is implemented in a non-discriminatory manner.**

**Right to privacy**

200. The Committee joins the State party in its concern about violations of the right to privacy of children by the media but is concerned at the lack of information on the implementation in practice of the rights of the child contained in articles 13-17 of the Convention, in particular in the family, social institutions, schools and places of detention.

201. **The Committee recommends that the State party take the necessary measures to ensure that the media fully respect the right to privacy of children and that it provide concrete and detailed information (examples, good practices) in its next report on the implementation of articles 13-17 of the Convention in the family, social institutions, schools and places of detentions.**

#### **Access to information**

202. While noting the State party's efforts to protect children from harmful information, the Committee remains concerned about pornographic and other harmful material in printed and electronic media that is easily available and accessible to children. It is also concerned at the lack of adequate measures to encourage the mass media to disseminate information that would promote a spirit of understanding of differences.

203. **The Committee recommends that the State party pursue its efforts to protect children from information and material injurious to their well-being. It also urges the State party to disseminate information and material of social and cultural benefit to the child, in line and with the spirit of articles 17 and 29 of the Convention. To that end, the State party should provide children with access to diversity of cultural, national and international sources, taking into particular account the linguistic and other needs of children who belong to a minority group.**

#### **Right not to be subjected to torture or other cruel, inhuman or degrading treatment**

204. The Committee is deeply concerned about cases of violence among children and young adults placed in homes for re-education and other institutions and about cases of violence and bullying among children and young adults in social care institutions.

205. **The Committee recommends that the State party take all necessary measures to prevent acts of violence in homes for re-education and social care institutions. In accordance with the recommendation of the Committee against Torture (CAT/C/CR/32/3, para. 9 (k)), the Committee urges the State party to increase the protection of children in social care institutions, inter alia by ensuring that violent acts are reported and investigated and providing adequate support and treatment, including psychological treatment to victims of such acts.**

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

#### **Guidance and responsibilities for children**

206. While taking note of the legislation adopted in the area of the family environment, the new Family Act and the Social Welfare Act, the Committee remains concerned that many children are left on their own without proper guidance from parents and other caregivers. The Committee also remains concerned that supervision and guidance for vulnerable families are not well structured and defined, making it difficult to monitor the situation.

207. **The Committee recommends that further efforts be made to ensure the effective implementation of the Family Act as regards guidance and responsibility for the child in light of article 27, paragraph 2. The Committee further recommends that the State party**

**take all necessary steps and devote adequate resources to providing ongoing training of the staff of the social welfare centres and provide for effective administrative, legal and practical measures to ensure the quality and efficiency of all the activities of these institutions.**

#### **Alternative care**

208. The Committee expresses its concern that quite a number of children without parental care or who have lost contact with their families are in institutions or in foster care and about the low quality of care and treatment provided to these children. The Committee is also concerned about the apparent insufficient monitoring of placements.

209. **The Committee recommends that the State party give high priority to the assistance provided to families in order to prevent placement of children in alternative care. The Committee further recommends that the State party promote family-based assistance in foster care as a form of alternative care and ensure that institutionalization is used only as a measure of last resort, i.e. that it is professionally indicated and in the best interests of the child, and conduct periodic reviews of the placement of children in light of article 25. The Committee also recommends that the State party develop quality standards of foster care and significantly decrease the time spent in institutions for children deprived of parental care. It further recommends that adequate resources be allocated for the proper functioning and monitoring of the care institutions and foster care.**

#### **Recovery and maintenance**

210. While welcoming amendments to the legislation on maintenance, the Committee is concerned that recovery of maintenance is not sufficiently ensured in practice and that the related administrative and court proceedings are often too lengthy.

211. **The Committee recommends that the State party take further measures to ensure that legislation on the payment of maintenance is fully implemented, consider alternative measures to court procedures in this regard and ensure more expeditious court proceedings and strict enforcement of court orders. The Committee also recommends that the State party reconsider establishing a fund to provide support to parents waiting for the decision regarding the maintenance of their child.**

#### **Illicit transfer and non-return of children abroad**

212. The Committee notes with satisfaction that the State party has ratified the Hague Convention on the Civil Aspects of International Child Abduction of 1980 but remains concerned that problems persist in the implementation of this Convention.

213. **The Committee recommends that the State party apply the Hague Convention to all children abducted to Croatia and encourage other States that are not yet a party to the Hague Convention to ratify or accede to this treaty and, if necessary, conclude bilateral agreements to deal adequately with international child abduction. It further recommends**

**that professionals dealing with this kind of case receive adequate and ongoing training and that maximum assistance be provided through diplomatic and consular channels, in order to solve cases of illicit transfer.**

### **Adoption**

214. The Committee notes that the State party has not ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption of 1993 and that there is little information about the rules and procedures on intercountry adoption and on how article 21 and other related provisions of the Convention are implemented in this respect.

**215. The Committee recommends that the State party ratify the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption and ensure that domestic adoption is carried out in full compliance with the best interests of the child and the appropriate legal guarantees and procedures spelled out in the Convention.**

### **Abuse, neglect, maltreatment**

216. The Committee welcomes the adoption of the Law on the Protection against Domestic Violence (2003), which prohibits corporal punishment within the family, and of various other legal instruments to prevent and combat domestic violence (e.g. Criminal Code, Family Act) but remains concerned about incidents of domestic violence.

**217. In light of article 19 of the Convention, the Committee recommends that the State party:**

**(a) Undertake a comprehensive study on violence, more particularly, on sexual abuse and violence at home and in school, in order to assess the extent, causes, scope and nature of these violations;**

**(b) Strengthen awareness-raising and education campaigns with the involvement of children in order to prevent and combat child abuse and promote positive, non-violent forms of discipline and respect for children's rights, while raising awareness about the negative consequences of corporal punishment;**

**(c) Evaluate the work of existing structures and provide training to the professionals involved in these types of case;**

**(d) Strengthen measures to encourage reporting of instances of child abuse and prosecute the authors of these acts;**

**(e) Provide care, full physical and psychological rehabilitation and reintegration for child victims of violence.**

## 5. Basic health and welfare

### Health, health-care services

218. The Committee notes the efforts made by the State party to improve its health-care system, e.g. the new Health Insurance Law (2002), but remains concerned about the lack of data about children's health status, in particular children of ethnic and minority groups, and that medical coverage is not ensured for every child. It is also concerned about the effective implementation of breastfeeding programmes and that the "happy baby package" contains material that is not consistent with the International Code of Marketing of Breastmilk Substitutes. The Committee is also concerned about the information that mothers are not allowed to stay with their hospitalized children free of charge unless the child is less than 6 months of age.

219. **The Committee recommends that the State party undertake all necessary measures to ensure that all children enjoy equal access to and quality of health services, with special attention to children from ethnic and minority groups, especially Roma children. The Committee also recommends that the State party enhance its efforts to promote proper breastfeeding practices, including by complying with the International Code of Marketing, and ensure the effective implementation of breastfeeding programmes in accordance with international standards. It also recommends that children not be separated from their parents when they are hospitalized.**

### Adolescent health

220. The Committee notes the efforts undertaken by the State party with regard to drug abuse by adolescents but remains concerned at the increasing number of cases, the increase in sharing syringes among drug users, the lack of an integrated strategy against drug abuse and the apparent inadequacy of treatment facilities to deal with drug additions. The Committee is also concerned at the increasing alcohol and tobacco consumption by adolescents and the lack of programmes for the prevention of suicide among adolescents. The Committee is also concerned that adolescents have a low perception of the risks of contracting HIV and other STDs.

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

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

(b) **Take into account general comment No. 4 (2003) on adolescent health and development;**

(c) **Develop programmes to prevent and combat HIV/AIDS, taking into account the Committee's general comment No. 3 on HIV/AIDS and the rights of children (2003);**

(d) **Develop mental health programmes and services for, inter alia, the prevention of drugs and alcohol abuse, and tobacco use, and programmes for the prevention of suicide and to enhance the quality of the treatment facilities;**

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

(f) **Seek technical cooperation and advice from UNICEF and WHO.**

### **Right to an adequate standard of living**

222. The Committee notes the measures undertaken by the State party to increase economic growth, but remains concerned at the widespread prevalence of poverty in Croatian society, which affect in particular families with more than one child, families headed by women and minority families, including Roma families and families of foreign origin, and in areas that were affected by armed conflict.

223. **The Committee, in line with its previous recommendations (para. 31) recommends that the State party:**

(a) **Take all necessary measures to the “maximum extent of ... available resources” to accelerate the elimination of child poverty, notably to eliminate the disparities between the different regions of the country;**

(b) **Continue to provide material assistance and support to economically disadvantaged families, notably Roma families and families of foreign origin, in order to guarantee the right of children to an adequate standard of living;**

(c) **To include in the poverty reduction strategy specific programmes addressing the particular difficulties faced by poor children.**

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

224. While noting the efforts made by the State party with regard to education, e.g. the 2001 Law on the Changes and Amendments of the Primary Education Law, it remains concerned about the different access to education of children belonging to minority and the most vulnerable groups, including Roma children, children living in poverty, children with disabilities and foreign children, which hampers their full enjoyment of a system of education adequate to their values and identity. The Committee is also concerned that the education system and its organization remain very centralized and that human rights education is not included in the curricula. Finally, the Committee is concerned about the shift system of instruction and the poor equipment and school facilities in many parts of the country.

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

(a) **Take all necessary measures to ensure that articles 28 and 29 of the Convention are fully implemented, in particular with regard to children belonging to the most vulnerable groups (i.e. minority groups, children living in poverty, etc.);**

(b) **Ensure the implementation of the National Programme for Roma, providing it with adequate human and financial resources and with periodic evaluation of its progress;**

- (c) Allocate more funds to reduce the number of shifts in schools and to improve the quality of education in the whole country in order to achieve the goals set out in article 29, paragraph 1, of the Convention and in the Committee's general comment No. 1 (2003) on the aims of education;**
- (d) Ensure that human rights education, including children's rights, is included in the school curricula and that materials are available in the different languages used in schools, and that teachers have the necessary training;**
- (e) Take measures to move towards decentralization;**
- (f) Adopt teaching methods that encourage child-centred learning and more active participation by children;**
- (g) Take the necessary measures to integrate children with disabilities in the mainstream education system, including vocational education, and in society;**
- (h) In the light of article 29 on the aims of education, establish adequate programmes and activities with a view to creating an environment of tolerance, peace and understanding of cultural diversity in order to prevent intolerance, bullying and discrimination in schools and in society at large.**

## **7. Special protection measures**

### **Refugee and displaced children**

226. The Committee notes the adoption of a new Asylum Law (2003) and the progress achieved in the area of asylum, but remains concerned about the delay in its effective implementation.

227. In line with the recommendation of the Committee on the Elimination of Racial Discrimination (CERD/C/60/CO/4, para. 13), and while noting the challenges confronted by the State party in meeting the needs of a large number of refugees, returnees and displaced persons, most of whom are children, the Committee remains concerned that return is still hindered by administrative impediments and hostile attitudes on the part of some national and local officials. The Committee expresses its concern about the difficult access to education and health care for refugee and internally displaced children.

228. **The Committee recommends that the State party ensure the effective implementation of the new Asylum Law and that refugee and asylum-seeking children have access to basic services such as education and health, and that there is no discrimination in benefit entitlements for asylum-seeking families that could negatively affect children.**

229. **The Committee also recommends that the State party take effective measures to resolve the problem of property owners, most of whom are Serbs, returning to their homes before their occupiers (refugees and displaced persons) have been able to find alternative**

**shelter, and that further efforts be undertaken to facilitate the return of refugees and displaced persons. It also recommends that effective measures be undertaken to ensure that displaced children have equal access to education and health care.**

**230. The Committee further recommends that the State party introduce specific laws or administrative regulations or directives that provide special procedures and address special needs of unaccompanied asylum-seeking and refugee children, and in particular ensure that these children have proper accommodation.**

#### **Children in armed conflicts**

231. The Committee welcomes the State party's ratification of the Optional Protocol on the involvement of children in armed conflict in 2002 and notes the efforts undertaken by the State party to provide psychological and social assistance for children who have been affected by armed conflict. However, it remains concerned about the lack of systematic research on the situation of children affected by armed conflict, including follow-up monitoring measures. The Committee is also concerned about the lack of compensation provisions for those children.

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

**(a) Undertake a comprehensive study on children affected by armed conflict in order to assess the extent and scope and the population affected by the problem and identify the consequences and the recovery and remedial measures needed;**

**(b) Strengthen awareness-raising campaigns with the involvement of children;**

**(c) Evaluate the work of existing structures and provide training to the professionals involved in the programmes;**

**(d) Extend psychological and social assistance for the children who have been affected by armed conflict;**

**(e) Take effective measures to ensure that the affected children receive adequate compensation.**

#### **Trafficking and sexual exploitation**

233. While welcoming the measures taken by the State party to prevent and raise awareness of the problem of trafficking in persons, including the establishment of the National Committee for the Prevention of Trafficking in Persons responsible for formulating and implementing the National Plan for the Prevention of Trafficking in Persons, it remains concerned about the effective implementation of the Plan and at the lack of statistical data and specific information on measures undertaken to combat trafficking.

**234. In light of article 34 and other related articles of the Convention, the Committee recommends that the State party further 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 this field, 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.**

#### **Administration of juvenile justice**

235. The Committee welcomes the amendments to the Family Act (2003), the Criminal Code (1999) and the Act on Juvenile Courts (2002) aimed at harmonizing the administration of juvenile justice with relevant international human rights standards, but remains concerned about the quality of the relevant institutions and the reports of incidents of violence in detention centres, and that persons below 18 in detention or custody are kept with adults up to the age of 27.

236. **The Committee recommends that the State party ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, and other United Nations standards in this field 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, and in light of the Committee's day of general discussion on the administration of juvenile justice held in 1995. In particular, the Committee recommends that the State party:**

(a) **Ensure that deprivation of liberty is used only as a measure of last resort and for the shortest possible time, that guarantees of due process are fully respected and that persons under 18 are not detained with adults;**

(b) **Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, notably by establishing special detention centres for persons below 18 with conditions suitable to their age and needs and by ensuring the existence of social services in all the juvenile detention centres in the country;**

(c) **Undertake training programmes on relevant international standards for all professionals involved in the system of juvenile justice;**

(d) **Request technical assistance in the area of juvenile justice and police training from, among others, OHCHR and UNICEF.**

#### **Minorities**

237. The Committee notes the measures undertaken by the State party to improve domestic legislation with regard to minority rights, e.g. the Constitutional Law on the Rights of National Minorities, but remains concerned that these legal instruments are not effectively implemented. It is also concerned about continuing problems of ethnic discrimination and intolerance, particularly concerning the Roma and other minority groups, e.g. Serbs and Bosniaks.

238. **The Committee reiterates its recommendation that the State party should take effective measures to encourage the protection of the rights of children belonging to**

**minority groups and eliminate the impunity enjoyed by those who harass these groups. It also recommends that the State party undertake special measures to stimulate a process of reconciliation and confidence-building, including wide-ranging educational and awareness-raising campaigns.**

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

### **Follow-up**

239. 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 Cabinet or a similar body, the Parliament, and provincial or local governments and parliaments, when applicable, for appropriate consideration and further action.

### **Dissemination**

240. The Committee further recommends that the second periodic report, the written replies submitted by the State party and the related recommendations (concluding these 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, professional groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

## **9. Periodicity of submission of reports**

**241. Finally, in light of the recommendation on reporting periodicity adopted by the Committee and described in its session reports (see CRC/C/114 and CRC/C/124), 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. The Committee recommends that the State party submit its next periodic report on 7 October 2008. This report will combine the third and fourth periodic reports. 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: Kyrgyzstan**

242. The Committee considered the second periodic report of Kyrgyzstan (CRC/C/104/Add.4) at its 987th and 988th meetings (see CRC/C/SR.987 and CRC/C/SR.988), held on 23 September 2004, and adopted at its 999th meeting (CRC/C/SR.999), held on 1 October 2004, the following concluding observations.

## **A. Introduction**

243. The Committee welcomes the submission of the State party's second report, as well as the detailed written replies (CRC/C/RES/63) to its list of issues (CRC/C/Q/KGZ/2), which gave a clearer understanding of the situation of children in the State party. It also notes the open and constructive dialogue it had with the State party's high-level delegation.

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

244. The Committee welcomes the adoption of New Generation, the National Programme and Plan of Action for the Realization of Children's Rights for the period up to 2010, adopted in pursuance of the Convention and the concluding observations of the Committee (CRC/C/15/Add.127) following the consideration of the State party's initial report (CRC/C/41/Add.6).

245. The Committee notes with appreciation the adoption of the Law on the People's Rights Defenders (Ombudsmen), the election of the first Ombudsman in November 2002 and the establishment of a section for children's rights issues within the Office of the Ombudsman.

246. The Committee also welcomes the State party's ratification of the Optional Protocol to the Convention on the involvement of children in armed conflict; the Optional Protocol on the sale of children, child prostitution and child pornography; the ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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

247. The Committee notes that the State party continues to deal with serious economic, social and political challenges following independence in 1991, including a deterioration of living standards, increased unemployment, poverty and corruption, which have had an especially severe impact on children belonging to the most vulnerable segments of society.

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

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

#### **Previous recommendations of the Committee**

248. The Committee notes with satisfaction that various concerns and recommendations made upon the consideration of the State party's initial report have been addressed through legislative measures and policies. However, recommendations regarding, inter alia, the establishment of guidelines governing foster care and adoption (CRC/C/15/Add.127, para. 38), the protection of street children (para. 50), the enforcement of labour laws with regard to child labour (para. 56),

the protection of children from sexual exploitation (para. 60) and the administration of juvenile justice (para. 62), have not been given sufficient follow-up. The Committee notes that these concerns and recommendations are reiterated in the present document.

**249. The Committee urges the State party to make every effort to address the recommendations contained 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**

250. The Committee welcomes the changes in domestic legislation, which should provide a basis for strategies and practice. However, the Committee is concerned that all domestic legislation does not fully conform to the principles and provisions of the Convention. The Committee is also concerned that the new Children Code may not be in compliance with the Convention, especially in the areas of reproductive health and adoption.

**251. The Committee recommends that the State party undertake a comprehensive review of domestic legislation in order to ensure that it conforms fully to the principles and provisions of the Convention. The Committee urges the State party to organize a broad consultative process in order to prepare for the adoption of the Children Code and to ensure that the Code is in full compliance with the provisions and principles of the Convention.**

### **Coordination**

252. The Committee takes note of the information received on the national Commission for Minors. However, the Committee is concerned that there is no permanent mechanism to coordinate the policies and activities on children's rights that are being carried out by the various government ministries, civil society organizations and international agencies. The limited resources available to New Generation also seem to have impeded the development of coordinated ministerial action for children.

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

**(a) Adopt clear programming tools within New Generation, based on the principles and provisions of the Convention;**

**(b) Review the New Generation programme periodically, with the active participation of children and NGOs; and**

**(c) Allocate sufficient resources for the effective implementation of this programme.**

**254. The Committee also recommends that the State party establish a permanent intersectoral and multidisciplinary mechanism to coordinate all policies, strategies and activities relating to children. Sufficient financial and human resources should be allocated to the coordination mechanism and, if necessary, the State party should seek international assistance from UNICEF, among others, in this regard.**

### **Independent monitoring**

255. While welcoming the adoption of the Law on the People's Rights Defenders and the fact that the Office of the Ombudsman has established a specific department dealing with children's rights, the Committee is concerned that the Law does not specifically empower the Ombudsman to receive and address individual complaints from children.

256. **In light of its general comment No. 2 (2002) on national human rights institutions, the Committee encourages the State party to strengthen the role of the Office of the Ombudsman in accordance with the Paris Principles (General Assembly resolution 48/134, annex). The Committee also encourages the State party to empower the department of children's rights within the Office of the Ombudsman to deal with complaints from children, and do so in a child-sensitive and expeditious manner, and also provide remedies for violations of their rights under the Convention. This department should be provided with adequate human and financial resources.**

### **Resources for children**

257. The Committee is concerned about the decrease, in percentage terms, in the resources allocated for children in the national budgets of recent years. It is also concerned that these resources are insufficient to respond to national and local priorities for the protection and promotion of children's rights.

258. **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 at the national and local levels in the context of decentralization 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";**

(b) **Identifying the amount and proportion of the State budget spent on children in the public, private and NGO sectors in order to evaluate the impact and effect of the expenditures and also the accessibility, quality and effectiveness of the services for children in the different sectors.**

### **Data collection**

259. The Committee is concerned about the discrepancies in the data collected by the various ministries and about the lack of disaggregated quantitative and qualitative data on persons under the age 18 years in all areas covered by the Convention, including children living in poverty, children living in rural areas, children with disabilities and street children. The Committee is also concerned that certain of the data collected only apply to children under the age of 17 years, as is the case for data relating to children with disabilities, or those under the age of 16 years, as is the case for data relating to education.

260. **The Committee recommends that the State party develop a comprehensive system for collecting disaggregated data to cover all those under the age of 18 years as a basis for assessing progress achieved in the realization of children's rights and to help design policies to implement the Convention. It also recommends that the State party seek technical assistance from, inter alia, UNICEF in this regard.**

### **Dissemination and training**

261. The Committee notes with appreciation the efforts made by the State party in disseminating the Convention through, inter alia, newsletters, seminars and workshops. Nevertheless, it remains concerned about traditional attitudes towards children and adolescents in society and that children, as well as many professionals working with and for them, are not sufficiently aware of the Convention and the rights-based approach enshrined therein.

262. **The Committee recommends that the State party establish a comprehensive policy with a view to strengthening its efforts to ensure that the provisions and principles of the Convention are widely known and understood by adults and children alike. It also recommends that the State party reinforce adequate and systematic training of all professional groups working for and with children, in particular law enforcements officials, teachers, health personnel (e.g. psychologists and social workers) and personnel in childcare institutions.**

### **Cooperation with NGOs**

263. The Committee takes note of the information that efforts are being made by the State party to establish relationships between the Government and civil society and to increase mutual cooperation. However, the Committee is concerned that these efforts have not yet led to a systematic involvement by NGOs and other sectors of civil society in the State party's implementation of the Convention.

264. **The Committee emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention, including with respect to civil rights and freedoms, and encourages closer cooperation with NGOs. In particular, the Committee recommends that the State party involve NGOs, especially rights-based ones, and other sectors of civil society working with and for children more systematically throughout all stages of the implementation of the Convention.**

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

265. While noting that the State party defines minors as those under 18 years of age, the Committee is aware that numerous legislative acts contain differing definitions for the cut-off age for a "minor". The Committee is concerned that:

(a) Assistance to families with children with disabilities or children with HIV/AIDS is being provided only to children under the age of 16; and

(b) Children in special institutions for psychological care are being transferred to adult psychiatric hospitals at the age of 16.

266. **The Committee recommends that the State party take the necessary legal measures to ensure that all persons under 18 year of age are guaranteed by law the special protection they are entitled to under the Convention.**

### **3. General principles**

#### **Non-discrimination**

267. The Committee is concerned that societal discrimination persists against vulnerable groups of children, including children with disabilities, those living in institutions or in poverty, migrants and asylum-seekers with no formal residence permits. The Committee is also concerned at the increasing discrimination against the girl child, in particular girls living in rural areas, due to re-emerging trends such as bridal kidnappings and forced marriages.

268. **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. The Committee urges the State party to pay particular attention to the situation of the girl child, in particular girls living in rural areas, in order to halt the practices of forced marriage and bridal kidnapping, which prevent the girl child from fully enjoying the rights enshrined in the Convention.**

269. 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 in 2001 by the 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.

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

270. The Committee is concerned that the principle of the best interests of the child is not fully integrated into all policies and legislation affecting children, or in judicial and administrative decisions affecting children.

271. **The Committee recommends that the State party review all legislation affecting children with a view to incorporating the principle of the best interests of the child as reflected in article 3 of the Convention into legislation, regulations and judicial and administrative procedures.**

#### **Right to life**

272. While acknowledging the existence of bilateral negotiations to address the issue, the Committee is concerned at reports of children being injured as a consequence of landmines on the borders of the State party.

273. **The Committee urges the State party to continue its efforts to achieve a bilateral agreement for the demining and demarcation of the border areas, including the ratification and full implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction of 1997. The State party should seek international assistance from the United Nations and other competent bodies in this regard.**

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

274. Notwithstanding the opportunities provided by the Marriage and Family Code for children to express their views (change of name, determination of paternity, place of residence and determination of adoption, amongst others), the Committee notes with concern that children have limited opportunities to freely and fearlessly express their views in schools, courts, or within the family.

275. **In the light of article 12 of the Convention, the Committee recommends that the State party undertake further measures to ensure that children's views are given due consideration in schools, courts, within the family and during relevant administrative processes concerning children through, inter alia, the adoption of appropriate legislation, the training of all caregivers and professionals working with and for children and the use of information campaigns.**

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

#### **Birth registration**

276. The Committee is concerned that access to civil authorities for the purpose of birth registrations is not always guaranteed, in particular for asylum-seekers, persons seeking protection who have not received refugee status and those living in rural areas.

277. **The Committee recommends that the State party strengthen its efforts to improve the birth registration system, including through the development of mobile registration units and increased outreach activities and awareness-raising campaigns for families and traditional birth attendants.**

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

278. The Committee is concerned that persons below 18 allegedly continue to be subjected to torture and cruel treatment, in many cases when in police custody or awaiting trial. Access to legal counsel and/or medical services and communication with their families also seems limited for young persons in police custody. The Committee is also concerned that the complaint procedures for these abuses are not child-sensitive and have not proven to be efficient as no sanctions seem to have been applied.

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

(a) **Undertake all necessary measures to prevent acts of torture and inhuman or degrading treatment or punishment, in particular through training of the police forces;**



- (b) Take measures to investigate, prosecute and sanction those involved in committing acts of torture and inhuman or degrading treatment or punishment against children and young persons;**
- (c) Provide information in its next report on the implementation of the 2003 amendment to the Criminal Code that made torture a crime; and**
- (d) Establish programmes for the rehabilitation and reintegration of the victims.**

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

### **Separation from parents and alternative care**

280. The Committee notes with concern that many children in institutional care have parents and are deprived of their family environment. Sanctioning parents who do not fulfil their parental responsibilities by depriving them of their parental rights is also of concern to the Committee.

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

- (a) Adopt a comprehensive strategy and take preventive measures to avoid separating children from their family environment (inter alia, by providing parents or guardians with appropriate assistance) and to reduce the number of children living in institutions;**
- (b) For the limited number of children who have to be placed in institutions, the State party should take measures to make their stay as short as possible, inter alia by strengthening foster care;**
- (c) Take measures to create an environment that would allow for fuller development of the child and prevent and protect children from all forms of abuse. Contacts with the family while the child is institutionalized should also be further encouraged;**
- (d) Establish procedures for the investigation of complaints from children in cases of physical and emotional abuse.**

### **Adoption**

282. The Committee is concerned that the new Family Code does not require changes in the legislation concerning the secrecy of the adoption or the right of the adopted child to know who his/her biological parents are. The practice of encouraging parents to sign documents by which they agree to give up their children when placing the latter under institutional care, although not widespread, is a matter of concern to the Committee.

283. **In light of article 21 and other relevant provisions of the Convention, the Committee recommends a review of the above-mentioned laws and policies with regard to adoption, as well as the setting up of a mechanism to monitor adoptions. When the State party**

**considers lifting its moratorium on intercountry adoptions, the Committee recommends that it accede to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.**

### **Child abuse and neglect**

284. While commending the State party for the adoption of the Law on Protection from Violence (2003), the Committee expresses its concern about the abuse and neglect that take place in families, in particular with regard to children and against adolescent girls. It is also concerned that recovery and counselling services are insufficient to meet the increased demand for such services.

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

- (a) Enforce and closely monitor the Law on Protection from Violence;**
- (b) Carry out effective public-awareness campaigns and adopt measures to provide information, parental guidance and counselling with a view, inter alia, to preventing violence against children, including the use of corporal punishment;**
- (c) Provide more training to law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner; and**
- (d) Ensure access to counselling for all victims of violence as well as assistance for their recovery and reintegration.**

### **Corporal punishment**

286. The Committee welcomes the fact that the State party considers corporal punishment unacceptable and inadmissible; however, it remains concerned that corporal punishment is not explicitly prohibited in the family, in schools, in other institutions and in childcare settings.

287. **The Committee urges the State party to expressly prohibit corporal punishment by law in the family, in schools, in institutions and in other childcare settings. It further recommends awareness-raising and promotion of positive, non-violent forms of discipline, especially in families, schools and care institutions.**

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

### **Children with disabilities**

288. The Committee notes with appreciation the efforts being made by the State party to provide more inclusive education for children with disabilities. However, the Committee is concerned about the still significant number of children with disabilities who do not receive an education and at the still prevalent trend of institutionalizing children with disabilities. The fact that children with disabilities do not have access to public buildings and public transport is also of concern to the Committee.

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

- (a) **Establish a comprehensive policy for children with disabilities;**
- (b) **Take effective measures to collect adequate and disaggregated data on children with disabilities up to the age of 18 years and use such data in developing policies and programmes to prevent disabilities and to assist disabled children;**
- (c) **Reinforce its efforts to develop early detection programmes to prevent and remedy disabilities;**
- (d) **In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) 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), further encourage the integration of children with disabilities into the regular educational system and into society, including by providing special training to teachers and by making schools more accessible;**
- (e) **Undertake awareness-raising campaigns to sensitize the public, and parents in particular, about the rights and special needs of children with disabilities, including those with mental health concerns;**
- (f) **Increase resources, both financial and human, for special education, including vocational training, and the support given to families of children with disabilities;**
- (g) **Seek technical cooperation for the training of professional staff, including teachers, working with and for children with disabilities from, among others, UNICEF and WHO.**

#### **Right to health and health services**

290. The Committee notes with appreciation the efforts made by the State party to work with different specialized agencies of the United Nations as well as with international NGOs to reduce child mortality. It also welcomes the decision of the Government in December 2003 to introduce the WHO live birth definition nationwide. It is, however, concerned at the regional disparities in mortality rates, the inadequate antenatal care, which is not completely free, the inhumane treatment of children in psychiatric hospitals, and the increase in cases of communicable diseases, such as tuberculosis and HIV/AIDS. Exposure to environmental hazards such as mining wastes or unsafe drinking water also worries the Committee.

291. **The Committee recommends that the State party undertake more efforts to ensure the highest attainable standard of health for all children, to improve antenatal care programmes, to prevent the spread of contagious diseases such as HIV/AIDS and tuberculosis, to improve psychiatric care so as to ensure that children with psychiatric problems are treated humanely and to explicitly prohibit placing children in adult psychiatric hospitals. International assistance from WHO and UNICEF should be requested, inter alia to address the issue of providing safe drinking water and increased access to sanitation.**

**Adolescent health**

292. The Committee is concerned that adolescents do not receive adequate reproductive health or appropriate sex education. Furthermore, the Committee is concerned at the rising trend of tobacco use, alcohol and drug abuse and suicide among adolescents.

293. **The Committee recommends that the State party ensure adequate adolescent health services, as stated in its general comment No. 4 (2003) on adolescent health, implementing in particular programmes on reproductive health, sex education and family planning. The Committee further recommends that the State party take measures to provide mental health services to adolescents.**

**7. Education, leisure and cultural activities****Right to and aims of education**

294. The Committee notes the State party's efforts to increase enrolment rates, both in primary and secondary education, through the national programmes spelled out in the Education Act. It is, however, concerned at the high dropout rates, especially among girls, due to forced marriages. The increasing practice of requesting parents to pay unofficial monthly and/or one-time enrolment fees, as well as for textbooks and school repairs, constitutes an obstacle for children's access to education. The Committee is also concerned that enrolment in early childhood education has decreased in the past several years and that access to education is made difficult for children who are migrants with no formal residence permits, working children and/or street children.

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

- (a) Continue to strengthen measures aimed at increasing enrolment rates in primary and secondary education, in particular with regard to early childhood education;**
- (b) Ensure that the practice of requesting that parents pay "voluntary fees" and other non-official contributions for the education of children is discontinued;**
- (c) Take measures to create more favourable conditions at schools (e.g. improvement of heating and electricity facilities as well as more friendly and less abusive environments) in order to tackle the high dropout rates;**
- (d) Establish special educational programmes in order to accommodate the needs of working children, street children, migrants with no formal residence permits and children deprived of their liberty;**
- (e) Improve the educational system with a view to achieving the aims mentioned in article 29, paragraph 1, of the Convention, taking into account the Committee's general comment No. 1 (2001) on the aims of education, and introduce human rights, including children's rights, into school curricula;**

(f) **Seek assistance from, inter alia, UNESCO, OHCHR and other competent bodies in this regard.**

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

296. The Committee notes with concern the general deterioration of children's access to quality leisure facilities, such as sports centres and cultural institutions, and to public libraries.

297. **The Committee recommends that the State party give priority to improving children's access to, and the quality of sports centres, cultural institutions and other leisure facilities.**

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

#### **Refugee and asylum-seeking children**

298. While welcoming the adoption of the Law on Refugees in 2002 and the more favourable policies towards refugees, the Committee remains concerned that certain practices do not allow persons below 18 to have their own documentation, and at reports that in some cases asylum-seekers are not being allowed to register their claims for refugee status because of their ethnic background. The fact that asylum-seekers cannot legally remain in the country during the time given by the law for them to appeal a decision against granting refugee status is of concern to the Committee.

299. **The Committee recommends that the State party review its regulations and practices concerning refugees in order to eliminate all discriminatory elements between adults and minors as well as between refugees of different ethnic backgrounds and ensure that asylum-seekers whose application for asylum has been rejected in the first instance are granted the right to remain in the country for the period allowed by the law for filing an appeal.**

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

300. The Committee welcomes the recent creation of the Coordination Council on Child Labour (in 2004), but remains concerned about the prevalence of child labour in Kyrgyzstan and the lack of official data in this regard. The use of children as workers by State institutions, and in particular by State educational establishments, is a matter of concern to the Committee.

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

(a) **Take steps to improve the labour conditions of children who are allowed to work and enforce the provisions of the Minors' Rights (Protection and Defence) Act with regard to child labour; and**

(b) **Take immediate and effective steps to eliminate the practice in State institutions, in particular in educational institutions, of requiring children to work for the profit of these institutions.**

**Sexual exploitation/trafficking**

302. The Committee is concerned that the recommendations made upon consideration of the State party's initial report with regard to the involvement of children in sexual exploitation have not been fully implemented. The Committee is also concerned about the health risks posed to children who are sexually exploited and/or trafficked.

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

(a) **Undertake a study of sexually exploited children and use the data to design policies and programmes to prevent sexual exploitation, including by developing a national plan of action on commercial sexual exploitation of children as agreed at the two World Congresses against Commercial Sexual Exploitation of Children in 1996 and 2001;**

(b) **Carry out awareness-raising campaigns, particularly for children, parents and other caregivers, on the risks and effects of commercial sex;**

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

(d) **Ensure that sexually exploited children are always treated as victims and are provided with assistance and support for their reintegration; and**

(e) **Ensure that those who sexually exploit children are prosecuted.**

**Street children**

304. The Committee reiterates its concern with regard to the increasing number of street children in the State party and the vulnerable situation they face daily, with many of their rights not being protected (in particular their social and economic rights) and being subjected to frequent mistreatment by police officers. It is also concerned that migrants with no formal residence permits also live in very precarious housing conditions, without access to basic infrastructure and in fear of forced eviction.

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

(a) **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;**

(b) **Ensure that these children are provided with recovery and reintegration services for physical, sexual and substance abuse, protection from police brutality and services for reconciliation with their families; and**

(c) **Seek international assistance from, inter alia, UNICEF and ILO in this regard.**

## **Juvenile justice**

306. The Committee is concerned that the State party has not yet established specific procedures and courts to deal separately with juvenile offenders under the justice system. Parents, doctors and lawyers are not guaranteed access to those persons below 18 who are arrested. The Committee is also concerned at the lack of vocational training or rehabilitation programmes for those below 18 who have been detained.

307. The long pre-trial detention periods, the harshness of the punishments given to those below 18 when found guilty (up to 15 years in prison) and the lack of alternative penalties to deprivation of liberty for those under the age of 14 are also of concern to the Committee. The Committee notes that when determining the criminal responsibility of a minor, differences exist between those under the age of 14 years and those under 16 years. The Committee is also concerned at the fact that juveniles, in particular girls, are being detained with adults.

**308. The Committee recommends that the State party ensures the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's 1995 day of general discussion on the administration of juvenile justice. In this regard, the Committee encourages the State party as a matter of priority:**

**(a) To expedite its work on reform of the system of juvenile justice in order for children to be tried under a specific juvenile justice system and not the ordinary justice system;**

**(b) To review the existing distinction regarding criminal responsibility of minors under 14 years and those under 16 years, and ensure that alternative penalties to the deprivation of liberty exist for all minors;**

**(c) To ensure that pre-trial detention is used only in exceptional cases, and when this does occur, that access to relatives/representatives and to doctors and lawyers is guaranteed;**

**(d) To undertake all necessary measures, including through technical cooperation, to establish separate detention facilities for juveniles;**

**(e) To review the mandate and restructure the Commission on Minors' Affairs with a view to removing its punitive functions;**

**(f) To ensure that the Akzakal Courts (Elders' Courts), when dealing with children in conflict with the law, fully apply the principles and provisions of the Convention; and**

**(g) To seek technical assistance from the OHCHR and UNICEF in this regard.**

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

### **Follow-up**

309. The Committee recommends that the State party take all appropriate measures to fully implement the present recommendations, inter alia by transmitting them to the members of the Council of Ministers, the Cabinet or a similar body, the Parliament, and to provincial or local governments and parliaments, when applicable, for appropriate consideration and further action.

### **Dissemination**

310. The Committee further recommends that the second periodic report and 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, professional groups and children in order to generate debate on and awareness of the Convention, its implementation and monitoring.

## **10. Next report**

311. **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. 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 reports in one consolidated report by 6 May 2010, i.e. 18 months before the due date established in the Convention for the fourth periodic report. The 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.**

### **Concluding observations: Equatorial Guinea**

312. The Committee considered the initial report of Equatorial Guinea (CRC/C/11/Add.26), submitted on 12 September 2003, at its 989th and 990th meetings (see CRC/C/SR.989 and 990), held on 24 September 2004, and adopted at the 999th meeting (CRC/C/SR.999), held on 1 October 2004, the following concluding observations.

#### **A. Introduction**

313. The Committee welcomes the submission of the State party's initial report, as well as the detailed written replies to its list of issues (CRC/C/Q/GNQ/1), which gave a clearer understanding of the situation of children in the State party. It nevertheless regrets that the initial report was submitted almost 10 years after its due date. It further notes with appreciation the high-level delegation sent by the State party and welcomes the constructive and frank dialogue.



## **B. Positive aspects**

314. The Committee notes with appreciation:

(a) The establishment of a National Plan of Action for Children (1992) and a National Children's Rights Committee (1997);

(b) The Adoption of the Education Law (1995) establishing compulsory, free and guaranteed primary school and the Labour Act regulating child labour (1990);

(c) The adoption and implementation of a National Plan on Education for All, which resulted in some improvements in education;

(d) 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, in February 2003;
- The Worst Forms of Child Labour Convention, 1989 (No. 182), in 2001;
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2003;
- The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, in 1997.

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

315. The Committee notes that the State party became independent in 1968 and that only recently (1992) has it initiated a process of democratization. The Committee also notes that the State party continues to face serious economic, social and political challenges, including the poor economic conditions in which most of the population live and the persistence of traditional attitudes and behaviours that hinder the implementation of the rights of the child.

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

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

#### **Legislation**

316. The Committee notes the efforts undertaken by the State party to examine the compatibility of the domestic legislation with the Convention and that the Constitution and some laws have been adopted to harmonize the existing legislation with the Convention and other international human rights standards. It also welcomes the information that a new Family Code is being prepared in a consultative process. However, the Committee is concerned about the effective implementation of the existing laws and that in some cases newly enacted legislation does not fully reflect the principles and provisions of the Convention or other international human rights standards. It also raises concern about the fact that some customary laws are

incompatible with the principles and provisions of the Convention. The Committee is particularly concerned about the application on a subsidiary basis of a number of Spanish laws dating back to the period before independence.

**317. The Committee recommends that the State party continue and complete its efforts to draft a new Family Code and ensure that the new Code as well as the other laws are in full conformity with the principles and provisions of the Convention and other international human rights standards, and that national laws prevail over conflicting customary laws. The Committee also recommends that the State party ensure the effective implementation, dissemination and publication of the new laws and amendments to existing ones. It further recommends that the State party repeal or amend all provisions of Spanish law that are incompatible with the Convention.**

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

**318. While the Committee notes the adoption of a National Plan of Action for Children 1992-2000, it is concerned at the lack of information about a new National Plan of Action for Children.**

**319. The Committee recommends that the State party develop and implement a new comprehensive National Plan of Action for Children aiming at the realization of the principles and provision of the Convention and which takes into account “A world fit for children”, the outcome of the special session of the General Assembly held in May 2002.**

#### **Coordination**

**320. While the Committee notes the establishment of the National Children’s Rights Committee (CNDN) in 1997 and its role in the coordination and evaluation of the implementation of the Convention, it is concerned at the fact that the Committee is not effectively functioning. The Committee is also concerned at the lack of coordination of the State party’s activities at the level of ministries and between the national and local levels.**

**321. The Committee recommends that the State party reconsider the composition of the CNDN - as well as of its provincial and district committees - by ensuring its intersectoral and multidisciplinary nature and NGO participation, and provide it with adequate financial and human resources. It also recommends that the State party create within its administration a body in charge of coordinating all the activities for the implementation of the Convention, both at the interministerial level and between the national and local levels. Finally, the Committee recommends that the State party undertake measures to improve the capacity and quality of the civil service, particularly in relation to the implementation of the Convention. The State party should seek technical and other assistance in this regard from, inter alia, UNICEF.**

#### **Independent monitoring**

**322. 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.**

**323. In light of its general comment No. 2 on national human rights institutions and the Paris Principles (General Assembly resolution 48/134, annex), the Committee encourages the State party to undertake all necessary measures to develop and establish an independent and effective mechanism, provided with adequate human and financial resources and easily accessible to children, that monitors the implementation of the Convention, deals with complaints from children in a child-sensitive and expeditious manner and provides remedies for violations of their rights under the Convention.**

#### **Resources for children**

324. While the Committee welcomes the State party's commitment made in 1997 to allocate 40 per cent of all its oil revenues to the social sector, it regrets that the necessary measures have not been taken to fully meet this commitment. It also regrets the lack of information about the budget allocated to social expenditures for children, including for health, welfare and education, at the central and local levels. The Committee is concerned that budgetary allocations are insufficient to respond to national and local priorities for the protection and promotion of children's rights.

**325. The Committee urgently recommends that the State party meet as soon as possible its commitment made in 1997 and spend 40 per cent of all its revenues on the social sector. The Committee also 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".**

#### **Data collection**

326. The Committee regrets the lack of comprehensive and up-to-date statistical data in the State party's report.

**327. The Committee recommends that the State party develop a system of disaggregated data collection covering 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 should consider seeking technical assistance in this regard, inter alia, from UNICEF.**

#### **Cooperation with civil society**

328. The Committee is concerned about the limited number of NGOs working for the promotion and protection of the rights of the child and about the reported low level of cooperation between the Government and the national civil society organizations in this regard. It is also concerned about existing legislation (e.g. Law No. 1 of 1999) that seems to limit NGO activities.

329. **The Committee emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention, and recommends that the State party promote closer cooperation with NGOs, review related legislation and consider involving international NGOs, especially rights-based ones, and other sectors of civil society working with and for children more systematically throughout all stages of the implementation of the Convention.**

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

330. In the light of the State party's statement in the report that a large part of the population is unaware of the Convention, the Committee is concerned about the lack of information on activities to disseminate the principles and provisions of the Convention, and on training activities undertaken by the State party for teachers, judges, police officers, officials at correctional institutes.

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

(a) **Undertake public awareness campaigns aimed at children, parents and the public in general, informing them about the content of the Convention and the ways it can be implemented;**

(b) **Develop systematic education and training programmes on the provisions of the Convention for all professionals working with and for children (e.g. teachers, judges, lawyers, parliamentarians, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, health personnel including psychologists and social workers).**

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

332. The Committee notes that the State party's legislation sets 18 years old as the age of majority, but is concerned about the application of the Spanish laws from before 1968 with regard to the minimum legal age for criminal responsibility and marriage. It is also concerned about the young age at which girls can marry according to traditional customs and about the high number of girls who do marry early.

333. **The Committee recommends that the State party review the age limits set by different legislation affecting children, in particular the Spanish laws from before 1968, to fully ensure that they are in conformity with the principles and provisions of the Convention. The Committee also recommends that the State party take all necessary measures to prevent illegal, early and/or forced marriages.**

## **3. General principles**

### **Non-discrimination**

334. The Committee is concerned that societal discrimination and cultural practices persist against vulnerable groups of children, in particular girls, children born out of wedlock, children with disabilities, children belonging to ethnic minorities and children from poor and rural families, and that the measures taken to prevent and combat this discrimination are insufficient.

335. **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, including through awareness-raising, to change attitudes and values and eliminate discrimination on any grounds and against all vulnerable groups, in particular girls and children from poor and rural families.**

336. **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 general comment No. 1 on the aims of education.**

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

337. The Committee is concerned that in actions concerning children, the general principle of the best interests of the child contained in article 3 of the Convention is not always a primary consideration, in particular in a number of Spanish laws from before 1968, which the State party continues to apply on a subsidiary basis.

338. **The Committee recommends that the State party review its laws, policies and practices to ensure that article 3 of the Convention is duly reflected therein and that this principle is taken into account when administrative, policy, court or other decisions are made. It further recommends that the State party collaborate with local authorities, NGOs and community leaders to develop awareness-raising campaigns regarding the general principle of acting in the best interest of the child.**

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

339. The Committee notes with concern that little attention is given to the views of the children in the family and in the adoption of public policies, and that traditional practices and attitudes still limit the full implementation of article 12 of the Convention, in particular for girls.

340. **The Committee recommends that the State party take all necessary measures, e.g. amending its legislation, to fully reflect article 12 of the Convention so that any child “who is capable of forming his or her own views” can express those views freely. It also recommends that the State party develop a nationwide campaign to increase public awareness of the participatory rights of children, particularly at the local levels and in traditional communities, and encourage respect for the views of the child in families, schools, and the care and judicial systems.**

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

#### **Birth registration**

341. The Committee notes the efforts undertaken by the State party regarding the registration of births, but remains concerned about the very low percentage of births that are registered and about the lack of a functional registration system, as well as at the low level of public awareness of the obligation to register children at birth.

342. **In light of article 7 of the Convention, the Committee urges the State party to continue and strengthen, as a matter of priority, its efforts to ensure a coordinated system for the registration of all children at birth, covering the whole of the country, including through awareness-raising campaigns, as well as to continue its cooperation in this regard with, inter alia, UNICEF.**

#### **Freedom of expression and access to information**

343. The Committee is concerned at the information that freedom of expression and opinion is limited in the State party as well as at the lack of libraries, and about the limited information it received concerning the practical implementation of articles 13-17 of the Convention.

344. **The Committee recommends that the State party continue and strengthen the promotion of freedom of expression in schools and other places, inter alia by means of student publications and other means. It also recommends that the State party increase the number and quality of libraries and consider the establishment of mobile libraries freely accessible for children, and that it provide the Committee with more concrete and detailed information on the implementation of articles 13-17 of the Convention in its next report.**

#### **Corporal punishment**

345. The Committee is concerned that corporal punishment is not expressly prohibited by law and is widely practised and socially accepted. It also notes with concern the lack of available data on ill-treatment of children, including corporal punishment, beating and depriving children of their liberty as a punishment.

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

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

(b) **Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment;**

(c) **Seek technical assistance from, among others, UNICEF in this regard.**

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

347. The Committee is concerned at the weakening of family support for children, which is also demonstrated by the fact that less than 50 per cent of children live with both parents due to various factors including urbanization, very-large-scale poverty, the increase of HIV/AIDS, a deterioration of traditional solidarity and a high level of promiscuity.

348. **The Committee recommends that the State party continue and strengthen its efforts, including via the Ministry of Social and Women's Affairs, to give priority to the development and implementation of adequate measures to support vulnerable families, such as single-parent families.**

### **Alternative care**

349. While the Committee welcomes the existence in the country of institutions where the many orphans in the State party can be accommodated, as well as the information that a new one is under construction, it recalls that the institutionalization of children should always be a temporary measure of last resort, professionally indicated and in the best interests of the child. It is also concerned about the lack of information on the systematic review of the situation of children living in these institutions.

350. **The Committee recommends in this regard that the State party:**

(a) **Ensure children are placed in institutions only following proper judicial proceedings and that children in institutions maintain contact with their parents or other caregivers, and that it facilitate, when possible, return of institutionalized children to their families or extended families;**

(b) **Adequately regulate the placement of children in institutions and ensure periodic reviews of placement, in light of article 25 of the Convention. It also recommends that the State party increase the support services and financial assistance for foster care families;**

(c) **Provide adequate training to judges, caregivers and other professionals.**

### **Parental responsibility**

351. The Committee is concerned that some customary laws automatically grant parental authority to the father in the event of parental separation or divorce.

352. **The Committee recommends that the State party ensure that when judicial proceedings or family councils decide to grant one parent custody of the child, the decision be taken based on the principle of the best interests of the child and with the child expressing his/her views. The State party should also ensure that both parents have common responsibilities for the upbringing and development of the child and receive adequate legal and other assistance in this regard, and that they are adequately informed of their rights and responsibilities, particularly in the case of separation or divorce.**

### **Adoption**

353. The Committee is concerned about the lack of appropriate domestic legislation regulating adoption procedures in accordance with article 21 and other relevant provisions of the Convention, and the lack of information on the practices of domestic and intercountry adoption.

354. **The Committee recommends that the State party take the necessary legislative and other measures to ensure that the laws and regulations on adoption are in conformity with article 21 and other provisions of the Convention and consider the ratification of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. It further recommends that the State party provide specific information on the practices of domestic and intercountry adoption in its next report.**

**Abuse and neglect**

355. The Committee notes with concern information indicating a high level of tolerance of promiscuity in families, the lack of information available on child abuse in the family and that legislation for the protection of children from sexual abuse does not expressly prohibit sexual intercourse with minors that are the offender's natural children.

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

(a) **Undertake studies on domestic violence, ill-treatment and abuse (including sexual abuse within the family) in order to adopt effective laws, policies and programmes to combat all forms of abuse;**

(b) **Develop a national system for receiving, monitoring and investigating complaints and, when necessary, prosecuting cases in a manner that is child-sensitive and respects the victims' privacy;**

(c) **Reform legislation on child abuse in the family to expressly prohibit sexual abuse;**

(d) **Set up a comprehensive and nationwide response system that is designed to provide, where appropriate, support and assistance to both victims and perpetrators of family violence, rather than only intervention or punishment, and that ensures that all victims of violence have access to counselling and assistance with recovery and reintegration, while preventing stigmatization of victims of abuse;**

(e) **Seek technical assistance from, among others, UNICEF, in this regard.**

**6. Basic health and welfare**

357. The Committee notes with appreciation the efforts undertaken by the State party to extend the coverage of the health and basic sanitation services. However, the Committee is very concerned that despite decreases in the infant mortality rate, under-five mortality rate and maternal mortality rate, these rates remain very high. It is further concerned at the high incidence of malnutrition and that significant numbers of poor families lack access to services, including safe drinking water and sanitation facilities, which contributes to the spread of communicable diseases. The Committee is also concerned about the weak levels of community participation in the promotion of health, and about insufficient budgetary allocations for health services.

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

(a) **Continue expanding access to health services, in particular in rural areas, and increase the competence of health personnel;**

(b) **Strengthen the implementation and coordination of existing health policies and programmes, in particular the National Action Plan (1992-2000), the Expanded Programme of Immunization, and the Drinking Water and Environmental Health programmes;**



(c) **Facilitate greater access to primary health services; continue to reduce the incidence of maternal, child and infant mortality; prevent and combat malnutrition, especially amongst vulnerable and disadvantaged groups of children; and promote proper breastfeeding practices;**

(d) **Ensure the provision of adequate financial and human resources for the effective implementation of the health programmes.**

### **Children with disabilities**

359. The Committee is concerned at the absence of statistical data and a comprehensive policy for disabled children, who continue to face discrimination in particular with regard to their integration in society, access to education, health and participation in social and cultural life.

360. **In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) and of 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:**

(a) **Take effective measures to collect adequate and disaggregated data on children with disabilities and use such data to establish a comprehensive policy and appropriate programmes and ensure that children's rights are adequately integrated into them;**

(b) **Undertake all necessary measures to combat discriminatory attitudes towards children with disabilities, particularly amongst children and parents, and promote their participation in all aspects of social and cultural life;**

(c) **Formulate a strategy that includes appropriate teacher training, to ensure that all children with disabilities have access to education and, wherever possible, that they are integrated into the mainstream education system;**

(d) **Undertake awareness-raising campaigns to sensitize the public, and parents in particular, about the rights and special needs of children with disabilities;**

(e) **Allocate further resources for special education, including vocational training, and for the support given to families of children with disabilities;**

(f) **Seek technical cooperation for the training of professional staff working with and for children with disabilities from, inter alia, UNICEF and WHO.**

### **HIV/AIDS**

361. The Committee welcomes the efforts undertaken by the State party to address the spread of HIV/AIDS, e.g. the National Programme to fight HIV/AIDS, which provides for free and universal antiretroviral medication, but remains very concerned at the increasing prevalence of HIV/AIDS amongst adults (mainly women) and youth and the increasing number of children orphaned by HIV/AIDS. The Committee is concerned at the lack of alternative care for these children.

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

(a) **Increase its efforts to prevent the spread of HIV/AIDS, taking into account the Committee's general comment No. 3 on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights;**

(b) **Strengthen its measures to prevent mother-to-child transmission, inter alia through coordination with the activities aimed at reducing maternal mortality;**

(c) **Pay particular attention to children who are infected themselves or who have become orphans because of HIV/AIDS, by providing adequate psychological and material support involving the community;**

(d) **Strengthen or establish campaigns and programmes to raise awareness about HIV/AIDS among adolescents, particularly among those belonging to vulnerable groups, as well as among the population at large, so as to reduce discrimination against children infected and affected by HIV/AIDS;**

(d) **Ensure the provision of adequate financial and human resources for the effective implementation of the National Programme on HIV/AIDS;**

(e) **Seek further technical assistance from, inter alia, UNAIDS.**

#### **Standard of living**

363. Given the significant growth rate of the gross domestic product in the State party, the Committee is deeply concerned about the persistence of widespread poverty and the still large number of children who do not enjoy the right to an adequate standard of living, including adequate housing and other basic services.

364. **In accordance with article 27 of the Convention, the Committee recommends that the State party develop and implement, as a matter of high priority, an effective national plan for the reduction of poverty, including the provision of support and material assistance to economically disadvantaged families, and guarantee the right of the child to an adequate standard of living. The Committee also recommends that the State party seek international cooperation and assistance whenever necessary.**

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

365. The Committee notes the adoption of the Education Law (1995) and welcomes the establishment of the National University of Equatorial Guinea (1995) and the State party's efforts to increase enrolment rates in primary education, e.g. through the National Plan on Education for All. However, it is concerned that enrolment and literacy levels are still low, particularly in secondary and pre-primary education, and that there is a significant disparity between the number of boys and girls attending school. It also notes with concern the persistence of cultural and traditional perceptions of girls that limit their access to education. The Committee is also concerned about the lack of financial and material resources for the implementation of the educational programmes and about the lack of trained teachers.

366. The Committee recommends that the State party:

- (a) Continue its efforts to reform the educational system, e.g. by adopting the Law on the Educational Reform (*Ley Reglamentaria de la Reforma Educativa*);
- (b) Continue to strengthen measures aimed at increasing enrolment rates in primary and basic education, in particular for girls;
- (c) Expand public provision of early childhood education and increase the number of trained pre-school teachers, and raise awareness amongst parents about the value of early childhood education;
- (d) Strengthen and expand efforts at teacher training and expand recruitment of qualified teachers, in particular women and persons from all ethnic groups for education in mother tongue programmes;
- (e) Include human rights education as part of the curriculum;
- (f) Undertake an analytical study of children who drop out of school and those who are repeaters, with a view to formulating appropriate strategies to remedy these problems;
- (g) Ensure the provision of adequate financial and human resources for the effective implementation of the educational programmes, in particular the National Plan on Education for All;
- (h) Seek technical assistance from UNESCO and UNICEF.

## **8. Special protection measures**

### **Economic exploitation**

367. The Committee welcomes the State party's ratification of ILO Conventions No. 138 and No. 182 in 2001 and takes note of the adoption in 2004 of the new law against smuggling of migrants and trafficking in persons. Nevertheless, it remains concerned at the significant number of children, especially girls, working on the street and as domestic servants and about the lack of effective implementation of the labour laws and mechanisms to control child labour.

368. The Committee recommends that the State party:

- (a) Undertake a survey of the number of children working, including as domestic servants and in the agricultural sector, in order to design and implement comprehensive strategies and policies to prevent and combat economic exploitation in these sectors;
- (b) Ensure the implementation of legislation fully covering article 32 of the Convention and ILO Conventions No. 138 and No. 182, taking due account of the

**Minimum Age Recommendation, 1973 (No. 146), the Worst Forms of Child Labour Recommendation, 1999 (No. 190) and the comments made by the ILO Committee of Experts on the Application of Conventions and Recommendations;**

- (c) Undertake awareness-raising campaigns to prevent and combat the economic exploitation of children;
- (d) Strengthen cooperation with countries from which cross-border child labour originates in order to combat the economic exploitation of those children;
- (e) Seek assistance from the International Programme on the Elimination of Child Labour (ILO/IPEC) and UNICEF, among others.

### **Sexual exploitation and trafficking**

369. The Committee is concerned at the growing number of child prostitutes in the streets of the State party's capital. It is also concerned that the State party's report lacks specific data on sexual exploitation and trafficking of children and information on legislation on sexual exploitation.

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

- (a) Undertake a study of the sexual exploitation of children in order to assess its scope and causes, enable effective monitoring of the problem and develop measures and programmes, including social reintegration programmes, to prevent, combat and eliminate it;
- (b) Develop and adopt a national plan of action against sexual exploitation and trafficking of children, taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;
- (c) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner that respects the privacy of the victim;
- (d) Seek technical assistance from among others, UNICEF, ILO and WHO.

### **Juvenile justice**

371. The Committee is deeply concerned about the lack of a juvenile justice system in the country. In particular, the Committee is concerned about the lack of juvenile courts and about the detention of persons below 18 with adults, in very poor conditions and without access to basic services.

372. **The Committee recommends that the State party ensure the full implementation of juvenile justice standards, and in particular articles 37, 40 and 39 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, and of the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238). In this regard, the Committee recommends that the State party, in particular:

- (a) Set up independent and effective juvenile courts;
- (b) Limit by law the length of pre-trial detention and ensure that the lawfulness of such detention is reviewed by a judge without delay and regularly;
- (c) Improve the conditions of detention and imprisonment of persons below 18, notably by establishing special institutions for them with conditions suitable to their age and needs;
- (d) Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prison guards, and establish an independent, child-sensitive and accessible system for the receipt and processing of complaints by children;
- (e) Ensure that children deprived of their liberty remain in regular contact with their families while in the juvenile justice system, notably by informing parents when their child is detained;
- (f) Request technical assistance in the area of juvenile justice and police training from, *inter alia*, OHCHR and UNICEF.

## **9. Optional Protocols to the Convention on the Rights of the Child**

373. The Committee notes that the State party has not ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

374. The Committee recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

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

### **Follow-up**

375. 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, when applicable, for appropriate consideration and further action.

## **Dissemination**

376. 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 (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

## **11. Next report**

377. 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. 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 reports in one consolidated report by 14 July 2009, the due date for the submission of the third report. That 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.

## **Concluding observations: Angola**

378. The Committee considered the initial report of Angola (CRC/C/3/Add.66) at its 991st to 992nd meetings (see CRC/C/SR.991 and 992), held on 27 September 2004, and adopted at its 999th meeting (CRC/C/SR.999), held on 1 October 2004, the following concluding observations.

### **A. Introduction**

379. The Committee welcomes the submission of the State party's initial report, which follows the guidelines for reporting, but regrets that it was submitted more than 10 years late. The Committee also welcomes the written replies to its list of issues (CRC/C/Q/ANG/1) and the additional information provided to it during the dialogue. It further notes with appreciation the open dialogue with the high-level delegation of the State party, which included experts from relevant State institutions.

### **B. Positive aspects**

380. The Committee welcomes:

- (a) The Peace Accord of Luena of 2002 ending 27 years of civil war;

- (b) The efforts made by the State party to promote the reintegration of returning refugees as well as the measures taken to regularize the status of refugee children born in Angola;
- (c) The commitments made to strengthen the protection of the rights of the young child by the State party in the context of the first National Forum on Early Childhood Care and Development, held in Luanda from 14 to 16 June 2004;
- (d) The ratification in 2001 of the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182);
- (e) The ratification of the African Charter on the Rights and Welfare of the Child in July 2003;
- (f) The accession in July 2004 to the African Peer Review Mechanism under the African Union's New Partnership for Africa's Development (NEPAD) programme.

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

381. The Committee notes that the many years of armed conflict, which ended in 2002, have had a very negative impact on children in Angola and on the implementation of their rights. In particular, it notes that as a consequence of the conflict more than 4 million people were internally displaced; many children were separated from their parents; schools, health services and the infrastructure of many communities were destroyed or severely damaged; and children suffered serious physical, psychological and other traumas.

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

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

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

382. The Committee is concerned that the process of legislative reform to guarantee the rights of the child and to ensure that domestic legislation is in full conformity with the Convention has still not been completed. It is also concerned at the lack of timely publication of laws and rules and regulations and the delayed implementation of adopted laws, such as the Law on Juvenile Justice and related rules and regulations.

**383. The Committee urges the State party to accelerate the process of revising its legislation, including the ongoing process of drafting a new constitution, to bring it into conformity with the Convention. It further recommends that the State party take the necessary measures to ensure the timely publication of laws and rules and regulations and the efficient and effective implementation of laws.**

##### **Independent monitoring structures**

384. While noting the existence of a human rights office in the Ministry of Justice, a human rights commission of the National Assembly and a number of human rights commissions at the

provincial level, the Committee regrets the lack of an independent national human rights institution in the State party. It notes in this regard that the Constitution allows for the establishment of such an institution.

**385. The Committee recommends that the State party establish an independent human rights institution in accordance with the Paris Principles (General Assembly resolution 48/134, annex) and the Committee's general comment No. 2 on national human rights institutions. The Committee also recommends the establishment of a national commission or ombudsperson for children, possibly as part of a national human rights institution, with a mandate to monitor the implementation of the Convention and deal with complaints from children in a child-sensitive manner. Furthermore, the State party should ensure proper coordination between these independent monitoring bodies and existing human rights offices and commissions.**

### **Coordination**

386. The Committee notes the existence of a number of national institutions and bodies which in various ways are involved with the coordination and/or monitoring of programmes and policies to strengthen the implementation of children's rights, such as the National Children's Institute, the National Children's Office and the Inter-Ministerial Commission for the Coordination of Early Childhood Activities. It also takes note of plans to establish a new State body, the National Children's Council, whose main function will be to help define the national strategy for children and evaluate the performance of State institutions in the implementation of policies concerning the rights of the child. The Committee is, however, concerned at the lack of a mechanism to ensure effective coordination between these institutions and bodies as well as between the national, regional and local levels.

**387. The Committee recommends that the State party create, for example, as suggested during the dialogue, by establishing a single national council, an appropriate national mechanism with a clear mandate and sufficient human and financial resources to effectively coordinate all activities undertaken by the State party for the implementation of children's rights at the national, regional and local levels. The State party is encouraged to seek technical assistance from, among others, UNICEF in this regard.**

### **National plan of action**

388. The Committee notes the adoption of a number of specific national policies and plans of action, such as the National Policy for Orphans and Vulnerable Children, and acknowledges the need for a variety of short-term actions and programmes to address the immediate consequences of the armed conflict. It is, however, concerned at the lack of a comprehensive mid- and long-term national plan of action for all children in the State party.

**389. The Committee strongly recommends that the State party, in consultation and cooperation with relevant partners, including civil society, adopt and implement, a national plan of action for children with mid- and long-term targets, which covers all areas of the Convention and takes into account the outcome document of the 2002 special session of the**



**General Assembly on children, “A world fit for children”, and provides for adequate follow-up mechanisms. The State party is encouraged to seek international assistance from bi- and multilateral donors, including UNICEF, in this respect.**

#### **Allocation of budgetary resources**

390. The Committee welcomes the information that the scheduled budgetary allocations for education have been increased for 2004. However, it notes that the overall level of allocations to the social sector remains very low. While acknowledging the many needs of the State party in rebuilding and reconstructing its infrastructure, the Committee notes that the State party has a very considerable wealth of natural resources and expresses its concern that the State party is not meeting its obligations under article 4 of the Convention. It also notes with concern in this regard reports, including from the International Monetary Fund, indicating deficiencies in fiscal information and weak monitoring and control of public expenditure.

**391. The Committee recommends that the State party continue and strengthen its efforts to increase budgetary allocations for the realization of children’s rights, especially to basic services in the areas of health, education and protection (including recovery and reintegration of child victims of war), to the “maximum extent ... of available resources”. In this regard, the Committee recommends that the State party increase budgetary allocations for the social sector and make sure that revenues from oil and other sources is handled in a transparent manner in order to prevent embezzlement and corruption. The State party is encouraged, in this regard, to ratify the United Nations Convention against Corruption which it signed in December 2003. Furthermore, the Committee encourages the State party to continue its efforts to reduce its external debt and to ensure that the social sector benefits from such reduction.**

#### **Data collection**

392. The Committee appreciates the efforts undertaken by the State party to improve data collection. However, it expresses concern at the lack of adequately disaggregated data (by age, sex, urban and rural areas, etc.) and insufficient data in some areas covered by the Convention, including on disabled children.

**393. The Committee recommends that the State party continue and strengthen its efforts, including training of relevant personnel, to develop a system for the comprehensive collection of comparative and disaggregated data on the implementation of the rights of the child. The data should cover all children below the age of 18 years and be disaggregated, inter alia, by age group, gender and groups of children 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 that affect children. The Committee recommends that the State party continue its cooperation with UNICEF in this regard.**

**Training/dissemination of the Convention**

394. The Committee is concerned that awareness of the Convention among professionals working with and for children and among the general public, especially children themselves, remains low.

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

(a) **To strengthen and expand its ongoing programme of dissemination of 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, health personnel) and especially for children themselves;**

(c) **To translate the Convention into the main local languages.**

**Cooperation with NGOs**

396. The Committee welcomes the cooperation between State institutions and civil society institutions in the implementation of projects related to children's rights. However, it also notes the information that there is a need to further improve this cooperation.

397. **The Committee encourages the State party to strengthen its cooperation with NGOs and involve NGOs and other sectors of civil society working with and for children more systematically throughout all stages of the implementation of the Convention.**

**2. General principles****Non-discrimination**

398. The Committee is concerned at the discrimination faced by children with disabilities, girls, and children belonging to the San communities in the State party.

399. **The Committee recommends that the State party take the necessary legislative measures to explicitly prohibit all forms of discrimination, in accordance with article 2 of the Convention. In this regard, it encourages the State party to include "disability" as a legally unacceptable ground for discrimination in the new constitution currently under consideration. The Committee also recommends that the State party undertake the necessary actions, including awareness-raising and educational campaigns, to reduce and prevent discrimination in practice, particularly against girls.**

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 Durban Declaration and Programme of Action adopted at**

**the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in 2001, taking account of the Committee's general comment No. 1 on the aims of education.**

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

401. The Committee affirms that children have the right to be heard in court proceedings and administrative procedures. However, it notes with concern that traditional norms in the State party do not encourage children to express their views in the family, in schools, in other institutions and in the community.

402. **In light of article 12 of the Convention, the Committee recommends that the State party strengthen its efforts to promote, within the family, schools and other institutions, respect for the views of children, especially of girls, and facilitate children's participation in all matters affecting them. The State party should undertake national awareness-raising campaigns to change traditional adult-centred attitudes which hinder children's right to express their views freely in all matters that affect them.**

## **3. Civil rights and freedoms**

### **Birth registration**

403. While welcoming the efforts undertaken by the State party in cooperation with civil society groups to ensure that children are registered and provided with birth certificates, including the National Campaign for Free Registration of Children, the Committee remains concerned about the unacceptably high number of unregistered children in the State party and the consequences of non-registration on children's access to education and other services.

404. **In light of article 7 of the Convention, the Committee strongly recommends that the State party undertake all necessary measures (e.g. by using mobile birth registration units) to ensure that all children are registered at birth, including by providing such registration free of charge, in line with the commitments made by the Government at the National Forum on Early Childhood Care and Development in June 2004. Meanwhile, children whose births have not been registered should be allowed to access basic services, such as health and education, while waiting to be properly registered.**

### **Freedoms of expression, thought, conscience and religion; freedom of association; protection of privacy; access to appropriate information**

405. The Committee expresses its concern at reports of the lack of respect for the privacy of children in the media and at the very little information provided by the State party on the de facto implementation of articles 13 to 17 of the Convention, including, inter alia, freedom of expression in schools.

406. **The Committee recommends that the State party take the necessary measures to ensure respect for the child's right to privacy, particularly by the media, and to ensure that children are allowed to express their thoughts and opinions. The State party is requested to provide information in its next report on the de facto implementation of articles 13 to 17 of the Convention.**

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

407. The Committee expresses its deep concern at the re-emergence of the persecution of children accused of witchcraft and the very negative consequences of such accusations, including cruel, inhuman and degrading treatment, and even murder.

408. **The Committee urges the State party to take immediate action to eliminate the mistreatment of children accused of witchcraft, including by prosecuting the perpetrators of this mistreatment and intensive education campaigns that involve local leaders.**

**Corporal punishment**

409. The Committee is concerned at the common use of corporal punishment in families and in schools and other institutions for children.

410. **The Committee recommends that the State party take effective measures to enforce the ban on corporal punishment in schools and other institutions; to prohibit the use of violence against children, including corporal punishment, by parents and other caregivers; and to undertake campaigns to educate families, teachers, and other professionals working with and for children on alternative ways of disciplining children.**

**4. Family environment and alternative care****Children deprived of a family environment/alternative care; adoption; and periodic review of placement**

411. The Committee expresses its concern that the care of children deprived of their family in the State party is insufficient. Although children's placement in foster families is given priority, many children are placed in homes that are poorly equipped and understaffed, as there is a lack of foster care and family-based alternative care. The inadequate monitoring and follow-up of placements in institutions is also a cause of concern.

412. **The Committee recommends that the State party take effective measures to develop and promote an effective and extended system of foster care and other family-based alternative care. The State party should also take measures to ensure that the situation of children living in institutions, both public and private, is regularly monitored.**

**Abuse and neglect**

413. The Committee is concerned about the growing number of cases of abuse and violence against children, including sexual abuse in their homes, in schools and in other institutions.

414. **The Committee recommends that the State party strengthen current efforts to address the problem of child abuse, including by ensuring that:**

(a) **Child-sensitive mechanisms to receive and investigate complaints regarding ill-treatment and abuse are established;**

**(b) Public education campaigns about the negative consequences of ill-treatment and preventive programmes, including family development programmes, promoting positive, non-violent forms of discipline are conducted;**

**(c) Counselling and assistance with recovery and reintegration are provided to all victims of violence;**

**(d) Adequate protection to child victims of abuse in their homes is provided;**

**(e) The national plan of action to combat sexual abuse of minors is effectively implemented.**

### **Recovery of maintenance**

415. While the Family Code obliges parents to provide for the maintenance of their children, the Committee is concerned that in practice it is difficult to recover this maintenance and often it is the parent who has custody who carries the full financial costs of bringing up the child.

**416. The Committee recommends that the State party strengthen measures to ensure that both parents contribute to the maintenance of their children.**

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

### **Children with disabilities**

417. The Committee welcomes the efforts to elaborate a strategy to support children with disabilities, in conjunction with UNICEF. However, the Committee regrets the lack of official data on the number of children with disabilities and the lack of care facilities for these children, especially in rural areas, and the fact that a large number of children with disabilities do not attend any form of education.

**418. In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, 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), the Committee recommends that the State party take all necessary measures:**

**(a) To address all issues of discrimination, including social discrimination, in particular against children with disabilities living in rural areas;**

**(b) To collect accurate statistical data on children with disabilities;**

**(c) 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 in regular schools;**

**(d) To ensure equal access to health services;**

**(e) To continue and strengthen cooperation with UNICEF.**

**Health and health services**

419. The Committee expresses its deep concern at the alarming levels of mortality among children, with 25 per cent of children dying before they reach the age of 5. It notes that the main causes of child mortality are related to malaria, diarrhoeal diseases, acute respiratory diseases and vaccine-preventable diseases. The Committee is also concerned about the fact that a majority of children do not have access to adequate health services, the high level of malnutrition among children, the lack of access to safe drinking water and proper sanitation, and inadequate breastfeeding practices among women.

**420. The Committee urges the State party to strengthen its efforts to improve the health situation of children in the State party, including through:**

- (a) A continuation and strengthening of its efforts to ensure that all children have access to basic health-care services;**
- (b) Strengthening vaccination programmes;**
- (c) Improving the nutritional status of children;**
- (d) Active promotion of exclusive breastfeeding for six months after birth, with the addition of appropriate infant diet thereafter.**

**Adolescent health**

421. The Committee is concerned at the lack of adolescent health services and the large number of teenage pregnancies.

**422. The Committee recommends that the State party pay close attention to adolescent health, taking into account the Committee's general comment No. 4 on adolescent health and development. In particular, the State party should strengthen sexual and reproductive health education for adolescents, including family planning measures, especially in schools and out-of-school programmes, with a view to reducing the incidence of teenage pregnancy, and provide pregnant teenage girls with the necessary assistance and access to health care and education. It is also recommended that a comprehensive study be undertaken to assess the scope and nature of adolescent health problems, including the prevalence and negative impact of STIs and HIV/AIDS.**

**Harmful traditional practices**

423. The Committee notes with concern the customary practice of early marriage.

**424. The Committee recommends that the State party ensure the effective enforcement of the minimum age for contracting marriage stipulated in the Family Code. Such measures should be accompanied by awareness-raising campaigns to prevent early marriages.**

**HIV/AIDS**

425. The Committee expresses its concern about the high and growing incidence of HIV/AIDS in the State party and the high number of children who are infected with HIV or have become AIDS orphans.

426. **The Committee refers the State party to its general comment No. 3 on HIV/AIDS and the rights of the child and recommends that the State party reinforce its efforts to combat HIV/AIDS, including by:**

(a) **Accelerating the adoption and implementation of a national plan of action for orphans, vulnerable children and children affected by HIV/AIDS, as envisaged in the 2004 National Forum on Early Childhood Care and Development;**

(b) **Continuing and strengthening measures taken under the National Programme to Combat HIV/AIDS;**

(c) **Developing 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;**

(d) **Seeking technical cooperation from, among others, UNAIDS.**

**Social security and childcare services and facilities/standard of living**

427. The Committee expresses its concern at the high and increasing number of children living in poverty and extreme poverty in the State party, especially in rural areas. It notes with particular concern the very poor living conditions of many internally displaced children and children living in so-called informal settlements.

428. **The Committee recommends that the State party strengthen its efforts to provide acceptable living conditions for children and their families, in particular in view of the child's right to protection, health and education. Such efforts should include target measures to improve the living conditions of those children and families most in need.**

**6. Education, leisure and cultural activities****Education, including vocational training and guidance**

429. The Committee notes with appreciation a number of initiatives, including the National Plan on Education for All, to rebuild the educational infrastructure and expand the educational system so as to enrol more children and improve pre-school education. The Committee notes with concern, however, the very low enrolment of children in pre-school and primary school and the even lower enrolment in secondary school, in particular of girls. It is also concerned about the marked disparities in enrolment between rural and urban areas, the high rates of non-attendance and repetition, overcrowded classrooms and teaching in two or three shifts, fees and extra payments charged in many schools, the low quality of education, the large number of

untrained teachers, the insufficient in-service training and low salaries of teachers. The Committee is also concerned about the lack of facilities for vocational training, leaving many adolescents without preparation for skilled labour. Furthermore, the Committee notes that the entire educational system is extremely underfinanced, which endangers the implementation of the above-mentioned plans to rehabilitate and expand the educational system.

430. **The Committee urges the State party to take all necessary measures:**

- (a) To increase budgetary allocations to education;**
- (b) To rehabilitate the infrastructure of the educational system in the entire country;**
- (c) To reduce shifts of classes;**
- (d) To meet the target set at the 2004 National Forum on Early Childhood Care and Development to guarantee at least 30 per cent of children access to pre-school education by 2008;**
- (e) To increase enrolment rates and reduce repetition and dropout rates and ensure that all children have effective access to primary education free of charge;**
- (f) To prevent and eliminate gender and urban-rural disparities in school attendance and completion rates;**
- (g) To undertake campaigns to instil awareness among parents of the importance of sending their children, particularly girls, to school;**
- (h) To adequately equip existing and new classrooms and schools with books and sufficient and appropriate teaching and learning materials;**
- (i) To improve teaching and learning methods focusing on a child-centred curriculum and instruction;**
- (j) To expand the facilities of vocational training at the secondary school level and for adolescents who have never attended school or dropped out before completing school;**
- (k) To ensure that recruited teachers are qualified and expand and improve both pre-service and in-service teacher training, and provide adequate salaries for teachers;**
- (l) To improve efficiency in the management of education programmes.**

#### **Aims of education**

431. The Committee notes the absence of human rights education in the school curricula in the State party.



432. **The Committee recommends that the State party adopt and implement a national plan for integrating education on human rights in general and children's rights in particular in the primary and secondary school curricula, taking into account the Committee's general comment No. 1 on the aims of education.**

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

433. The Committee notes with concern children's general lack of access to leisure and cultural facilities.

434. **The Committee recommends that the State party give priority to improving children's access to, and the quality of, sports facilities, cultural institutions and other leisure facilities.**

### **7. Special protection measures**

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

435. The Committee notes with appreciation the many efforts undertaken by the State party to address the various problems resulting from massive internal and cross-border displacements. Despite the good results achieved in returning people to their places of origin, the Committee is concerned about the vulnerable situation of internally displaced and refugee families and children in the State party. It is also concerned that the returnees are facing many problems, particularly due to the lack of basic services, and that many children have still not been reunited with their parents.

436. **The Committee urges the State party to give priority attention to the vulnerable situation of displaced families and children and ensure that adequate support is given to the reintegration of families and children who have returned to their places of origin after the end of the armed conflict. The State party should, in this regard, ensure compliance with the Norms on the Resettlement of Displaced Populations (Decree 1/01 of 5 January 2001) which provides, inter alia, for the voluntary nature of resettlement, the security of resettlement sites, the allocation of adequate land and the provision of certain basic amenities and services, such as water, sanitation, schools and health facilities.**

#### **Armed conflict**

437. While welcoming the actions undertaken for the disarmament, demobilization and reintegration of combatants, the Committee is deeply concerned that inadequate attention is given to the plight of former child soldiers, in particular girls. The Committee is also concerned about the situation of children in the enclave of Cabinda, which is still affected by violent conflict.

438. **The Committee recommends that the State party ensure that special attention is given to former child soldiers and children, in particular girls, who were domestic workers, porters, etc. All children who participated in military groups should be eligible for rehabilitation programmes. These programmes should include psychosocial rehabilitation and programmes for community integration. Furthermore, the State party should take all necessary measures to provide adequate protection for children in the enclave of Cabinda.**

439. The Committee notes with deep concern the large number of landmines which remain spread out across the country, causing many deaths and injuries every year and posing a threat to the life, survival and development of children in the State party.

440. **The Committee recommends that the State party take all necessary measures to protect children against landmines, including by continuing and strengthening its mine clearance programmes and programmes for mine awareness and physical rehabilitation of child victims.**

### **Economic exploitation**

441. While welcoming the State party's ratification of ILO Conventions Nos. 138 and 182 in 2001, the Committee is concerned that many children below the legal age for employment work in the State party, mostly in family farms and in the informal sector, and that the work of these children is not monitored, although it is known that children are vulnerable to exploitation in employment.

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

(a) **Strengthen its efforts to prevent children under the legal age for employment from working;**

(b) **Seek innovative strategies whereby children who have completed their primary education who choose to work can combine working with continued education;**

(c) **Establish an inspection system in order to ensure that work performed by children is light work and not exploitative;**

(d) **Develop targeted programmes to protect the rights of children separated from their parents and working in the streets;**

(e) **Seek technical assistance from ILO/IPEC.**

### **Sexual exploitation and trafficking**

443. The Committee is concerned about the extent of the problem of sexual exploitation of and trafficking in children in the State party and notes that internally displaced and street children are particularly vulnerable to such abuse.

444. **The Committee recommends that the State party further strengthen its efforts to identify, prevent and combat trafficking in children for sexual and other exploitative purposes, including by finalizing the national plan of action in this area and providing the appropriate legal framework and sufficient human and financial resources for its implementation. The Committee also encourages the State party to define "trafficking" as a special criminal offence under the Penal Code.**

**Street children**

445. The Committee expresses its concern at the increasing number of street children in the State party. It also notes with concern the generalized use of intoxicating substances among street children.

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

- (a) Conduct a comprehensive study to assess the situation of street children;**
- (b) Take measures to prevent and reduce this phenomenon by addressing its root causes;**
- (c) 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;**
- (d) Ensure that these children are provided with recovery and reintegration services for physical, sexual and substance abuse and services for reconciliation with their families.**

**Administration of juvenile justice**

447. The Committee welcomes the establishment of a specific juvenile justice system under the Law on Juvenile Justice of 19 April 1996. It expresses concern, however, at the failure to implement the law and the fact that the rules and regulations governing this law have still to be published.

448. **In light of articles 37, 39 and 40 and other relevant international standards, the Committee recommends that the State party ensure the full implementation of juvenile justice standards in conformity with those articles of the Convention, as well as with other United Nations standards in this field, in particular the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines). In particular, the Committee recommends that the State party:**

- (a) Allocate adequate human and financial resources to ensure the implementation of the Law on Juvenile Justice throughout the State party, including the creation of juvenile courts and the official publication of rules and regulations concerning that law;**
- (b) Provide adequate training to those responsible for administering juvenile justice;**
- (c) Ensure that all offenders under the age of 18 are tried under the juvenile justice system;**

(d) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time and encourage the use of alternative measures to the deprivation of liberty;

(e) Seek assistance from, inter alia, OHCHR and UNICEF.

## **8. Ratification of the Optional Protocols**

449. The Committee notes the information provided by the State party about the approval by Parliament of the two Optional Protocols to the Convention on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict in 2002. However, the Committee notes that the instruments of ratification have not yet been deposited with the Secretary-General, and urges the State party to take immediate action in this regard.

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

### **Follow-up**

450. 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 similar body, the Parliament, and to provincial or State governments and parliaments, when applicable, for appropriate consideration and further action.

### **Dissemination**

451. 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 (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

## **10. Next report**

452. 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 Convention's implementation. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some States parties experience difficulties in reporting in a timely and regular manner. 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 next periodic reports by 3 January 2008, due date of the fourth periodic report. This report, which will combine 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: Antigua and Barbuda**

453. The Committee considered the initial report of Antigua and Barbuda (CRC/C/28/Add.22) at its 993rd and 994th meetings (see CRC/C/SR.993 and CRC/C/SR.994), held on 28 September 2004, and adopted at the 999th meeting (CRC/C/SR.999), held on 1 October 2004, the following concluding observations.

**A. Introduction**

454. The Committee welcomes the submission of the State party's informative initial report and the written replies to its list of issues (CRC/C/Q/ATG1), which gave a clearer understanding of the situation of children in the State party, though it regrets the late submission of the report. The Committee further notes with appreciation the open and constructive dialogue it had with the high-level delegation and the positive reactions to the suggestions and recommendations made during the discussion.

**B. Positive aspects**

455. The Committee notes the adoption of the following laws aimed at enhancing the implementation of the Convention:

- (a) Sexual Offences Act in 1995, protecting children from incestuous relationships;
- (b) Domestic Violence Act in 1999, protecting the rights of children and women from domestic violence; and
- (c) Magistrates Code of Procedure (Amendment) Act of 1993, ensuring adequate payment of child maintenance by absent fathers.

456. The Committee welcomes the information that the State party has raised the age of majority from 16 to 18.

457. The Committee welcomes the establishment in 2000 of the National Committee on the Rights of the Child to facilitate the implementation of the Convention, and the involvement of the civil society.

458. The Committee also notes with appreciation the establishment of the Alliance for the Well-being of Children.

459. The Committee welcomes the ratification in 2002 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

460. The Committee welcomes the ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182) in 2002 and the Minimum Age Convention, 1973 (No. 138) in 1983.

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

461. The Committee acknowledges the challenges faced by the State party, namely the increasing debt burden and the vulnerability to natural disasters, including hurricanes and droughts, which impede 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**

##### **Legislation**

462. The Committee welcomes the Family Law and Domestic Violence Reform Initiative, involving a comprehensive review of all laws to ensure compliance with the Convention. However, given the fact that a study for such a comprehensive review was completed in 1992, the Committee expresses some concern about the slow pace of the review.

**463. The Committee recommends that the State party continue and strengthen its undertakings with regard to the comprehensive legislative review, with a view to expediting the process of ensuring that its legislation complies fully with the principles and provisions of the Convention.**

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

464. The Committee notes the State party's efforts to formulate a national strategic development plan for the period 2001-2004, which has not been finalized, and a draft national youth policy, but is concerned at the lack of a comprehensive national plan of action for the implementation of the Convention.

**465. The Committee urges the State party to develop and implement a comprehensive national plan of action for the full implementation of the Convention, covering all areas of the Convention and incorporating the objectives and goals of "A world fit for children", the outcome document of the special session of the General Assembly on children. In this regard, the Committee recommends that the State party seek technical assistance from, inter alia, UNICEF and that it involve civil society in the preparation and implementation of such a national plan of action.**

##### **Coordination**

466. The Committee notes that the new Ministry of Social Transformation plays an important role within the Government with regard to its activities for the implementation of the Convention, while at the same time, the National Implementation Committee on the Rights of the Child (NICRC) also has a coordinating task in matters relating to children. The Committee expresses concern at the lack of clear and well-structured coordination among the various bodies involved in the implementation of the Convention.

467. **The Committee recommends that the State party use the planned restructuring of the NICRC not only to strengthen its functions, but also to establish a single inter-ministerial and intersectoral mechanism for the coordination and evaluation of all activities relating to the implementation of the Convention. Such a body should be given a strong mandate and sufficient human and financial resources to carry out its coordinating role effectively, and should include members of the civil society, child rights experts and other professionals, as well as government representatives.**

#### **Independent monitoring**

468. While noting the existence of the Ombudsman in the State party, the Committee is nevertheless concerned at the absence of an independent mechanism with a specific mandate to regularly monitor and evaluate progress in the implementation of the Convention, either within the Ombudsman's Office or as a separate institution, and which is empowered to receive and address individual complaints on behalf of, or from, children.

469. **In light of its general comment No. 2 on national human rights institutions, the Committee encourages the State party to establish an independent and effective mechanism in accordance with the Paris Principles (General Assembly resolution 48/134, annex) that monitors the implementation of the Convention, deals with complaints from children or their representatives in a child-sensitive and expeditious manner, and provides remedies for violations of their rights under the Convention. Such a body should be provided with adequate human and financial resources and made easily accessible to children. The Committee also recommends that the State party consider seeking technical assistance from UNICEF and OHCHR in this regard.**

#### **Resources for children**

470. The Committee, aware of the economic difficulties facing the State party, is nevertheless concerned at the lack of sufficient budgetary allocation for children and the implementation of their rights.

471. **With a view to strengthening its 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 budgetary allocations to ensure the implementation of the rights of children to the maximum extent of available resources and where needed, within the framework of international cooperation and using a rights-based approach.**

#### **Data collection**

472. The Committee is 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, and notes that such data are crucial for the formulation, monitoring and evaluation of progress achieved and to assess the impact of policies with respect to children.

473. **The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age and parishes of residence. This system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable, including children living in poverty, children with disabilities and children from single-parent families. 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 in this regard.**

### **Dissemination**

474. While taking note of the efforts made by the State party to involve NGOs, young people and professionals in the preparation of the initial report and to disseminate information about the Convention, the Committee is concerned that these measures to raise awareness on the principles and provisions of the Convention are insufficient. 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.

475. **The Committee recommends that the State party strengthen its efforts to ensure that the provisions and the principles of the Convention are widely known and understood by adults and children alike. It also recommends that the State party undertake systematic education and training on the rights of the Convention for children and their parents, as well as all professional groups working for and with children, in particular parliamentarians, judges, magistrates, lawyers, law enforcement officials, civil servants, personnel working in institutions and places of detention for children, teachers, health personnel and social workers. In this regard, the Committee recommends that human rights education be included in the official curriculum at all levels of education.**

### **Cooperation with civil society**

476. The Committee notes with concern that insufficient efforts have been made to involve civil society in the implementation of the Convention.

477. **The Committee recommends that the State party systematically involve communities and civil society, including children, throughout all stages of the implementation of the Convention.**

## **2. General principles**

### **Non-discrimination**

478. While noting that discrimination is prohibited under the Constitution, the Committee regrets that the grounds mentioned in the Constitution are not in full compliance with article 2 of the Convention and that no additional legislation exists that explicitly prohibits all forms of discrimination and in greater detail. The Committee is also concerned that some groups of



children, in particular girls, children with disabilities, children living in poverty, children born out of wedlock and informally adopted children, suffer from discriminatory attitudes and disparities in accessing basic services.

**479. The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and that it adopt appropriate legislation, where necessary, to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2.**

**480. 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 Durban 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 on the aims of education.**

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

481. While noting that some legislation providing for the best interests of the child do exist, the Committee is concerned that principles laid down in article 3 are not fully applied and duly integrated into the policies and programmes of the State party.

**482. The Committee encourages the State party to pursue its efforts to ensure that the principle of the best interests of the child is reflected and implemented in all policies and programmes relating to children.**

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

483. The Committee is concerned that the views of the child are not given sufficient consideration in all areas of children's lives and that the provisions of article 12 are not fully integrated into the State party's legislation and administrative and judicial decisions, or in policies and programmes relevant to children.

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

**(a) 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, in school and in communities, in accordance with article 12 of the Convention;**

**(b) Provide educational information to, among others, parents, teachers, government administrative officials, the judiciary and society at large on children's rights to participate and to have their views taken into account; and**

**(c) Amend legislation so that the principle of respect for the views of the child is recognized and respected, inter alia, within custody disputes and other legal matters affecting children.**

### **3. Civil rights and freedoms**

#### **Right to identity**

485. Given the information that some 50 per cent of all households in the State party are headed by women, the Committee expresses its concern that the establishment of legal paternity, where the biological father does not want to legally recognize the child, is time consuming and expensive, which constitutes an impediment to the right of the child to an identity and/or to know both parents.

486. **In the light of article 7 of the Convention, the Committee recommends that the State party facilitate the establishment of legal paternity for children born out of wedlock by creating accessible and expeditious procedures and by providing mothers with necessary legal and other assistance in this regard.**

#### **Corporal punishment**

487. The Committee is seriously concerned about the Corporal Punishment Act and the 1973 Education Act which provides for corporal punishment, which is in clear contravention of article 19 of the Convention. The Committee is concerned that corporal punishment is still widely practised in the family, in schools and in other institutions.

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

(a) **Consider the immediate repeal of, or amendment to, the Corporal Punishment Act and the Education Act;**

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

(c) **Conduct awareness-raising campaigns to inform the public about the negative impact of corporal punishment on children and actively involve children and the media in the process; and**

(d) **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.**

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

#### **Parental responsibilities and recovery of maintenance for the child**

489. The Committee welcomes the Magistrates Code of Procedure (Amendment) Act of 1993 which revised the laws to ensure better provision of child maintenance by absent fathers. However, it remains concerned that the domestic laws of the State party only provide for

obligations of fathers towards their children and do not fully reflect article 18 of the Convention, which stipulates that both parents have common responsibilities for the upbringing and development of the child.

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

- (a) Give consideration to ways of providing particular support to children in single-parent families, including through community structures and social security benefits;**
- (b) Amend or adopt legislation so that both parents have equal responsibilities in the fulfilment of their obligations towards their children;**
- (c) Take measures to ensure as far as possible the maintenance of children born out of wedlock by their parents, in particular their fathers, and ensure that maintenance is provided to children over 16 who are still continuing their education;**
- (d) Engage in serious efforts to reform the Family Code; and**
- (e) Consider ratifying the Hague Convention on the Recognition and Enforcement of Decisions relating to Maintenance Obligations.**

#### **Separation of children from parents**

491. The Committee is concerned that currently, no legal provisions exist to protect the right of a separated parent and/or child to remain in contact with each other.

492. **The Committee recommends that the State party review existing legislation to ensure adequate protection of the right of a separated parent and/or child, with due consideration given to the best interests of the child.**

#### **Children deprived of a family environment and alternative care**

493. The Committee is seriously concerned that no safe houses or places of alternative care exist for boys who suffer from parental neglect or who need to be removed from their family environment, and that they are generally placed in the facility for boys in conflict with the law.

494. The Committee is further concerned at the lack of legislation governing foster care, and that foster parents currently do not receive adequate support and training from the Government.

495. **The Committee recommends that the State party immediately review the current practice of placing boys in need of alternative care in the institution for juvenile offenders, and consider establishing a Government-run institution designed to accommodate boys in need of care, ensuring that their physical and psychological needs are appropriately met, including in the domains of health, education and safety.**

496. **The Committee further recommends that the State party consider adopting legislation governing foster care of children, and that financial support to foster parents be**

**increased to a level that is fully adequate to cover the costs of childcare. In this connection, the Committee underscores the importance of coordination of the efforts and policies on foster care of different ministries and departments. The Committee further recommends that the State party allocate the necessary human and financial resources for the training of foster parents.**

### **Adoption**

497. The Committee is concerned that the practice of informal adoption may not fully respect the principles and provisions of the Convention.

**498. The Committee recommends that the State party ensure that in the practice of informal adoption, the rights of the children involved are fully respected.**

### **Abuse and neglect**

499. The Committee welcomes the adoption of the Sexual Offences Act of 1995 which protects the child against incest, but is concerned that the Offences Against the Person Act protects only girl children from rape and not boys, and that there are no local laws that specifically deal with the issue of protecting children against psychological violence. The Committee is further concerned that there are no officially designated places of safety for child victims of abuse where they can stay until their cases are heard by a magistrate, and that in practice, children are usually held at the police station, which is a cause of serious alarm. The Committee also expresses concern about the lack of adequate complaint filing mechanisms for child victims of abuse and neglect. The Committee is also concerned that prosecution for child abuse and neglect may be impeded as a result of major infrastructural problems in the legal system.

**500. The Committee recommends that the State party take the necessary measures to prevent child abuse and neglect by, inter alia:**

**(a) Carrying out public education campaigns that raise awareness of the consequences of ill-treatment of children and alternative measures of disciplining children, addressing sociocultural barriers that inhibit victims from seeking assistance;**

**(b) Introducing legislation making it mandatory for all professionals working for and with children to report suspected cases of abuse and neglect, and train them in the identification, reporting and management of ill-treatment cases;**

**(c) In addition to existing procedures, establishing effective mechanisms to receive, monitor and investigate complaints in a child-sensitive manner and ensuring proper prosecution of perpetrators of child abuse and neglect;**

**(d) Providing services for the physical and psychological recovery and social reintegration to victims of sexual abuse and any other child victims of abuse, neglect, ill-treatment, violence or exploitation, and taking appropriate measures to prevent the criminalization and stigmatization of victims, including through cooperation with NGOs;**

**(e) Seeking technical assistance from, inter alia, UNICEF and WHO.**

## 5. Basic health and welfare

### Children with disabilities

501. While noting the existence of the State-run special programme, institutions and special units for children with disabilities and the “Early Intervention Programme” instituted in 1990, and the information that making public buildings accessible for persons with disabilities is under consideration, the Committee remains concerned at the lack of:

- (a) A comprehensive government policy for children with disabilities;
- (b) Legislation specifically addressing the rights of disabled children and adults;
- (c) Quality in the delivery and management of services for children with disabilities; and
- (d) Full integration of children with disabilities into the regular schooling system.

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

- (a) **Establish a comprehensive policy for children with disabilities;**
- (b) **Review the situation of these children in terms of their access to suitable health care, education services and employment opportunities, and allocate adequate resources to strengthen services for children with disabilities, support their families and train professionals in the field;**
- (c) **In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) 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), further 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;**
- (d) **Ensure the accessibility not only of public buildings but also of the transport system for children with disabilities; and**
- (e) **Seek technical cooperation for the training of professional staff, including teachers, working with and for children with disabilities from, among others, UNICEF and WHO.**

### Health and health services

503. The Committee welcomes the initiative taken by the State party to make baby products, including medicine, tax free. It further notes the high level of immunization coverage and that health services are free and cover all areas of the country. It also notes the establishment of the AIDS secretariat and welcomes the information that antiretroviral drugs will be provided free of

charge to patients with HIV/AIDS. However, the Committee notes that, as recognized by the State party, the social services are under a tremendous resource strain, in particular the health service. The Committee also shares the concern of the State party at the rising incidence of obesity.

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

(a) **Continue taking all appropriate measures to improve the health infrastructure, including through international cooperation, in order to ensure access to basic health care and services adequately stocked with appropriate resources, including basic medicines for all children;**

(b) **Strengthen the data collection system, inter alia with regard to important health indicators, ensuring the timeliness and reliability of both quantitative and qualitative data and using them for the formulation of coordinated policies and programmes for the effective implementation of the Convention; and**

(c) **Engage in efforts to educate children and their parents about healthy diets and lifestyles.**

#### **Adolescent health**

505. The Committee is concerned that insufficient attention has been given by the State party to adolescent health issues, including developmental, mental and reproductive health concerns. The Committee further notes with concern that the adolescent outreach project focusing on fertility and sexuality funded by the United Nations Population Fund (UNFPA) has not been sustained. The Committee is also concerned that reproductive health education is not part of the official curriculum of primary and secondary education.

506. **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 diseases (STDs), especially through reproductive health education and child-sensitive counselling services, and taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in this regard;**

(b) **Strengthen developmental and mental health counselling services as well as reproductive health counselling and make them known and accessible to adolescents;**

(c) **Take measures to incorporate reproductive health education in the school curriculum, particularly at the secondary level, in order to fully inform adolescents about their reproductive health rights and the prevention of STDs, including HIV/AIDS, and early pregnancies;**

(d) **Consider means of providing particular support to pregnant teenagers, including through community structures and social security benefits; and**

**(e) Continue to work with international agencies with expertise in health issues relating to adolescents, inter alia UNFPA, UNICEF and WHO.**

### **Social security**

507. In view of the increasing number of children living in poverty, the Committee notes with regret the scarcity of information concerning the right of the child to benefit from social security, and expresses concern at the lack of a comprehensive legislative and regulatory social security system that is in full compliance with article 26 of the Convention.

**508. The Committee therefore recommends that the State party make efforts to revise and/or establish a social security policy along with a clear and coherent family policy within the framework of its poverty reduction strategy, as well as effective strategies for using social safety net benefits to further the rights of children.**

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

509. The Committee welcomes the decision by the Board of Education to award scholarships and bursaries to children and the Board's Textbook Assistance Scheme, which provides children, free of cost, with all the textbooks used in school at the primary and secondary levels. It welcomes the provision of free uniforms as of September 2004 in both primary and secondary schools, and the plan to introduce free meals in primary schools. It also notes with appreciation that education is free at all levels of the public school system until the age of 16. However, it remains concerned about a variety of problems, including: shortage of schools and overcrowding; material shortages in schools; equality of access to education; drop-out of boys. The Committee is also concerned that, owing to the entrance examination system, not all students are guaranteed entry into the free public secondary schools.

510. The Committee is also concerned that a significant number of pregnant teenagers do not generally continue their education, and that the Golden Opportunity Programme initiated by the Ministry of Education seems to have had little success. The Committee is also concerned that girls and young women are often forced to leave school because of pregnancy.

**511. The Committee recommends that the State party carefully examine the budgetary allocations for and measures taken within the field with regard to their impact on the progressive implementation of the child's right to education and leisure activities. In particular, the Committee recommends that the State party:**

**(a) Take further measures to facilitate access to education by children from all groups in society by, inter alia, building more schools, improving the provision of school materials, and abolishing the entrance examination system so as to guarantee all students access to public secondary schools;**

**(b) Take appropriate measures, with the participation of children, to increase school attendance and reduce the high drop-out and repetition rates;**

**(c) Provide education opportunities for pregnant teenagers;**

**(d) In the light of the Committee's general comment No. 1 on the aims of education, include human rights education, including the rights of children, in the school curriculum at all levels of education; and**

**(e) Seek further technical assistance from, inter alia, UNICEF and UNESCO.**

## **7. Special protection measures**

### **Economic exploitation**

512. The Committee notes with appreciation the State party's ratification in September 2002 of the Worst Forms of Child Labour Convention, 1999 (No. 182). The Committee expresses concern, however, about the atmosphere of complacency, which may reduce efforts to prevent and eliminate child labour.

**513. The Committee recommends that the State party make every effort, including taking preventive measures, to ensure that those children who engage in lawful domestic work do not work under conditions that are harmful to them and continue to have access to education, and that unlawful work is prevented and eliminated. The Committee further recommends that the State party take action to implement all policies and legislation relevant to child labour, inter alia through campaigns and education for the public on the protection of the rights of children.**

### **Substance abuse**

514. While noting the programmes and initiatives taken by the State party to eradicate trafficking and the illicit use of drugs, the Committee remains concerned at the growing incidence of substance abuse by children, including the use of crack, cocaine and marijuana. It is also concerned at the lack of specific legislation prohibiting the sale, use and trafficking of controlled substances by children, and also of treatment programmes in this regard. The Committee also notes with concern that alcohol consumption by children is common, especially during festivities.

**515. The Committee recommends that the State party take action to combat drug and alcohol abuse by children, including through public education awareness campaigns, and ensure that children who abuse alcohol and/or use drugs and other harmful substances have access to effective structures and procedures for treatment, counselling, recovery and reintegration.**

### **Sexual exploitation**

516. The Committee is concerned that the Sexual Offences Act of 1995 does not afford the same protection to boys as it does to girls. The Committee is also concerned at the low rate of prosecutions of those who sexually exploit children and that there is little in the way of public campaigns to educate the population about the laws governing sexual exploitation. The Committee notes that sexual exploitation of children should be a particular and growing concern for the State party, given its heavy reliance on commercial tourism.



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

- (a) Take appropriate legislative measures and ensure protection from sexual abuse and exploitation for boys and girls under 18 years;**
- (b) Undertake a comprehensive study to examine the sexual exploitation of children, gathering accurate data on its prevalence;**
- (c) Take appropriate legislative measures and develop an effective and comprehensive policy addressing the sexual exploitation of children, including the factors that place children at risk of such exploitation;**
- (d) Avoid criminalizing child victims of sexual exploitation and ensure proper prosecution of perpetrators; and**
- (e) Implement appropriate policies and programmes for the prevention of this crime and the recovery and reintegration of its victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children.**

#### **Trafficking**

518. The Committee notes the lack of information in the State party's report on trafficking of persons, including children, and that there are no laws that specifically address this issue.

519. **The Committee recommends that the State party undertake a comprehensive study to examine the phenomenon of trafficking, including of children, gathering accurate data on its prevalence, and introduce legislation prohibiting it. The Committee also recommends that the State party consider ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.**

#### **Juvenile justice**

520. The Committee is concerned at the very low minimum age of criminal responsibility, which is set at 8, and at the possibility that a person under 18 years can be sentenced to life imprisonment for murder. The Committee is further concerned that persons under 18 are not separated from adults when in detention, and that other problems in the administration of juvenile justice exist in the State party, including:

- (a) A juvenile (defined as a person under the age of 16 years) can be tried as an adult if charged with an adult for a homicide;**
- (b) A juvenile as young as 8 can be requested to appear before the court;**
- (c) There are no separate facilities for persons under 18 and that they can be placed in adult prisons, which are reported to be overcrowded and in poor condition;**

(d) Section 7 of the Juvenile Court Act stipulates that a juvenile can be detained in “any place of safety, including a prison” if he/she is deemed to be “of such an unruly character or so depraved a character”; and

(e) Persons under 18 years of age can be sent to prison, possibly for life, for murder or treason, since, by the State party’s own admission, the law does not stipulate the length of such incarceration.

**521. The Committee recommends that the State party review its legislation and policies 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) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), and in the light of the Committee’s 1995 day of general discussion on the administration of juvenile justice (see CRC/C/46). In this regard, the Committee recommends that the State party, in particular:**

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

**(b) Amend legislation so that juveniles are not brought before an adult court;**

**(c) Ensure that detained children are always separated from adults and that deprivation of liberty is used only as a last resort, for the shortest appropriate time and in appropriate conditions; and**

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

## **8. Optional Protocols to the Convention on the Rights of the Child**

522. The Committee notes that the State party has not ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

523. The Committee recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

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

### **Follow-up**

524. 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 similar body, the Parliament, and to provincial or state governments and parliaments, when applicable, for appropriate consideration and further action.

## **Dissemination**

525. 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 (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

### **10. Next report**

526. 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 second, third and fourth reports in one consolidated report by 3 May 2009, i.e. 18 months before 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.

## **IV. COOPERATION WITH UNITED NATIONS AND OTHER COMPETENT BODIES**

527. During the pre-sessional working group and the session itself, the Committee held various meetings with United Nations bodies and specialized agencies, as well as other competent bodies, in the framework of its ongoing dialogue and interaction with these bodies in the light of article 45 of the Convention. The Committee met with:

- Ms. Katrien Beeckman, consultant, to discuss the right to education (14 September 2004);
- Members of the Coordinating Committee of the NGO Group for the Convention on the Rights of the Child (15 September 2004);
- Representatives of the Sub-Group on Child Labour of the NGO Group for the Convention on the Rights of the Child, ILO and OHCHR to discuss the possibility of organizing an international event on poverty reduction strategies and child rights (21 September 2004);
- The Special Rapporteur on the right to education, Mr. Vernor Muñoz Villalobos, to discuss further cooperation (22 September 2004);

- ILO representatives, to discuss issues and recent developments relating to child labour and economic exploitation of children's rights (23 September 2004);
- A representative of Save the Children International Alliance to discuss issues relating to the Secretary-General's study on violence against children (27 September 2004);
- Mr. Paulo Sergio Pinheiro, independent expert, in charge of the study on violence against children (28 September 2004).

## **V. WORKING METHODS**

528. At its 975th meeting, held on 15 September 2004, the Committee discussed modalities relating to its country visits. At its 976th meeting, held the same day, the Committee discussed the draft guidelines on an expanded core document and targeted reports and harmonized guidelines for reporting under the international human rights treaties (HRI/MC/2004/3) and transmitted its comments to the Secretariat.

529. At its 976th meeting, held on 15 September 2004, the Committee adopted a decision regarding children without parental care (see chap. I).

530. At the same meeting, the Committee discussed and reaffirmed its decision taken during its thirty-fourth session to request the General Assembly to work in two parallel chambers for an initial period of two years (see CRC/C/133). A revised text of the programme budget implications of this decision is contained in annex III to this report.

## **VI. GENERAL COMMENTS**

531. At its 998th meeting, held on 27 September 2004, the Committee discussed progress regarding its four draft general comments (juvenile justice, asylum-seeking and separated children, rights of indigenous children and rights of children with disabilities).

## **VII. DAY OF GENERAL DISCUSSION**

532. In accordance with rule 75 of its provisional rules of procedure, the Committee has decided to devote periodically one day of general discussion to a specific article of the Convention or to a child rights theme in order to enhance understanding of the contents and implications of the Convention.

533. At its thirty-fourth session, the Committee decided to devote its 2004 day of general discussion on "Implementing child rights in early childhood". At its thirty-fifth session, the Committee adopted an outline for the discussion day (see CRC/C/137, annex II).

534. The discussion day was divided in two working groups as follows:

Working Group 1 - Starting sound practices early:

(a) Guaranteeing the rights to survival and development of young children, including the rights to health, nutrition and education;

(b) Guaranteeing the rights to rest and leisure and to engage in play and recreational activities.

Chairperson: Ghalia Al-Thani

Facilitator: Norberto Liwski (subtheme (a))

Lothar Krappmann (subtheme (b))

Rapporteur: Lothar Krappmann

Working Group 2 - Young children as full actors in their own development:

(a) Participation in the family, in the school setting and in the community;

(b) The role of day care, early childhood programmes, pre-school, pre-primary and first years of primary education in promoting the child as a right-holder.

Chairperson: Yanghee Lee

Facilitator: Saisuree Chutikul

Rapporteur: Luigi Citarella

## **Summary of discussions**

### *Working Group 1*

535. Mr. Liwski, member of the Committee on the Rights of the Child, introduced sub-item (a). He recalled that children in early childhood are entitled to special care and assistance and that the family, as the fundamental nucleus for the growth and well-being of all its members and particularly children, should be given the necessary assistance and protection so that it can fully assume its responsibilities within the community. Mr. Liwski also emphasized that the full realization of human rights presupposes a review of the existing social and political practices and indicated three fundamental tools for effective public policies, namely rights-based approach policies, the strengthening of citizenship as an expression of the organization of civil society and the development of community health concepts.

536. During the debate, it was agreed that, in the context of States' policies, a rights-based approach that would take into account the inherent rights of children would be more adequate than a problem-oriented approach based only on needs and/or emergencies. Various speakers stressed the fact that policy makers should be more sensitive when it comes to developing early childhood policies. It was agreed that priority should be given to strengthening the family and empowering parents in the implementation of child rights; in this regard, States parties should give more attention to article 5 of the Convention.

537. Participants stressed that the rights of young children, particularly those belonging to more vulnerable groups, such as disabled children, girls, children belonging to minority or

indigenous groups, children of migrant workers, children placed in institutions, children living in poverty and children in foster care, were being infringed. Emphasis was put on the importance of a holistic and integrated policy approach taking into account the multifaceted violations of children's rights.

538. Other issues raised by various speakers during the debate included the need for data disaggregated by gender on young children, the importance of prenatal care and sound breastfeeding policies, the allocation of resources to pre-school education, the need for preventive measures in health care and the rights of children having their mothers in detention.

539. In the afternoon, Mr. Krappmann, member of the Committee, introduced sub-item (b). He noted that, in the dialogue with States parties, emphasis was usually put on the issues of the survival, health and education of children and that children's play and their cultural and social activities were usually only touched upon. He stressed that play, leisure, recreation and cultural activities are fundamental and indispensable rights of young children. Finally, he emphasized the value for children of self-determined play and goals and self-evaluated performances.

540. The discussion focused mainly on the subject of play in its various forms and nuances; emphasis was put on the definitions of play, the relationship between play, learning and development; and the different concepts of play that exist in different locations, cultures and beliefs. The importance of self-determined and unsupervised play was also stressed, taking into account the possible risks involved in the latter. Many speakers recommended the drafting of a general comment on the implementation of the Convention of the Rights of the Child in Early Childhood.

#### *Working Group 2*

541. The discussions in the Working Group roughly followed its two subthemes.

542. Much of the discussion focused on the challenges to the healthy development of young children. These included the difficulties of sensitizing and training parents, particularly in the context of different cultures and traditions, and certain perceptions of children. In this connection, the subject of corporal punishment was raised and extensively discussed. The subject of birth registration, which is crucial to the child's enjoyment and exercise of rights in general, was also raised. Another significant challenge to the healthy development of children was HIV/AIDS, which threatens the youngest children's right to survival, as well as denying their right to a stable and safe environment.

543. Many participants expressed interest in the subject of childcare. They flagged the need for a holistic policy approach so that government departments could work together, and for such programmes to be adequately supported. The importance of having clear guidelines or laws for quality assurance and accessibility, as well as accurate and disaggregated data on the youngest children, were emphasized. Mention was made of an international framework of core curriculum tools for all professionals working with children which is in the process of being developed.

544. A large part of the discussion was devoted to the issue of participation, including what it means in practice and how it can be implemented for younger children. Experiences were shared

about ways to hear children's voices, to listen to grievances (also touching on the subject of complaint filing systems for younger children), and the ways for parents and other adults to talk to them, including on subjects such as sexual abuse.

545. Participants agreed on the importance of the right to play as a natural way for children to learn, make sense of the world, and participate as actors in society. Support from adults who understand their need to play is very important.

## **Recommendations**

### *Introduction*

546. The Committee reaffirms that the Convention on the Rights of the Child reflects a holistic perspective on early childhood development based on the principles of indivisibility and interdependence of all human rights. Consequently, all of the rights recognized in the Convention apply to all persons below 18, including the youngest children (art. 1). Early childhood covers different age groups in different countries and regions; it generally covers children aged below 4 to below 8 years. The Committee does not favour any definition over another. The Committee, in organizing the day of general discussion, wishes to underline the importance of early childhood development, since the early childhood years are critical for laying a solid foundation for the sound development of the child's personality, talents, and mental and physical abilities.

### *Birth registration*

547. The Committee recommends that States parties take all necessary measures to ensure that all children are registered at birth, inter alia by using mobile registration units, and make birth registration free of charge. The Committee also reminds States parties of the importance of facilitating late registration of birth, and of ensuring that children, including those not registered, have equal access to health care, education and other social services.

### *Comprehensive programme, including vulnerable children*

548. In guaranteeing rights to the youngest children, States parties are urged to develop rights-based, multidimensional and multisectoral strategies that promote a systematic and integrated approach to law and policy development and provide comprehensive and continuous programmes in early childhood development, taking into consideration children's evolving capacity in light of article 5 of the Convention. In view of the crucial importance of early childhood programmes for the sound development of children, the Committee calls on States parties to ensure that all children, especially the most vulnerable are guaranteed access to these programmes. Such groups include girls, children living in poverty, children with disabilities, children belonging to indigenous or minority groups, children from migrant families, children without parental care, children living in institutions, children living with their mothers in prisons, refugee and asylum-seeking children, children infected with or affected by HIV/AIDS, and children of alcohol- or drug-addicted parents. States parties are further urged to promote and uphold the responsibilities, rights and duties of parents or legal guardians to provide

appropriate direction and guidance to young children in the exercise of their rights, as well as provide an environment of reliable and affectionate relationships based on respect and understanding, given their significance for “the development of the child’s personality, talents and mental and physical abilities to their fullest potential” (art. 29, 1 (a)).

*Resource allocation for early childhood (art. 4)*

549. In light of the importance of early childhood development services and programmes for the short- and long-term cognitive and social development of children, States parties are urged to adopt comprehensive and strategic plans on early childhood development within the rights-based framework, and accordingly, increase their human and financial resource allocations for early childhood development services and programmes. In view of the fact that States parties often do not allocate adequate financial and other resources to early childhood policies, services and programmes, it is important that there be sufficient allocations of public investment in services, infrastructure and overall resources allocated to the field of early childhood development. In this connection, States parties are encouraged to develop strong and equitable partnerships between the Government, public services, families and the private sector to finance early childhood care and education.

550. In pursuing these actions, it is necessary that States parties and other stakeholders involved commit themselves to respect all the provisions and the principles of the Convention, especially its four general principles: non-discrimination; the best interests of the child; right to life, survival and development; and respect for the views of the child (arts. 2, 3, 6 and 12).

*Data collection*

551. The Committee reiterates the importance of comprehensive and up-to-date quantitative and qualitative data on all aspects of early childhood for the formulation, monitoring and evaluation of progress achieved and assessment of the impact of policies. In view of the lack, in many States parties, of adequate national data collection systems on early childhood for all areas covered by the Convention, and that specific and disaggregated information on children in early years are not readily available, the Committee urges all States parties to develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age, family structure, urban and rural residence, and other relevant categories. This system should cover all children up to the age of 18 years, with specific emphasis on early childhood, particularly children belonging to vulnerable groups.

*Best interests of the child (art. 3)*

552. In light of article 3 of the Convention, States parties must guarantee that in all activities and programmes concerning children, whether undertaken in public or private early childhood institutions, the best interests of the child shall be a primary consideration. States parties must ensure that the institutions, services and facilities responsible for early childhood development conform to the quality standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.



*Right to survival and development/health/education (arts. 6, 24, 28 and 29)*

553. Article 6, paragraph 2, of the Convention guarantees the right to survival and development to all children. The Committee reminds States parties and others concerned that this provision can be implemented only in a holistic manner, through the enforcement of all other provisions recognized in the Convention, including the rights to health, adequate nutrition and education (arts. 24, 28 and 29). States parties to the Convention need to ensure that in their first years all children have access to adequate health care and nutrition, as stipulated in article 24, to enable them to have a healthy start in life. In this context, breastfeeding and access to clean drinking water and adequate nutrition are essential and due attention should be paid to the importance of appropriate prenatal and post-natal health care for mothers to ensure healthy development of children in early years and a healthy mother-child relationship. To underline the importance of education as part of early childhood development, the Committee recommends that States parties consider making early childhood education an integral part of basic/primary education as a tool to nurture the child's evolving capacities in a stress-free environment.

*Right to rest, leisure and play (art. 31)*

554. In view of the insufficient attention given by States parties and others concerned to the implementation of the provisions of article 31 of the Convention, which guarantees "the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts", the Committee reiterates that these are key rights that enable every young child to fully develop his/her personality, talents and mental and physical abilities to their fullest potential. Recognizing that these rights are often endangered by all manner of external constraints hindering children's collective play and recreation in a stimulating and secure environment that is child-appropriate, the Committee appeals to all States parties, non-governmental organizations and private actors to identify and remove potential obstacles to the enjoyment of these rights by the youngest children, including through poverty reduction strategies. In this connection, States parties are encouraged to pay greater attention and allocate adequate resources (human and financial) to the implementation of the right to rest, leisure and play.

*Child participation (art. 12)*

555. The Convention on the Rights of the Child principally enshrines children's participation in all matters affecting children. Therefore, States parties must take all appropriate measures to ensure that the concept of the child as rights-holder is anchored in the child's daily life from the earliest stage: at home (and including, when applicable, the extended family); in school; in day-care facilities and in his or her community. States parties should take all appropriate measures to promote the active involvement of parents (and extended families), schools and communities at large in the promotion and creation of opportunities for young children to actively and progressively exercise their rights in their everyday activities. In this regard, special attention must be given to the freedoms of expression, thought, conscience and religion and the right to privacy of the youngest children, in accordance with their evolving capacity.

*Community-based approach*

556. The Committee recommends that States parties support early childhood development programmes, including home- and community-based pre-school education programmes, in which parents' empowerment and education are main features. They are urged to construct high-quality, developmentally appropriate and culturally relevant programmes by working with local communities rather than imposing a top-down approach to early childhood development practices. The Committee also recommends that States parties pay greater attention to, and actively support, the rights-based approach to early childhood development, including transition to primary school initiatives that build children's confidence, communication skills and enthusiasm for learning.

*Training and research*

557. The Committee encourages States parties to invest in systematic training and research in the field of early childhood development from a rights-based perspective. States parties are encouraged to undertake systematic education and training of children and their parents, as well as all professionals working for and with children, in particular parliamentarians, judges, magistrates, lawyers, law enforcement officials, civil servants, personnel in institutions and places of detention for children, teachers, health personnel, social workers and local leaders. Furthermore, the Committee urges States parties to conduct awareness-raising campaigns for the public at large.

*Assistance to parents, families and childcare institutions (art. 18)*

558. The Convention requires States parties to render appropriate assistance to parents, legal guardians and extended families in the performance of their child-rearing responsibilities, inter alia by providing parenting education. States parties also should ensure the development of institutions, facilities and services for the care of children and take all appropriate measures to ensure that children of working parents have the right to benefit from childcare services, maternity protection and facilities for which they are eligible. In this regard, the Committee recommends that States parties ratify the ILO Maternity Protection Convention, 2000 (No. 183). Finally, States parties must ensure that parents are given appropriate support to enable them to fully involve their young children in early childhood programmes, including pre-school education.

*Human rights education (art. 29)*

559. In light of article 29 and the Committee's general comment No. 1 on the aims of education, the Committee recommends that States parties include human rights education in pre- and primary school programmes. Such education should be participatory, and adapted to the ages and evolving capacities of young children.

*Role of civil society and private actors*

560. With reference to its recommendations adopted during its 2002 day of general discussion on "The private sector as service provider and its role in implementing child rights" (see CRC/C/121, paras. 630-653), the Committee recommends that States parties support the

activities of the non-governmental sector as a channel for programme implementation. It further calls on all non-State service providers to respect the principles and provisions of the Convention and, in this regard, reminds States parties of their primary obligation in ensuring its implementation. Early childhood professionals - in both the State and non-State sectors - should be provided with thorough preparation, ongoing training and adequate compensation. In this context, States parties are reminded of their obligation to provide services for early childhood development and that the role of civil society should be complementary to, not a substitute for, the role of the State.

#### *International assistance*

561. The Committee recommends that donor institutions, including the World Bank, other United Nations institutions and bilateral donors support early childhood development programmes financially and technically, as one of their main targets in assisting sustainable development in countries benefiting from international assistance.

#### *Looking forward*

562. The Committee urges all States parties, intergovernmental organizations, NGOs, academics, professional groups and grass-roots communities to foster continuous high-level policy dialogues and research on the crucial importance of quality in early childhood development, including at the regional and local levels.

### **Participants**

563. Representatives of the following States parties, organizations and bodies participated in the day of general discussion:

#### *Representatives of States parties to the Convention*

Australia, Bahrain, Barbados, Belgium, Belize, Botswana, Canada, Czech Republic, Fiji, Finland, Germany, Georgia, Ghana, Ireland, Japan, Lithuania, Mauritius, Monaco, Poland, Spain, Sweden, Syrian Arab Republic, Turkey.

#### *United Nations bodies and agencies and other intergovernmental organizations*

Organization for Economic Cooperation and Development Centre, Commonwealth Secretariat, Council of Europe, United Nations Children's Fund, World Food Project.

#### *Non-governmental organizations, including the private sector*

Action Aid India, Aga Khan Foundation, Arigatou Foundation-Geneva, *Asociacion trabao di Hubentud na Aruba*, *Associazione Comunità Papa Giovanni XXIII*, Baby Milk Action, Baha'i International Community, Bernard van Leer Foundation, *Bruxelles Accueil et Développement pour la jeunesse et l'enfance* (BADJE), Canadian Child Care Foundation, Canadian Coalition for the Rights of Children, CECODAP, Central Union for Child Welfare, Centre on Human Evolution

Studies, CEU-IPV, Child and Youth Welfare Association-Germany, Children's Rights Alliance for England, *Coalition des ONG des Droits de l'Enfant*, *Comité contre l'esclavage moderne*, *Consultative Group on ECCD*, *Coordination des ONG pour les droits de l'enfant* (CODE), Defence for Children International - and its national sections from Angola, Belgium, the Czech Republic, the Democratic Republic of the Congo, Japan, the former Yugoslav Republic of Macedonia and Switzerland, *Deutsche Liga für das Kind* (German League for the Child), ECPAT International, Eshet Children and Youth Unity Association-Ethiopia, European Association for Children in Hospital (EACH), the European Children's Network (EURONET), Every Child, Federation for the Protection of Children's Human Rights, Flemish Children's Rights Coalition, Forum for Crèche and Childcare Services (FORCES), Ghana NGO Coalition on the Rights of the Child, Global Initiative to End all Corporal Punishment of Children, Global-Wfaucis, *Gruppo di Lavoro per la CRC*, Health Canada, Hopes and Homes for Children, ICCB/BICE, Committee for Legal Aid to Poor, India Alliance for Child Rights, International Alliance of Women, International Baby Food Action Network (IBFAN-GIFA), International Federation Terre des Hommes, International Foster Care Organisation, IPPA-the Early Childhood Organisation, Italian CRC working group - *ArciRagazzi*, *Kind en Gezin*, Mouvement International Aid, National Coalition for the implementation of the UN Convention on the Rights of the Child in Germany, International Catholic Child Bureau (ICCB), Netherlands Institute for Care and Welfare/International Centre, NGO Group for the CRC, Pakistan International Human Rights Organisation (PIHRO), Plan Finland, Pro Juventute, *Reliasle Fubure Leubh*, Rowen International, Save the Children - Sweden and United Kingdom, Society for the Protection of the Rights of the Child (SPARC), SOS Kinderdorf International, Specialist Children's Services, SRG Welfare Society, University of the West Indies Caribbean Support Initiative, Training and Resources in Early Education (TREE), Women's World Summit Foundation (WWSF), World Movement of Mothers.

#### *Other organizations and individuals*

Ilaria Barachini, Italian National Childhood and Adolescence Documentation and Analysis Center; Kathien Beeckman, *Das Bikash*, Sector-6, India; Johanna Fleischhauer, University of Duisburg; Masaaki Fukud, Yamanashi-gakuin University, Law School, Japan; *Délégation à la petite enfance*, Ville de Genève; Ansah Samuel Guansa, University of Ghana; Karl Hanson, *Institut universitaire Kurt Bösch*, Sion, Switzerland; Waltrant Kerber-Ganse, Technical University of Berlin; Service de la petite enfance, Commune de Meyrin, Switzerland; Eva Lloyd, Centre for Poverty and Social Justice, University of Bristol; Liga Ozolo, University of Oslo; Aisling Parkes, University College Cork, Ireland; Helen Penn, University of East London; Jerry Ross-Akuetteh, University of Ghana; K. Shanmugavolayurham, Convenor T.V. Forces, India; Iveta Strazdina, Riga Graduate School of Law; Jacques van der Gaag, University of Amsterdam; Teresa Walker, Ombudsman for Children's Bureau, Poland.

### **VIII. FUTURE DAY OF GENERAL DISCUSSION**

564. At its 998th meeting, held on 30 September 2004, the Committee decided to dedicate its 2005 day of general discussion to the theme of "Children deprived of parental care".

## **IX. DRAFT PROVISIONAL AGENDA FOR THE THIRTY-EIGHTH SESSION**

565. The following is the draft provisional agenda for the thirty-eighth 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.

## **X. ADOPTION OF THE REPORT**

566. At its 999th meeting, held on 1 October 2004, the Committee considered the draft report on its thirty-seventh 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. Alison ANDERSON**	Jamaica
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. Nevena VUCKOVIC-SAHOVIC*	Serbia and Montenegro

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\* Term expires on 28 February 2005.

\*\* Term expires on 28 February 2007.

## Annex II

### DAY OF GENERAL DISCUSSION “IMPLEMENTING CHILD RIGHTS IN EARLY CHILDHOOD”\*

17 September 2004

#### Updated list of submissions

1. Bernard van Leer Foundation, *Children are our future*
2. Bruce Abramson, *The CRC Rights of Babies and Young Children: Three Key Issues*
3. Canadian Child Care Federation, *Keeping our Promises: Right from the Start*
4. Centre for Human Evolution Studies (CEU) and Ius Primi Viri International Association (IPV), *The Rights of the Child*
5. Comunità Papa Giovanni XXIII Association, *Starting Sound Practices Early*
6. End All Corporal Punishment of Children Global Initiative
7. European Association for Children in Hospital (EACH), *Steps for Implementing the Child's Right to Health*
8. FORCES India - New Delhi, *The Status of the Young Indian Child*
9. FORCES - Tamil Nadu, *Right to Participation of Young Children in India*
10. German League for the Child
11. Groupe Africain, *Un acte qui contribue à la protection et à la promotion des droits de l'enfant: la reconnaissance légale*
12. Government of Venezuela, *Early Childhood in the Venezuelan Education sector: Implementing Child Rights*
13. Gustavo Masco - Buenos Aires Archdiocesan Delegate Child and Adolescence Area
14. Human Rights Watch - Children's rights division
15. India Alliance for Child Rights (IACR), *India's Girl Child: Early Childhood - or Early Disposal?*
16. International Baby Food Action Network, *Guaranteeing the rights to survival and development of young children, including the rights to health, nutrition and education*

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\* This annex is circulated in the original languages only.

17. International Foster Care Organisation
18. IPPA, the Early Childhood Organisation, Republic of Ireland, *Implementing child rights in early childhood*
19. NGO Coalition for the Implementation of the CRC - Germany
20. NGO Coalition for the Implementation of the CRC - DRC
21. Norberto Liwski, *Realización de los derechos del niño en la primera infancia*
22. Norberto Liwski, *Realization of Child Rights in Early Childhood*
23. Patronato Nacional de la Infancia de Costa Rica, *Insumos de Costa Rica para los grupos de trabajo*
24. Quaker United Nations Office, *Children of Imprisoned Mothers*
25. RAPCAN, *Realising the rights of the youngest child*
26. Ruben Efron - Universidad de Buenos Aires
27. SOS Kinderhof International
28. SRG Welfare Society Bangladesh, *The Child of Bangladesh and Poor and destitute children in Bangladesh*
29. Subsecretaría de Educación - Provincia de Buenos Aires, *El derecho a la niñez*
30. UNICEF
31. UNICEF New Zealand and Action for Children and Youth Aotearoa
32. Vera Misurcova, *Implementation of children's traditional games in early childhood*
33. Victoria Martinez, *La primera infancia desde una perspectiva de derechos humanos*
34. Ville de Genève - Délégation à la petite enfance, *Petite enfance: des droits pour ouvrir à la citoyenneté?*
35. Women's Coalition for Peace and Development and India Alliance for Child Rights, *What has changed for girls in India in the decade since Beijing and Cairo?*



**Background papers received**

1. Caroline Arnold, *Positioning ECCD in the 21st Century*, Submission written for the Consultative Group for Early Childhood Care and Education, 2004 Coordinators' Notebook
2. Defence for Children International, *International Children's Rights Monitor: Are Youngest Children Being Sidelined in the Child Rights Movement?* (Hard copy only)
3. Council of Europe, *Children, participation, projects - how to make it work!* (Available in English and French)
4. CLAP, *Exploring Rights of the Child in Early Childhood: a Report of Interface for Perspective Building on Legal Aspects of Early Childhood Care and Development*

### **Annex III**

#### **PROGRAMME BUDGET IMPLICATIONS OF IMPLEMENTATION OF THE DECISION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD ON ITS WORKING METHODS**

1. In accordance with rule 26 of its provisional rules of procedure, the following statement of programme budget implications was prepared for the Committee's thirty-seventh session with respect to implementation of the decision concerning its working methods that was adopted at its thirty-fourth session.<sup>a</sup>
2. The Committee on the Rights of the Child currently holds three annual sessions of three weeks' duration each, at Geneva. A pre-sessional working group also meets at Geneva for one week approximately two to three months in advance of each session. Resource requirements relating to the Committee are included in the programme budget for the 2004-2005 biennium. The Committee currently considers the reports of 9 States parties at each session, or 27 States parties annually. The reports of 57 States parties have been submitted and are awaiting review, while the initial reports of 13 States parties and the second periodic reports of 100 States parties have not been submitted in accordance with the requirements of the Convention, and are accordingly overdue. From January 2004, States parties began submitting reports required under the Convention's Optional Protocols.
3. Concerned with the significant number of reports of States parties awaiting consideration and that the information contained therein will become obsolete, and as a measure to encourage States parties to submit their reports in a timely manner, the Committee at its thirty-fourth session in October 2003 decided that, beginning at its thirty-eighth session in January 2005, it would consider the reports of States parties in two parallel chambers, and requested the General Assembly to approve the decision. A statement of the programme budget implications of this decision was duly prepared and brought to the Committee's attention.<sup>b</sup>
4. At its thirty-seventh session, the Committee reaffirmed its decision and agreed that it should be implemented beginning at the meeting of the pre-sessional working group for its forty-first session, scheduled to take place from 3 to 7 October 2005. During 2006, the Committee would meet for two weeks of each three-week session in two parallel working groups, and in parallel working groups for the entire week of each pre-sessional working group.
5. The total estimated cost to cover staff requirements (general temporary assistance (GTA) to recruit one professional (P-3) and one General Service staff member for 12 work-months to assist with the backlog) and conference servicing and support requirements would amount to \$702,206 for the year 2005 and \$4,115,242 for the year 2006. The breakdown is as follows:

**2005**

Section 2 - General Assembly Affairs and Conference Services	\$484,906
Section 24 - Human Rights (GTA)	\$214,900
Section 29E - Administration Geneva	\$2,400
<b>Total estimated cost for 2005</b>	<b>\$702,206</b>

**2006**

Section 2 - General Assembly Affairs and Conference Services	\$3,878,742
Section 24 - Human Rights (GTA)	\$214,900
Section 29E - Administration Geneva	\$21,600
<b>Total estimated cost for 2006</b>	<b>\$4,115,242</b>

6. No provision has been made under section 24 - Human rights, of the programme budget for the biennium 2004-2005 to cover these activities and they are not anticipated to be absorbed within existing resources. Hence, additional appropriations would be required should the General Assembly approve the Committee's decision. It is anticipated that the requirements for 2006 will be included in the proposed programme budget for the biennium 2006-2007.

**Notes**

<sup>a</sup> *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 41 (A/59/41), chap. I, sect. C.*

<sup>b</sup> *Ibid.*, addendum (A/59/41/Add.1).

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