



**Convention on the  
Rights of the Child**

Distr.  
GENERAL

CRC/C/150  
21 December 2005

Original: ENGLISH

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COMMITTEE ON THE RIGHTS OF THE CHILD  
Thirty-ninth session  
17 May-3 June 2005

**REPORT ON THE THIRTY-NINTH SESSION**

**(Geneva, 17 May-3 June 2005)**

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

**Consideration of reports under the two Optional Protocols of the Convention on the Rights of the Child**

*The Committee on the Rights of the Child,*

*Welcoming* the fact that over half of the Member States of the United Nations, including States parties to the Convention on the Rights of the Child, have ratified the Convention's Optional Protocols on the involvement of children in armed conflict and the one on the sale of children, child prostitution and child pornography,

*Encouraging* the remaining States parties to the Convention and other States to ratify the Optional Protocols as soon as possible in order to strengthen the rights of children covered in both the Protocols,

*Noting* the provision under the two Optional Protocols requiring States parties to submit separate initial reports on the implementation of the Protocols within two years after ratification, which implies the possibility of submission of a report shortly after ratification,

*Welcoming* the reports on the Optional Protocol received so far and urging States parties of which initial reports are overdue to submit them as a matter of priority and the other States parties to do it as soon as possible.

*Decides to adopt* the following rules for the examination of initial reports on Optional Protocols:

1. Reports received approximately at the same time as a regular periodic report on the implementation of the Convention on the Rights of the Child will be considered at the session at which this regular periodic report will be examined. Additional separate time will be scheduled for this examination if the State is a party to both Optional Protocols and has submitted approximately at the same time both initial reports;

2. States parties to both Optional Protocols are encouraged, whenever possible, to submit their initial reports at the same time and preferably not later than the ultimate date at which the initial report is due for the Optional Protocol ratified first. The examination of the two initial reports will be scheduled for a regular session of the Committee;

3. In case the rules mentioned before do not apply, the Committee will apply the following ones:

(a) If the State is only a party to the Optional Protocol on the involvement of children in armed conflicts, the initial report to this instrument will be considered at a regular session of the Committee if the State party concerned is facing or has recently faced serious difficulties in respecting and implementing the provisions enshrined in the Optional Protocol. For other

States parties, the Committee will offer them a choice of an examination in writing (technical review) or one at a regular session of the Committee which include a dialogue with representatives of the concerned State party;

(b) If the State is only a party to the Optional Protocol on the sale of children, child prostitution and child pornography, the initial report on this instrument will be examined by the Committee at one of its regular sessions.

4. Initial reports submitted under both Optional Protocols will also be included in the agenda of the Committee's Pre-sessional Working Group meetings.

## II. ORGANIZATIONAL AND OTHER MATTERS

### A. States parties to the Convention

1. As at 3 June 2005, the closing date of the thirty-ninth 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 117 States parties and signed by 98 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 95 States parties and signed by 111 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-ninth session at the United Nations Office at Geneva from 17 May to 3 June 2005. The Committee held 27 meetings (1026th to 1052nd). An account of the Committee's deliberations at its thirty-ninth session is contained in the relevant summary records (CRC/C/SR.1026-1037; 1040-1045; 1048-1049 and 1052).

### C. Membership and attendance

5. All the members of the Committee attended the thirty-ninth session, except Ms. Ghalia Al-Thani. 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. Brent Parfitt (absent between 17 and 20 May 2005), Ms. Moushira Khattab (absent on 23, 24 and 26 May), Mr. Hatem Kotrane (absent on 26 and 27 May), Mr. Norberto Liwski (absent between 30 May to 1 June 2005), Ms. Awa N'Deye Ouedraogo (absent between 23 and 25 May), and Mr. Jean Zermatten (absent on 2 June 2005) were not able to attend the session in its entirety. During their absence, Ms. Ouedraogo and Mr. Liwski were representing the Committee at regional consultations organized in the framework of the United Nations Secretary-General Study on violence against children.

6. At its 1026th meeting, held on 17 May 2005, three new members of the Committee made their solemn declaration: Mr. Awich Pollar, Mr. Kamal Siddiqui and Mr. Jean Zermatten. Mr. Brent Parfitt made his solemn declaration on 23 May 2005 (1034th meeting).

7. During the opening meeting of the thirty-ninth session (1026th), the Committee adopted a new Bureau composed of the following members:

Chairperson: Mr. Doek (The Netherlands)

Vice-Chair: Ms. Lee (Republic of Korea)

Vice-Chair: Mr. Liwski (Argentina)

Vice-Chair: Ms. Khattab (Egypt)

Vice-Chair: Ms. Aluoch (Kenya)

Rapporteur: Ms. Vuckovic-Sahovic (Serbia and Montenegro)

8. The following United Nations bodies were represented at the session: Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Children's Fund (UNICEF), Office of the United Nations High Commissioner for Refugees (UNHCR).

9. The following specialized agencies were also represented at the session: International Labour Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Health Organization (WHO).

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

*General consultative status*

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

*Special consultative status*

Amnesty International, Arab Organization for Human Rights, 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*

International Baby Food Action Network, NGO Group for the Convention on the Rights of the Child.

#### **D. Agenda**

11. Also at the 1026th meeting, the Committee adopted the following agenda on the basis of the provisional agenda (CRC/C/147):

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

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

12. In accordance with a decision of the Committee at its first session, a pre-sessional working group met in Geneva from 31 January to 4 February 2005. All the members except Ms. Joyce Aluoch and Ms. Marilia Sardenberg participated in the working group. Representatives of OHCHR, ILO, UNICEF, UNESCO, UNHCR and WHO also participated. A representative of the NGO Group for the Convention on the Rights of the Child, as well as representatives from various national and international non-governmental organizations, also attended.

13. The purpose of the pre-sessional working group is to facilitate the Committee's work under articles 44 and 45 of the Convention, primarily by reviewing State party reports and identifying in advance the main questions that would need to be discussed with the representatives of the reporting States. It also provides an opportunity to consider questions relating to technical assistance and international cooperation.

14. Mr. 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 one country (Bosnia and Herzegovina), the second periodic reports of four countries (the Philippines, Nepal, Mongolia and Nicaragua) and three third periodic reports (Norway, Costa Rica and Yemen). 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 6 April 2005.

## **F. Organization of work**

15. The Committee considered the organization of its work at its 1026th meeting, held on 17 May 2005. The Committee had before it the draft programme of work for the thirty-ninth session, prepared by the Secretary-General in consultation with the Chairperson of the Committee, and the report of the Committee on its thirty-eighth session (CRC/C/146).

## **G. Future regular meetings**

16. The Committee noted that its fortieth session would take place from 12 to 30 September 2005 and that the pre-sessional working group for the forty-first session would meet in two parallel chambers from 3 to 7 October 2005.

# **III. REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION AND UNDER ARTICLE 12 OF THE CONVENTION'S OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

## **A. Submission of reports**

17. The Committee had before it the following documents:

(a) Notes by the Secretary-General on initial reports by States parties due in 1992 (CRC/C/3), 1993 (CRC/C/8/Rev.3), 1994 (CRC/C/11/Rev.3), 1995 (CRC/C/28), 1996 (CRC/C/41), 1997 (CRC/C/51), 1998 (CRC/C/61) and 1999 (CRC/C/78); and on periodic reports 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/148);

(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.10).

18. The Committee was informed that, in addition to the 10 reports that were scheduled for consideration by the Committee at its current session and those which had been received prior to the Committee's thirty-ninth session (see CRC/C/146, para. 16), the Secretary-General had received the initial report of Turkmenistan (CRC/C/28/Add.24), the second periodic reports of Benin (CRC/C/65/Add.36), Oman (CRC/C/149/Add.1) and Senegal (CRC/C/65/Add.37), and the third periodic report of Ethiopia (CRC/C/129/Add.8).

19. As at 3 June 2005, the Committee had received 183 initial, 94 second periodic and 15 third periodic reports. A total of 253 reports (181 initial, 66 second periodic and 6 third periodic) have been considered by the Committee.
20. 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-eighth session: El Salvador (CRC/C/OPAC/SLV/1) and Belgium (CRC/C/OPAC/BEL/1).
21. 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: Qatar (CRC/C/OPSA/QAT/1) and China (CRC/C/OPSA/CHI/1).
22. At its thirty-ninth session, the Committee examined initial and second periodic reports submitted by 10 States parties under article 44 of the Convention. It devoted 20 of its 28 meetings to the consideration of reports (see CRC/C/SR.1026-1037; 1040-1045; 1048-1049 and 1052). The following 10 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-ninth session: Ecuador (CRC/C/65/Add.28); Bosnia and Herzegovina (CRC/C/11/Add.28); Nepal (CRC/C/65/Add.30); Philippines (CRC/C/65/Add.31); Norway (CRC/C/129/Add.1 and CRC/C/OPSA/NOR/1); Nicaragua (CRC/C/125/Add.3); Mongolia (CRC/C/65/Add.32); Yemen (CRC/C/129/Add.2); Saint Lucia (CRC/C/28/Add.23); and Costa Rica (CRC/C/125/Add.4).
23. In accordance with rule 68 of the provisional rules of procedure of the Committee, representatives of all the reporting States were invited to attend the meetings of the Committee at which their reports were examined.
24. By notes verbales dated 18 February and 8 March 2005, the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva submitted comments to the concluding observations the Committee adopted for this State party at its thirty-eighth session (CRC/C/15/Add.254).
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 under the Convention**

### **Concluding observations: Saint Lucia**

26. The Committee considered the initial report of Saint Lucia (CRC/C/28/Add.23) at its 1026th and 1027th meetings (see CRC/C/SR.1026 and CRC/C/SR.1027), held on 17 May 2005 and adopted at the 1052nd meeting, held on 3 June 2005, the following concluding observations.

### **A. Introduction**

27. The Committee welcomes the submission of the initial report of the State party, which was prepared in conformity with the Committee's guidelines, and the written replies to its list of issues (CRC/C/Q/LCA/1). However, the Committee regrets that the report was submitted almost 10 years after the date it should have been submitted.

28. The Committee acknowledges that the presence of a high-level delegation directly involved in the implementation of the Convention in the State party allowed for a better understanding of the rights of the child in the State party. It also welcomes the frank and constructive dialogue with the delegation of the State party.

### **B. Positive aspects**

29. The Committee welcomes the establishment of the Legislative and Monitoring Committee mandated to examine and monitor the extent to which existing laws, policies and services are matching the needs of children, particularly within the context of child protection.

30. The Committee notes the adoption, in 1999, of Education Act No. 41, which makes provision for the promotion of universal access to primary and secondary education services to children between 5 and 15 years of age.

31. The Committee notes the adoption of the Prevention of Misuse Drug Act in 1988 and its amendment of 1993 which promotes "drug-free zone" in schools.

32. The Committee notes with appreciation the ratification, in 2000, of the Worst Forms of Child Labour Convention, 1999 (No. 182).

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

33. The Committee acknowledges the challenges faced by the State party, namely the country's vulnerability to natural disasters such as hurricanes which regularly pose serious difficulties for the full realization of children's rights enshrined in the Convention.

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

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

##### **Legislation**

34. While the Committee appreciates that the State party has made various amendments to existing legislation as well as adopted the Family Court Act in 1994 and the Domestic Violence Act in 1995, it is nevertheless concerned that existing legislation does not fully reflect the principles and provisions of the Convention, for example regarding non-discrimination, corporal punishment and juvenile justice.

35. **The Committee recommends that the State party take all necessary measures to ensure that its legislation conforms fully to the provisions and principles of the Convention.**

## **Coordination**

36. The Committee takes note of the several ministries and organizations that deal with matters pertaining to children, but remains concerned that there is no established body fulfilling an official coordinating and reporting role on the Convention.

37. **The Committee recommends that the State party establish a body, for example a national inter-ministerial committee on the rights of the child, which has a clearly outlined political mandate and implementation process in order to coordinate the activities of the various ministries dealing with matters pertaining to children. In this regard, the Committee recommends that the State party seek technical assistance, from, inter alia, the United Nations Children's Fund (UNICEF).**

## **National Plan of Action**

38. While noting the establishment of a committee in 1991 to develop a National Plan of Action for the Survival, Protection and Development of Children, the Committee remains concerned that there has been no finalization of the National Plan of Action.

39. **The Committee urges the State party to strengthen its efforts 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 the outcome documents entitled: "A World Fit for Children" of the General Assembly Special Session for Children. In this regard, the Committee recommends that the State party seek technical assistance from, inter alia, UNICEF and involve civil society in the preparation and implementation of such a national plan of action.**

## **Independent monitoring**

40. The Committee notes with appreciation the existence of a Parliamentary Commissioner or Ombudsman. However, this Commissioner does not have a specific mandate for the independent monitoring and promotion of children's rights nor is there a child-specific and child-sensitive procedure for filing individual complaints.

41. **The Committee recommends that the State party establish an independent body for monitoring the implementation of the Convention on the Rights of the Child in the light of the Committee's general comment No. 2 (2002) on national human rights institutions and in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134). Such body should be provided with adequate human and financial resources, easily accessible to children; deal with complaints from children in a child-friendly and child-sensitive manner. In this regard, the Committee recommends that the State party consider seeking technical assistance from, inter alia, UNICEF and the Office of the United Nations High Commissioner for Human Rights.**

### Resources for children

42. The Committee welcomes the increase in budget allocation for social services over the past 10 years but remains concerned that in many instances, as acknowledged in the State party report there is a lack of sufficient financial resources for the implementation of the Convention on the Rights of the Child.

**43. The Committee recommends that the State party make a systematic increase of budgetary allocations to “the maximum extent of the State party’s available resources and where needed, within the framework of international cooperation” as provided in article 4 of the Convention and using the rights-based approach. In relation to this, the Committee recommends that the State party establish firm priorities for addressing the rights of the child in its national strategic plan for poverty reduction.**

### Data collection

44. While the Committee is encouraged by the provision of data pertaining to the health-care sector and the development of a Central Database Registry, it is concerned at the general lack of pertinent data in the State party report and the non-disaggregated and poorly analysed data in the responses to the list of issues. It is further concerned about the lack of data for the age group 15 to 18. The Committee notes that such data are crucial for the formulation, monitoring and evaluation of progress made and impact assessment of policies with respect to children.

**45. The Committee recommends that the State party give further attention to developing the Central Database Registry in such that it covers all areas of the Convention for children up to 18 years and it can be used in the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention. In this regard, the Committee recommends that the State party seek technical assistance from, inter alia, UNICEF.**

### Training/dissemination of the Convention

46. The Committee welcomes the initial efforts undertaken by the Saint Lucia Advocacy Committee to promote the rights of the child and to make the mandates of the Convention widely known and regrets that those efforts were not continued. The Committee remains concerned that training and dissemination of the Convention is not carried out systematically.

**47. The Committee recommends that the State party strengthen its efforts to raise awareness by undertaking systematic education and training on the provisions of the Convention for all 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. The Committee also recommends that the State party ensure the implementation of envisaged projects for engaging with the public on the rights of the child. It further recommends that human rights education be included in the official curriculum, at all levels of education.**

### **Cooperation with civil society**

48. While appreciating the fact that some non-governmental organizations (NGOs) have been involved in the preparation of the State party's report, the Committee notes with concern the limited role that civil society and in particular NGOs play in the promotion of the Convention on the Rights of the Child.

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

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

50. The Committee welcomes the State party's definition of a child as any person under 18 years. However, it remains concerned at the definition of juveniles as persons under 16 years of age which in practice means that children of 16 and 17 years old do not receive the protection provided for persons under the age of 16.

51. **The Committee recommends that the State party change its laws to ensure that all persons under 18 are provided with the same protection and guarantees, inter alia, in the area of child protection, child maintenance and juvenile justice.**

### **3. General principles**

#### **Non-discrimination**

52. The Committee remains concerned that the right to non-discrimination as defined in article 2 of the Convention on the Rights of the Child has not been fully incorporated into the State party's legislation and practice.

53. **The Committee urges the State party to raise its efforts to ensure that existing laws fully comply with article 2 of the Convention and to abolish as a matter of priority all discriminatory provisions regarding children born out of wedlock.**

54. **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 Durban Declaration and Programme on Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account general comment No. 1 (2001) on the aims of education.**

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

55. While the Committee is encouraged by existing legislation which takes into account the best interests of the child, the Committee is concerned that the best interest of the child is not reflected as a general principle in all legislation regarding children.

56. **The Committee recommends that the State party provide information on its progress in reviewing current legislation and incorporating the principle of the best interest of the child into the legislation where appropriate.**

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

57. The Committee is encouraged by parenting programmes which reflect respect for the views of the child, but remains concerned that these practices are not fully incorporated into societal practices.

58. **The Committee urges the State party to:**

(a) **Promote and facilitate respect for children's views and ensure their participation in all matters affecting them in all spheres of society, particularly in the family, schools and judicial system, in accordance with article 12 of the Convention;**

(b) **Continue to strengthen its advocacy and its educational efforts to make the public aware of the importance of the consideration of the views of the child, in particular parents, teachers and government and administrative officials.**

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

#### **Corporal punishment**

59. The Committee is concerned at the fact that corporal punishment is a lawful way of disciplining children, both under the Children and Young Persons Act and the Education Act. The Committee is further concerned that corporal punishment is widely practised as a highly-favoured method of punishment.

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

(a) **Amend its legislation to explicitly prohibit corporal punishment in the family, schools and institutions;**

(b) **Conduct awareness-raising campaigns to inform the public in general about the negative impact of corporal punishment on children and actively involve children and the media in the process;**

(c) **Ensure that positive, participatory, non-violent forms of discipline are administrated in a manner consistent with the Convention, in particular article 28 (2) as an alternative to corporal punishment at all levels of society.**

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

#### **Parental guidance and responsibilities**

61. While the Committee is encouraged that the State party recognizes the principles that both parents have common responsibilities for the upbringing and development of the child, it remains concerned at the lack of information regarding family counselling services, parental education programmes, or other measures which ensure the respect of articles 5 and 18 of the Convention.

62. **The Committee recommends that the State party review its established social services providing family counselling and parenting education, as well as provide relevant information on awareness-raising campaigns on the rights of the child within family life and discuss its measures implemented to ensure full compliance with the provisions of the Convention.**

63. The Committee is concerned about the lack of disaggregated information regarding children's benefit, progress achieved or difficulties encountered with the measures in place recognizing parents' rights in raising children and the State party's responsibility in providing facilities and services to assist those bearing child-rearing responsibilities.

64. **The Committee recommends that the State party amend its legislation to include the concrete recognition of both parents in the upbringing and development of the child, as well as investigate and submit to the Committee disaggregated information relating to the benefits, progress, and difficulties encountered in the measures relating to child development and upbringing.**

#### **Separation from parents**

65. **While the Committee notes that the State party recognizes the partiality of the Civil Code of Saint Lucia of 1957, it remains concerned by the father's sole right to custody of the child in cases of separation without providing for or reflecting child's rights perspectives and views in final decisions.**

66. **The Committee strongly recommends that the State party review the Civil Code of Saint Lucia of 1957 and ensure adequate protection of the rights of a separated parent and/or child. The Committee recommends that the child's views as well as best interests are taken into account in the final decisions of custody in cases of parental separation.**

#### **Recovery of maintenance for the child**

67. The Committee is concerned that the State party does not uphold the principle of non-discrimination in the recovery of maintenance for the child.

68. **The Committee recommends that the State party: review its legislation on the recovery of maintenance for the child in order to comply with the principles of the Convention and undertake measures in order to secure the recovery of maintenance from abroad.**

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

69. While noting the existence of alternative care arrangements for those children deprived of a family environment, the Committee expresses its concern that the State party lacks legislation ensuring contact or visitation between children and their parents. The Committee regrets the lack of a body that monitors the situation of children in alternative care.

70. **The Committee recommends that the State party introduce legislation ensuring the child's right to contact or visit the parent when the child is deprived of a family environment, as well as establish a system to monitor the conditions of alternative care designated for children deprived of a family environment. Furthermore, the Committee recommends that the State party enhance family-based alternate care.**

### **Adoption**

71. The Committee is encouraged that legislation by the State party regarding the regulation of the adoption of a child exists, but is concerned that unofficial arrangements recognized by the Adoption Ordinance has been known to incur problems for the "adopting family" and consequently, the child.

72. The Committee is concerned that although the assessment of the needs of the child in the placement of an adoptive home has been established, the views of the child are not included in the selection process.

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

(a) **Ensure that the practice of unofficial arrangements of alternative care fully respect the principles and provisions of the Convention;**

(b) **Take into consideration the views of the child within the processes and procedures of institutions that administer the adoption processes;**

(c) **Consider ratifying the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.**

### **Abuse and neglect, including physical and psychological recovery and social reintegration**

74. The Committee is encouraged that a draft protocol for the management of child abuse and neglect in Saint Lucia has been drawn up to deal with the identification, reporting, treatment and management of abuse and neglect cases; however, it remains concerned that this protocol has not yet been enacted and subsequent safeguards and complaint procedures have not been structured and fully implemented. The Committee is also concerned about the lack of training programmes for professionals who work with children on situations of abuse, neglect and inadequate personnel.

75. **The Committee recommends that the State party adopt and implement as a matter of priority the draft protocol mentioned in order to ensure:**

(a) **The establishment of an effective reporting and referral system for cases of child abuse and neglect with the necessary provisions for a child-sensitive investigations of such cases;**

(b) **The establishment of programmes for psychological and physical recovery and social reintegration for victims of sexual abuse and any other child victims of abuse, neglect, ill-treatment, violence or exploitation;**

**(c) That recruitment and training programmes are ongoing for all professionals who may have to deal with the investigation and treatments of cases of child abuse and neglect; and**

**(d) Consider seeking technical assistance from, inter alia, UNICEF.**

76. The Committee welcomes the existence of a child helpline (Child Link) and the efforts to develop it into a 24-hour service for children to express their views and concerns and for those who are in need of care or protection.

77. **The Committee further recommends that the State party provide the child helpline “Child Link” with sufficient human and financial resources to allow it to be operational 24 hours per day, including the adequate follow-up to calls of children in need of care or protection.**

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

### **Disabled children**

78. The Committee is concerned about the lack of a national policy or legislation ensuring the right of children with all types of disabilities to the enjoyment of a full and decent life with the assurance of self-dignity and self-reliance.

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

**(a) Adopt a comprehensive policy for children with disabilities;**

**(b) Take note 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);**

**(c) 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) Seek technical assistance from, inter alia, UNICEF.**

### **Health and health services**

80. While the Committee appreciates the information provided in the State report concerning health and health services in the State party, it remains concerned at:

**(a) The increase in the number of children born with low birthweight;**

**(b) The state of prenatal and post-natal health care;**

(c) The increasing levels of obesity in young children and the associated short and long-term diseases;

(d) The lack of educational programmes for basic child health.

**81. The Committee recommends that the State party undertake health-care reform with a view to guaranteeing universal access and integrated health-care services according to article 24 of the Convention. It further recommends that the State party implement adolescent-friendly, adolescent-sensitive health clinics providing both information and services to young people.**

#### **Adolescent health**

82. The Committee expresses its concern at the increasing rate of HIV/AIDS and other sexually transmitted diseases among adolescents. It further notes with concern the high rate of teenage pregnancies and the fact that the State party does not pay sufficient attention to adolescent health issues, including developmental, mental and reproductive health concerns.

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

(a) **Undertake a comprehensive study to assess the nature and the 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 particular focus on the prevention of HIV/AIDS and other sexually transmitted diseases, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development;**

(b) **Strengthen developmental and mental health counselling services as well as reproductive counselling and make them known and accessible to adolescents;**

(c) **Ensure the inclusion of reproductive health education in the school curriculum and fully inform adolescents of reproductive health rights, including the prevention of teenage pregnancies and sexually transmitted diseases, including HIV/AIDS;**

(d) **Continue to provide support to pregnant teenagers, including through community structures and ensure the continuation of their education.**

#### **Social security and childcare services and facilities**

84. The Committee is concerned that legal provisions ensuring the right of the child to benefit from childcare services and seek social security, as well as the criteria with which benefits are granted, has not been developed in Saint Lucia.

**85. The Committee recommends that the State party review its legislation pertaining to the child's right to social security, paying specific attention to the child's right to request social security grants and benefits, as well as include measures in place to ensure that all children benefit from childcare services.**

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

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

86. While the Committee is encouraged that the State party has developed “Education Sector Development Plan 2000 to 2005 and Beyond” and that there has been an increase in secondary school enrolment, it remains concerned that the State party does not provide universal access for children in particular to secondary school. It is further concerned at the lack of continued education of school-aged teen mothers, and the growing number of children who drop out of school, particularly among boys.

87. The Committee expresses its concern at the fact that less than 20 per cent of the eligible age cohort has access to day-care services and that State provision for preschool is limited.

88. **In the light of articles 28 and 29 of the Convention and its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party allocate adequate human and financial resources in order to:**

**(a) Adopt effective measures to include all children in primary education and urgently decrease the dropout rates for children, particularly boys;**

**(b) Continue its efforts to increase the number of children entering secondary schools through provisions of more classrooms;**

**(c) Offer more facilities for vocational training, including for children who do not complete secondary education;**

**(d) Ensure that teenage mothers continue their education.**

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

89. The Committee is concerned that while the child’s right to leisure, recreation, and cultural activities is recognized within the principles of legislation guiding service development, this right is not ensured explicitly within such legislation. The Committee further notes that existing recreational facilities are not always accessible to all children.

90. **The Committee recommends that the State party provide access for all children to enjoy leisure, recreation, and cultural activities in all spheres of the child’s life.**

## **8. Special protection measures**

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

91. The Committee is concerned that the State party has no provisions for the classification of hazardous and non-hazardous work, as well as regulations guiding the conditions of employment. The Committee is also concerned about child labour in the informal economy in urban areas.

92. **The Committee recommends that the State party adopt a comprehensive legal framework for children engaged in the workforce which is in compliance with article 32 of the Convention on the Rights of the Child as well as the Worst Forms of Child Labour Convention, 1999 (No. 182). The Committee further recommends that the State party ratify the Minimum Age Convention, 1973 (No. 138).**

#### **Drug abuse**

93. While the Committee is encouraged that the State party has taken measures to ensure the school environment remains drug-free for children, it remains concerned that measures for monitoring drug abuse among children as well as their involvement in drug trafficking outside of schools have not been fully developed in the report.

94. **The Committee recommends that the State party strengthen its measures to combat drug abuse by children, including through public education awareness-raising campaigns and ensure that children who abuse drugs have proper access to effective structures and procedures for treatment, counselling, recovery and social reintegration.**

#### **Sexual exploitation and sexual abuse**

95. The Committee notes with appreciation that the problem of sexual abuse has been recognized by the State party, however it remains concerned that the scope of the issue has not been fully and systematically uncovered and that existing legislation protecting children from sexual abuse and exploitation does not explicitly refer to the male child.

96. **The Committee recommends to the State party that it:**

(a) **Undertake a comprehensive study on the sexual exploitation and abuse of children and use the data to design policies and programmes to prevent commercial sexual exploitation of children, including through the development of a national plan of action on commercial sexual exploitation of children as agreed at the First and Second World Congresses against Commercial Sexual Exploitation of Children;**

(b) **Adopt legislative measures and ensure protection from sexual abuse and exploitation for both boys and girls;**

(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.**

#### **Juvenile justice**

97. The Committee is concerned that the legal provisions and the practice of the administration of juvenile justice do not fully comply with the provisions of articles 40, 39 and 37 of the Convention and other relevant international standards, in particular the United Nations Standard Minimum Rules for the Administration of Juvenile Justice

(the Beijing Rules) (General Assembly resolution 40/33) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (General Assembly resolution 45/112). The Committee is further concerned:

- (a) At the lack of State provisioning for females below 18 years in conflict with the law;
- (b) That the sentence of life imprisonment is not excluded for persons below the age of 18 years as stated in the State party report (para. 285);
- (c) That rehabilitation and social reintegration for those persons below the age of 18 years who have been in conflict with the law is not emphasized within services meant to provide these benefits and that facilities and programmes for the rehabilitation and social reintegration of female juveniles who have been involved in the administration of the juvenile justice system do not exist.

**98. The Committee recommends that the State party continue to strengthen its efforts to improve the juvenile justice system in order to ensure the full implementation of juvenile justice standards, in particular article 37 (b), articles 40 and 39 of the Convention as well as the above-mentioned international standards and in the light of the Committee's day of general discussion on the administration of juvenile justice. In this regard, the Committee particularly recommends that the State party:**

- (a) Abolish the provisions which allow the imposition of a life sentence on children aged 16 or 17 at the time of the commitment of the crime and ensure that children aged 16 and 17 are not considered as adults and are afforded the same protection as younger children under the justice system;**
- (b) Abolish the criminalization of behavioural problems such as truancy and vagrancy (State offence);**
- (c) Develop and implement alternative sanctions such as community service or restorative justice, in order to make deprivation of liberty a measure of last resort;**
- (d) Establish a separate facility for custodial care of female juvenile offenders;**
- (e) Improve the quality of the Boy's Training Centre in terms of its housing conditions and the quality of the care as well as education provided to juveniles in that Centre;**
- (f) Establish a system of well-trained advocates, legal administrators for juveniles in conflict with the law and train professionals such as police officers, prosecutors and judges dealing with persons below the age of 18 in conflict with law;**
- (g) Seek technical assistance from, inter alia, UNICEF and the Office of the United Nations High Commissioner for Human Rights.**

## **9. Optional Protocols to the Convention on the Rights of the Child and amendment to article 43 (2) of the Convention**

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

100. **The Committee recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and 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**

101. **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 Parliament, when applicable, for appropriate consideration and further action.**

### **Dissemination**

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

## **11. Next report**

103. **The Committee, aware of the delay in the State party's reporting, wants to underline the importance of a reporting practice which is in full compliance with the rules set in article 44 of the Convention. Children have the right that the United Nations Committee in charge of regularly examining the progress made in the implementation of their rights, does have the opportunity to do so. In this regard, regular and timely reporting by State parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its combined second, third and fourth report by 15 July 2010, the due date for the submission of the fourth report which 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: the Philippines**

104. The Committee considered the second periodic report of Philippines (CRC/C/65/Add.31) at its 1028th and 1029th meetings (see CRC/C/SR.1028 and 1029) held on 18 May 2005, and adopted at the 1052nd meeting, held on 3 June 2005, the following concluding observations.

#### **A. Introduction**

105. The Committee welcomes the second periodic report, which followed the established reporting guidelines, submitted by the State party, as well as the written replies to its list of issues. The Committee is encouraged by the constructive dialogue it had with the State party and acknowledges that the presence of an inter-ministerial delegation involved in the implementation of the Convention allowed for a fuller assessment of the situation of the rights of children in the State party.

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

106. The Committee takes note of the adoption during recent years of several laws aimed at protecting and promoting the rights of children, inter alia:

(a) The adoption, in 2003, of the Anti-Trafficking in Persons Act (Republic Act 9208), which institutes policies to eliminate trafficking in persons, in particular women and children, establishes institutional mechanisms for the protection and support of trafficked persons, provides penalties for traffickers and also prohibits the recruitment, transport or adoption of children for engagement in armed activities in the Philippines or abroad;

(b) The adoption, in 2003, of the Republic Act No. 9231, which amends the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act (Republic Act No. 7610) providing for the elimination of the worst forms of child labour and affording stronger protection for the working child;

(c) The adoption, in 2004, of the Republic Act No. 9255, which allows illegitimate children to use the surname of their father, amending the Family Code of the Philippines (article 176 of Executive Order No. 209);

(d) The adoption, in 2004, of the Anti-Violence against Women and Their Children Act (Republic Act No. 9262) which defines violence against women and their children, providing for protective measures for victims and penalties for the perpetrators of this violence;

(e) The adoption of other legal or administrative measures to promote the implementation of the Convention, such as the ratification of international conventions and protocols referred to throughout these concluding observations.

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

107. The Committee acknowledges the particular nature of the geographical configuration of the State party, which is comprised of over 7,100 islands, and the challenges faced by the State party in implementing adequate programmes and services for children living in rural and remote areas of the country which are in many instances isolated and very difficult to reach.

108. The Committee also acknowledges that the natural disasters caused by tropical storms and several destructive typhoons at the end of 2004 have devastated the infrastructure of several provinces of the country giving rise to a growing number of economic and social difficulties. Domestic instability caused by, inter alia, political uncertainties and rebel movements, has adversely impacted overall human rights development in the State party.

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

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

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

109. The Committee notes with satisfaction that various concerns and recommendations included in the concluding observations (CRC/C/15/Add.29) made upon the consideration of the State party's initial report (CRC/C/3/Add.23) have been addressed through legislative measures and policies. However, some of the concerns expressed and recommendations made by the Committee regarding, inter alia, the minimum age of criminal responsibility and sexual consent, discrimination against children born out of wedlock, the lack of a comprehensive juvenile justice system, the lack of a monitoring system for the Convention and the prohibition of torture, etc., have not been sufficiently addressed.

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

###### **Legislation**

111. The Committee takes note of the relatively advanced legal framework and it is encouraged by many legislative initiatives, new laws enacted and legislative amendments adopted which aim to better protect and promote the rights of the child. The Committee is deeply concerned, however, about the insufficient implementation of laws, particularly at the local level. The Committee also notes that domestic legislation does not fully conform to all provisions and principles of the Convention.

**112. The Committee recommends that the State party take all necessary measures to ensure the full and effective implementation of its domestic laws in order to better protect the rights of the child and harmonize its legislation fully with the provisions and principles of the Convention, for example with regard to the existing minimum age of criminal responsibility and children in conflict with the law.**

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

113. The Committee welcomes the launching of a National Strategic Framework Plan for the Development of Children 2001-2025, known as Child 21, and the holistic approach adopted to address child rights issues and related progress and shortcomings. The Committee is concerned that the existing monitoring mechanisms are insufficient to monitor and evaluate the implementation of the Plan in a coherent way. Furthermore, the Committee is concerned about the limited awareness of the Plan and its objectives at the local level.

114. **The Committee recommends that the State party take all necessary measures, inter alia, by providing adequate human, financial and technical resources, for the full implementation of the National Strategic Framework Plan for the Development of Children 2001-2025 and ensure a rights-based, open, consultative and participatory process for the implementation of the Plan, paying particular attention to the implementation of the Plan at the local level. In this regard the Committee recommends that the State party fully support the National Council for the Welfare of Children by providing it with the necessary resources to enable it to effectively coordinate the activities related to the implementation of the Plan and monitor and evaluate this implementation process. In addition, the State party is urged to promote as much as possible the establishment of local councils for the protection of children, particularly in the cities, municipalities and *barangays* (smallest unit of local government), provided with adequate resources to be important instruments in the implementation of the Plan, in particular, and the Convention on the Rights of the Child, in general. The Committee also recommends that the State party seek technical assistance from, among others, the United Nations Children's Fund (UNICEF), in the course of the implementation process.**

#### **Independent monitoring**

115. The Committee welcomes the establishment of the Philippines Commission on Human Rights (PCHR) in 1997, with the mandate to independently promote and monitor the implementation of human rights and notes that some other bodies are also given a monitoring role regarding the implementation of children's rights. The Committee acknowledges PCHR's activities regarding children's rights, however is concerned at its limited mandate and resources.

116. **The Committee recommends to the State party, with reference to the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child, that it consider broadening the mandate of PCHR regarding the monitoring of children's rights and providing PCHR with adequate resources in order to strengthen the investigation of individual complaints filed by children in a child-sensitive manner.**

#### **Allocation of resources**

117. The Committee notes the slight increase in budgetary allocations for children's social services, the State party's efforts to implement the 20/20 initiative for budgeting and the priority given to low-income families and combating poverty, for example through the creation of a Poverty Alleviation Fund. The Committee also notes with deep concern that the State party's debt servicing takes up more than 30 per cent of its national budget and that insufficient attention has been paid to sufficient budgetary allocations for children and to article 4 of the Convention regarding budgetary allocations to the implementation of the economic, social and cultural rights of children to the maximum extent of available resources.

118. **The Committee recommends that the State party strengthen its efforts to reduce its level of debt servicing in order to, inter alia, allow an increase of budgetary allocations to the realization of children's rights and, in particular, the implementation of the economic, social and cultural rights of children. In order to be able to evaluate the impact of**

**expenditures on children, the Committee recommends that the State party establish a systematic assessment of the impact of budgetary allocations on the implementation of children's rights and identify the yearly budgetary amount and proportion spent on persons under 18 years of age.**

#### **Data collection**

119. The Committee welcomes the various efforts to improve data collection but it remains concerned that in some areas covered by the Convention, including children with disabilities, migrant children, children living in extreme poverty, abused and neglected children, children within the justice system and children belonging to minorities and indigenous children, data are lacking or insufficient.

**120. The Committee recommends that the State party strengthen its existing mechanisms for data collection and develop indicators consistent with the Convention and, where necessary, establish additional mechanisms for data collection, in order to ensure that data are collected on all areas of the Convention and that these are disaggregated, inter alia, by age for all persons under 18 years, gender, urban and rural areas and by those groups of children who are in need of special protection. It further encourages the State party to use these indicators and data to formulate policies and programmes for the effective implementation of the Convention.**

#### **Dissemination of the Convention**

121. The Committee notes with appreciation the establishment of a Task Force for Popularizing the Convention and it is encouraged by the efforts of the State party, in collaboration with UNICEF, other international agencies and national and international non-governmental organizations, in disseminating information about the principles and provisions of the Convention, for example through publications, broadcast media and the training of professionals. Nevertheless, the Committee is concerned that the Convention is not disseminated at all levels of society. In addition, the Committee notes that the training and retraining of professionals working with, and for, children is not systematic but more on an ad hoc basis.

**122. The Committee recommends that the State party continue to develop creative and child-friendly methods of promoting the Convention. It further encourages the State party to raise awareness of the Convention among children and adults in remote areas and to make the Convention available in at least the major languages and as much as possible in other indigenous and minority languages. The Committee further recommends systematic training of professional groups working with, and for, children, such as judges, lawyers, law enforcement personnel, teachers, school administrators and health personnel. With regard to the dissemination of the Convention, the Committee also recommends that the State party seek technical assistance from, among others, the Office of the United Nations High Commissioner for Human Rights and UNICEF.**

## 2. General principles

### Non-discrimination

123. Notwithstanding the measures taken by the State party to eliminate discrimination against children, inter alia, through the implementation of the provisions of the Child and Youth Welfare Code (Presidential Decree No. 603), the Family Code and the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act and several programmes, such as the Third Elementary Education Programme, the Committee is concerned about discrimination faced by many children, in particular children living in poverty, children with disabilities, indigenous and minority children, including Muslim children living in Mindanao, migrant children, street children and children living in rural areas as well as children living in areas of conflict, as regards their access, inter alia, to social and health services and education. The Committee is particularly concerned about the de facto discrimination faced by girls in everyday life, which is often multiple discrimination based on their gender. The Committee finally reiterates its concern about the unequal status of children born out of wedlock, particularly with regard to their right to inherit and their discriminatory classification as “illegitimate”.

124. **In the light of article 2 of the Convention, the Committee recommends that the State party increase its efforts to ensure effective implementation of existing laws guaranteeing the principle of non-discrimination and adopt a proactive and comprehensive strategy to eliminate all forms of discrimination, including forms of multiple discrimination, against all vulnerable groups of children. The Committee recommends that the State party pay particular attention to the equal status and full enjoyment of all human rights and fundamental freedoms by girls. As regards children born out of wedlock, the Committee requests the State party to review its domestic legislation in order to secure their right to equal treatment, including their right to equal inheritance and abolish the discriminatory classification of those children as “illegitimate”.**

125. **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 Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and taking account of the Committee’s general comment No. 1 (2001) on the aims of education.**

### Right to life

126. The Committee expresses its serious concern about violations of the right to life of children, inter alia, due to the internal armed conflict. The alleged cases of extrajudicial killings of children by military soldiers in Bulan, Sorsogon, in 2004 and by so-called death squads in Davao and Digos cities during recent years give cause for very serious concern.

127. While noting that the provisions of the Revised Penal Code (Republic Act No. 3815) and the Act to Impose the Death Penalty on Certain Heinous Crimes, which amended the Revised Penal Code (Republic Act No. 7659), explicitly prohibit the imposition of the death penalty on

persons below the age of 18 years at the time the crime was committed, the Committee expresses its deep concern at the cases where children, that is persons below the age of 18, have been placed on death row without definite proof of their age.

128. The Committee also notes with concern the deficiencies in the reporting system of newborn deaths and stillbirths due to limited access to civil registrars.

129. **Referring to article 6 and other relevant articles of the Convention, the Committee urges the State party to make every effort to reinforce protection of the right to life, survival and development of all children, inter alia, by taking effective measures to prevent extrajudicial killings of children and to investigate thoroughly all alleged cases of killing and bring perpetrators to justice.**

130. **The Committee also urges the State party to take all necessary steps to prevent the execution of children sentenced to death and replace their death sentences with sanctions which are in compliance with the Convention and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (General Assembly resolution 40/33). The State party should also take immediate legislative and other measures to oblige authorities, such as police, prosecutors, defence, judges and social workers, to present evidence in courts regarding the precise age of an accused person, or if failing to do so give a person the benefit of the doubt, in order to ensure that persons under 18 years of age are not sentenced to death or another adult punishment.**

131. **As regards reporting of newborn deaths and stillbirths, the Committee recommends that the State party facilitate access to civil registrars, particularly in the remote areas of the country.**

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

132. The Committee notes that some of the State party's domestic laws, rules and regulations explicitly respect the consent and views of the child, for example in judicial and administrative proceedings and that the State party has promoted the participation of children, inter alia, through the National Youth Parliament (Republic Act No. 8044) and student councils. Despite these positive steps, the Committee is of the view that children's right to participation and free expression of their views is still limited in the State party, partly due to traditional attitudes in society.

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

(a) **Strengthen its efforts to promote, within the family, schools and other institutions, respect for the views of the child and facilitate their interactive participation in all matters affecting them, inter alia, through children's and youth councils, forums, parliaments, etc., while paying special attention to vulnerable groups of children;**

(b) **Undertake awareness-raising campaigns on children's right to be heard and participate by encouraging children and their parents, caregivers and professionals working with and for children to seek and increase children's opportunities to influence issues concerning them.**

134. The Committee notes with appreciation the activities of the child helpline “Bantay Bata 163”, which is an important instrument for children to express their concerns and views and seek help and advice. However, the Committee is concerned at the fact that the helpline is only accessible to children living in the capital region and its expansion to the rural areas of the country lacks core funding.

**135. The Committee recommends that the State party support the expansion of “Bantay Bata 163” child helpline by making it nationally accessible and toll-free and providing it with adequate human, technical and financial resources. As regards awareness of the helpline among children, the Committee recommends that the State party include information about the helpline in its child-related programmes.**

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

#### **Birth registration**

136. While noting the estimated increase in the birth registration rate and the measures taken by the State party in this respect, including the Unregistered Children Project conducted in collaboration with PLAN International and the National Statistics Office, the Committee remains concerned at the difficulties in ensuring timely birth registration of children, in particular children belonging to religious or other minority groups or indigenous peoples and children living in the remote areas of the country and at the fact that birth registration is not free of charge and not equally accessible to all parents in the entire territory of the State party. The Committee also expresses its concern about the simulation of birth certificates.

**137. In order to secure the full enjoyment of all human rights and fundamental freedoms by children and to achieve 100 per cent birth registration, the Committee recommends that the State party strengthen its efforts to develop an efficient and at all stages free of charge birth registration system, which covers its territory fully, including through using more effectively mobile birth registration units to reach the most remote areas of its territory. The Committee requests the State party to pay particular attention to improved access to an early birth registration for parents whose children were born out of wedlock and parents belonging to religious or other minorities or indigenous peoples.**

138. The Committee recommends to the State party that it introduce awareness-raising campaigns aimed at changing public attitudes and sensitizing parents, maternity clinics and hospitals, midwives and traditional birth attendants, in order to achieve better birth registration coverage in the country. In addition, the Committee recommends that the State party deepen its cooperation with the international agencies and non-governmental institutions in this respect. The Committee recommends that the State party take effective measures against simulation of birth certificates, inter alia, by assigning a governmental body, such as the Department of Social Welfare and Development, to monitor the implementation of relevant provisions and file all simulation cases. The Committee also recommends to the State party that it launch an information campaign, particularly at the local level, on the child’s right to identity at birth and on growing up in a family.

**Name, nationality and identity**

139. With reference to the high number of overseas Philippine workers, the Committee is concerned about children born abroad to Philippine migrant workers. Due to the non-registration of these children, they are deprived of their right to name, nationality and identity as well as basic services.

**140. The Committee recommends to the State party that it encourage and facilitate parents, irrespective of their residence status, to register their children born abroad. The Committee also recommends that the State party ensure that unregistered children without official documentation are allowed access to basic services, such as health and education, while waiting to be properly registered. In addition, the Committee recommends to the State party that it raise awareness among parents about the need and value of birth registration.**

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

141. The Committee notes that the Constitution of the Philippines prohibits torture and that the provisions of the Child and Youth Welfare Code (Presidential Decree No. 603) provide protection for children against torture and ill-treatment and that all hospitals, clinics, related institutions and private physicians are obliged to report in writing all cases of torture and ill-treatment of children. Nevertheless, the Committee is deeply concerned at a number of reported cases of torture, inhuman and degrading treatment of children, particularly for children in detention. The Committee reiterates its previous recommendation on prohibiting and criminalizing torture by law and it is of the view that existing legislation does not provide children with an adequate level of protection against torture and ill-treatment.

**142. As regards torture and other cruel, inhuman or degrading treatment or punishment, the Committee urges the State party to review its legislation in order to provide children with better protection against torture and ill-treatment in the home and in all public and private institutions and to criminalize torture by law. The Committee recommends that the State party investigate and prosecute all cases of torture and ill-treatment of children, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected. The State party should ensure that child victims are provided with appropriate services for care, recovery and reintegration. The Committee recommends that the State party continue its efforts in training professionals working with and for children, including teachers, law enforcement officials, care providers, judges and health personnel in the identification, reporting and management of cases of ill-treatment.**

143. **The Committee requests 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**

144. While noting the State party's efforts to prohibit the use of corporal punishment in schools, prisons, institutions and forms of childcare by implementing various relevant provisions, the prevalence of corporal punishment in society gives cause for serious concern. The Committee is concerned that a provision for corporal punishment is not included in the Child and Youth Welfare Code and regrets that corporal punishment in the home is not explicitly prohibited by law.

145. **In the light of its general comment No. 1 (2001) on the aims of education and the recommendations adopted by the Committee on its day of general discussion on violence against children within the family and in schools (see CRC/C/111), the Committee reiterates that corporal punishment is not compatible with the provisions of the Convention and it is inconsistent with the requirement of respect for the child's dignity, as specifically required by article 28, paragraph 2, of the Convention. Therefore, the Committee recommends that the State party prohibit by law all forms of corporal punishment in the home, in schools and in private and public institutions, in the juvenile justice system and the alternative care system.**

146. **The Committee recommends to the State party that it conduct a comprehensive study to assess the nature and extent of corporal punishment in different settings, including the home environment. Furthermore, the Committee recommends that the State party sensitize and educate parents, guardians and professionals working with and for children by carrying out public education campaigns about the harmful impact of violent forms of "discipline" and promote positive, non-violent forms of discipline as an alternative to corporal punishment.**

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

### **Parental responsibilities**

147. As regards parental responsibilities for the upbringing and development of the child, the Committee is concerned about many Philippine children living with loose family ties due to the fact that at least one parent is working overseas.

148. **The Committee calls for effective implementation of the Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and for Other Purposes (Republic Act No. 8042) and recommends to the State party that it take all necessary measures to ensure that overseas Philippine workers, equally women and men, are able to meet their parental responsibilities, including through concluding bilateral agreements with the countries of destination, and facilitate family reunification and a stable family environment for the upbringing of children. In addition, the Committee recommends that the State party continue its efforts to develop and provide child-sensitive family counselling services for overseas Philippine workers and their children.**

### **Recovery of maintenance**

149. While noting the high number of Philippine children with a parent or both parents working overseas, the increasing number of Philippine children born abroad during overseas migration and the cases where paternity has not been established, the Committee is concerned that the State party has not sufficiently ensured the recovery of maintenance in practice. The Committee is concerned about the insufficient implementation of domestic laws, for example the relevant provisions of the Family Code and the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act, and the enforcement of court orders in this respect. In addition, the Committee is concerned at the actual implementation of, and in some cases, the absence of bilateral agreements for reciprocal enforcement of maintenance orders.

**150. The Committee recommends that the State party secure in practice the recovery of maintenance for the child. As regards parent(s) working abroad, the Committee encourages the State party to conclude bilateral agreements for reciprocal enforcement of maintenance orders and consider establishing a fund to secure the payment of maintenance in those cases where the recovery of maintenance fails.**

### **Foster care and adoption**

151. The Committee welcomes the ratification by the State party of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and notes with appreciation the provisions of the Intercountry Adoption Law (Republic Act No. 8043) and the Domestic Adoption Law (Republic Act No. 8552). The Committee takes note with concern that the Government bill on the Foster Care Act has been pending in Congress for several years. The Committee is concerned that the lengthy process of declaring a child for adoption results in a prolonged stay in an institution. The Committee also notes with concern that intercountry adoption is not used as a last resort.

**152. The Committee recommends that the State party make every effort to ensure that all adoptions fully comply with the principles and provisions of the Convention as well as with other relevant international standards and are conducted in the best interests of the child and that intercountry adoption is used as a last resort. The Committee encourages the State party to adopt and implement as a matter of priority the Foster Care Act. The Committee recommends to the State party that it identify the factors in the adoption process which result in children's prolonged stay in institutions. Furthermore, the Committee recommends that the State party provide foster parents and foster children with adequate psychosocial services.**

### **Abuse and neglect, mistreatment, violence**

153. The Committee is deeply concerned about the increasing reports of cases of child abuse and neglect in the State party and the notable deficiencies in the domestic legislation as regards penalizing all forms of abuse, neglect and mistreatment, including sexual abuse. In addition, the Committee deeply regrets the alleged cases of sexual abuse of children in the framework of religious institutions.

154. **The Committee urges the State party to review its domestic legislation in order to penalize all forms of abuse, including sexual abuse, neglect, mistreatment and violence against children and to clearly define these crimes against children, including incest. The Committee recommends to the State party that it take effective measures to prevent and protect children from sexual abuse and exploitation in the framework of religious institutions, including by investigating the magnitude of such cases and by ensuring that the perpetrators of such abuse are brought to justice and that officials of religious institutions are held accountable in these cases of sexual abuse and the exploitation of minors.**

155. **The Committee urges the State party to conduct timely and adequate investigations of all cases of child abuse and violence with full practice of the rights of the child victim in legal proceedings, for example by allowing videotaped evidence, in order to bring perpetrators to justice and to ensure that child victims of violence and abuse have access to adequate counselling and multidisciplinary assistance with recovery and reintegration.**

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

156. As regards children living in prison with their mothers, the Committee is concerned about access to adequate social and health services for these children and particularly, about their living conditions, which are often poor and fall short of international standards.

157. **The Committee recommends that the State party ensure that living conditions and health services in prison are adequate for the child's early development in accordance with article 27 of the Convention and that the principle of the best interests of the child (article 3 of the Convention) is carefully and independently considered by competent child professionals prior to and during their stays with their detained mothers. The Committee recommends that alternative care for those children who are separated from their mothers in prison be regularly reviewed ensuring that the physical and mental needs of children are appropriately met. Furthermore, the Committee recommends that the State party ensure that alternative care allows the child to maintain personal relations and direct contact with the mother who remains in prison. The Committee encourages the State party to seek assistance from, among others, UNICEF and other United Nations bodies in this regard.**

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

#### **Children with disabilities**

158. Welcoming the State party's efforts to eliminate discrimination against children with disabilities and to promote their integration into society with equal opportunities, inter alia, by implementing the Programme on Community-based Rehabilitation, the Committee is concerned about the de facto discrimination faced by children with disabilities and their invisible role in society. The Committee notes with concern the inadequate implementation of domestic disability legislation, for example, the Magna Charta for Disabled Persons (Republic Act No. 7277 enacted in 1992) and the relevant provisions of the Child and Youth Welfare Code, particularly at the local level. The Committee is concerned that many children with disabilities

live in poverty and their access to social and health services and education is limited. Furthermore, deeply rooted misbeliefs and prevailing prejudices against children with disabilities in Philippine society give cause for concern.

**159. In the light of the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee on 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 to:**

**(a) Prevent and prohibit all forms of discrimination against children with disabilities and ensure equal opportunities for their full participation in all spheres of life by implementing the domestic disability legislation and the national Community-based Rehabilitation Programme and by including disability aspects in all relevant policymaking and national planning;**

**(b) Collect adequate statistical data on children with disabilities and use such disaggregated data in developing policies and programmes to promote their equal opportunities in society paying particular attention to children with disabilities living in the most remote areas of the country;**

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

**(d) Provide children with disabilities with access to adequate social and health services and the physical environment, information and communication;**

**(e) Strengthen its efforts to raise awareness on children with disabilities, including their rights, special needs and potential, in order to change negative attitudes, misbeliefs and prevailing prejudices against children with disabilities by initiating and supporting public information campaigns;**

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

**(g) Strengthen the functioning and activities of the National Council on the Welfare of Disabled Persons and cooperation with the National Federation of Organizations of Persons with Disabilities in the Philippines and the non-governmental organizations working in the field of disability issues;**

**(h) Seek technical cooperation with, among others, UNICEF and the World Health Organization (WHO).**

**160. Furthermore, the Committee encourages the State party to pay particular attention to the rights and status of children with disabilities in the context of the Philippine Decade of Persons with Disabilities 2003-2012 declared by Presidential Proclamation No. 240 in 2003.**

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

161. The Committee is encouraged by the progress achieved by the State party in the field of health and health services, particularly with regard to immunization, such as polio eradication and the elimination of neonatal tetanus and it notes with appreciation the Health Sector Reform Agenda. Noting that 8 out of 10 births in rural areas are delivered without professional health facilities and that infant, under-five and maternal mortality rates are relatively high, the Committee expresses its deep concern about insufficient prenatal and post-natal health care, particularly in the rural areas of the country. The low prevalence of breastfeeding, malnutrition among children, including micronutrient malnutrition problems among schoolchildren and in general, children's limited access to quality health services in the remote areas of the country give cause for serious concern. The Committee finally expresses its concern at the risk that free trade agreements currently being negotiated with other countries may negatively affect access to affordable medicines.

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

**(a) Adopt necessary legislative, administrative and budgetary measures in order to fully implement the Health Sector Reform Agenda and ensure that the reform process is carried out by giving primary consideration to the best interests of the child and to the full enjoyment of their rights;**

**(b) Ensure that appropriate resources are allocated for the health sector and develop and implement comprehensive policies and programmes for improving the health situation of children, so as to fully implement the Convention, in particular articles 4, 6 and 24;**

**(c) Implement measures to guarantee access to quality prenatal and post-natal health services and facilities, including training programmes for midwives and traditional birth attendants, by paying particular attention to the rural areas of the country;**

**(d) Take all necessary measures to lower infant, under-five and maternal mortality rates;**

**(e) Strengthen existing efforts to immunize as many children and mothers as possible by effectively implementing immunization programmes;**

**(f) Encourage exclusive breastfeeding for six months after birth with modifications for an appropriate infant diet thereafter and take measures to improve the nutritional status of children through education and promotion of healthy feeding practices;**

**(g) Make use - in the negotiations of free trade agreements - of all the flexibilities reaffirmed by the Declaration on the Agreement on Trade-related Aspects of Intellectual Property Rights and Public Health adopted at the Fourth Ministerial Conference of the World Trade Organization in Doha and the mechanisms at its disposal to ensure access to affordable medicines in particular for the poor and most vulnerable children and their parents;**

**(h) Continue to cooperate and seek technical assistance in this matter with, inter alia, WHO, UNICEF and the United Nations Population Fund (UNFPA).**

#### **Environmental health**

163. The Committee is concerned, despite the legislative and other measures taken by the State party, about environmental problems, such as air and water pollution and environmental degradation which have serious consequences for children's health and development. As regards access to safe drinking water and sanitation, the Committee is concerned about the regional disparities. Furthermore, poor knowledge of hygienic practices both among children and their parents give cause for concern.

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

**(a) Continue to strengthen its efforts to reduce pollution and environmental degradation by strengthening the implementation of domestic environmental laws, including Ecological Solid Waste Management Act (Republic Act No. 9003) and the Clean Air Act (Republic Act No. 8749);**

**(b) Increase children's knowledge of environmental health issues by introducing environmental health education programmes in schools;**

**(c) Take effective measures to improve access to safe drinking water and sanitation facilities, particularly in the remote areas of the country, as well as raise awareness on hygiene among children and their parents.**

#### **Adolescent health**

165. The Committee notes with appreciation the State party's efforts to promote adolescent health, including through implementation of the Reproductive Health Programme and a joint project on adolescent health in collaboration with the Population Commission and UNFPA. The Committee is concerned about alcohol, tobacco and drug abuse among adolescents, early pregnancies and in this respect adolescents' limited access to reproductive health counselling and accurate and objective information about, for example contraception. The lack of legislation establishing a minimum age for purchasing and consuming alcohol gives cause for concern. The Committee also shares the State party's concern about the lack of measures to prevent suicide among adolescents.

**166. The Committee recommends to the State party that it:**

- (a) Implement national policies and plans on adolescent health, such as the Reproductive Health Programme and develop new policies and plans to cover all fields of adolescent health by taking into account general comment No. 4 (2003) on adolescent health and development;**
- (b) Ensure access to reproductive health counselling and provide all adolescents with accurate and objective information and services in order to prevent teenage pregnancies and related abortions;**
- (c) Strengthen formal and informal education on sexuality, HIV/AIDS, sexually transmitted diseases and family planning;**
- (d) Establish by law the minimum age for purchasing and consuming alcohol;**
- (e) Provide adolescents with information on the harmful consequences of alcohol, drug and tobacco use;**
- (f) Establish adequate mental health services tailored for adolescents;**
- (g) Seek technical cooperation with, among others, WHO, the Joint United Nations Programme on HIV/AIDS and UNFPA.**

#### **HIV/AIDS**

167. The Committee notes the relatively low HIV prevalence rate in the country and welcomes the various efforts being made to address the prevention of transmission and the reduction of HIV/AIDS, including through the implementation of the AIDS Prevention and Control Act (Republic Act No. 8504), adopted in 1998, and the establishment of the National AIDS Prevention and Control Programme in 1998, the Committee is concerned about the presence of risk factors predisposing HIV-infection, such as the high number of sex workers. While noting that the AIDS Prevention and Control Act guarantees access to complete HIV/AIDS information in schools, the Committee expresses its concern about the inadequate level of HIV/AIDS awareness among Philippine adolescents.

168. **In the light of the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37), the Committee recommends that the State party continue to:**

- (a) Strengthen its efforts to implement the AIDS Prevention and Control Act in order to prevent and treat the effects of HIV/AIDS;**
- (b) Prevent discrimination against children infected with and affected by HIV/AIDS, for example by implementing the Philippine AIDS Prevention and Control Act of 1998 prohibiting any form of discriminatory act, and ensure these children have access to adequate social and health services;**
- (c) Provide adolescents with accurate and comprehensive information about HIV/AIDS, including condom use, in schools;**

(d) **Ensure access to child-sensitive and confidential HIV/AIDS counselling without parental consent when required by a child;**

(e) **Seek technical assistance from, among others, the Joint United Nations Programme on HIV/AIDS.**

### **Standard of living**

169. The Committee notes with concern the high number of children living in households below the national poverty line and the wide disparities in wealth between different regions. The Committee is deeply concerned about difficulties faced by children living in poverty, as to the enjoyment of their human rights, including access to social and health services and education. The Committee is also concerned about the poor housing situation in the State party and families living, for example in urban slums and squatter communities without adequate infrastructure.

170. **In accordance with article 27 of the Convention, the Committee recommends that the State party take urgent efforts to raise the standard of living among its rural and urban population living in poverty, inter alia, through implementing a poverty reduction strategy and community development, including the participation of children. The Committee requests the State party to increase its efforts to provide material assistance and support to economically disadvantaged children and their families. Moreover, the State party should ensure that children living in poverty are provided with access to social and health services, education and adequate housing.**

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

### **Education**

171. The Committee takes note of the State party's efforts to improve the standard and aims of education, including by implementing the new school curricula for elementary and secondary schools, and the curriculum for early childhood, the Education for All Programme of Action and the Child-friendly School System, in collaboration with UNICEF. Notwithstanding these positive steps taken, the Committee remains gravely concerned that there still remain *barangays* which are not able to provide children with elementary education and there are several vulnerable groups of children, such as children living in poverty, children with disabilities, child labourers, children in armed conflict, indigenous children, children infected with, or affected by, HIV/AIDS and street children, without equal access to elementary education. The Committee is concerned that the costs of schooling, such as meals, transportation, school uniforms and supplies, cause financial obstacles to many children from poor families and deny their equal access to education. The high rate of children not completing primary education gives cause for serious concern as well as the high drop-out rates in secondary education. The Committee also notes a low number of children enjoying early learning in preschools.

172. The Committee is encouraged by the State party's efforts to promote indigenous, minority and local languages in education including, inter alia, through the Lingua Franca Project. The Committee is concerned about poor schooling facilities, particularly in the remote *barangays*, including the insufficient number of classroom seats, textbooks and other schooling

supplies. It reiterates its concern about the low rate of enrolment in secondary education and that children living in the remote *barangays* have very limited access to secondary education. The Committee notes with appreciation that the State party has made intense efforts to improve the quality of education by increasing the time spent on task and teaching methods that encourage children's participation. It also welcomes the expansion and improvement of pre-service and in-service teacher training. The Committee also recognizes the attempts to regularly monitor and evaluate the quality of education.

**173. In the light of articles 28 and 29 of the Convention and the Committee's general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party allocate adequate financial, human and technical resources in order to:**

- (a) Increase budgetary allocations, governmental subsidies and assistance programmes for children from low-income families in order to secure their equal access to education of all levels;**
- (b) Urgently take all necessary measures to ensure universal and free primary education for all and pay particular attention to the schooling opportunities in the most remote *barangays* and to the educational needs of children belonging to vulnerable groups, such as children living in poverty, children with disabilities, indigenous children, child labourers, children in armed conflict, children infected with or affected by HIV/AIDS and street children, in order to fulfil their right to education;**
- (c) Adopt effective measures to rapidly decrease the drop-out rate in primary and secondary school;**
- (d) Provide access to early childhood education for every child making it affordable for poor families and raise awareness of the benefits of preschools and early-learning opportunities among parents;**
- (e) Develop and upgrade the infrastructure of the educational system by building new schools and classrooms, developing textbooks and other school supplies, enhancing teacher training and adopting innovative and interactive learning methods tailored for children with different learning prerequisites;**
- (f) Provide indigenous children and children belonging to minority groups with equal access to quality education which respects their distinct cultural patterns and uses local indigenous and minority languages in education through, inter alia, the Lingua Franca Project;**
- (g) Continue its efforts to offer more facilities for informal learning and vocational training, including for children who have not completed primary and secondary education;**
- (h) Continue its efforts to reduce the number of dropouts and increase the number of children completing secondary education;**
- (i) Establish vocational schools that systematically prepare children in school for the requirements of the labour market and civic responsibilities;**

(j) **Mainstream human rights, including children's rights, into the school curricula;**

(k) **Cooperate with, among others, UNESCO, UNICEF and non-governmental organizations to improve the education sector;**

(l) **Continue to expand pre-service and in-service teacher training.**

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

174. Notwithstanding the State party's efforts to develop and organize sports and cultural activities for children, the Committee notes with concern the insufficient number of recreational and cultural activities and facilities for children and the discrepancies between *barangays* in this respect. The Committee is concerned that there are several groups of children, such as children not involved in primary education, child labourers and street children, who neither have equal right to enjoy their right to rest and leisure nor to engage in play, sport, recreational and cultural activities.

175. **In the light of article 31 of the Convention, the Committee recommends that the State party make all necessary efforts to protect the right of the child to rest, leisure, cultural and recreational activities. The Committee recommends that the State party strengthen its efforts to promote the right of the child to engage in play by providing children with creative play facilities. It requests the allocation of adequate human and financial resources to the implementation of this right and the payment of particular attention to vulnerable groups of children, such as children outside of the educational system, child labourers and street children.**

## **7. Special protection measures**

### **Refugee children**

176. Notwithstanding the fact that the treatment of refugee children and the implementation of their rights have been viewed in the light of laws generally applicable to Philippine children, the Committee is concerned about the lack of domestic legislation addressing the specific needs of asylum-seeking and refugee children. The Committee notes that, for example, the provisions of the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act on children in emergency situations are limited to children in situations of armed conflict.

177. **The Committee recommends to the State party that it introduce specific laws and administrative regulations that address the needs of asylum-seeking and refugee children and provide unaccompanied and separated asylum-seeking and refugee children with special procedures. In this respect, the Committee recommends that the State party continue its cooperation with UNHCR.**

### **Children in armed conflict**

178. The Committee welcomes the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict by the State party in

August 2003 and the setting of minimum age of 18 years for recruitment into the national Armed Forces, however, with exception for training purposes. The Committee also takes note with appreciation of the adoption of a Comprehensive Programme Framework for Children in Armed Conflict of 2001 (Presidential Executive Order No. 56) which promotes rescue, recovery and reintegration of children involved in armed conflict. Notwithstanding these positive steps taken by the State party, the Committee expresses its deep concern about children, sometimes as young as 11 years old, being recruited by armed rebel movements, such as the New People's Army, the Moro Islamic Liberation Front, and the Abu Sayyaf Group, to serve as combatants, spies, guards, cooks or medics.

179. The Committee is concerned that the State party is able to provide only the arrested child soldiers with physical and psychological recovery and social reintegration services, but the majority of children involved in and affected by armed conflict is never reached. Furthermore, the Committee is concerned about the continuing displacement of children and their limited access to social and health services, education and, above all, to development due to the adverse effects of internal armed conflict. In addition, the Committee is concerned at the impact of internal armed conflict on children not involved in hostilities, particularly Muslim children living in the Mindanao region.

**180. The Committee recalls that the State party has undertaken to respect and ensure all the rights set forth in the Convention for all children within its jurisdiction at all times. In the light of articles 38, 39 and other relevant articles of the Convention, the Committee urges the State party to continue its peace efforts with armed rebel movements in order to urge them to immediately cease the recruitment for and involvement of children in armed conflicts, and to ensure protection of all children who have been involved in armed conflict. The Committee recommends to the State party that it provide children involved in and traumatized by armed conflict with adequate assistance and counselling for their physical and psychological recovery and social reintegration into society in cooperation with national and international non-governmental organizations and United Nations bodies, such as UNICEF. The Committee recommends that the State party provide girl child soldiers with adequate gender-specific rehabilitation and reintegration services.**

**181. The Committee also recommends that the State party pay particular attention to the implementation of guidelines for Philippine Armed Forces on the treatment of children in armed conflict and ensure that children who are arrested are released from military custody within the prescribed time limits and that children are provided with adequate medical treatment and informed about their rights. As regards displaced children and children living in conflict areas, the Committee urges the State party to take effective measures to secure their access to basic services, including adequate social and health services and education and development. Finally, the Committee recommends that the State party ensure that all children living in areas affected by armed hostilities enjoy their human rights on equal footing without any discrimination.**

### **Economic exploitation**

182. The Committee welcomes the ratification of the Minimum Age Convention, 1973 (No. 138) in June 1998 and the Worst Forms of Child Labour Convention, 1999 (No. 182) in November 2000. The Committee notes with appreciation the State party's efforts to combat

child labour, for example through implementing the National Programme against Child Labour, the Omnibus Rules implementing the Labour Code, the establishment of local-level Programme Implementation Committees on Child Labour and the fruitful cooperation with the International Labour Organization and its International Programme on the Elimination of Child Labour. Despite these positive efforts, the Committee is deeply concerned at the high number of child workers (3.7 million working children) in the State party. The Committee is concerned about cultural attitudes and practices as regards child labour and the weak enforcement of labour laws.

183. **The Committee recommends to the State party that it:**

(a) **Effectively implement its domestic labour laws and the National Programme against Child Labour as well as its subprogrammes, for example the Elimination of Child Labour in the Tobacco Industry Project and ensure that child workers participate in discussions about the solution to this problem;**

(b) **Improve the labour inspection system in order to safeguard that work performed by children is light work and not exploitative and, in particular, empower the system to monitor and report on the practice of domestic and rural labour by children;**

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

(d) **Continue to seek technical assistance from the International Labour Organization/International Programme on the Elimination of Child Labour.**

#### **Drug and substance abuse**

184. While noting the State party's efforts to combat drug trafficking and drug and substance abuse, inter alia, through implementing the Comprehensive Dangerous Drugs Act of 2002 (Republic Act No. 9165), and the increased number of treatment and social reintegration services for children, the Committee is deeply concerned at the massive narcotic trade in the Philippines and its adverse effects on children and adolescents. It shares the State party's concern about the high incidence of drug and substance abuse, including glue and solvent sniffing among street children. Furthermore, the Committee is concerned about the fact that children, who voluntarily seek treatment in drug recovery and reintegration centres, are often asked to pay for treatment causing insurmountable obstacles to children of limited means and denying their access to treatment and reintegration.

185. **The Committee recommends that the State party continue to strengthen its efforts to:**

(a) **Combat drug and substance abuse among children and adolescents, for example by effectively implementing the Comprehensive Dangerous Drugs Act of 2002 and secure due process of the law;**

(b) **Provide children and adolescents with accurate and objective information about drug and substance use, including hard drugs, glue and solvent sniffing, through public school programmes and media campaigns and protect children from harmful misinformation and models;**

**(c) Develop free and easily accessible drug abuse treatment and social reintegration services for children who are victims of drug and substance abuse;**

**(d) Tailor specific drug abuse, including glue and solvent sniffing, recovery and social reintegration programmes and centres for street children and cooperate with non-governmental organizations in this respect;**

**(e) Allocate adequate budgetary funds to existing drug recovery and reintegration centres;**

**(f) Seek technical assistance from, among others, the United Nations Office on Drugs and Crime and WHO.**

### **Street children**

186. The Committee reiterates its grave concern at the high number of children living in the streets and their special vulnerability to various forms of violence and abuse, including sexual abuse and exploitation, economic exploitation and substance abuse. The Committee notes the lack of a systematic and comprehensive strategy to address the situation and protect children living in the streets. The Committee emphasizes that unlawful arrest and detention of street children are serious violations of the provisions and principles of the Convention. Notwithstanding the efforts taken by the State party and, in particular, many non-governmental organizations working with and for street children, for example ChildHope Asia Philippines, the Committee is concerned about street children's limited access to adequate nutrition, clothing, housing, social and health services and education. Furthermore, the Committee is concerned about health risks faced by street children, including environmental health risks, such as toxic and hazardous wastes and air pollution.

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

**(a) Develop a comprehensive strategy with active participation of street children, non-governmental organizations and relevant professionals to address the high number of street children, with the aim of reducing and preventing this phenomenon;**

**(b) Ensure that children living in the streets are not unlawfully arrested and detained, protect them from police brutality and where needed, secure their access to adequate legal services;**

**(c) Ensure that street children are reached through trained street educators and counsellors and provided with adequate nutrition, clothing and shelter as well as with social and health services and educational opportunities, including vocational and life skills training, in order to support their full development and provide them with adequate protection and assistance;**

**(d) Provide street children with adequate recovery and social reintegration services for physical, sexual and substance abuse and promote reunification with their families, when feasible;**

**(e) Reduce and prevent the environmental health risks faced by children living in the streets, inter alia, through raising awareness about environmental health risks among these children and instructing appropriate behaviours which protect them from these risks;**

**(f) Support the efforts of street children to organize themselves in order to enhance their self-esteem;**

**(g) Collaborate with and support non-governmental organizations working with and for street children.**

### **Sexual exploitation, child pornography and trafficking**

188. The Committee expresses its grave concern about the sexual exploitation of children, including growing child prostitution, and the reported cases of child pornography in the State party. The Committee notes with concern that the provisions of the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act are mainly related to child prostitution and do not adequately protect victims of other forms of sexual exploitation. Furthermore, the Committee notes with concern that the minimum age of sexual consent is not clearly enough established in the State party's domestic legislation and that the Revised Penal Code (Republic Act No. 3815) imposes maximum penalties for sexual offences when the victim is under 12 years of age but imposes lower penalties for sexual offences against minors over 12 years of age.

189. The Committee welcomes the adoption of, in 2003, the new Anti-Trafficking in Persons law and other measures taken by the State party in the areas of prevention of trafficking and protection of victims, such as the establishment of Anti-Illegal Recruitment Coordination Councils, the Trade Union Child Labour Advocate initiative and the establishment of an Executive Council to suppress trafficking in persons particularly women and children. But the Committee is gravely concerned about trafficked Philippine children both within the country and across borders. The Committee expresses its concern about existing risk factors contributing to trafficking activities, such as persistent poverty, temporary overseas migration, growing sex tourism and weak law enforcement in the State party.

190. **The Committee urges the State party to:**

**(a) Review its domestic laws on the protection of children against sexual exploitation, including the use of children for pornography, in order to provide all child victims of such exploitation with equal protection, inter alia, by including in the law equal sanctions to all perpetrators of sexual offences against children;**

**(b) Set a clearly defined minimum age of sexual consent at an internationally acceptable level in its domestic law;**

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

**(d) Provide adequate programmes of assistance and reintegration for sexually exploited and/or trafficked children in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the First and Second World Congresses against Commercial Sexual Exploitation of Children;**

**(e) Pay particular attention to existing risk factors, such as the growing sex tourism in the region and continue to collaborate with the Department of Tourism and tourism service providers in this respect;**

**(f) Launch awareness-raising campaigns for children, parents and other caregivers, in order to prevent trafficking, sexual exploitation and pornography involving children, and sensitize officials working with and for victims of trafficking.**

**191. With regard to the trafficking of children in the Philippines, within the country and across its borders, the Committee endorses the recommendation adopted by the Human Rights Committee at its seventy-ninth session in 2003 (CCPR/CO/79/PHL, para. 13) on taking appropriate measures to combat trafficking in all its forms, by ensuring effective enforcement of the relevant legislation and imposing sanctions on those found responsible.**

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

192. The Committee is seriously alarmed at the high level of crime and the high number of persons below 18 years of age in detention in the State party, the persistent violations of the rights of children in conflict with the law, the alleged cases of torture, abuse, including sexual abuse and other forms of degrading treatment of persons below 18 years of age in detention, and the overall deficiencies in the administration of the Philippine juvenile justice system. The Committee notes with deep concern that adequate legislation governing juvenile justice is lacking and that a proposed bill on the Comprehensive Juvenile Justice System and Delinquency Prevention Programme has been pending in Congress since 1999. While noting that an Administrative Order issued in February 2000 designated Regional Trial Courts as Family Courts, the Committee is concerned about the lack of child-sensitive and adequately trained juvenile courts.

193. Furthermore, the Committee is concerned about the very low minimum age of criminal responsibility (9 years). Referring to the provisions on youth detention homes of the Child and Youth Welfare Code and the Rules and Regulations on the Apprehension, Investigation, Prosecution and Rehabilitation of Youth Offenders (Presidential Decree No. 603), the Committee is concerned about the inadequate implementation of these provisions and the placement of persons below 18 years of age together with adults in detention. Unlawful detention of children, street children for instance, for the extended period of time and limited, or lacking access to appropriate legal aid and assistance and adequate social and health services give cause for serious concern. In addition, the Committee is concerned about unreasonable amounts requested for bail, which cause insurmountable financial obstacles for children and their parents, limitations as regards the suspension of sentences and poor detention conditions, including so-called secret cells.

194. **The Committee urges the State party to ensure that its legislation and practice concerning juvenile justice is in full compliance with the provisions of the Convention, in particular articles 37, 39 and 40, as well as other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (General Assembly resolution 40/33), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (General Assembly resolution 45/112), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113) and the Guidelines for Action on Children in the Criminal Justice System (annexed to Economic and Social Council resolution 1997/30 of 21 July 1997). In this regard, the Committee recommends to the State party in particular that it:**

**(a) Adopt, as a matter of urgency, a proposed bill on Comprehensive Juvenile Justice System and Delinquency Prevention Programme and raise the minimum age of criminal responsibility to an internationally acceptable level;**

**(b) Ensure that deprivation of liberty is used only as a measure of last resort, for the shortest possible time and in appropriate conditions, and that persons below 18 years of age are not detained with adults;**

**(c) Establish juvenile courts staffed with sufficient, appropriately trained professional personnel;**

**(d) Ensure that persons below 18 years of age have access to legal aid and independent and effective complaints mechanisms;**

**(e) Implement alternative measures to deprivation of liberty, such as probation, community service or suspended sentences;**

**(f) Train professionals in the area of recovery and social reintegration of children;**

**(g) Continue to seek technical assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and UNICEF.**

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

195. While noting the provisions of the Indigenous Peoples Rights Act (Republic Act No. 8371) as well as programmes and projects for children belonging to minorities and indigenous peoples, such as an alternative system of education for children belonging to indigenous cultural communities, the Childcare Development Programme and the Lingua Franca Project, the Committee is concerned about the widespread poverty among minorities and indigenous peoples and the limited enjoyment of their human rights, in particular, concerning their access to social and health services and education. The Committee shares the State party's concern about arranged early marriage in the indigenous communities. In addition, the Committee notes with concern more pronounced discrimination against Muslims.

196. **The Committee recalls the obligations of the State party under articles 2 and 30 of the Convention and recommends that the State party ensure that indigenous children and children belonging to minorities fully enjoy all of their human rights equally and without discrimination. In this respect the Committee recommends that the State party strengthen its efforts to implement the Indigenous Peoples Rights Act (Republic Act No. 8371) and develop and implement policies and programmes in order to ensure equal access for indigenous and minority children to culturally appropriate services, including social and health services and education. Furthermore, the Committee recommends that the State party strengthen its mechanisms for data collection on minority and indigenous children so as to identify existing gaps and barriers to the enjoyment of their human rights and with a view to developing legislation, policies and programmes to address such gaps and barriers.**

197. **As regards the child's right to use his/her own language, the Committee encourages the State party to continue its efforts to address the linguistic needs of indigenous and minority children. In addition, the Committee recommends that the State party seek, in close collaboration with indigenous and minority communities and their respective leaders, effective measures to abolish traditional practices prejudicial to the health and well-being of indigenous and minority children, such as early marriage.**

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

198. **The Committee welcomes the ratification in May 2002 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the ratification in August 2003 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.**

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

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

### **Follow-up**

200. **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**

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

## 10. Next report

202. In the light of the recommendation on reporting periodicity adopted by the Committee and described in the report of 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 implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some States parties experience difficulties in initiating timely and regular reporting. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its third and fourth periodic reports in one consolidated report by 19 September 2007, the due date for the submission of the fourth periodic report. 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: Bosnia and Herzegovina

203. The Committee considered the initial report of Bosnia and Herzegovina (CRC/C/11/Add.28) at its 1030th and 1031st meetings (see CRC/C/SR.1030 and 1031), held on 19 May 2005, and adopted the following concluding observations at its 1052nd meeting on 3 June 2005.

#### A. Introduction

204. The Committee welcomes the submission of the State party's initial report - even if it notes that it has been submitted with some delay and that some of the information contained in it is outdated. The Committee also welcomes the timely responses to the list of issues and the constructive and open dialogue with a cross-sectoral and high-level delegation, which allowed the Committee to have a better understanding of the situation of children in the State party.

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

205. The Committee notes with appreciation:

(a) The Law on the Protection of National Minorities, adopted by the Parliament of Bosnia and Herzegovina on 1 April 2003, as well as the establishment of the Roma Committee;

(b) The adoption of the By-law on the Protection of Trafficking Victims attached to the Law on Movement and Stay of Aliens and Asylum in July 2004 and the adoption by the Council of Ministers of a National Plan of Action to combat trafficking in 2001;

(c) The 2003 Framework Law on Primary and Secondary Education as an effort to develop a common policy for all the country;

(d) The adoption of the Action Plan for Children 2002-2010 and the establishment of the Council for Children of Bosnia and Herzegovina;

(e) The enactment of the Law on the Protection of Mentally Disabled Persons and the decision of the Council of Ministers of Bosnia-Herzegovina, on 30 December 2003, to adopt the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, adopted by the General Assembly on 20 December 1993 (resolution 48/96);

(f) The direct application, guaranteed by Constitution, of the rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols.

206. The Committee also wishes to welcome the ratification of:

(a) The main human rights treaties, including the two Optional Protocols to the Convention on the Rights of the Child;

(b) The ILO Convention No. 138 (1973) concerning the minimum age for admission to employment and the ILO Convention No. 182 (1999) concerning the prohibition and immediate action for the elimination of the worst forms of child labour;

(c) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 24 April 2002;

(d) The Rome Statute of the International Criminal Court, on 11 April 2002.

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

207. The Committee notes that the State party became independent in 1992 and that it is still going through a phase of political, economic and social transition aggravated by an armed conflict (1992-1995), one which had and still has a traumatic impact on many children. Furthermore, the Committee notes that the particular political and administrative structure which grants a large autonomy to the two Entities established under the Dayton Peace Agreement of 1995 - the Republika Srpska and the Federation of Bosnia Herzegovina - may create disparities in the enjoyment of rights and difficulties in planning, developing and implementing comprehensive and coordinated laws and policies for children at the State level.

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

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

##### **Reservations**

208. The Committee, while noting the State party's declaration that it is currently not in the position to withdraw its reservation to article 9, paragraph 1, of the Convention, is of the opinion that in practice there is no need for it, since the social work centres may be considered as a "competent authority" in line with article 9 of the Convention.

209. **The Committee, in the light of the Vienna Declaration and Programme of Action, recommends that the State party withdraw its reservation as expeditiously as possible and that it take the necessary procedural measures to that effect.**

#### **Legislation and implementation**

210. While the Committee notes the numerous pieces of legislation recently adopted aimed at ensuring better implementation of the Convention in the State party, it is concerned that the State party's particular political and administrative structure (2 Entities, 10 Cantons and an administrative district, each with widespread budgetary and administrative autonomy) may constitute an obstacle for the development and implementation of cohesive State policies and comprehensive and coordinated legislation in full compliance with the principles and provisions of the Convention.

211. **The Committee recommends that the State party continue its efforts aimed at ensuring uniform application of the principles and provisions of the Convention throughout the country and expedite the process of adoption of the legislation currently under review.**

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

212. The Committee welcomes the launching of the Action Plan for Children 2002-2010, as well as the establishment of the Council for Children - responsible for the implementation of the Action Plan - but expresses concern that the budgets and implementation remain at Entity level, that the Council for Children has not been able to stimulate sufficient political will for organized action to implement the plan and that it suffers from both technical and authority constraints.

213. **The Committee recommends that the State party implement effectively its national Action Plan for children, which should aim at the realization of the principles and provisions of the Convention and take into account, inter alia, the Declaration and the Plan of Action "A world fit for children" adopted by the General Assembly special session on children in May 2002. Furthermore, 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 that it consider extending membership in the Council to representatives of non-governmental organizations.**

#### **Coordination**

214. The Committee notes that, since 2000, the Government has adopted a number of programmes and plans of action relevant to the promotion of children's rights. It is concerned, however, that the divergence of policies and practices resulting from the political and administrative fragmentation may hamper their correct implementation. The Committee is further concerned that, although there currently are over 100 ministries in the State party, none of them has exclusive competence in children issues.

215. **The Committee recommends that the State party further strengthen and support the Council for Children with adequate human and financial resources in order to empower it to develop and coordinate comprehensive and uniform implementation of all policies throughout the country.**

### **Independent monitoring**

216. The Committee welcomes the information obtained during the dialogue that the existing State Ombudsmen will continue their activities and that child rights departments exist within the offices of the Ombudsmen. However, the Committee is concerned that these departments are not effective in practice, owing to insufficient information about their existence and function, and especially about the individual complaints mechanism.

217. **The Committee recommends that the State party support the Ombudsmen offices in undertaking public-awareness campaigns targeting in particular parents and children with a view to informing them about the existence and functions of the child rights departments within the Ombudsmen office, and in particular on their power to receive and investigate complaints related to violations of children's rights. The State party is further encouraged to seek technical cooperation in this regard from, among others, the United Nations Children's Fund (UNICEF) and the Office of the United Nations High Commissioner for Human Rights (OHCHR).**

### **Resources for children**

218. While acknowledging the State party's efforts to allocate adequate resources for social services, the Committee is concerned that the rights of children continue to be neglected and that not enough resources are allocated for child-related programmes and policies. The Committee is further concerned that there is a significant difference in public expenditure between the two Entities in the areas of social security, education and health care and that the complex structure of the State party is not conducive to an optimal realization of the limited resources available.

219. **The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention, by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups, "to the maximum extent of ... available resources and, where needed, within the framework of international cooperation". The Committee further recommends that the State party harmonize the expenses for children's rights protection between the Entities so that a minimum level of social and health protection for all children throughout the country is guaranteed.**

### **Data collection**

220. The Committee acknowledges the efforts undertaken by the State party for the collection of data, but it notes with concern that the last census was carried out in 1991 and that there is no clear division of responsibilities for collection, consolidation and analysis of data among the different government bodies. This results in insufficient statistical data being available on the

situation of children, especially those belonging to different ethnic groups and the most vulnerable groups (i.e. displaced and refugee children, victims of sexual and economic exploitation, trafficked children), and makes it difficult to calculate basic human development indicators, such as infant mortality or adult literacy, employment and poverty.

**221. The Committee recommends that the State party urgently carry out a census of the population and develop a coordinated system for a comprehensive collection of data that should cover all children below the age of 18 years and be disaggregated by those groups of children who are in need of special protection. The State party should also develop indicators to effectively monitor and evaluate progress achieved in the implementation of the Convention and assess the impact of policies that affect children. The State party is encouraged to seek technical cooperation from UNICEF in this regard.**

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

222. While the Committee notes the level of cooperation between the Government and the civil society organizations working in the area of the promotion and protection of the rights of the child, it also notes that there are no permanent channels of communication between the Government and the NGO sector.

**223. The Committee recommends that the State party increase its level of cooperation with the NGO sector and other sectors of civil society working with and for children in Bosnia and Herzegovina as well as establish a permanent channel of communication to facilitate this cooperation.**

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

224. The Committee notes the efforts made by the State party - in collaboration with UNICEF and local non-governmental organizations - to promote the Convention, including through dissemination of posters, booklets and radio programmes. Nonetheless, it expresses concern at the information that the State party's report was not published nor was there any dissemination of the report through the media. Dissemination of information regarding child rights has remained mostly in the hands of international organizations and national NGOs, despite the fact that the latter have limited resources.

**225. The Committee recommends that the State party increase and strengthen its efforts to disseminate the Convention and to raise public awareness, in particular among children themselves and their parents, about its principles and provisions.**

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

## 2. General principles

### Non-discrimination

227. The Committee is concerned that discrimination on grounds of ethnicity, political affiliation, national origin, social status, status as internally displaced persons or returnees, residence in rural areas and gender or disability continues to be widespread. The Committee also expresses concern at the information that - despite some improvements - the media sometimes contribute to stigmatization and social exclusion by conveying stereotyped messages and distrust of people belonging to minority and/or ethnic groups.

228. **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 all discriminatory disparities. It also recommends that the State party strengthen its administrative and judicial measures to prevent and eliminate de facto discrimination against children, in particular children with disabilities, Roma children and children belonging to ethnic and/or religious minorities or other nationalities. The State party is also encouraged to develop, in consultation with the media, a code of conduct with a view to eliminating stereotyping and stigmatization of minority and/or ethnic groups in the media.**

229. **The Committee also 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, also taking into account general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

### Best interests of the child

230. While the Committee notes that the majority of laws and programmes in the State party refer to the principle of best interests of the child, it is concerned that this principle is limited in practice allegedly due to lack of adequate financial resources.

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

### Respect for the views of the child

232. The Committee welcomes the efforts made by the State party to promote the respect of the views of the child, but it remains concerned that article 12 of the Convention is not adequately applied in families, schools and other institutions and not fully taken into account in practice in judicial and administrative decisions and the development and implementation of laws, policies and programmes.

233. **The Committee recommends that further efforts be made to ensure the implementation of the 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 right should also be incorporated in all laws, judicial and administrative decisions, policies and programmes relating to children.**

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

#### **Birth registration**

234. The Committee is concerned that, according to data provided by the Ombudsmen of the two Entities, there are about 5,000 children with incomplete data in the registries and a number of children in some regions of the country who are not registered at all. The Committee is further concerned at the information that Roma children are often not registered due to the lack of identification documents for their parents. They are also discriminated against by authorities who refuse to recognize the right of Roma children to registration.

235. **In the light of article 7 of the Convention, the Committee urges the State party to continue to strengthen, as a matter of priority, its efforts to establish a system ensuring the registration of all children born within its territory - irrespective of the nationality and status of the parents - of all children born abroad by parents who are citizens of the State party and to take specific steps to ensure the registration of Roma children.**

#### **Right to privacy**

236. The Committee is concerned that children's right to privacy is not fully respected, in schools, media and other institutions.

237. **The Committee recommends that the State party take all possible measures to guarantee the conditions for respecting the right to privacy for children.**

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

#### **Family environment**

238. The Committee notes the important work and the broad mandate of the social work centres as guardianship authorities dealing with several issues (i.e. placement of children in institutions, adoption regulation, administrative and other assistance to children and families).

239. **The Committee recommends that the State party provide the social work centres with adequate human and financial resources, ensure systematic training of its staff and take all other necessary measures to guarantee quality, efficiency and transparency of all activities of these institutions.**

#### **Adoption**

240. The Committee notes the State party's concern about the worrying phenomenon of illegal intercountry adoption of children from Bosnia and Herzegovina. The Committee also notes that

the adoption process is not in full conformity with article 21 of the Convention as well as that the State party has not ratified the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

**241. The Committee recommends that the State party take the necessary legislative, administrative and other measures to ensure that adoption procedures are in full conformity with article 21 of the Convention as well as to consider becoming a party to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. Furthermore, the Committee recommends that the State party submit disaggregated data in its next report on children involved in domestic and intercountry adoption.**

#### **Alternative care for children without parental care**

242. The Committee notes that, during and after the armed conflict, the number of children's homes receiving children without parental care more than doubled. The Committee is concerned that these institutions may become, in some cases, places of potential discrimination, because of, inter alia, limited access to health care, lack of adequate life skills training, lack of adequately educated professionals, poor facilities and lack of adequate resources. Furthermore, the Committee is concerned that, once a child is in alternative care, little effort is made to reunify the family and child.

**243. The Committee recommends that the State party ensure that institutionalization is used only as a measure of last resort, meaning that it is professionally indicated and in the best interests of the child, and that it systematically conduct periodic reviews of the placement of children, in conformity with article 25 of the Convention. The Committee also recommends that the State party develop quality standards for foster care and significantly decrease the time spent in institutions by children without parental care. It further recommends that adequate resources be allocated for the proper functioning and monitoring of the care institutions and foster care.**

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

244. While the Committee notes the new legislative measures being undertaken in both Entities aimed at improving protection of children against violence in family (the new Family Law and the new Law on Protection from Domestic Violence), it is concerned that children are often and increasingly exposed to domestic violence and other forms of abuses, including sexual abuse. Furthermore, the Committee is concerned that corporal punishment in the home is not expressly prohibited in the State party.

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

**(a) Make sure that the legislative measures currently being undertaken - namely, the new Family Law and the new Law on Protection from Domestic Violence - are expeditiously adopted and adequately implemented in both Entities;**

- (b) Undertake a comprehensive study on violence against children, more particularly, on sexual abuse in order to assess the extent, the causes, scope and nature of this phenomenon;**
- (c) Expressly prohibit corporal punishment at home and in institutions;**
- (d) Strengthen awareness-raising and education campaigns with the involvement of children in order to prevent and combat child abuse and to promote positive, non-violent forms of discipline and respect for children's rights, while raising awareness about the negative consequences of corporal punishment;**
- (e) Evaluate the work of existing structures and provide training to the professionals involved in these types of cases;**
- (f) Strengthen measures to encourage reporting of instances of child abuse and to prosecute the perpetrators of these acts;**
- (g) Provide care, full physical and psychological recovery and reintegration for child victims of violence.**

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

### **Children with disabilities**

246. While the Committee welcomes the various legislative measures taken for the protection of children with disabilities, it notes with concern that discriminatory practices and prejudices still exist towards disabled persons, including children and that they lack sufficient medical care and educational opportunities.

247. While the Committee welcomes the new framework law on primary and secondary education (2003), which requires inclusive learning and integration of children with special needs into mainstream education, it regrets that, so far, the implementation of the law has been inconsistent.

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

- (a) Review existing policies and practice in relation to children with disabilities, taking due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities and of the Committee's recommendations adopted at its day of general discussion on children with disabilities (see CRC/C/69);**
- (b) Make efforts to detect disabilities within the educational system and ensure better evaluation of the overall needs of students with disabilities;**
- (c) Take concrete and specific measures to ensure that children with disabilities may exercise their right to education to the maximum extent possible and facilitate inclusion in the mainstream education system, including vocational education;**

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

**(e) Strengthen public awareness campaigns to change negative public attitudes towards persons with disabilities.**

### **Health and access to health-care services**

249. The Committee is concerned that the country's complex political structure and the lack of unified laws and policies make equitable access to health-care services for all children increasingly difficult. Furthermore, the Committee takes note, with concern, that one fifth of children are not fully vaccinated and that exclusive breastfeeding is limited to the first three months and only to a limited number of children. Finally, the Committee expresses serious concern that some 90 per cent of Roma have no health insurance, which results in their de facto exclusion from access to health care.

250. While the Committee notes that infant mortality and under-five mortality have officially decreased, it is concerned that this reduction may depend on underreporting within a poorly functioning data collection system, especially among the most vulnerable group of the population.

**251. The Committee recommends that the State party undertake all necessary measures to ensure that all children enjoy the same access and quality of health services, with special attention to children belonging to vulnerable groups, especially Roma. Furthermore, the Committee recommends that the State party strengthen its efforts in improving the health situation of children in the State party, including through:**

**(a) Strengthening 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) Promoting exclusive breastfeeding for six months after birth with the addition of appropriate infant diet thereafter;**

**(e) Seeking technical assistance from, among others, UNICEF and WHO in this regard.**

### **Adolescent health**

252. The Committee is concerned at the high consumption of tobacco and alcohol among adolescents and notes that in the State party there is insufficient health promotion, with little targeting of nutrition, smoking, alcohol, HIV/AIDS, sex education, fitness and personal hygiene practices. The Committee is also concerned at the insufficient information concerning adolescent health, in particular with regard to mental and reproductive health.

253. **The Committee recommends that the State party strengthen measures to address the issue of alcohol and tobacco consumption among children, to improve its health promotion programmes, and to provide for mental and reproductive health counselling and services for adolescents.**

#### **HIV/AIDS**

254. The Committee is concerned that high-risk behaviour among young people - (i.e. injecting drug use and risky sexual behaviour) - may expose the State party to serious HIV/AIDS problems in the future. The Committee also notes that this issue was recognized by the Government only in 2002 - with the creation of the National Advisory Board for the prevention of HIV/AIDS and the development of a "Strategy for Preventing and Combating HIV/AIDS in Bosnia and Herzegovina" - whereas it is still not perceived as a threat by most of the population.

255. **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 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37);**

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

(c) **Seek further technical assistance from, inter alia, the United Nations Joint Programme on HIV/AIDS and UNICEF.**

#### **Standard of living**

256. The Committee notes that, as a result of the war, slow economic recovery, low salaries and unemployment, many families live in economic hardship and about 20 per cent below the official poverty line. Most children who have lost their parents live in harsh poverty. The Committee is concerned that poor living conditions seriously limit children's enjoyment of their rights in the family, schools and in peer and cultural activities.

257. **The Committee recommends that the State party take all necessary measures to provide support and material assistance to economically disadvantaged families, including targeted programmes with regard to the most needy groups of families, in order to guarantee the right of all children to an adequate standard of living.**

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

258. Despite some recent encouraging developments, especially through the adoption of legislative and other measures in the field of education - i.e. the Framework Law on primary and secondary education, the establishment of a nine-year cycle of compulsory education and the Action Plan for meeting educational needs of Roma and other national minorities - the Committee remains concerned at:

- (a) The high number of children who are not enrolled or who drop out of school;
- (b) The still inadequate number of professional teaching staff in the country;
- (c) The lack of adequate space and facilities for recreational and cultural activities;
- (d) The fact that, particularly in rural areas, children do not have access to preschool education.

259. The Committee is concerned that there exists extensive discrimination regarding access to education by ethnic and/or national minorities, especially Roma (only 33 per cent of whom attend primary school). Furthermore, the Committee is concerned that other marginalized groups of children, including refugees and returnees and children with disabilities face difficulties of access to schooling.

260. The Committee is also concerned about:

- (a) The still existing phenomenon of the “two-schools-under-one-roof” system, whereby - in some Cantons - common premises are either divided or being used at different times by children of different ethnicity, who are taught a different curriculum depending on their national origin;
- (b) Reports suggesting that violence in school is widespread, in particular among students.

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

- (a) Strengthen its efforts to harmonize legislation on education and ensure its effective and uniform implementation throughout the country;**
- (b) 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, those living in poverty, refugee and returnee children, Roma children, children with disabilities, etc.);**
- (c) Improve the efficiency of the educational system, paying particular attention to the high drop-out rates;**
- (d) Provide access to preschool education throughout the country, including to children living in rural areas;**
- (e) Increase the availability of vocational training programmes for young people, with the view of facilitating their access to the labour market;**
- (f) In the light of article 29 on the aims of education, harmonize the educational system throughout the country, eliminate the so-called system of “two-schools-under-one-roof” and establish adequate programmes and activities with a view to create an environment of tolerance, peace and understanding of cultural diversity shared by all children to prevent intolerance, bullying and discrimination in schools and society at large;**

**(g) Ensure that adequate space and facilities are provided to children for their rest and leisure, as well as for recreational and cultural activities;**

**(h) Seek technical assistance from UNESCO and UNICEF.**

## **7. Special protection measures**

### **Refugee and displaced children**

262. While the Committee welcomes the fact that, as of September 2004, more than 1 million former refugees and displaced persons, including children, have returned home in the State party, it notes that a significant number of refugees from Bosnia and Herzegovina remain in the region (around 100,000 living in Serbia and Montenegro and Croatia and 50,000 living elsewhere) and that a further 314,000 are still displaced within the country. The Committee is also concerned at the information that violent incidents against returnees and displaced persons and their property, memorials or religious objects are frequent in the country.

263. While the Committee welcomes the 1998 Law on Displaced Persons, Refugees and Returnees in the Republika Srpska - regulating the status, rights and duties of displaced persons, refugees and returnees as well as their reintegration in the society - it is concerned that no comprehensive programme has been initiated at the national level in this respect. The Committee is also concerned that refugee and displaced children are accommodated together with adults in "collective centres" and that collective centres often accommodate not only children but also chronically ill persons.

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

**(a) Continue its efforts aimed at the safe return of displaced and refugee children and their parents and prevent, as much as possible, violent attacks against returnees and displaced persons and/or their property;**

**(b) Address the special needs and rights of displaced and refugee children, and in particular to ensure proper accommodation arrangements for these children as well as social and professional reintegration of their parents;**

**(c) Harmonize legislation at the Entity level with the refugee legislation at the State level;**

**(d) Look into the issue of children whose parents are asylum-seekers, temporarily admitted persons or recognized refugees, when neither the parents, nor the child are in possession of adequate documentation, and ensure them access to the rights prescribed for these categories of persons;**

**(e) Continue to seek technical cooperation from UNHCR in this regard.**

### **Children in armed conflict**

265. Although the number is constantly decreasing, the Committee is concerned at the information that between 1992 and August 2000 a total of 4,371 persons had been victims of

landmines, including about 300 children. The Committee is also concerned at the information that there are still 1 million mines in approximately 30,000 minefields throughout the country, including around schools and in areas where children play and that, according to Red Cross sources, every month 50 children suffer from the consequences of this situation. Furthermore, the Committee is concerned at the situation of children who were victims of the armed conflict, in particular with regard to the consequences of the conflict on their physical and psychological status.

**266. The Committee recommends the State party to continue carrying out mine-awareness campaigns, undertake as a matter of priority demining programmes and extend the psychological and social assistance to children who have been affected by the explosion of mines and other consequences of the armed conflict.**

### **Economic exploitation and street children**

267. The Committee is concerned at the information that a significant number of children, especially Roma, are living or working on the streets, that the majority of these children are under 14, that most of them do not attend schools and nearly half of them appear to be ill. Furthermore, the Committee notes with concern that the work performed by these children is often harmful and exploitative and that many of them are compelled or forced to work.

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

**(a) Undertake a comprehensive national survey of the number, composition and characteristics of working children and of children living and working in the streets in order to design and implement comprehensive strategies and policies to prevent and combat their economic exploitation;**

**(b) Ensure that street children are provided with adequate nutrition, clothing, housing, health-care and educational opportunities, including vocational and life-skills training, in order to support their full development;**

**(c) Ensure the implementation of legislation fully covering article 32 of the Convention, and ILO Conventions No. 138 (1973) and No. 182 (1999);**

**(d) Seek assistance from the ILO International Programme on the Elimination of Child Labour (IPEC) and UNICEF, among others.**

### **Substance abuse**

269. The Committee is concerned at the increasing level of use of illicit drugs and substances among adolescents.

**270. The Committee recommends that the State party undertake a study to carefully analyse the causes and consequences of this phenomenon and use the outcome of this study to increase its efforts in order to prevent the use of illicit drugs and substances.**

### **Sexual exploitation and trafficking**

271. While the Committee welcomes some positive developments in the prosecution of those responsible for serious crimes against women and girls in the context of trafficking and forced prostitution, as well as the adoption by the Council of Ministers of a national plan of action to combat trafficking in 2001, it is concerned that a growing number of children under 18, especially adolescent girls, are still being trafficked for the purpose of sexual exploitation. The Committee is further concerned that the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography has not been adequately addressed within the criminal justice systems.

**272. In the light of article 34 and other related articles of the Convention, the Committee recommends that the State party further strengthen its efforts to fully implement and incorporate the above-mentioned Optional Protocol in the criminal justice systems as well as 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. Furthermore, the Committee should, inter alia:**

- Provide adequate and systematic training to all professional groups concerned, in particular law enforcement officials;**
- Launch awareness-raising and prevention campaigns targeting in particular children;**
- Seek assistance from UNICEF, among others.**

273. The Committee is also concerned at reports that, at the local level, police officers are believed to be often acquiescent, if not actively involved, in trafficking-related activities.

**274. The Committee recommends that thorough, independent and effective investigations be carried out regarding the allegations that police officers may be involved in trafficking-related activities and to impose on them - if found guilty - appropriate penal and/or other sanctions.**

### **Administration of juvenile justice**

275. The Committee notes the information that all courts have councils for persons under 18 and that first-instance courts also have judges for persons under 18, but that specific juvenile courts do not exist per se. The Committee is concerned at:

- (a) The lack of sufficient data concerning the number of persons under 18 in conflict with the law;
- (b) The inadequate research, studies or evaluation mechanisms on prevention activities or on the adequacy of existing measures;
- (c) The stigmatization of children in conflict with the law;

- (d) The lack of alternative measures to detention and forms of rehabilitation for children in conflict with the law;
- (e) The lack of appropriate places for deprivation of liberty for persons under 18, who are often detained together with adults;
- (f) The poor material conditions of detention of persons under 18 deprived of their liberty;
- (g) The inadequate access to education for persons under 18 held in detention.

**276. The Committee recommends that the State party bring the system of juvenile justice fully in line with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System; and the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238). In this regard, the Committee recommends the State party in particular to:**

- (a) Ensure systematic training for judges and councils for persons under 18;**
- (b) Take all necessary measures to ensure that persons under 18 are only deprived of liberty as a last resort and for the shortest appropriate period of time and that when in custody they are in any case separated from adults;**
- (c) Provide that persons under 18 placed in prisons - including remand prisons - are given a full programme of educational activities (including physical education);**
- (d) Take urgent steps to substantially improve the conditions of detention of persons under 18 deprived of their liberty in conformity with international standards;**
- (e) Set up more precise legal regulation on the process of diversion, as provided by article 40, paragraph 3, of the Convention;**
- (f) Define more clearly the conditions of supervision of juvenile detainees ordered by the juvenile judge;**
- (g) Consider amending the current prison sentences applicable to persons between 16 and 18 who have committed a crime, by eliminating the 1-year minimum term of imprisonment as well as by reducing the 10-year maximum term;**
- (h) Establish the right to a defence counsel from the beginning of the criminal proceedings in the Republika Srpska;**
- (i) Seek technical assistance from the UNICEF and OHCHR, among others.**

### **Children belonging to ethnic minorities**

277. While the Committee welcomes the Law on the Protection of National Minorities, adopted by Parliament of Bosnia and Herzegovina on 1 April 2003, as well as the establishment of the Roma Committee, it remains concerned about the fact that continuing problems of ethnic discrimination and intolerance, including instances of violence and of daily discrimination, have a huge impact on the full enjoyment of the rights enshrined in the Convention by children belonging to ethnic minorities, especially Roma.

278. **The Committee recommends that the State party take effective measures to protect the full enjoyment of the rights of children belonging to ethnic minority groups and undertake special measures to stimulate a process of reconciliation and confidence-building, including wide-ranging educative and awareness-raising campaigns.**

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

### **Follow-up**

279. **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 Parliament, when applicable, for appropriate consideration and further action.**

### **Dissemination**

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

## **9. Next report**

281. **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 States parties is crucial. The Committee recognizes that some States parties experience difficulties in initiating timely and regular reporting. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its combined second, third and fourth periodic reports, which should not exceed 120 pages (see CRC/C/148), by 5 March 2009 and the Committee expects the State party to report every five years thereafter, as foreseen by the Convention.**

### Concluding observations: Nepal

282. The Committee considered the second periodic report of Nepal (CRC/C/65/Add.30) at its 1032nd and 1033rd meetings (see CRC/C/SR.1032 and 1033), held on 20 May 2005, and adopted at the 1052nd meeting, held on 3 June 2005, the following concluding observations.

#### A. Introduction

283. The Committee welcomes the submission of the State party's frank and informative second periodic report and the written replies to its list of issues (CRC/C/Q/NPL/2), 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 delegation and the positive reactions to the suggestions and recommendations made during the discussion.

#### B. Positive aspects

284. The Committee notes the adoption of the following laws aimed at enhancing the implementation of the Convention: (a) the Child Labour (Prohibition and Regularization) Act in 2000, which defines hazardous work and prohibits the employment of children under the age of 16 and (b) the *Kamaiya* Prohibition Act in 2002, which codified the emancipation of bonded labourers, penalized employers engaged in *Kamaiya* labour practices, and established governmental *Kamaiya* relief funds.

285. The Committee welcomes the ratification of the following Conventions aimed at enhancing the implementation of the Convention: (a) the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, in 2002 and (b) the Forced Labour Convention, 1930 (No. 29) in 2002, the Minimum Age Convention, 1973 (No. 138) in 1997 and the Worst Forms of Child Labour Convention, 1999 (No. 182) in 2002.

286. The Committee welcomes the adoption of the National Plan of Action for children (2005-2015).

287. The Committee also welcomes the inclusion of child development policies in line with the Convention in the Ninth Plan (1997-2002).

288. The Committee further welcomes the establishment of the following bodies whose mandates include enhancing the implementation of the Convention: (a) the National Human Rights Commission, in 2000, in particular, the Child Rights Desk; (b) the National Commission on Women, in 2002; (c) the national *Dalit* commission, in 2002; (d) the children's clubs, established in more than 20 districts; and (e) the national poverty alleviation fund.

289. The Committee welcomes the agreement entered into by the State party with the Office of the United Nations High Commissioner for Human Rights (OHCHR) on 11 April 2005, providing for the establishment of an OHCHR Office in Nepal that will "monitor the observance of human rights and international humanitarian law, bearing in mind the climate of violence and the internal armed conflict in the country".

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

290. The Committee acknowledges challenges faced by the State party with regard to the general state of insecurity and violence due to the armed conflict. The Committee also notes the very high levels of poverty which are exacerbated by the heavy debt burden and the existence of many traditional beliefs and customs and the caste system, all of which impede progress to the full realization of children's rights enshrined in the Convention.

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

#### **Impact of the armed conflict on the implementation of the Convention**

291. The Committee notes the extremely negative impact of the armed conflict between the State party and the Communist Party of Nepal (the Maoists) on children in Nepal, and that it has created conditions in which even minimal implementation of the Convention is difficult. The Committee notes that the climate of fear, insecurity and impunity resulting from the armed conflict and the states of emergency, declared in 2000 and 2004, have had a seriously negative physical and psychological impact on the sound development of children in the State party. The Committee is extremely concerned at the large-scale bombing, destruction and closing of schools by Maoist insurgents, which are violations of the fundamental rights to education of children. The Committee also notes with deep concern that the conflict has also exacerbated the existing problems in the implementation of the Convention in the State party, as outlined in the present concluding observations.

292. The Committee further notes with serious concern that the absence of the parliament which was dissolved in 2002, does not allow the State party to enact or amend legislation, nor to ratify international conventions, including the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

**293. While noting the de facto control by non-State actors of areas of the State party's territory, the Committee emphasizes the full responsibility of the State party, and urges the Communist Party of Nepal (the Maoists) to respect child rights within the areas in which they operate. The Committee reminds the State party of its obligation to respect the Convention at all times and not to derogate from any of its provisions, even in exceptional circumstances, including the state of emergency. The Committee further recommends the State party to take stronger measures to combat impunity with regard to violence against children.**

**294. The Committee recommends to the State party that it undertake all necessary measures to restore the regular functioning of the State party, including the parliament, and to ratify the Optional Protocols to the Convention.**

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

##### **Previous recommendations**

295. The Committee regrets that some of the recommendations in its concluding observations (CRC/C/15/Add.57) adopted following consideration of the State party's initial report (CRC/C/3/Add.34) have been given insufficient follow-up, particularly those contained in

paragraphs: 25 (legislation), 26 (non-discrimination), 29 (data collection), 30 (resource allocation for children), 31 (birth registration), 32 (access to basic services), 33 (refugee children), 34 (abuse and neglect), 35 (street children), 36 (child labour), 37 (sale and trafficking), and 38 (juvenile justice). Those recommendations are reiterated in the present concluding observations.

**296. 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 implement the recommendations contained in the present concluding observations.**

### **Legislation**

297. The Committee welcomes the State party's plans to amend its domestic legislation, most notably the 1992 Children's Act, to ensure full conformity with the principles and provisions of the Convention. However, it expresses some concern about the pace of such undertakings.

298. The Committee also reiterates its previous concern regarding the disparities in legislation, in particular, in local, customary and religious laws, which result in uneven and discriminatory protection and promotion of children's rights.

**299. The Committee recommends that the State party continue to strengthen the process of achieving compliance of its legislation, in particular, the 1992 Children's Act, with the principles and provisions of the Convention. The Committee further recommends that the State party remove the current age restriction in the Children's Act to ensure that children of all ages are able to approach the court for protection.**

**300. The Committee urges the State party to strengthen its implementation of the existing legislation aimed at the protection and promotion of children's rights, through, inter alia, legal enforcement and awareness-raising activities.**

### **National Plan of Action**

301. The Committee, while welcoming the adoption of the National Plan of Action for children (2005-2015), remains concerned that the current security concerns in the State party which have significantly shifted resources away from basic social services, may hamper the implementation of this National Plan of Action.

**302. The Committee urges the State party to allocate sufficient resources for effective implementation of the National Plan of Action. In this regard, the Committee recommends that the State party seek technical assistance from, inter alia, the United Nations Children's Fund (UNICEF) and involve civil society in its implementation.**

### **Coordination**

303. The Committee notes that the District Child Welfare Board, the Central Child Welfare Board, the Ministry of Women, Child and Social Welfare, Department of Women Development, District Women Development Section and District Development Committee all play a role in matters relating to the implementation of the Convention. The Committee expresses concern

about the lack of clear and well-structured coordination among these bodies, including in the implementation of the recently adopted National Plan of Action. The Committee is also concerned that resources currently allocated to these bodies may not be sufficient for it to effectively carry out their functions.

**304. The Committee recommends the State party to appoint or establish a single inter-ministerial and intersectoral mechanism for the coordination, monitoring and evaluation of all activities regarding the implementation of the Convention. Such a body should be closely coordinated with the National Planning Commission and be provided with a strong mandate and sufficient human and financial resources to carry out its functions effectively, and include members of the civil society, child rights experts and other professionals as well as governmental representatives.**

### **Independent monitoring**

305. The Committee welcomes the existence of the National Human Rights Commission in particular, the Child Rights Desk and the National Commission on Women and the District Child Welfare Boards in the State party. The Committee is nevertheless concerned about the accessibility and availability of these complaint mechanisms to all children within the State party and the limited mandate of the Child Rights Desk. The Committee is also concerned about the inadequate political and financial support given by the State party for these bodies to carry out their mandate. Furthermore, the Committee is concerned that only a limited number of the District Child Welfare Boards is currently active.

**306. In the light of its general comment No. 2 (2002) on national human rights institutions, the Committee encourages the State party to ensure that the National Human Rights Commission and other independent monitoring bodies are allocated sufficient human and financial resources to enable their effective monitoring of the implementation of the Convention, and to take all effective measures to ensure that they are easily accessible to, and user-friendly for, all children. The Committee suggests that the State party consider extending the mandate of the Child Rights Desk to include individual cases and complaints from children. In this regard, the Committee encourages the State party to reinforce its awareness-raising efforts to facilitate the effective use by children of the complaint mechanisms. The Committee further suggests the State party consider strengthening the mandate of the District Child Welfare Boards.**

**307. The Committee strongly urges the State party to maintain the effectiveness and independence of the National Human Rights Commission after the expiration of the term of the present Commission on 25 May 2005.**

### **Resources for children**

308. The Committee, aware of the economic and political difficulties facing the State party, and of the efforts taken to increase spending on basic social services and education, is nevertheless concerned at the lack of sufficient budget allocation for children and the implementation of their rights.

309. **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 using the rights-based approach. In this connection, the Committee urges the State party to ensure that resources are efficiently and effectively allocated within the framework of international cooperation.**

#### **Data collection**

310. The Committee is concerned at the absence of comprehensive and up-to-date statistical data in the State party and the lack of an adequate national data collection system on all areas covered by the Convention.

311. **The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age, parish and dependency. 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**

312. While taking note of the efforts made by the State party to involve members of civil society, including children, in the preparation of its periodic 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. In particular, the Committee regrets that the principles and provisions of the Convention have not been incorporated into the curricula at all levels of education, and that there is no systematic plan to introduce training and awareness among professional groups working for and with children.

313. **The Committee recommends that the State party strengthen its efforts to ensure that the provisions and the principles of the Convention are widely recognized and understood by adults and children alike. It also recommends to the State party that it 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 curricula, at all levels of education. The Committee also recommends that the State party consider seeking technical assistance from UNICEF and OHCHR in this regard.**

### **Cooperation with civil society**

314. **The Committee expresses concern over the wide-ranging restrictions placed by the authorities on civil society organizations such as re-registration requirements, censorship, travel ban, and requirement of obtaining governmental authorization prior to receiving grants from donors.**

315. **The Committee underlines the importance of the role of civil society in the full implementation of the Convention and recommends that the State party remove all legal, practical and administrative obstacles to the free functioning of civil society organizations in the State party.**

## **2. General principles**

### **Non-discrimination**

316. While noting that discrimination is prohibited under the Constitution and other relevant legislation, as well as the various efforts undertaken by the State party to eliminate discrimination, the Committee reiterates its deep concerns about the widely prevailing de facto discrimination against girls and children belonging to the most vulnerable groups such as the *Dalit* community, children belonging to indigenous or ethnic minority groups, refugee and asylum-seeking children, street children, children with disabilities and children living in rural areas. The Committee notes with grave concern that as a consequence of prevailing discriminatory attitudes, children belonging to vulnerable groups are particularly likely to fall victim to abuse and exploitation.

317. With reference, inter alia, to the concerns of the Committee on the Elimination of Racial Discrimination (CERD/C/64/CO/5) regarding the persistent de facto caste-based discrimination against *Dalit* in education, employment, marriage, access to public places including water sources and places of worship, the Committee expresses serious concern about the harmful effects of this prevailing form of discrimination on the physical, psychological and emotional well-being of the *Dalit* children in the State party.

318. **The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the right to non-discrimination, and to 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. In this regard, the Committee urges the State party to prioritize and target social services for children belonging to the most vulnerable groups, and to take all effective measures to ensure their protection from exploitation. The Committee encourages the State party to launch comprehensive public information campaigns to prevent and combat all forms of discrimination.**

319. **The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 (2001) on article 29 (1) of the Convention on the aims of education.**

**Respect for the views of the child**

320. While noting the initiatives taken by the State party in cooperation with members of civil society to promote children's right to be heard, 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.

321. **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) Amend legislation so that the rights of the child are heard and her/his views are taken into account, inter alia, in custody disputes and other legal procedures affecting children; and**

**(c) Provide educational information to, among others, parents, teachers, government administrative officials, the judiciary and society at large on children's rights in order to have children's views taken into account and to allow the participation of children.**

**3. Civil rights and freedoms****Birth registration and the right to nationality**

322. While noting that birth registration is mandatory by law, the Committee is concerned that despite the efforts of the State party, the low rate of birth registration remains a problem, particularly in rural areas, and has been exacerbated by the conflict which has reduced the ability of local authorities to carry out "public administration services", including birth registration. The Committee is concerned that children who have not been registered at birth are more vulnerable to abuse and exploitation, including recruitment into armed groups, as their ages cannot be established.

323. The Committee is also concerned that many groups of children are not registered and/or are ineligible for Nepalese citizenship, with gravely negative consequences on the full enjoyment of fundamental rights and freedoms by those children, in particular, the right to know and be cared for by parents. The Committee is particularly concerned that under the current provisions of the Birth, Death and other Personal Incidences (Vital Registration) Act of 1976 a mother may experience difficulties in registering her child, and similarly, the Citizenship Act of 1964 does not allow a child to claim nationality with his/her mother's name. As a consequence, children born to foreign fathers, abandoned children, orphans, children born to single mothers and children from the *Badi* community who may not be able to identify their fathers are unable to obtain citizenship. In addition, the Committee expresses concern that birth registration of Bhutanese refugees is not carried out by the authorities.

324. **In the light of article 7 of the Convention, the Committee urges the State party to increase its efforts, including awareness-raising campaigns, to ensure the registration of all children at birth. In this regard, the Committee recommends that the State party ensure that local government authorities, which are entrusted with the task of birth registration, actively engage with the local communities to ensure that births are registered in a timely and effective manner. In this regard, the Committee urges the State party to seek assistance from, inter alia, UNICEF, non-governmental organizations and other members of the civil society.**

325. **The Committee further recommends the State party to amend, as a matter of priority, the relevant legislation, most notably the Birth, Death and other Personal Event (Vital Registration) Act of 1976, the Citizenship Act of 1964 and articles 9 (1), (2) and (5) of the Constitution to ensure full compliance with articles 7 and 8 of the Convention. The Committee also urges the State party to, as a matter of priority, review its policy regarding birth registration of refugee children and ensure that all children of refugees and asylum-seekers born in the State party are issued with birth certificates.**

#### **Protection of privacy**

326. The Committee notes with concern that “the identity of child offenders, rape victims or children in difficult circumstances continues to be disclosed in the media” (para. 124), which is a clear infringement of article 16 of the Convention.

327. **The Committee urges the State party to establish mechanisms to ensure that all materials broadcast in Nepal respect the child’s right to privacy such as a code of conduct and/or self-regulation, and to ensure that appropriate human rights training is given to media professionals, paying particular attention to children’s rights to privacy.**

#### **Corporal punishment**

328. The Committee is concerned that corporal punishment and ill-treatment of children is prevalent in the family, in schools and in other institutions. The Committee is concerned about the provisions in the 1992 Children’s Act and the 1963 Muluki Ain (Civil Code) which provide for corporal punishment in the home, in schools and in other institutions and forms of childcare, which is in clear contravention of article 19 of the Convention. The Committee underlines the importance of specific legal prohibition of traditional practices which are harmful to children by law.

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

**(a) Expressly prohibit corporal punishment and ill-treatment of children by law in the family, schools and other institutions;**

**(b) Expedite the process of amending the relevant provision of the Children’s Act and the 1963 Muluki Ain to ensure compliance with article 19 of the Convention;**

**(c) Strengthen awareness-raising campaigns to inform parents, teachers and professionals working with children, particularly in institutions, as well as the public at large about the negative impact of corporal punishment and ill-treatment on children and actively involve children and the media in the process;**

**(d) 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, in particular article 28 (2) as an alternative to corporal punishment at all levels of society.**

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

##### **Separation of children from parents/children deprived of a family environment and alternative care**

**330. The Committee is deeply concerned that an increasing number of families and children are facing the risks of family disintegration and separation as a consequence of the current armed conflict in the State party. The Committee is equally concerned at the increasing number of children placed in residential care facilities not only as a result of the armed conflict, but also of HIV/AIDS, and that many of these children still have both or one of the parents and/or close relatives. Furthermore, the Committee is concerned that these residential care facilities do not meet the standards set by the State party, and that many of them are not registered. The Committee is also concerned that adequate and effective monitoring of the quality of these facilities is lacking.**

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

**(a) To develop and implement programmes through community structures and social security benefits to support parents in the performance of their parental obligations, and to pay particular attention in this regard to families affected by the armed conflicts and vulnerable families such as single-parent households;**

**(b) To undertake effective measures for the reunification of separated families, by implementing programmes for the reinforcement of existing structures such as the extended family, and for the introduction of a foster care system that is well resourced, with adequately trained staff;**

**(c) To ensure that residential care facilities meet quality standards in conformity with the Convention, that they are registered and regularly monitored and that the placement of children in these facilities is regularly reviewed in accordance with article 25 of the Convention, to ensure that such placement is only used as the last resource and for the shortest time possible.**

##### **Children with parent(s) in prison**

**332. The Committee is concerned about the significant number of children who are living in adult prisons with their parents, often in poor conditions that fall short of international standards.**

**333. The Committee recommends to the State party that it review the current practice of children living with their parents in prison, with a view to limiting the stay to instances in which it is in his/her best interest, and to ensuring that the living conditions are suitable for his/her needs for the harmonious development of his/her personality. The Committee also**

**recommends that children of parents in prison should be provided with adequate alternative care, for instance, within the extended family and be allowed regular contact with their parents.**

### **Adoption**

334. Given the significant number of Nepalese children who are adopted by foreigners and in the context of the current armed conflict in the State party, the Committee is concerned at the lack of a clear policy and appropriate legislation on intercountry adoption, which results in various practices, such as trafficking and smuggling of babies. The Committee is particularly concerned about the absence of due judicial process, including technical assessment of the capacity of the parents or guardians, in cases involving termination of the parental responsibility. The Committee also expresses concern regarding the practice of the so-called informal adoption, which may entail exploitation of children as domestic servants.

335. **The Committee recommends the State party to develop and implement policies and legal provisions regarding intercountry adoption to guarantee that the practice of this form of adoption is in full conformity with the principles and provisions of the Convention, in particular, article 21. In this regard, the Committee recommends the State party to, in particular:**

**(a) Ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, in order to inter alia, prevent trafficking and smuggling of children;**

**(b) Review the current mechanisms and procedures for domestic and intercountry adoption, particularly the role and the responsibilities of the national and district level decision-making bodies with a view to ensuring that professionals responsible for adoption cases are fully equipped with the technical expertise needed to review and process cases in the light of the Hague Convention;**

**(c) Develop and implement strict criteria for the adoption of Nepalese children, ensuring in particular that reasonable time is given for an effective tracing of the parents or close relatives of children separated from them as a result of the armed conflicts, and abolish the provisions in the Conditions and Procedures made to provide Nepalese Children to Foreign Nationals for Adoption (2000), that states that poverty of the parents of a child can be a legal ground for adoption;**

**(d) Ensure that exhaustion of all means to prevent termination of parental responsibility and/or separation of the child is set as a clear criteria in all cases involving adoption;**

**(e) Regulate and monitor the practice of placing children with close relatives or others, to prevent children from being exploited, and to ensure that all their rights, including the right to education and to health care are fully respected.**

**Abuse and neglect, including physical and psychological recovery and social reintegration**

336. While noting that the Children's Act prohibits any cruel treatment of children by parents, guardians or teachers, the Committee is alarmed by the prevalence of child abuse and domestic violence in the State party and is of the view that the domestic legislation currently in place in the State party does not afford adequate protection to children and women against abuse and domestic violence. In particular, the Committee notes that the Children's Act which protects children from cruel treatment does not provide for an effective remedy mechanism, and that violation of the Act is not considered as a State crime and thus only provides remedy under civil court procedures. The Committee further regrets that the Domestic Violence Control Bill which was passed in April 2002 by the Parliament before it was dissolved, was never enacted. The Committee is concerned that insufficient awareness exists in the State party, of violence against women and children as a crime punishable by law, including among law enforcement officials.

337. The Committee, while noting that the Children's Act also provides for inspection of care provided in children's homes, rehabilitation centres and orphanages, is concerned about the lack of appropriate complaint filing mechanisms and of designated places of safety for child victims of abuse and neglect. The Committee is also concerned that prosecution against child abuse and neglect may be impeded as a result of major infrastructural problems in the legal system.

338. **The Committee recommends the State party to take the necessary measures to prevent child abuse and neglect, by, inter alia:**

**(a) Undertaking a study on the causes and scope of this phenomenon and establishing a comprehensive strategy to address the high and increasing number of child abuse, neglect and domestic violence cases, with the aim of preventing and reducing this phenomenon;**

**(b) Introducing legislation making reporting obligations mandatory for suspected cases of abuse and neglect for all professionals working for and with children, and training them in the identification, reporting and management of cases of ill-treatment;**

**(c) Carrying out public education campaigns that raise awareness of the consequences of ill-treatment of children and the alternative measures of discipline for children, addressing sociocultural barriers that inhibit victims from seeking assistance;**

**(d) Establishing effective mechanisms for receiving, monitoring and investigating complaints in a child-sensitive manner and ensuring proper prosecution of perpetrators of child abuse and neglect, as well as instituting appropriate witness and victim protection systems;**

**(e) Providing services for the physical and psychological recovery and social reintegration of 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;**

**(f) Seeking technical assistance from, inter alia, UNICEF and WHO.**

## 5. Basic health and welfare

### Disabled children

339. While acknowledging the development of a national policy on persons with disabilities and the existence of laws that provide for the rights of children with disabilities, including the 1982 Disabled Protection and Welfare Act, the 1971 Education Act and the 1992 Children's Act, and the establishment of a National Disability Service Coordination Committee in 2000 to develop and support programmes for persons with disabilities, the Committee remains concerned that:

(a) Implementation of these legislation and programmes have been ineffective and that the necessary resources have not been allocated by the State party;

(b) There is no national system for early detection and intervention with regard to children with disabilities;

(c) Insufficient efforts have been made to facilitate the inclusion of children with disabilities into the educational system and society in general, including efforts to change traditional attitudes towards persons with disabilities and improve the access to information, medical facilities, etc.

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

(a) **Expedite the process of establishing a comprehensive policy for children with disabilities and take the necessary measures, in particular, the provision of sufficient resources for an effective implementation;**

(b) **Conduct a study to identify causes of, and ways to prevent, disability and establish a national system for early detection, referral and intervention;**

(c) **Assess the situation of these children in terms of their access to suitable health care, educational services and employment opportunities, and allocate adequate resources to strengthen services for children with disabilities, support their families and train professionals in the field;**

(d) **In the 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 their inclusion in society, inter alia by giving more attention to special training for teachers and making the physical environment, including schools, sports and leisure facilities and all other public areas, accessible for children with disabilities;**

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

### **Health and health services**

341. The Committee welcomes the establishment of a working group to implement the Integrated Management of Childhood Illness strategy in 1997 and commends the State party's efforts in improving the immunization coverage for children under 5, including the recent completion of the comprehensive measles vaccination campaign. The Committee nevertheless shares the concerns of the State party that the health and social services are under tremendous resource constraints and that the overall quality and availability of health care available to children in the State party is seriously inadequate, in particular among poor families and in rural areas. In particular, the Committee is concerned about:

(a) High rates of infant, under-five mortality and maternal mortality, and the low life expectancy in the State party;

(b) Continuing threats to survival and development of children by preventable childhood diseases, including diarrhoea, malnutrition, anaemia, intestinal infectious diseases; bacterial infection; measles and pneumonia;

(c) Inadequate prenatal and post-natal care which also constitute factors hindering child survival and development;

(d) Inadequate sanitation and access to safe and clean water, in particular in rural areas, which generally suffer from lack of services;

(e) Low awareness about health, hygiene and sanitation, particularly in rural areas and prevalence of traditional practices which could be harmful to the health of children, such as that of consulting witch doctors instead of modern medical facilities and withholding water from children suffering from diarrhoea.

342. The Committee also notes with concern that little has been done to address the particular health vulnerabilities and needs of children at risk, including street children, child labourers, child sex workers and *Dalit* children.

343. **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 provided with appropriate resources, including basic medicines for all children, and targeting rural areas in particular;**

**(b) Continue strengthening its efforts to extend immunization coverage to all parts of the country;**

**(c) Facilitate greater access to primary health-care services;**

**(d) Continue strengthening measures to combat childhood illnesses, paying particular attention to the needs of children belonging to high-risk groups;**

**(e) Engage in awareness-raising efforts to provide the general public, in particular, families, children and health-care providers, including traditional health practitioners, with appropriate knowledge of basic first aid and health care;**

**(f) Strengthen the data collection system, inter alia, with regard to important health indicators, ensuring timeliness and reliability of both quantitative and qualitative data and use the system for the formulation of coordinated policies and programmes for the effective implementation of the Convention;**

**(g) Pursue additional avenues for cooperation and assistance for the improvement of child health with, among other organizations, WHO and UNICEF.**

### **Adolescent health**

344. 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 expresses concern that adolescents face particular physical and mental health risks, including from sexual abuse, violence, drug and alcohol abuse and sexually transmitted diseases including HIV/AIDS, and the low level of awareness of reproductive health issues among adolescents.

345. **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 for the formulation of adolescent health policies and programmes with a particular focus on the prevention of sexually transmitted diseases, in particular through reproductive health education and child-sensitive counselling services and take into account the Committee's general comment No. 4 (2003) on adolescent health and development in this regard;**

**(b) Provide 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 and conduct awareness-raising campaigns to fully inform adolescents of reproductive health rights, including prevention of sexually transmitted diseases including HIV/AIDS and early pregnancies;**

**(d) Continue to work with international agencies with expertise in health issues relating to adolescents, inter alia, UNFPA, UNICEF and WHO.**

**Early marriage**

346. While acknowledging that the minimum age of marriage for girls is 18 years, the Committee shares the concern of the State party that the custom of early marriage is widespread in practice, in particular within certain ethnic and religious communities, and that girls, once married, are not afforded the protection for the enjoyment of their rights as children as enshrined in the Convention, including the right to education.

**347. The Committee recommends that the State party strengthen its enforcement of the existing legislation to prevent early marriage and that the State party develop sensitization programmes, involving community and religious leaders and society at large, including children themselves, to curb the practice of early marriage. It also recommends to the State party that it take measures to ensure that when underage girls are married, they continue to fully enjoy their rights as set out in the Convention, including the right to education.**

**Harmful traditional practices**

348. The Committee notes with concern that certain harmful traditional practices continue to prevail in the State party, most notably the caste system and traditions such as the *Deuki*, *Kumari*, *Jhuma*, *Badi*, *Kamlari* and *Chaupadi*, causing extreme insecurity, health hazards and cruelty to girl children. The Committee regrets the absence of legal prohibition and sufficient interventions on the part of the State party to address the harmful effects of these traditional practices on the enjoyment of rights by children who are affected by these practices.

**349. The Committee recommends that the State party, as a matter of urgency, take all necessary measures to eradicate all traditional practices harmful to the physical and psychological well-being of children, by strengthening awareness-raising programmes. The Committee further recommends the State party to adopt legislation prohibiting such practices.**

**HIV/AIDS**

350. The Committee welcomes the efforts made by the State party to prevent and control HIV/AIDS including the establishment of the National Centre for AIDS and Sexually Transmitted Diseases Control, but remains concerned about the increasing incidence of infection and its wide prevalence, particularly among high-risk groups. The Committee is concerned at the very serious impact of HIV/AIDS on the cultural, economic, political, social and civil rights and freedoms of children infected with or affected by HIV/AIDS, including the Convention's general principles and with particular reference to the rights to non-discrimination, health care, education, food and housing, as well as to information and freedom of expression.

**351. The Committee recommends that the State party further integrate respect for the rights of the child into the development and implementation of its HIV/AIDS policies and strategies on behalf of children infected with and affected by HIV/AIDS, as well as their families, including by taking into consideration the recommendations the Committee adopted at its day of general discussion on children living in a world with HIV/AIDS (CRC/C/80, para. 243), and involve children when implementing this strategy.**

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

352. The Committee expresses concern about the high level of prevailing poverty in the State party, which hampers the respect for, and fulfilment of, the rights of children, particularly those living in rural areas, those living in slums and squats, and among the lower castes and ethnic minorities, and the ability of their families to provide them with adequate protection.

353. In view of the significant proportion of children living in poverty, the Committee notes with regret the paucity of information concerning the rights of the child to benefit from social security, and expresses concern at the absence of a comprehensive legislative and regulatory social security system that is in full compliance with article 26 of the Convention.

354. **In accordance with articles 26 and 27 of the Convention, the Committee recommends that the State party:**

(a) **Strengthen its strategy to combat poverty, with due emphasis on monitoring the impact on the rights of children and that it allocate sufficient human and financial resources, including through international assistance, to ensure the implementation of its strategy;**

(b) **Reinforce its efforts to provide support and material assistance to economically disadvantaged families, notably those living in rural areas, slums and squats and to guarantee the right of children to an adequate standard of living;**

(c) **Establish poverty indicators and an official poverty line, which will enable the State party to define the extent of poverty and to monitor and evaluate progress in alleviating poverty and improving the standard of living for children in the State party;**

(d) **Establish a social security policy along with a clear and coherent family policy, as well as effective strategies for using the social safety net benefits to further the rights of children and provide adequate financial resources to the social security system.**

355. **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 in the framework of poverty reduction strategy, as well as effective strategies for using the social safety net benefits to further the rights of children.**

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

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

356. While welcoming the development of the National Plan of Action on Education for All, and the Basic and Primary Education Master Plan (1997-2002) and the Basic and Primary Education Master Plan II (1999-2004), the Committee is seriously concerned that primary education has not been made compulsory and that the target set by the State party to achieve universal primary education by 2000 was never met and has been extended to 2015. The Committee also remains concerned about the low public expenditure in education and structural lack of resources, largely responsible for the shortage of qualified teachers, poor physical

infrastructure, overcrowding in schools and material shortages in school. The Committee is also concerned about the high dropout rate, and that significant inequality exists in access to education, in part due to the hidden costs associated with schooling, and that a large proportion of girls and children from disadvantaged backgrounds such as *Dalit* children and children with disabilities remain deprived of educational opportunities.

**357. The Committee recommends that the State party carefully examine the budget allocations 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) Make primary education compulsory and free for all children and for more years than just the five years of primary school;**

**(b) Continue to strengthen measures aimed at increasing enrolment rates and school attendance, as well as reducing the high dropout rate in primary and secondary education and ensure that children receive the full schooling to which they are entitled;**

**(c) Undertake additional efforts to increase the budget allocated to education;**

**(d) Take further measures to improve the accessibility, in particular for girls, to education of all children, with a view to eliminating the prevailing disparities between girls and boys, as well as between urban and rural areas;**

**(e) Take measures to improve the quality of education, inter alia, by building more schools, improving physical infrastructures and ensuring schools are adequately equipped;**

**(f) Prioritize efforts at teacher training and expand recruitment of qualified teachers, in particular women and persons from all ethnic groups;**

**(g) Introduce and fully implement targeted programmes for children from poor families and children from marginalized groups;**

**(h) Continue to strengthen public provision of early childhood education, in particular in rural areas, and increase the number of trained preschool teachers, and raise awareness amongst parents about the value of early childhood education;**

**(i) Adopt appropriate legislative measures to combat the use of corporal punishment in schools;**

**(j) In the light of the Committee's general comment No. 1 (2001) on the aims of education, include human rights education, including the rights of children, in the school curriculum at all levels of education;**

**(k) Ratify the Convention against Discrimination in Education (1960) and the Convention on Technical and Vocational Education (1989);**

**(l) Seek further technical assistance from, inter alia, UNICEF and UNESCO.**

358. **The Committee further recommends to the State party that it take all measures, as a matter of priority, to eliminate negative impacts of the conflict (and the state of emergency) on the educational system, and to facilitate reconstruction and reopening of schools, return of teachers and pupils to schools and ensure that adequate resources are provided for these purposes.**

## **7. Special protection measures**

### **Refugee/asylum-seeking and internally displaced children**

359. The Committee welcomes the adoption in August 2004 of an official policy that is grounded on the principle of non-refoulement, but it regrets that the State party has not yet ratified the Convention relating to the Status of Refugees, Convention relating to the Status of Stateless Persons or the Convention on the Reduction of Statelessness, and that there is no domestic legislation that covers the rights of refugees and asylum-seeking persons. In this regard, and given the fact that a large population of these persons are children the Committee is concerned about:

(a) The reports of discrimination and ill-treatment, including high incidence of sexual abuse of women and children in Bhutanese camps in Nepal;

(b) The reports of deportation of Tibetan asylum-seekers to China by Nepal, including unaccompanied minors and the closure of the Tibetan Refugee Welfare Office in January 2005;

(c) The rule that refugee status can only be sought by certain categories of asylum-seekers, specifically, the Tibetans who arrived in Nepal before 1990 and the Bhutanese;

(d) The restrictions on Bhutanese refugees on their freedom of movement, as well as their enjoyment of the right to health and education.

360. The Committee notes with regret the lack of information provided by the State party on the situation of internally displaced persons, including children, who have been forcibly displaced from their homes due to the ongoing armed conflict.

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

(a) **Ratify, as a matter of priority, the Convention relating to the Status of Refugees, the Convention on the Status of Stateless Persons and the Convention on the Reduction of Statelessness;**

(b) **Seek to ensure, as a matter of priority, that all internally displaced, refugee and asylum-seeking children and their families have access to health and education services, and that all their rights contained in the Convention are protected, including the right to be registered at birth;**

(c) **Take immediate measures to ensure that all internally displaced, refugee women and children under its jurisdiction are protected from all forms of sexual exploitation and that perpetrators are duly prosecuted;**

**(d) Include in its next periodic report detailed information pertaining to the situation of internally displaced, refugee and asylum-seeking children, including unaccompanied minors;**

**(e) Continue to strengthen its collaboration with UNHCR among other organizations.**

**Children in armed conflicts, including physical and psychological recovery and social reintegration**

362. The Committee is highly alarmed by the number of children who were killed in armed conflicts in the State party. The Committee notes with grave concern the reports of abduction and forcible conscription of children by the armed groups for political indoctrination and for use as combatants, informants, cooks or porters and as human shields. The Committee is equally concerned that Government forces target under 18s suspected of being members of the armed groups and about the highly alarming reports of disappearances and arbitrary detention and of Government forces allegedly using children as spies and messengers. The Committee is also deeply concerned that there are reports of detention of children under the 2004 amendment to the Terrorist and Disruptive Activities (Control and Punishment) Ordinance. The Committee is concerned at the direct effects of this violence on child victims, including child combatants, and about the severe physical and psychological trauma inflicted upon them. The Committee also expresses concern about children who were separated due to the conflict, including children who have fled to India, and that little efforts have been taken by the State party to reunite these families. The Committee is also concerned about the negative impact of the armed conflict on food supplies, education and health care.

**363. The Committee recommends that the State party develop a comprehensive policy and programme for implementing the rights of children who have been affected by conflict, and allocate human and financial resources accordingly. In particular, the Committee recommends that the State party:**

**(a) Criminalize abduction, recruitment and use of children for military purposes by any armed forces or armed group;**

**(b) Establish a separate Rule of Engagement for its security forces with regard to children;**

**(c) Amend or repeal the Terrorist and Disruptive Activities (Control and Punishment) Ordinance in the light of the international juvenile justice standards and norms;**

**(d) Develop, in collaboration with NGOs and international organizations, a comprehensive system of psychosocial support and assistance for children affected by conflict, in particular child combatants, unaccompanied internally displaced persons and refugees, returnees;**

(e) **Take effective measures to ensure that children affected by conflict can be reintegrated into the education system, including through the provision of informal education programmes and by prioritizing the rehabilitation of school buildings and facilities and provision of water, sanitation and electricity in conflict-affected areas;**

(f) **Ratify the Hague Convention on the Civil Aspects of International Child Abduction;**

(g) **Ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict as a matter of priority;**

(h) **Seek technical assistance from, inter alia, OHCHR and UNICEF in this regard, and provide maximum possible cooperation to the newly established office of OHCHR in Nepal.**

### **Children in situations of exploitation, including physical and psychological recovery and social reintegration**

#### **Substance abuse**

364. The Committee expresses concern at the widespread prevalence of alcohol consumption by children, as well as the growing incidence of substance abuse by children, including the use of cannabis, heroin, opiates and intravenous drug use. The Committee is also concerned about the harmful effects of alcohol and substance consumption by parents on the physical, emotional and psychological development and well-being of children in the State party. While noting that the Alcohol Act prohibits the selling of alcohol to children aged 16 years or below, the Committee expresses concern that the Act carries no penalty in case of violation, and that legislation prohibiting the use of alcohol by minors is generally ineffectively implemented. It is also concerned at the absence of specific legislation prohibiting sale, use and trafficking of controlled substances by children, and also of treatment programmes in this regard.

365. **The Committee recommends that the State party take initiatives 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. The Committee further recommends that parents are educated, through, inter alia, awareness-raising campaigns, on the harmful effects of parents' use of alcohol and controlled substances on the development and well-being of children. The Committee urges the State party to adopt the necessary legislation to prohibit sale, use and trafficking of controlled substances by children, and to ensure effective implementation of all legislation prohibiting alcohol and substance use by children.**

#### **Street children**

366. In view of the increasing number of children living and working on the street and the State party's recognition that they are among the major victims of abuse, neglect and exploitation, the Committee regrets the paucity of information about specific programmes and measures to address their situation.

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

(a) **Undertake a study on the causes and scope of this phenomenon and establish a comprehensive strategy to address the high and increasing number of street children with the aim of preventing and reducing this phenomenon;**

(b) **Take effective measures to ensure that street children are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development;**

(c) **Ensure that these children are provided with recovery and reintegration services when victims of physical, sexual and substance abuse, protected from police brutality and provided with services for reconciliation with their families and community;**

(d) **Seek technical assistance from, inter alia, UNICEF in this regard.**

### **Sexual exploitation and sexual abuse**

368. While noting the efforts taken by the State party to eliminate the phenomenon of sexual exploitation of children, the Committee is gravely concerned about the large number of children in the State party who are sexually exploited. The Committee is of the view that insufficient efforts have been taken to protect the particularly vulnerable groups of children from sexual exploitation. Specifically, the Committee notes with concern that children of lower castes are disproportionately represented among sex workers, and about the persistence of the customary practice known as *Badi*, whereby young girls of the *Bedi* caste are forced into prostitution.

369. The Committee further notes that article 7 of the Children Act which protects children from cruel treatment and torture is not applicable to sexual abuse cases that do not necessarily reach the threshold of cruel treatment or torture. The Committee is also concerned at the low rate of prosecutions for perpetrators of sexual exploitation of children and that there is little in the way of public campaigns to educate the population on the laws governing sexual exploitation.

370. **The Committee recommends that the State party, allocate resources as a matter of priority to:**

(a) **Enact appropriate legislation that ensures 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, in particular children belonging to the *Bedi* and other lower castes;**

(d) **Avoid criminalizing child victims of sexual exploitation and ensure proper prosecution of perpetrators;**

(e) **Implement appropriate policies and programmes for the prevention, recovery and reintegration of child victims, including establishment of rehabilitation centres in all regions, in accordance with the Declaration and Agenda for Action adopted at the First World Congresses against Commercial Sexual Exploitation of Children and the Yokohama Global Commitment 2001 adopted at the Second World Congress;**

(f) **Seek assistance from, inter alia, UNICEF.**

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

371. The Committee notes with satisfaction the various efforts taken by the State party to eliminate the worst forms of child labour, in cooperation with the civil society actors, the donor community, and most notably, the International Labour Organization, including ratification of relevant ILO Conventions and national laws (see paragraphs 3 and 4 above), the planned adoption of a National Master Plan and of the Time Bound Programme.

372. Nevertheless, the Committee remains gravely concerned about the significant proportion of children in the State party who engage in labour, which is often full-time, and extremely hazardous. The Committee is also concerned that the enforcement of domestic legislation in this area remains weak. The Committee is concerned about the shortage of labour inspectors due to the State party's lack of financial resources. The Committee is also concerned that even though a large majority of the population, including children, work in the informal economy, the Child Labour Act which prohibits unlawful employment of children applies only to formal sectors of the economy.

373. While welcoming the abolition in 2000 of the *Kamaiya* system of bonded labour and the enactment in 2002 of the *Kamaiya* Prohibition Act, the Committee is concerned that a large number of *Kamaiya* children remain unreleased and continue to work as bonded labourers, and that many thousands of *Dalit* bonded labourers (*haliya*), including children, are reported to be working in agriculture in Western Nepal and in the plains. The Committee is particularly concerned that they continue to face serious difficulties in the areas of the right to housing, land, work and education.

374. **The Committee recommends the State party to strengthen the enforcement of the existing legislation and policies to eradicate the practice of bonded labour by children. The Committee also urges the State party to make every effort, including taking preventive measures, to ensure that those children who engage in labour do not work under conditions which are harmful to them and that they continue to have access to education. The Committee urges the State party to amend the Master Plan for Child Labour, Child Labour Act and other relevant legislation so that the necessary regulation of child labour applies to all areas of work, including the informal sector of the economy. The Committee further recommends the State party to take action to fully implement all policies and legislation relevant to child labour, inter alia, through public awareness campaigns and education for the public on the protection of the rights of children.**

375. Furthermore, the Committee recommends the State party to strengthen the implementation of the *Kamaiya* Prohibition Act, and to take effective measures to ensure

**the social integration of the emancipated *Kamaiya* workers. The Committee recommends that the State party include, in its next periodic report, information on the achieved results of the measures taken in this respect.**

### **Sale, trafficking and abduction**

376. The Committee takes note of the various efforts undertaken by the State party to combat child trafficking and welcomes the information that police officers are being trained in issues relating to sexual exploitation and trafficking of women and children. However, the Committee remains deeply concerned about the perversity of the phenomenon of trafficking and sale of children within Nepal and across the border for the purposes of sexual exploitation and bonded labour. The Committee notes with grave concern that certain groups of children are at a particularly higher risk of being sold and trafficked, including girls, internally displaced children, street children, orphans, children from rural areas, refugee children and children belonging to more vulnerable castes. The Committee further expresses concern that the existing legal protection for victims of trafficking, most notably the Human Trafficking Control Act, is inadequate, and that its implementation is seriously inadequate. The Committee is also concerned that the child victims of sexual exploitation do not receive adequate protection and recovery assistance.

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

(a) **Upgrade its system of data collection on the sale, trafficking and abduction of children and ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects;**

(b) **Develop a comprehensive legal framework to protect children from trafficking;**

(c) **Take effective measures to strengthen law enforcement, and intensify efforts to raise awareness in communities about the sale, trafficking and abduction of children;**

(d) **Ensure that the implementation of the National Strategy on HIV/AIDS 2002-2006, Education for All Programme 2004-2009, Master Plan of Action on Child Labour, are all linked to the National Plan of Action on Trafficking, in order to achieve a comprehensive and effective approach;**

(e) **Ensure that appropriate assistance and support are provided to all child victims, including access to basic services by children who are awaiting repatriation;**

(f) **Seek to establish bilateral agreements with neighbouring countries, in particular India, to prevent the sale, trafficking and abduction of children, and to facilitate their protection and safe return to their families;**

(g) **Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; and**

**(h) Seek cooperation with, and assistance from, inter alia, UNICEF and the International Organization for Migration.**

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

378. While welcoming the establishment of Juvenile Benches in all the district courts to deal with cases relating to children in conflict with the law, and that training programmes have been organized for law enforcement officials, including the Police Academy, the Committee remains of the view that the legislation and policies of the State party are not in conformity with international juvenile justice standards. The Committee reiterates its concern that the minimum age of criminal responsibility is set as young as 10, and that there is no official system of age verification in place. The Committee is also concerned about conditions of detention, and that persons under 18 are in most cases not separated from adults while in detention due to lack of juvenile detention facilities. The Committee is also alarmed that children are often brought to trial “without any proper investigation” and that a large proportion of juvenile cases are dealt by District Administration Offices which are quasi-judicial. The Committee is also concerned at the lack of educational facilities in prisons.

379. The Committee is also concerned about the reports of persons under 18 held under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance which has no set minimum age and grants security forces wide powers to arrest and detain any person suspected of being associated with the armed groups, including children.

380. **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) (General Assembly resolution 40/33) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (General Assembly resolution 45/112), and in the light of the Committee’s 1995 day of general discussion on the administration of juvenile justice. In this regard, the Committee recommends the State party, in particular to:**

**(a) Ensure that detained persons below 18 years 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;**

**(b) Expedite the construction of separate facilities (child correction centre) and separate cells in detention facilities for persons below 18 to ensure that they exist in all districts;**

**(c) In cases where deprivation of liberty is unavoidable and used as a last resort, for the shortest appropriate time, 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;**

**(d) Ensure that persons under 18 years are not held accountable, detained or prosecuted under anti-terrorism laws;**

**(e) Review, and where necessary amend, all (judicial, legal and protection) procedures, including those of District Administrative Offices, so as to ensure that all persons under 18 years who are alleged as, or been accused of, breaking the law are fully guaranteed the right to a fair trial provided for by article 40 (2) of the Convention;**

**(f) Provide formal training for judicial professionals on juvenile justice administration and human rights;**

**(g) Seek technical cooperation from, inter alia, UNICEF and OHCHR.**

**381. The Committee recommends the State party to amend or repeal the Terrorist and Disruptive Activities (Control and Punishment) Ordinance in the light of international juvenile justice standards and norms.**

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

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

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

**384. The Committee recommends the State party to take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the Council of Ministers or the Cabinet or a similar body and to provincial or State Governments and parliaments, when applicable, for appropriate consideration and further action.**

#### **Dissemination**

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

## **10. Next report**

386. **In the light of the recommendation on reporting periodicity adopted by the Committee and described in the report on its twenty-ninth session (CRC/C/114), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by States parties is crucial. The Committee invites the State party to submit its third, fourth and fifth reports in one consolidated report by 13 March 2010, the due date of the fifth report. This consolidated report should not exceed 120 pages (see CRC/C/148). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.**

### **Concluding observations: Ecuador**

387. The Committee considered the combined second and third periodic reports of Ecuador (CRC/C/65/Add.28) at its 1034th and 1035th meetings (see CRC/C/SR.1034 and CRC/C/SR.1035), held on 23 May 2005, and adopted at the 1052nd meeting, held on 3 June 2005, the following concluding observations.

#### **A. Introduction**

388. The Committee welcomes the submission of the second and third combined periodic reports as well as the detailed written replies to its list of issues (CRC/C/Q/ECU/2), which gave a clearer understanding of the situation of children in the State party.

389. The Committee is encouraged by the frank and constructive dialogue it had with the State party's delegation and welcomes the positive reactions to the suggestions and recommendations made during the discussion.

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

390. The Committee notes with appreciation the initiative taken by the State party to reform its laws relating to children and in particular the adoption of the Childhood and Adolescence Code in 2003 which embodies the rights of the child proclaimed in the Ecuadorian Constitution and in the main international conventions. It also welcomes the establishment of the National Council for Childhood and Adolescence in 2004 as a coordination body for official agencies entrusted with implementing public child development policies.

391. The Committee welcomes the establishment of the Observatory on the Rights of Children and Young Persons in 2002, which collects, analyses and disseminates information on the status of compliance with rights of children and adolescents.

392. The Committee welcomes the establishment of the specialized juvenile justice system in accordance with the new Childhood and Adolescence Code.

393. The Committee welcomes the ratifications of the following international human rights instruments:

(a) The Minimum Age Convention, 1973 (No. 138) concerning minimum age for admission to employment and the Worst Forms of Child Labour Convention, 1999 (No. 182) in 2001;

(b) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in July 2003; and

(c) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in February 2004 and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in July 2004.

394. The Committee notes with satisfaction the involvement of civil society, including non-governmental organizations in the preparation of the report and the formulation of public policies on children, thereby broadening popular participation in the implementation process.

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

395. The Committee takes note that the long-term impact of natural disasters such as the El Niño phenomenon, political instability in the past years, extreme inequalities and social injustice have negatively affected the implementation of the rights enshrined in the Convention.

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

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

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

396. The Committee notes with satisfaction that some concerns and recommendations (see CRC/C/15/Add.93) made upon the consideration of the State party's initial report have been addressed through legislative measures and policies. However, recommendations regarding, inter alia, resource allocation, birth registration, child labour and trafficking and the disparities between urban and rural areas have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present document.

**397. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the initial periodic report that have not yet been implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations on the second and third periodic reports.**

#### **Legislation**

398. The Committee takes note with appreciation the progress made by the State party in the legislative review process and in particular the adoption of the new Childhood and Adolescence Code which harmonizes the national laws with the Convention on the Rights of the Child. The Committee also notes that the State party is in the process of reforming the Penal Code and Labour Code in order to bring them into line with the Childhood and Adolescence Code and standards of the main international human rights instruments.

399. **The Committee recommends that the State party strengthen its efforts to fully implement the recently adopted Childhood and Adolescence Code as well as to expedite the existing legislative review process in the State party in order to bring the existing legislation into line with the Code.**

#### **Coordination**

400. The Committee welcomes the establishment of the National Council of Childhood and Adolescence provided for in the Childhood and Adolescence Code as well as the establishment of *Consejos cantonales de la niñez y adolescencia* and *Juntas cantonales de protección de derechos*. However, the Committee expresses its concern that the new structures in place suffer from a lack of coordination with existing ones.

401. **The Committee recommends that the State party ensure an adequate system of coordination among the various institutions at all levels in order to ensure full implementation of the Convention. In this regard, the Committee refers the State party to its general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child. The Committee also recommends that the State party provide the National Council of Childhood and Adolescence and all the local entities with any financial resources that might be necessary for the optimum performance of their important tasks.**

#### **National Plans of Action**

402. The Committee notes that a 10-year National Plan of Action (*Plan nacional decenal de protección integral a las niñez y adolescencia*) was adopted in October 2004 by the State party.

403. **The Committee recommends that the State party ensure the allocation of sufficient human and financial resources in a timely manner for effective implementation of the National Plan and promote and facilitate the active involvement of children, youth, parents and other interested and relevant bodies in order to attain the benchmarks established for monitoring and evaluating the plan.**

#### **Independent monitoring**

404. While the Committee welcomes the establishment of the Office of the Ombudsman for Women and Children within the Office of the Ombudsman for Human Rights, it remains concerned that the department is not represented in all regions. Furthermore, the Committee is concerned about the lack of adequate human resources and budgetary allocations, as well as the limited level of awareness shared by children and adults alike about the services of the Office.

405. **The Committee recommends that the State party consider establishing a specific separate department dealing with children's rights that covers all regions supported with adequate human and financial resources in line with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134, annex) and in accordance with the Committee's general comment No. 2 (2002) on the role of independent national human**

**rights institutions. The Committee also recommends that the State party strengthen its campaign to raise awareness among regional and local authorities of the importance of this body to the promotion and protection of children's rights.**

### **Resources for children**

406. The Committee notes with deep concern that the resources allocated for social services, particularly with regard to the promotion and protection of children's rights are relatively low and this seems to a large extent to be caused by considerable expenditure (more than 35 per cent of the national budget) on debt servicing. In addition, the Committee is concerned that the free trade agreements, currently being negotiated, may also negatively impact the allocation of budgets for social services.

**407. The Committee urges the State party to increase budget allocations for the promotion and implementation of the rights of children in accordance with article 4 of the Convention and pay particular attention to investment for the implementation and protection of the rights of children belonging to vulnerable groups, including indigenous and Afro-Ecuadorian children, children living in poverty and those in remote areas. The Committee also recommends that the State party undertake maximum efforts to negotiate the rescheduling of payments on external and internal debts with a view to investing more in poverty reduction programmes including investment in the implementation of rights of children to, inter alia, education, the highest attainable standard of health and adequate standard of living and calls on the international and private financial institutions and bilateral and multilateral partners to support these efforts. The Committee finally recommends that the State party ensure that free trade agreements do not negatively affect the rights of children, inter alia, in terms of access to affordable medicines, including generic ones. In this regard, the Committee reiterates the recommendations made by the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.100).**

### **Data collection**

408. While taking note that in the last few years the State party has made remarkable progress in the data collection system, including the establishment of the System of Social Indicators on Children and Adolescents, *Sistema de indicadores sociales sobre niños, niñas y adolescentes*, within the Ecuador Integrated System of Social Indicators, the Committee is however concerned at the lack of disaggregated statistical data by age, sex and ethnic origin which could provide a better understanding of the situation of children in Ecuador, in particular of the vulnerable and marginalized groups.

**409. The Committee recommends that the State party strengthen its system of collecting disaggregated data as part of the national data collection system, including vulnerable and marginalized groups such as children with disabilities, poor children, indigenous and Afro-Ecuadorian children, to form a basis on which to assess progress achieved in the realization of children's rights and to help design policies to implement the Convention. The Committee also recommends that the State party seek technical assistance from, inter alia, the United Nations Children's Fund (UNICEF) and the Inter-American Children's Institute.**

## Dissemination of the Convention

410. The Committee notes with appreciation the efforts made by the State party in disseminating the Convention through, inter alia, seminars and workshops. Nevertheless, it is of the opinion that additional progress needs to be made by the State party with regard to raising awareness among children and adults, especially in rural and remote areas.

**411. The Committee recommends that the State party strengthen its efforts to ensure that the provisions of the Convention are widely known and understood by adults and children. It also recommends the reinforcement of adequate and systematic training of all professional groups working for, and with, children, in particular judges, lawyers, law enforcement officials, teachers, including teachers in indigenous communities and rural and remote areas, health personnel and social workers and personnel in childcare institutions. The State party is also encouraged to translate the new Childhood and Adolescence Code into the various indigenous languages and to promote its principles and provisions, inter alia, by making use of traditional and innovative methods of communication.**

## 2. Definition of the child

412. The Committee is concerned that the minimum age for marriage is 12 years for girls and 14 years for boys.

**413. The Committee recommends that the State party establish one legal minimum age for marriage for both boys and girls to an internationally acceptable level.**

## 3. General principles

### Non-discrimination

414. The Committee reiterates the concern voiced by the Committee on the Elimination of Racial Discrimination (CERD/C/62/CO/2, para. 11) that, despite constitutional and legal guarantees, indigenous and Afro-Ecuadorian people, as well as members of other ethnic minorities are, de facto, still discriminated against. The Committee is further concerned about discrimination against girls, children living in poverty and refugee children.

**415. The Committee urges the State party to take adequate measures to ensure practical application of the constitutional and legal provisions guaranteeing the principle of non-discrimination and the full compliance with article 2 of the Convention and to strengthen and effectively implement its national strategies to eliminate discrimination on any grounds and against all vulnerable groups.**

**416. 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 Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account general comment No. 1 (2001) on the aims of education.**

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

417. The Committee is particularly concerned about the high number of children who are victims of violence.

**418. The Committee urges the State party to undertake effective measures, to the maximum extent possible, to reduce and eliminate the occurrence of violence.**

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

419. While noting with appreciation the efforts made by the State party to implement the principle of respect for the views of the child, the Committee is concerned that traditional societal attitudes appear to limit children's right to freedom of expression in schools, courts or within the family.

**420. The Committee recommends that the State party strengthen its efforts to ensure that children's views are given due consideration in the family, schools, courts and relevant administrative and other settings, as well as in the media, in accordance with article 12 of the Convention.**

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

### **Birth registration**

421. While taking note of the efforts made by the State party to promote the birth registration of children, the Committee is concerned that 1 out of 10 children is not registered or is registered at a later stage. The Committee is further concerned that the birth registration rate in some regions, such as the Amazon, is very low.

**422. In the light of article 7 of the Convention, the Committee recommends that the State party strengthen its efforts to institute systematic birth registration for all children born within the national territory through, inter alia, the elimination of administrative costs for parents, awareness-raising campaigns, and the introduction of mobile registration units in rural areas, particularly in the Amazon region. The Committee also recommends that the State party undertake similar measures to ensure registration of those children who have not yet been registered. In this regard, the State party should consider seeking technical assistance from, inter alia, UNICEF, the United Nations Population Fund (UNFPA) and other potential donors.**

### **Corporal punishment**

423. While taking note that the Childhood and Adolescence Code prohibits corporal punishment in schools and in the penal system as well as the introduction of programmes such as "good treatment", the Committee remains concerned that corporal punishment is still traditionally accepted and widely practised in the family and in other settings as a form of discipline.

424. **The Committee recommends that the State party introduce and enforce legislation prohibiting all forms of corporal punishment in all settings, including in the family and alternative childcare system, as well as strengthening awareness-raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the human dignity of the child and in conformity with the Convention, in particular article 28 (2).**

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

### **Parental responsibilities**

425. The Committee is concerned at the large number of female-headed households and often limited degree to which fathers assume their parental responsibilities, including on issues related to the recognition and maintenance of the child.

426. **The Committee recommends that the State party undertake measures to strengthen the capacity of families and to pay particular attention to the role of fathers, including the recognition and maintenance of the child.**

427. The Committee is concerned that increasing emigration by Ecuadorians in recent years has had a negative impact on the exercising of parental responsibilities in the upbringing and development of the child.

428. **The Committee recommends that the State party undertake all necessary measures to ensure that overseas Ecuadorian workers, equally men and women, are able to meet their parental responsibilities, including through strengthening of bilateral agreements with the countries of destination and the promotion of family reunification and stable family environments for the upbringing of children in accordance with articles 18 and 10 of the Convention. The Committee also encourages the State party to strengthen the provision of child-sensitive family counselling services for overseas Ecuadorian workers and their children.**

### **Alternative care**

429. The Committee notes with concern the increasing number of children deprived of their natural family environment due to, inter alia, poverty, unemployment and the increasing number of parents migrating to other countries in search of better opportunities, thereby leaving their children behind without proper care and in the custody of relatives or institutions.

430. **The Committee recommends that the State party undertake measures to strengthen the family through the provision of adequate financial resources and to the reinforcement of community-based structures for children deprived of their family environment and into line with article 25 of the Convention, conduct periodic reviews of the placement of children, and ensure institutionalization is a last resort.**

## **Adoption**

431. While taking note that the new Childhood and Adolescence Code establishes the principle of priority for the support of the family of origin over adoption, and the subsidiarity of intercountry adoption over domestic adoption, the Committee remains concerned about the lack of human and financial resources, including adequate training for the Central Authority.

**432. The Committee recommends that the State party reinforce the Central Authority with adequate human and financial resources, with clear functions and an accreditation and supervisory mechanism of national and foreign bodies intervening in intercountry adoption in accordance with the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.**

## **Child abuse and neglect**

433. The Committee takes note of the legal protection introduced by the recently adopted Code on Childhood and Adolescence. However, it remains concerned at the extent of abuse and violence within the family and at the fact that the State party does not have a clear policy for dealing with this phenomenon.

**434. The Committee recommends that the State party strengthen its efforts to address the problem of domestic violence and child abuse, including through:**

**(a) Effective implementation of the relevant provisions of the Childhood and Adolescence Code, inter alia, based on a comprehensive collection of statistical data disaggregated by sex, age and ethnicity;**

**(b) Conduct of educational public awareness campaigns about the negative consequences of child abuse and neglect;**

**(c) Adoption of measures which enable the Prosecutor's Office, the Judicial Police and the judicial organs to investigate cases of violence against girls and adolescents in a gender- and child-sensitive manner and sanction the perpetrators;**

**(d) Ensuring the provision of counselling and assistance with recovery and reintegration to all child victims of violence; and**

**(e) Provision of adequate protection to child victims of abuse in their homes and by allowing videotaped testimony as admissible in court procedures.**

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

### **Children with disabilities**

435. While welcoming the establishment of the *Consejo nacional de discapacidades*, the Committee remains concerned at the lack of comprehensive data on the number of children with disabilities in the State party. It also notes with concern that these children face various forms of discrimination and that a high number of children with disabilities do not attend any form of educational institution, in particular in rural and remote areas.

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

- (a) **Collect accurate disaggregated data on children with disabilities;**
- (b) **Take effective measures for the reduction and elimination of societal discrimination against children with disabilities, including through awareness-raising and educational campaigns;**
- (c) **In the 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 their inclusion in 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.**

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

437. Despite the considerable efforts made by the State party in the area of health, in particular the reduction in infant mortality over the last 10 years, the Committee remains concerned at the increasing adolescent mortality rates as stated in the State party report (para. 143). The Committee is also concerned at the high levels of malnutrition, in particular in rural areas.

438. **The Committee recommends that the State party strengthen its efforts to improve the health situation of children in the State party and improve access to quality health services and address the issue of malnutrition, particularly in rural and remote areas. The Committee also recommends that the State party strengthen the "Mother-and-child friendly hospitals" Initiative and update training manuals for health professionals on the promotion and protection of breastfeeding.**

#### **Environmental health**

439. The Committee reiterates the concern raised in its previous concluding observations (CRC/C/15/Add.93) with regard to the damaging effect of oil extraction and the spraying of illegal crops under Plan Colombia on the environment and on the health of children.

440. **The Committee recommends that the State party effectively address the problem of pollution and environmental degradation, including by seeking bilateral agreements and international cooperation. It also recommends that the State party strengthen its environmental health education programme.**

#### **Adolescent health**

441. The Committee remains concerned at the increasing number of teenage pregnancies and the number of very young mothers. The Committee is also concerned that adolescents face particular physical health and mental health risks, including violence, drug use and alcohol abuse and sexually transmitted infections (STIs).

442. **The Committee recommends that the State party pay particular attention to adolescent health, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child. The Committee recommends that the State party strengthen the existing laws and programmes and in particular:**

(a) **Undertake measures to reduce the rate of teenage pregnancies, in particular through reproductive health education and child-sensitive counselling services;**

(b) **Undertake measures to reduce the rate of teenage pregnancies through, inter alia, the effective implementation of the Sex Education and Love Act in a gender- and child-sensitive manner;**

(c) **Undertake effective measures to prevent sexually transmitted diseases and to combat drug use and alcohol abuse by children, including through public education awareness-raising campaigns and ensure that children who abuse alcohol and/or use drugs have access to effective structures and procedures for treatment, counselling, recovery and reintegration;**

(d) **Increase its efforts to promote mental health and counselling services, inter alia with a view to addressing suicide among adolescents, and ensuring that such services are accessible to, and appropriate for all adolescents, including indigenous, Afro-Ecuadorian and those living in remote areas.**

### **Standard of living**

443. The Committee joins the concern expressed by the Committee on Economic, Social and Cultural Rights (see E/C.12/1/Add.100, para. 26) with regard to the persistent and growing level of poverty in the State party, particularly affecting children, including indigenous and Afro-Ecuadorian children.

444. **The Committee recommends that the State party increase its effort to provide vulnerable and marginalized children, including indigenous and Afro-Ecuadorian children, with material assistance and support programmes, particularly with regard to nutrition, clothing and housing in accordance with article 27 of the Convention.**

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

445. The Committee acknowledges the remarkable improvement made in the field of education, including the forthcoming implementation of bilingual education. The Committee also takes note of the system of measurement of academic achievements (APRENDO). However, the Committee is concerned at the low level of government investment in education, the poor equipment for schools, the limited access to educational facilities for street children and the regional disparities in the full enjoyment of the right to education.

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

(a) **Increase expenditure on education, in particular in primary, pre-primary and secondary education;**

- (b) Increase enrolment in primary and secondary education, reducing socio-economic, ethnic and regional disparities in the access and full enjoyment of the right to education;**
- (c) Strengthen its measures to prevent the problem of school dropouts;**
- (d) Strengthen vocational training, which is linked to the requirements of the labour market and ensure street children have access to education which is suited to their specific needs;**
- (e) Enhance the quality of teaching and provide adequate training to teachers; and**
- (f) Seek technical cooperation with, inter alia, UNICEF and the United Nations Educational, Scientific and Cultural Organization.**

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

447. While noting the efforts undertaken by the State party in organizing sports and cultural activities, the Committee notes with concern the insufficient number of recreational and cultural activities available.

448. **The Committee recommends that the State party ensure that children can enjoy their right to leisure, play and participation in cultural and artistic activities, in accordance with article 31 of the Convention.**

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

#### **Refugee children**

449. The Committee notes with appreciation the efforts made by the State party in hosting an increasing number of asylum-seekers among which there is a significant number of children, including the steps taken in cooperation with the United Nations High Commissioner for Refugees in registering asylum-seekers and refugees and issuing new identification documents to both asylum-seekers and refugees.

450. **The Committee recommends that the State party continue to strengthen its asylum policy, in particular to adopt legislative measures governing the treatment of unaccompanied and separated children. Furthermore, the Committee recommends that the State party strengthen its efforts to secure full access of all refugee and asylum-seeking children to education, health and other services. In this regard, the Committee recommends that the State party seek international cooperation with and assistance from, inter alia, the United Nations High Commissioner for Refugees and the United Nations Educational, Scientific and Cultural Organization.**

### **Internal/external displacement**

451. The Committee expresses its concern at the high number of people, among which a significant number of children, who are victims of violence and displacement, which are to a significant degree a consequence of Plan Colombia.

452. **The Committee recommends that the State party undertake all necessary measures to reduce the negative impacts of Plan Colombia on the population, to ensure the respect of the rights of the children and to provide all victims with assistance for recovery.**

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

453. While welcoming the measures taken by the State party to combat the worst forms of child labour, the Committee is deeply concerned at the high number of children between the age of 5 and 15 working in the State party. It is also concerned, as noted by the State party, that approximately 4,000 children are involved in mining work, and that a substantial number of children works in the banana sector.

454. **The Committee urges the State party to continue to strengthen its legislative and other measures to combat child labour. In this regard, the Committee recommends that the State party:**

(a) **Effectively implement its domestic legislation and programmes to progressively eradicate child labour with the active participation of working children;**

(b) **Improve and enhance the human and financial capacity of the labour inspection system to effectively implement the child labour laws, including the prohibition against employing children in harmful and hazardous work;**

(c) **Provide former child workers with appropriate recovery, education and vocational training opportunities.**

### **Sexual exploitation and trafficking**

455. The Committee takes note with appreciation of the considerable efforts undertaken by the State party and the various studies conducted by different institutions regarding the issue of sexual exploitation and trafficking of children, as reported by the State party. The Committee expresses its deep concern at the high number of children involved in commercial sexual exploitation and at the insufficient measures adopted by the State party in this regard.

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

(a) **Undertake appropriate legislative measures, including the revision of the Penal Code in order to criminalize, among others, sexual exploitation, pornography and sex tourism, as reported in the replies to the list of issues;**

(b) **Develop an effective and comprehensive policy addressing the sexual exploitation of children, including the factors that place children at risk of such exploitation;**

(c) **Avoid criminalizing child victims of sexual exploitation;**

(d) **Implement appropriate policies and programmes for the prevention, recovery and reintegration of child victims, in accordance with the Declaration and Agenda for Action of the first World Congress against Commercial Sexual Exploitation of Children and the Yokohama Global Commitment 2001 adopted at the second World Congress.**

### **Juvenile justice**

457. The Committee welcomes the establishment of the specialized juvenile justice system in accordance with the new Childhood and Adolescence Code. However, the Committee is concerned that deprivation of liberty should not be used systematically but as a measure of last resort only. It is also concerned at the slow pace at which cases are processed.

458. **The Committee urges the State party to ensure the full implementation of juvenile justice standards, in particular article 37 (b), article 40 and 39 of the Convention as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (General Assembly resolution 40/33) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (General Assembly resolution 45/112) and in the light of the Committee's day of general discussion on the administration of juvenile justice. The Committee further recommends that the State party:**

(a) **Strengthen its socio-educational measures in all the territories of the State party;**

(b) **Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time;**

(c) **Provide persons below 18 years of age with legal or other assistance;**

(d) **Ensure that persons below 18 years of age remain in regular contact with their families while in the juvenile justice system; and**

(e) **Introduce training programmes on relevant international standards for all professionals involved in the administration of juvenile justice.**

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

459. The Committee takes note of the various measures undertaken by the State party with regard to indigenous children, including the implementation of the bilingual intercultural education system. However, the Committee remains concerned about the limited enjoyment of rights by indigenous children, particularly with regard to access to education and health due to widespread poverty. It is also concerned that indigenous children:

(a) **Begin to work in agricultural and domestic activities at 5 years of age for boys and 4 years for girls;**

- (b) Are subjected to punishment, including forms of public shaming; and
- (c) Are often victims of sexual abuse.

460. **The Committee recommends that the State party take all necessary measures to protect the rights of indigenous children against discrimination and to guarantee their enjoyment of the rights enshrined in domestic law and in the Convention. In this regard, the Committee refers the State party to its recommendations adopted following its day of general discussion on the rights of indigenous children at its thirty-fourth session in 2003. The Committee further recommends that the State party provide indigenous communities, including children with sufficient information regarding birth registration procedures, child labour, HIV/AIDS, child abuse and neglect, including corporal punishment.**

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

461. **The Committee recommends that the State party submit its reports under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict by 2006.**

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

#### **Follow-up**

462. **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**

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

### **11. Next report**

464. **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 the responsibilities of States parties to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee urges the State party to submit the**

**next periodic report by 7 September 2007. Such a report should not exceed 120 pages (see CRC/C/148). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.**

### **Concluding observations: Norway**

465. The Committee considered the third periodic report of Norway (CRC/C/129/Add.1) at its 1036th and 1037th meetings (see CRC/C/SR.1036 and CRC/C/SR.1037), held on 24 May 2005, and adopted at its 1052nd meeting, held on 3 June 2005, the following concluding observations.

#### **A. Introduction**

466. The Committee welcomes the timely submission of the State party's third periodic report, which follows the guidelines for reporting and includes information on follow-up given to the Committee's previous recommendations (CRC/C/15/Add.126). The Committee also welcomes the State party's written replies to its list of issues (CRC/C/Q/NOR/3), which allowed for a better understanding of the situation of children in Norway, and notes with appreciation the frank and open dialogue with the delegation of the State party.

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

467. The Committee welcomes a number of positive developments in the reporting period, including:

- (a) Overall progress in implementing the Convention on the Rights of the Child;
- (b) The incorporation of the Convention into domestic law in 2003;
- (c) Changes in specific children's legislation which further strengthen and enhance the scope of the right of children to be heard;
- (d) The initiation of the Life Before 18 project aimed at raising awareness of the Convention among children and involving them in the reporting process;
- (e) Adoption and implementation of a national Plan of Action for Human Rights 2000-2005;
- (f) The amendment of the Penal Code in April 2003 to specifically criminalize trafficking in persons;
- (g) The ongoing and outstanding commitment of the State party to international assistance and cooperation, in particular in the area of education;
- (h) The implementation of a number of programmes and national plans of action to strengthen the protection of the rights of the child, including the 2001 Plan of Action for Children, Young People and the Internet, the 2002 Plan of Action for Children and Young People with Immigrant Backgrounds, the 2003 Plan of Action against Trafficking in Women and

Children, the Plan of Action to combat Child and Youth Crime (2000-2004), the Plan of Action to Combat Racism and Discrimination (2002-2006), as well as the programmes entitled “The Government’s Efforts to Combat Female Genital Mutilation - 2002” and “Renewed Efforts to Combat Forced Marriage - 2002”;

(i) 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 and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2001 and 2003 respectively.

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

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

##### **Committee’s previous recommendations**

468. The Committee notes with appreciation that many of the recommendations have been implemented, but it also notes with regret that some of the concerns it expressed and the recommendations it made (CRC/C/15/Add.126) after its consideration of the State party’s second periodic report (CRC/C/70/Add.2) have not been sufficiently addressed, inter alia those contained in paragraphs 19 (training and education on the Convention), 21 (non-discrimination), 27 (freedom of thought, conscience and religion), 31 (separation of parents), 41 (mental health services) and 43 (childcare services).

**469. The Committee urges the State party to make every effort to address the previous recommendations that have been only partly implemented or not implemented at all, and the list of recommendations contained in the present concluding observations.**

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

470. The Committee welcomes the many measures taken to bring national legislation into full conformity with the Convention. It notes, however, that national legislation in some areas, such as immigration, participation of children in governing bodies and religious freedom, require further attention in order to ensure that the actual implementation is in full conformity with the principles and provisions of the Convention.

**471. The Committee invites the State party to continue its efforts to ensure that national legislation is, and remains, in full conformity with the Convention. The Committee encourages the State party to provide training for judges on the direct applicability of the Convention in cases related to children as well as training on the Convention for officials in central government and the municipalities.**

##### **Coordination**

472. The Committee joins the State party in its concern that there is need to improve the coordination and coherency of efforts on behalf of children and young people at both central and local levels, particularly with regard to local authorities.

473. **The Committee recommends that the State party continue to strengthen its efforts to improve the coherency and coordination of efforts on behalf of children and young people so as to ensure adequate cooperation among central and local authorities as well as cooperation with children, young people, parents and non-governmental organizations.**

#### **Independent monitoring structures**

474. While acknowledging the important contribution made by the Children's Ombudsman, the Committee notes that the Children's Ombudsman faces limitations in carrying out his activities due to his apparent dependence on the Ministry of Children and Family Affairs.

475. **The Committee recommends that the State party further enhance the independence of the Children's Ombudsman.**

#### **Data collection**

476. The Committee highly appreciates the State party's well-developed system of data collection, but it regrets the lack of statistical data regarding the situation of children who have been subjected to violence and of those who do not start, or drop out of, upper secondary school. The Committee also regrets the limited data available on immigrant children and children living in institutions and foster families.

477. **The Committee recommends to the State party that it continue its efforts to improve the systematic collection of data concerning the situation of children, inter alia concerning children who have been subjected to violence and abuse, children who do not start, or drop out of, upper secondary school, children within the alternative care system and immigrant children.**

#### **Allocation of resources**

478. While noting with appreciation measures taken in this respect, the Committee is concerned that the range of services available to children varies depending on the place in the country where children live, both with respect to the content and the execution of the services.

479. **The Committee recommends that the State party undertake a study to assess and analyse the level and content of resources provided to children and take, where necessary, measures to ensure equal access and availability of services for all children, irrespective of the geographical location or size of the municipality.**

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

480. The Committee is concerned that, despite the various measures taken by the State party in this area, awareness of the Convention among children and youth remains low and that not all professionals who work with and for children receive adequate training in children's rights. The Committee regrets, in this regard, that human rights is only taught in schools as an optional subject in upper secondary education.

481. **The Committee encourages the State party to:**

**(a) Incorporate education on the rights of the child in the curricula of both primary and secondary education;**

**(b) Ensure systematic and ongoing training programmes on human rights, including children's rights, for all persons working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, teachers, social workers, health personnel and in particular children themselves);**

**(c) Ensure the dissemination and translation of the Committee's general comments.**

## **2. General principles**

### **Non-discrimination**

482. Despite the ongoing measures of the State party in this area, the Committee is concerned about the discrimination faced by some children in schools and society on the basis of their religious or ethnic backgrounds.

483. **In the light of article 2 of the Convention, the Committee recommends that the State party continue to intensify its efforts to prevent and eliminate all forms of de facto discrimination against children.**

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

### **Right to freedom of thought, conscience and religion**

484. **The Committee takes note of the Views of the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights of 3 November 2004 (CCPR/C/82/D/1155/2003) regarding the teaching of the school subject Christian Knowledge and Religious and Ethical Education. In this regard, the Committee welcomes the State party's information on the planned changes of the Education Act to bring the teaching of Christian Knowledge and Religious and Ethical Education into full compliance with the right to freedom of religion enshrined in article 15 of the Convention. The Committee encourages the State party to expedite the process of adopting and enacting these changes.**

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

485. The Committee is concerned that the best interests of the child are not adequately taken into consideration in cases where foreign nationals who have children in Norway are permanently deported as a consequence of having committed a serious criminal offence.

486. **The Committee urges the State party to ensure that the best interests of the child are a primary consideration in the decisions taken regarding deportation of their parents.**

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

487. The Committee is concerned at the number of children who have been removed from their families and live in foster homes or other institutions. In this regard, the Committee notes the State party's willingness to review its practices concerning the removal of children from their family environment.

488. **The Committee recommends that the State party take measures to address the causes of the rising number of children who are removed from their families, including through adequate support to biological parents. The State encourages the State party to give priority to protecting the natural family environment and ensure that removal from the family and placement in foster care or institutions is used only as a measure of last resort when in the best interests of the child.**

#### **Periodic review of placement**

489. While welcoming the efforts of the Ministry of Children and Family Affairs, the Committee is concerned about the insufficient periodic review of children placed in foster homes due to a lack of sufficient numbers of supervisors and lack of training of supervisors.

490. **The Committee recommends that the State party pursue its efforts to ensure adequate supervision of the situation of children placed in foster homes or institutions.**

#### **Abuse and neglect, including physical and psychological recovery and social reintegration**

491. The Committee is concerned that children who are exposed to violence within the family do not always receive sufficient care and assistance.

492. **The Committee recommends that the State party continue to strengthen its efforts to provide adequate assistance to children who are exposed to violence within the family or whose parents are psychiatric patients and/or drug abusers, including through:**

- (a) **Ensuring that all victims of violence have access to counselling and assistance with recovery and reintegration;**
- (b) **Providing adequate protection to child victims of abuse within their homes;**
- (c) **Strengthening measures to address the root causes of violence within the family, giving special attention to marginalized and disadvantaged groups;**
- (d) **Public education campaigns about the negative consequences of ill-treatment and preventive programmes, including family development programmes promoting positive, non-violent forms of discipline.**

## 5. Basic health and welfare

### Children with disabilities

493. The Committee notes with concern that children with disabilities are limited in their participation in cultural and recreational activities.

494. **The Committee recommends that the State party take all necessary measures to ensure that equal access to services, including cultural and recreational activities, is provided to children with disabilities taking into consideration the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) 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).**

### Basic health and welfare

495. The Committee remains concerned about the high incidence of eating disorders (bulimia and anorexia nervosa). Furthermore, the Committee is concerned about the growing problems of overweight among children that results from low physical activity combined with poor diet.

496. **The Committee recommends that the State party pay close attention to child and adolescent health, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child. In particular, the Committee recommends that the State party strengthen measures to address the occurrence of eating disorders and promote a healthy lifestyle among adolescents.**

### Mental health services

497. While welcoming measures taken to strengthen the mental health services for children and young people, the Committee is concerned at the remaining challenges, such as the waiting time for assistance and care. The Committee is also concerned at the shortage of child and adolescent psychiatrists and psychologists.

498. **The Committee encourages the State party to speed up the development of mental health care so as to ensure that adequate treatment and care are provided to all children and young people in need without undue delay.**

499. The Committee remains deeply concerned at the high incidence of suicide among adolescents, which accounts for about one out of every four deaths among young women and men.

500. **The Committee urges the State party to strengthen the health service resources for people in suicidal crisis and to take measures to prevent suicide among groups that are at risk.**

### **Adequate standard of living**

501. The Committee notes with concern the high proportion of immigrant children living in households with a persistently low income.

502. **The Committee recommends that the State party ensure that the needs of all children are met and take all necessary measures to ensure that no group of children lives below the poverty line.**

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

503. The Committee welcomes the numerous measures taken to combat bullying at school, particularly the initiatives taken by the Ombudsman for Children, but it remains concerned at the persistence of this phenomenon in many schools.

504. **The Committee recommends that the State party strengthen the measures taken to combat bullying and ensure the participation of children in the initiatives aimed at reducing bullying.**

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

#### **Refugee children**

505. The Committee expresses concern about the large number of unaccompanied asylum-seeking children (33 in 2003) who disappear from reception centres in the State party. It is particularly concerned that these children are vulnerable to abuse and exploitation. The Committee is also concerned about the insufficient supervision of and care provided to unaccompanied asylum-seeking children as well as the insufficient psychological and psychiatric services provided to children living in reception centres. Furthermore, the Committee is concerned that the processing of asylum claims is too slow.

506. **The Committee urges the State party to strengthen measures to ensure that adequate support and supervision are provided to children living in reception centres, as well as adequate psychological and psychiatric care for traumatized asylum-seeking children. The Committee recommends that the State party improve the situation in reception centres for unaccompanied children seeking asylum, in terms of resources and adequately trained and competent staff, so that the assistance and care for these children reaches the same level as that provided in other institutions under the child welfare system. The State party should also take further measures to ensure more expeditious processing of asylum claims.**

#### **Drug abuse**

507. The Committee notes with concern the high number of children who consume drugs and alcohol in the State party. The Committee is also concerned about the large number of children who suffer as a result of their parents' drug abuse. The Committee notes in this regard the test project on prevention of drug abuse problems among children and adolescents which has begun in a number of municipalities.

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

- (a) Strengthen efforts to provide children and parents with accurate and objective information about the harmful consequences of substance abuse;**
- (b) Ensure that children using drugs and narcotics are treated as victims (not as criminals) and are provided with the necessary recovery and reintegration services;**
- (c) Expand the project on prevention of drug abuse problems among children and adolescents to cover more municipalities.**

#### **Sexual exploitation and sexual abuse**

509. The Committee is concerned at the incidence of sexual abuse of children and young people in the State party, and regrets the lack of recent studies into this problem.

510. **In the light of article 34 and other related articles of the Convention, the Committee recommends that the State party:**

- (a) Conduct a comprehensive study to assess the nature and extent of sexual abuse of children as well as the characteristics of abused children with a view to identifying those groups which are particularly vulnerable to abuse;**
- (b) Strengthen measures to combat sexual abuse of children and adolescents;**
- (c) Ensure that children's testimony is recorded in an appropriate way and that the persons carrying out the hearing have the necessary specialist qualifications.**

#### **Sale, trafficking and abduction**

511. While welcoming measures taken to combat trafficking in women and children, the Committee is concerned that trafficking in women and children for sexual exploitation remains a problem in the State party.

512. **The Committee encourages the State party to strengthen its efforts for an effective implementation of its plan to combat sexual exploitation and trafficking in persons. The Committee also encourages the State party to extend its cooperation to countries/regions which face serious problems in this area and to undertake a study to assess the nature and extent of trafficking and sexual exploitation of children and to identify groups which are particularly vulnerable to this form of exploitation.\***

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\* Other concerns and recommendations of the Committee concerning this issue are contained in the Committee's concluding observations on the initial report of Norway under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (see CRC/C/OPSA/NOR/CO/1).

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

### **Follow-up**

513. 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**

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

## **9. Next report**

515. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention includes ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. The Committee appreciates the State party's performance in this regard and it invites the State party to submit its fourth periodic report, which should not exceed 120 pages (see CRC/C/148), by 6 February 2008 as foreseen in the Convention.

### **Concluding observations: Mongolia**

516. The Committee considered the second periodic report of Mongolia (CRC/C/65/Add.32) at its 1040th and 1041st meetings (see CRC/C/SR.1040 and 1041), on 26 May 2005, and adopted at the 1052nd meeting, on 3 June 2005, the following concluding observations.

#### **A. Introduction**

517. The Committee welcomes the State party's second periodic report but regrets that it has been submitted late and that it does not fully follow the reporting guidelines. The Committee also welcomes the submission of written replies to its list of issues (CRC/C/Q/MNG/2), which contained useful statistical data and other detailed information and gave a clearer understanding of the situation of children in the State party. It further notes with appreciation the constructive efforts made by the high-level delegation to provide additional information in the course of frank dialogue.

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

518. The Committee takes note of the adoption of laws aimed at protecting and promoting the rights of the child such as:

(a) The adoption in 1996 of the Law on Protection of Child Rights, which provides a legal framework for actions concerning special protection of children;

(b) The adoption in 1998 of the Law on Social Welfare which defines the types and scope of social benefits for, inter alia, orphans without legal guardians and children with disabilities;

(c) The adoption in 1998 of the Health Law, which provides, inter alia, children with specialized medical care;

(d) The adoption in 1999 of the Labour Code which regulates, inter alia, the employment of minors and their work conditions;

(e) The adoption in 1999 of the Family Law which stipulates, inter alia, parental responsibilities, and rules for adoption, custody and alimony;

(f) The adoption in 2000 of the Law on the National Human Rights Commission of Mongolia and the establishment of that;

(g) The revision in 2002 of the Criminal Procedure Code, which introduced separate sections on offences committed by juveniles and on crimes against children, family and society; and

(h) The adoption in 2004 of the Law against Domestic Violence which aims to combat and prevent domestic violence and to protect the human rights of victims, including child victims.

519. With regard to the rights and status of children in Mongolia, the Committee notes with appreciation the State party's continuous efforts to emphasize the importance of this issue by declaring several thematic years, such as the Year of the Child in 1997, the Youth Year in 1998, the Year for the Development of Children in 2000, the Year of Support for Disabled Citizens in 2001 and by organizing the National Summit on Children in 2004. The Committee also notes with satisfaction the State party's efforts to increase its budgetary allocations for children's social services.

520. The Committee also welcomes the ratification of:

(a) Hague Convention No. 33 on Protection of Children and Cooperation in Respect of Intercountry Adoption, in April 2000;

(b) ILO Convention No. 182 (1999) concerning the prohibition and immediate action for the elimination of the worst forms of child labour, in February 2001;

(c) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in January 2002;

(d) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in March 2002;

(e) ILO Convention No. 138 (1973) concerning the minimum age for admission to employment, in December 2002;

(f) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in June 2003;

(g) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in October 2004.

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

521. The Committee notes that economic transition in Mongolia, starting in 1991, has been relatively quick and it has had far-reaching effects on Mongolian society. Economic instability, unemployment and increased poverty have affected families, especially those with many children and those living in rural areas. The Committee takes note of the particular nature of the State party, its vast geographical land area, with very low population density. In addition, the Committee acknowledges that exceptionally difficult weather conditions, harsh winters and *dzuds*, a combination of a drought in the summers and extreme cold and snowstorms in the winters during 1999-2001, have also given rise to the high number of economic and social difficulties. These have had a negative impact on the overall development of the State party affecting the lives of many thousand children, especially in the most remote areas.

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

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

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

522. The Committee notes with satisfaction that various concerns and recommendations (CRC/C/15/Add.48) made upon the consideration of the State party's initial report (CRC/C/3/Add.32) have been addressed through legislative measures and policies. However, some of the concerns it expressed and recommendations it had made regarding, inter alia, school drop-out among boys in rural areas and to prevent their involvement in child labour (para. 23), to reinforce the access to basic services for children (health, education and social care) in rural areas (para. 23), to reinforce the access to basic services for children with disabilities throughout the country (para. 23), the promotion and protection of the rights of refugee children (para. 26), the judicious distribution of resources at central and local levels (para. 27) and the rights of children in conflict with law (para. 29), have not been sufficiently addressed.

**523. The Committee urges the State party to make every effort to address the recommendations made 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**

524. The Committee welcomes a comprehensive law reform in the State party, including various legislative measures taken to strengthen the protection of children's rights. Notwithstanding the positive steps taken by the State party in the field of domestic legislation,

the Committee is concerned at the insufficient number of implementation measures, which tend to form a gap between law and practice. In addition, the Committee is concerned about some contradictory provisions of the domestic laws leaving children without adequate protection, e.g. the compulsory school age is 17, whereas the labour law allows children aged 14 and 15 years old to work 30 hours per week.

**525. The Committee recommends that the State party take all necessary measures, including the provision of adequate financial and human resources, for the effective implementation of its domestic legislation, including recently adopted laws. It also recommends that the State party review its domestic laws in order to identify possible gaps in the protection of children.**

### **Coordination and a National Plan of Action**

526. The Committee notes with appreciation the positive results obtained in implementing the National Programme of Action for the Development of Children for the period 1990-2000. It also welcomes the Second National Plan of Action for Children 2002-2010 adopted by the State party and its commitment to follow up on the General Assembly's special session on children outcome document "A world fit for children". The Committee notes the new structure and strategy for the National Authority for Children adopted in September 2004 but it is concerned at the lack of a comprehensive strategic plan for the promotion of intersectoral and subnational coordination and the limited training of all levels of organizations for the new approach of the National Authority for Children.

**527. The Committee recommends that the State party provide adequate human, financial and technical resources for the full and effective implementation of the Second National Plan of Action for 2002-2010 and that it ensure a rights-based, open, consultative and participatory process for the implementation of the plan. The Committee also recommends that the State party develop a comprehensive strategic plan for coordination at all levels relevant to the implementation of the Convention, to provide adequate information and training responding to the National Authority for Children's new approach and to inform the Committee on the coordination activities of the National Authority for Children in its next report.**

### **Independent monitoring**

528. The Committee welcomes the establishment of the National Human Rights Commission in 2001 and in particular the decision to entrust one of the three Commissioners with the mandate for child rights. It also notes the current consideration of the establishment of a separate ombudsperson for children.

**529. In the light of its general comment No. 2 (2002) on the role of independent national human rights institutions, the Committee calls upon the State party to ensure that the National Human Rights Commission is provided with adequate human, financial and technical resources and that it has facilities to monitor and evaluate progress in the implementation of the Convention at the national and local levels as well as to receive, investigate and address complaints from children. The Committee suggests that the State party expedite the ongoing discussion with regard to consideration of the**

**establishment of a separate ombudsperson for children. Furthermore, the Committee recommends that the State party take appropriate measures to develop good governance strategies and to combat corruption.**

#### **Allocation of resources**

530. The Committee welcomes the priority given by the State party to the allocation of resources to children's social services, health and education, by implementing the 20/20 initiative for budgeting and mobilizing national domestic resources for children's well-being. But the Committee expresses its concern that budgetary allocations for children are still insufficient to respond to national and local needs for the promotion and protection of children's rights. The Committee is particularly concerned at disparities between rural and urban areas with respect to services provided to children.

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

(a) **Increase the proportion of the budget allocated to the realization of children's rights and, in this context, ensure the provision, including through international cooperation, of appropriate human resources with special attention for children in small rural communities and remote areas, and guarantee that the implementation of child policies are a priority, with a view to eliminating discrimination in the enjoyment of the rights between rural and urban areas;**

(b) **Continue its cooperation with international financial and United Nations agencies and bilateral donors.**

#### **Data collection**

532. The Committee acknowledges that the economic transition period in Mongolia has necessitated significant changes in its statistical system. The Committee notes with appreciation the State party's efforts in the compilation of statistics, such as the Child and Development Survey 2000, which provides, inter alia, base-line data for the Second National Plan of Action for Children 2002-2010. Notwithstanding the positive steps taken by the State party, the Committee expresses its concern that data collection is not sufficiently developed and is not disaggregated for all areas covered by the Convention.

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

(a) **Continue to develop its systematic data collection within the national statistical system to cover all children up to the age of 18 years, with specific emphasis on those who are in a particularly vulnerable position, such as children with disabilities, children living in extreme poverty, children living in rural areas, migrant children, child victims of abuse or ill-treatment, street children, children in conflict with law and children belonging to minorities, and all areas of the Convention;**

(b) **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;**

**(c) Seek innovative ways to publish these statistics and make statistical information widely available to the public;**

**(d) Continue its collaboration with, among others, the United Nations Children's Fund (UNICEF) in this respect.**

### **Dissemination of the Convention**

534. Welcoming the efforts that have been made to disseminate information about the principles and provision of the Convention, inter alia through the National Forums of Mongolian Children in 1998 and 2001, thematic years dedicated to children's issues and regular training activities, the Committee expresses its concern that these measures have not been effective to the extent desirable. The Convention is not disseminated at all levels of society and there are regional disparities, in particular regarding rural areas and among minorities.

535. The Committee notes that the training and retraining of professionals working with and for children has been conducted in collaboration with international agencies and non-governmental organizations. The Committee is, however, of the opinion that these measures need to be further strengthened and implemented in an ongoing, comprehensive and systematic basis.

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

**(a) Develop more creative and child-friendly methods to promote the Convention, in particular at the local level and among minorities, and through the media;**

**(b) Include the Convention, its principles and provisions in the school curricula;**

**(c) Continue to strengthen its efforts to provide adequate and systematic training and/or sensitization on children's rights for professional groups working with and for children, such as judges, lawyers, law enforcement and health personnel, teachers, school and institution administrators and social workers as well as journalists;**

**(d) Continue to seek technical assistance from, among others, UNICEF, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Office of the United Nations High Commissioner for Human Rights (OHCHR).**

## **2. General principles**

### **Non-discrimination**

537. The Committee appreciates the measures taken to promote the principle of non-discrimination against children, such as the enactment in 1992 of the Constitution of Mongolia and in 1996 of the Law on Protection of Child Rights, which both guarantee that all children are of equal status in the application of Mongolian legislation. But the Committee is concerned at the persistent de facto discrimination faced by children with disabilities, children living in poverty, children in conflict with law, street children, children living in rural areas and also children who have migrated from the rural areas and are living in the capital without official registration, especially with regard to their access to adequate social and health services and educational facilities.

538. **The Committee recommends that the State party make greater efforts to ensure that all children within its jurisdiction enjoy all the rights enshrined in the Convention without discrimination, in accordance with article 2, by effectively implementing the existing laws which guarantee the principle of non-discrimination. The Committee recommends that the State party adopt a proactive and comprehensive strategy to eliminate de facto discrimination on any grounds and against all vulnerable groups of children and that it prioritize social and health services and equal opportunities to education for children belonging to the most vulnerable groups.**

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

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

540. The Committee notes with great appreciation the State party's actions to promote and respect children's right to freely express their views in all matters affecting them and to participate in society, including by organizing a series of mini-United Nations conferences, parliaments and governments in 1998 and 1999, National Forums of Mongolian Children in 1998 and 2001 and a National Summit for Children in 2004, and by trying to address the rights of Mongolian teenagers. However, the Committee remains concerned that the traditional attitudes in the State party may limit children's right to freely express their views within the family, schools and the community at large.

541. **In the light of article 12 of the Convention, the Committee recommends that the State party continue to strengthen its efforts to promote respect for the views of all children, especially girls, and to facilitate their participation in all matters affecting them within the family, schools and other institutions. It also recommends that the State party undertake a regular review of the extent to which children's views are taken into consideration and of their impact on policy-making and court decisions, programme implementation and on children themselves.**

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

### **Birth registration**

542. The Committee reiterates its concerns about deficiencies in the implementation of the child's right to immediate registration after birth. The Committee notes with particular concern that a fee imposed upon registration of a newborn child can cause financial obstacles for poor families and tends to delay if not prevent birth registrations. In addition, delays in birth registrations are subject to additional fees.

543. **The Committee recommends the State party implement an efficient and at all stages free-of-charge birth registration system, which covers its territory fully, including through introducing mobile birth registration units and awareness-raising campaigns to reach the most remote areas of its territory.**

### **Corporal punishment**

544. The Committee is concerned that corporal punishment of children remains socially acceptable in Mongolia and it is still practised in families and also in places where it has been formally prohibited, such as schools and other institutions. It further notes with concern that Mongolian legislation does not expressly prohibit corporal punishment in the family.

**545. The Committee urges the State party to prevent and combat the practice of corporal punishment of children in the family, in schools and other institutions and to explicitly prohibit by law corporal punishment in the family. The Committee recommends that the State party introduce public education and awareness-raising campaigns with the involvement of children on alternative, non-violent forms of discipline in order to change public attitudes about corporal punishment and to strengthen its cooperation with the non-governmental institutions in this respect.**

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

### **Parental responsibilities**

546. The Committee is concerned at the increasing number of families headed by a single parent and the socio-economic difficulties faced by them, and the often limited degree to which fathers generally assume their parental responsibilities.

**547. The Committee recommends that the State party take all necessary measures to provide parents and families with the necessary financial and other support to the extent possible, paying attention to single-parent families and families living in particularly difficult circumstances. With regard to the principle that both parents have responsibilities for the upbringing and development of the child, the Committee endorses the recommendation adopted by the Committee on the Elimination of Discrimination against Women in 2001 (A/56/38, paras. 269-270) urging the State party to develop laws, policies and educational programmes that support and promote the idea of joint parental responsibility.**

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

548. The Committee is concerned at the increasing number of children in institutional care, including children who fled from their homes and were placed in child care centres. Referring to article 25, paragraph 9, of the Family Law, the Committee is of the view that the placement procedures are not fully in conformity with the principles and provisions of the Convention.

**549. In the light of article 20 of the Convention, the Committee recommends that the State party:**

**(a) Take immediate preventive measures to avoid separation of children from their family environment and to reduce the number of children living in institutions;**

**(b) Ensure that the placement of children in institutional care is always assessed by a competent, multidisciplinary group of authorities and that the placement is done for the shortest period of time and subject to judicial review and that it is further reviewed in accordance with article 25 of the Convention;**

**(c) Strengthen its efforts to develop the traditional foster-care system by paying particular attention to the rights recognized in the Convention, including the principle of the best interests of the child, and other family-based alternative care;**

**(d) Provide appropriate assistance and support services to parents and legal guardians in the performance of their child-rearing responsibilities, including through education, counselling and community-based programmes for parents.**

### **Adoption**

550. The Committee takes note with appreciation of the State party's efforts to regulate both domestic and intercountry adoptions, including the enactment of the Family Law provisions on adoption in 1999, the ratification of the Hague Convention No. 33 on Protection of Children and Cooperation in Respect of Intercountry Adoption in 2000, and the adoption of the rules on "giving a child of Mongolian nationality for adoption to foreign citizens". The Committee notes the State party's ancient traditions in fostering and adoption procedures and the relatively small number of intercountry adoptions. The Committee nevertheless remains concerned that the State party's domestic legislation on fostering and adoption procedures is not yet in full conformity with the principles and provisions of the Convention.

**551. The Committee recommends that the State party ensure that procedures of fostering and adoption are handled in full conformity with the principles and provisions of the Convention by qualified, competent and efficient multidisciplinary personnel and institutions.**

### **Abuse and neglect, maltreatment, violence**

552. While acknowledging that the State party is aware of the grave magnitude and negative repercussions of abuse and violence against children and that it has taken measures to prevent it, the Committee remains concerned at the persistence of this problem. The Committee is particularly concerned at the absence of a legal framework to protect children from incest.

**553. In the light of the recommendations adopted by the Committee on its days of general discussion on violence against children within the family and in schools (see CRC/C/111) and on State violence against children (see CRC/C/100), the Committee recommends that the State party:**

**(a) Take all appropriate measures to address and prevent domestic violence, whether physical or mental, including violence against women, within the family, inter alia, by implementing the Law against Domestic Violence, adopted in May 2004, and to ensure the full protection of children against this type of violence;**

**(b) In order to prevent and reduce the phenomenon of domestic violence, and violence in society in general, undertake studies on the root causes and scope of the problem of violence against children;**

**(c) Take steps to end the sexual abuse of children, including through establishing a legal framework to protect children from incest, improving the access of children and adults to reporting mechanisms, giving its full support to a toll-free three-digit telephone helpline open 24 hours per day, and increasing the investigation of cases and the prosecution of persons responsible;**

**(d) Raise awareness among the public of the problem of domestic violence, with a view to changing public attitudes and traditions that inhibit victims, particularly women and girls, from reporting it, and strengthen its cooperation with non-governmental organizations, such as the National Centre Against Violence, working in this field;**

**(e) Investigate cases of domestic violence and sexual abuse, through a child-sensitive judicial procedure, and ensure that sanctions be applied to perpetrators with due regard given to guaranteeing the right to privacy of the child; and**

**(f) Address the shortage of child psychiatrists, psychologists, social workers and other professionals in order to provide child victims and perpetrators of sexual abuse and violence against children with adequate access to counselling and other recovery and reintegration-related services.**

#### **Childcare services**

554. The Committee is concerned that the number of places available in services, such as day care and pre-school facilities, appears to be inadequate and there are notable regional disparities in this respect.

**555. In the light of article 18, paragraph 3, of the Convention, the Committee recommends that the State party take immediate measures to increase the number of places in day care and pre-school facilities, paying particular attention to the regional equality.**

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

#### **Children with disabilities**

556. The Committee expresses its grave concern about the situation of children with disabilities and regrets that discrimination against them exists. While noting that the majority of services for children with disabilities exist in the urban area, the Committee is particularly concerned for children with disabilities living in rural areas of the country and the difficult socio-economic circumstances faced by them. While taking note of the laws regulating the rights of persons with disabilities and the National Programme for the Improvement of the Situation of Disabled Citizens, adopted in 1999, the Committee is concerned about the lack of effective policies, basic services and coordination supporting the children with disabilities. The Committee notes with concern the lack of a legal framework to provide children with disabilities

with access to the physical environment. The Committee also notes with concern that the high number of children with disabilities have neither adequate access to social and health services nor to education. Furthermore, the Committee expresses its concern about the lack of adequate statistical data on children with disabilities and the existing prejudices against children with disabilities.

**557. The Committee urges the State party, taking into account the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities and the recommendations adopted by the Committee on its day of general discussion on the rights of children with disabilities (see CRC/C/69):**

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

**(b) To collect adequate and disaggregated statistical data on children with disabilities and to use such data in developing policies and programmes to promote their equal opportunities in society, paying particular attention to children with disabilities living in rural areas of the country;**

**(c) To prevent and prohibit all forms of discrimination against children with disabilities and to ensure equal opportunities for their full participation in all spheres of life;**

**(d) To take all necessary measures to include children with disabilities in the mainstream school system to the extent possible and, where necessary, to establish special education programmes tailored for their special needs;**

**(e) To take measures to provide children with disabilities with access to the physical environment, information and communication;**

**(f) To raise awareness, owing to the deeply rooted prevailing prejudices against children with disabilities in Mongolian society, of children with disabilities, including their rights, special needs and potential, in order to change negative public attitudes.**

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

558. While noting with appreciation the State party's efforts to improve primary health care, in particular the prevention of infectious diseases such as measles, meningitis and diphtheria as a result of the successful implementation of the National Immunization Programme 1993-2000, the Committee is nevertheless concerned at the regional disparities in access to health services, the high rates of both maternal mortality and under-5 mortality and regional differences in this respect, and the prevailing situation of malnutrition among children. The Committee notes with concern that the exclusive breastfeeding rate is declining and that the State party has not yet adopted the International Code of Marketing of Breastmilk Substitutes. The poor knowledge of the use and effects of medicines and the limited access to affordable children's pharmaceuticals give cause for some serious concern. The Committee expresses its concern at the poor state of sanitation, environmental pollution problems and the limited access to clean and safe drinking

water in the country. Furthermore, the Committee is concerned that children who have migrated from the rural areas of the country and are living without official registration in the capital have a very limited access to health and social services.

**559. The Committee strongly recommends that the State party undertake all necessary measures:**

**(a) To prioritize the allocation of financial and human resources to the health sector, in order to ensure equal access to quality health services by children in all areas of the country, including children living in the most remote areas of the country;**

**(b) To continue its efforts to improve prenatal care and to significantly reduce maternal and under-5 mortality rates, paying particular attention to mothers and children living in remote areas of the country;**

**(c) To adopt the International Code of Marketing of Breastmilk Substitutes and to encourage exclusive breastfeeding for six months after birth, with the addition of an appropriate infant diet thereafter;**

**(d) To improve the nutritional status of children, for example through introducing a school nutrition programme, with particular attention to children in rural areas;**

**(e) To ensure equal access to safe and affordable pharmaceuticals used in the prevention and treatment of a range of health conditions of children and to raise awareness on the use and effects of medicines;**

**(f) To ensure access to safe and clean drinking water and sanitation in all areas of the country and to protect children from the consequences of environmental pollution;**

**(g) To pay attention to the health situation of those children who have migrated from the rural areas of the country and who are living without official registration in the capital, in order to facilitate their equal access to all health and social services.**

### **Adolescent health**

560. The Committee takes note of the State party's efforts to promote adolescent health and health education in schools by implementing the National Reproductive Programme on Student and Adolescent Health and a campaign on the "health-promoting school". However, the Committee is concerned at the limited number of school health services, including the lack of regular physical examinations and statistical data on the status of schoolchildren's health. In addition, the Committee is concerned that insufficient attention has been given to adolescent health in the context of non-communicable diseases related to lifestyle factors, such as tobacco smoking, alcohol consumption and drug abuse.

**561. The Committee recommends that the State party pay close attention to adolescent health, taking into account general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, and strengthen its**

**efforts to promote adolescent health, including sexual and reproductive health education in schools, and to introduce school health services, including youth-sensitive and confidential counselling and care. The Committee recommends that the State party ensure that adolescents not attending school are provided with the same education, information and services for health. In order to decrease tobacco smoking, alcohol consumption and drug abuse among adolescents, the Committee recommends that the State party initiates campaigns, particularly designed for adolescents, on health-behavioural choices.**

#### **HIV/AIDS**

562. The Committee notes the relatively low HIV infection rate in the country and is encouraged by the State party's efforts to prevent and combat HIV/AIDS and sexually transmitted infections (STIs) by implementing, inter alia, the National Strategy to respond to HIV/AIDS, the State Policy on Public Health, the National Reproductive Health Programme, the Law on the Prevention of HIV/AIDS and the National Programme on Communicable Disease. Notwithstanding the positive steps taken by the State party, the Committee expresses its concern about the existing risk factors, such as the growing number of young sex workers, which predispose them to HIV-infection.

**563. In the light of the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child (CRC/GC/2003/3) and the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37), the Committee recommends that the State party strengthen its efforts to prevent the spread of HIV/AIDS and continue to raise awareness about HIV/AIDS among adolescents, particularly among those belonging to vulnerable groups.**

#### **Standard of living**

564. The Committee is deeply concerned at the persistent high rate of poverty in the State party. The Committee notes that, as a consequence of increasing migration from rural areas, poverty is becoming more urbanized and this change has created a range of new social issues, such as children living on the streets. While noting, inter alia, the adoption in 2004, of the "Money for hope" benefit system for children living in families with a minimum income and the State party's efforts to implement its poverty-reduction plan, programmes and projects, the Committee reiterates its concern at the high number of children who do not enjoy the right to an adequate standard of living, including adequate housing and other basic services, both in urban and rural areas of the country.

**565. In accordance with article 27 of the Convention, the Committee recommends that the State party continue to implement, as a matter of high priority, its national plan and programmes for poverty reduction, paying particular attention to economically disadvantaged families in need of support and material assistance, and to guarantee the rights of the child to an adequate standard of living.**

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

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

566. While noting with appreciation the State party's efforts to improve the standard of education and to secure access to education by implementing the revised Law on Education adopted in 1995, the Committee is concerned about the remaining difficulties encountered by children, especially in rural areas of the country, in their access to education and attendance in school. The high number of primary-school-aged children not enrolled in school, including gender and regional disparities in school enrolment, the increasing rates of illiteracy and the high rate of school drop-outs, especially in rural areas, give cause for serious concerns.

567. The Committee reiterates its concern about boys belonging to herder families and living in rural areas who are at a higher risk of dropout from school and being involved in child labour. The Committee notes with particular concern that the additional fees collected in schools cause financial obstacles for many children and deny them equal access to education. Furthermore, the Committee is concerned about incidents reported where children have been subjected to violence in schools and defective school facilities, including an insufficient number of classroom seats and a low quality of textbooks. The Committee notes the State party's efforts to build and renovate school dormitories, but it is concerned about their poor condition and limited capacity to accommodate children.

568. **The Committee recommends that the State party take immediate measures to allocate adequate financial and human resources in order:**

**(a) To progressively ensure that all children, without any distinction by gender, from all areas of the country, have equal access to quality education without any financial obstacles and to also consider the reinstatement of neighbourhood schools in order to facilitate children's access to education;**

**(b) To strengthen measures aimed at increasing enrolment rates in primary and secondary education without any regional disparities and to secure that all children have equal opportunities to complete their education;**

**(c) To strengthen its efforts to adopt and implement effective measures to decrease school dropout rates, especially among children living in rural areas;**

**(d) To take additional steps to address increasing illiteracy rates;**

**(e) To expand the vocational training facilities at the secondary-school level and for adolescents who have never attended school or dropped out before completion;**

**(f) To increase the quality of teaching methods by providing appropriate training to teachers;**

**(g) To improve school facilities, including by building new schools and improving heating and electricity installations in schools, the quality of text books and the condition of school dormitories;**

**(h) To continue to include human rights in general, and the rights of the child in particular, into the school curricula, taking into account the Committee's general comment No. 1 (2001) on the aims of education, and to promote a safe and non-violent school environment.**

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

569. The Committee notes with concern the insufficient number of recreational and cultural activities and facilities for children living in cities and that many playgrounds built for them have been destroyed during the last decade.

**570. In the light of article 31 of the Convention, the Committee recommends that the State party pay attention to the right of the child to engage in play and increase its efforts to promote and protect the right of the child to rest, leisure, cultural and recreational activities by allocating adequate human and financial resources to the implementation of this right, including by designing and building safe playgrounds for children living in cities.**

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

#### **Refugee children**

571. The Committee welcomes the State party's efforts to protect refugee children, particularly those coming from the Democratic People's Republic of Korea, by respecting the principle of non-refoulement and by assisting in the search for durable solutions. But it is concerned that children seeking refugee status in Mongolia do not always receive appropriate protection and assistance in the enjoyment of their rights under the Convention.

**572. In the light of article 22 and other relevant provisions of the Convention, the Committee reiterates its previous recommendation (see CRC/C/15/Add.48, para. 26) that the State party accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, to develop specific asylum legislation, which should include particular provisions on the protection and treatment of asylum-seeking children, especially those who are unaccompanied and separated and that it accede to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.**

#### **Economic exploitation**

573. The Committee notes with appreciation the efforts made by the State party to better safeguard the right of the child to be protected from the exploitation of child labour, such as the ratification of the ILO Convention No. 138 (1973) concerning minimum age for admission to employment, in 2002 and No. 182 (1999) concerning worst forms of child labour, in 2001, the adoption of the Labour Code provisions in 1999, which establish a minimum age for employment as 16, and the adoption of the list of workplaces forbidden to employment of minors, in 1999, as well as the signing of a Memorandum of Understanding with the ILO's International Programme on the Elimination of Child Labour (IPEC) in 1999 and participation in the IPEC activities.

574. Notwithstanding the positive steps taken by the State party, the Committee is concerned at the high rate of working children in Mongolia and the various kinds of negative consequences resulting from the exploitation of child labour, including the school dropouts and negative impacts on health caused by the harmful and hazardous work. The high number of child domestic and rural workers and children working in very harmful conditions in gold and coal mines give cause for serious concerns.

575. Furthermore, the Committee is concerned at the hazardous situation of children increasingly involved and exploited in traditional horse racing, which has undergone considerable changes from traditional sports to profitable businesses with child-abusive and exploitative features. In particular, it is concerned, that children, sometimes as young as 8 years old, are involved and that such involvement can generate serious injuries, even fatalities.

**576. The Committee recommends that the State party take immediate and effective measures:**

**(a) To ensure the full implementation of child labour provisions, including the prohibition against employing children in harmful or hazardous work, and the effective prevention of child labour, including child domestic labour and child rural labour, by implementing article 32 of the Convention on the Rights of the Child and ILO Conventions Nos. 138 (1973) and 182 (1999), which the State party has ratified, and by taking into account ILO recommendations Nos. 146 and 190;**

**(b) To improve the monitoring of child labour in the country by increasing the number of trained labour inspectors;**

**(c) To ensure that working children have access to quality education, including vocational and non-formal education and that they are given sufficient time off to enjoy their right to education as well as to rest, leisure and recreational activities;**

**(d) To influence public attitudes on child labour by undertaking awareness-raising campaigns, particularly for children, parents and other caregivers, on various kinds of negative consequences resulting from the exploitation of child labour, including child domestic labour and rural labour;**

**(e) To address the issue of child jockeys in traditional horse racing by undertaking a comprehensive study to assess the nature and extent of exploitation of children in the horse-racing business and by explicitly prohibiting the employment of children under the age of 16 as jockeys in these races in line with the minimum age for work set in the labour law;**

**(f) To continue to seek assistance from ILO/IPEC.**

### **Street children**

577. The Committee regrets that the State party report did not provide it with adequate information about the situation of street children. While noting with appreciation the establishment of centres for children living in the street, the Committee is concerned at the

increasing number of street children living in very harsh conditions and that the causes leading to this phenomenon are often abusive family situations. According to the Law on Temporary Detention of Children without Supervision adopted in July 1994, a runaway child can be detained up to one week. The Committee is concerned that the State party's domestic legislation does not remain in full conformity with the principles and provision of the Convention in this respect. Furthermore, the Committee notes with concern that the negative public attitudes and prejudices against street children exacerbate their difficult situation.

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

**(a) Adopt a comprehensive national strategy to address the situation of street children, paying particular attention to the most vulnerable groups, and provide these children with adequate assistance, including recovery and social reintegration services for physical, sexual and substance abuse and vocational and life-skills training in order to support their full development;**

**(b) As regards the implementation of the Law on Temporary Detention of Children without Supervision, adopted in July 1994, refrain as a matter of policy from detaining runaway children and seek alternative forms, which are fully compatible with the provisions of the Convention, for their detention;**

**(c) Undertake an action-oriented study to identify the root causes and magnitude as well as the personal characteristics of street children in order to prevent this phenomenon and provide street children with services which are tailored for their needs and also provide them with opportunities for reunification with their family;**

**(d) Raise awareness of children living in the streets in order to change negative public attitudes about them;**

**(e) Collaborate with non-governmental organizations working with street children in the State party and with children themselves and seek technical assistance from, among others, UNICEF.**

#### **Sexual exploitation and trafficking**

579. The Committee is deeply concerned at the increasing number of children engaged in prostitution. While noting that trafficking in children is a relatively new human rights problem in Mongolia, the Committee is concerned about certain risk factors, including persisting poverty, the high rate of unemployment, difficult family circumstances that lead to runaways from home and a growth in tourism, which may increase sexual exploitation and trafficking in children.

**580. In order to prevent and combat trafficking in children for sexual and other exploitative purposes, the Committee recommends that the State party:**

**(a) Develop and adopt a comprehensive national policy to prevent and combat sexual exploitation and trafficking in children, including the root causes and factors that place children at risk of such exploitation;**

**(b) Strengthen its efforts and legislation to identify and investigate trafficking cases, to improve understanding of the issues of trafficking and ensure that perpetrators are prosecuted;**

**(c) Provide adequate programmes of assistance and reintegration for sexually exploited and/or trafficked children in accordance with the Declaration and Agenda for Action and the Global Commitment adopted, respectively, at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;**

**(d) Sign and ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.**

### **Administration of juvenile justice**

581. The Committee takes note of the efforts made by the State party to better safeguard the rights of children in conflict with law. This includes the adoption in 1999 of the National Programme on Prevention of Child Crime and Crimes against Children, including the establishment of the Child Crime Prevention Unit through reorganizing the Children's Section of the Criminal Police Department, and the adoption in 2002 of the Criminal Law provisions, which provide persons below 18 years of age with special legal proceedings. However, the Committee is deeply concerned about the established practice of keeping persons below 18 years of age in pre-trial detention for a prolonged period of time and sentencing juvenile first offenders to imprisonment for petty crimes. The Committee is also concerned that persons below 18 in conflict with law are not provided with access to appropriate legal aid and assistance. Notwithstanding some positive steps taken to improve the detention and prison conditions for persons below 18 years of age, the Committee notes with concern that children's living conditions remain poor in these institutions.

582. The Committee notes that boys below 18 years of age serve their sentences in a separate juvenile prison in Ulaanbaatar, but girls still serve their sentences in the same prison with adult women. The Committee is concerned at the low number of social reintegration services for sentenced and released persons below 18 years of age. With respect to the domestic legislation for the administration of juvenile justice, the Committee expresses its concern about the difficulties faced by persons below 18 years of age released on probation. Furthermore, the Committee is concerned that the courts continue to fall short of being child-sensitive and adequately trained to be sensitive enough to the provisions of the Convention.

**583. In the light of the recommendations adopted by the Committee at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238), the Committee recommends that the State party ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention, and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System. In this regard, the State party should in particular:**

- (a) **Develop and implement a comprehensive national programme on administration of juvenile justice, including establishment of juvenile courts endowed with appropriately trained professional personnel covering all *aimags* of the country;**
- (b) **Limit by law the length of the deprivation of liberty of persons below 18;**
- (c) **Limit by law the length of pre-trial detention of persons below 18 so that it is truly a measure of last resort for the shortest period of time, and ensure that it is decided by a judge as soon as possible and consequently reviewed;**
- (d) **Encourage the use of alternative measures to the deprivation of liberty of persons below 18, such as probation, community service or suspended sentences;**
- (e) **In cases where deprivation of liberty is unavoidable and used as a last resort, improve procedures of arrest and conditions of detention;**
- (f) **Ensure that persons under 18 have access to appropriate legal aid and defence and independent, child-sensitive and effective complaint mechanisms;**
- (g) **Provide training on relevant international standards to those responsible for administering juvenile justice and consider establishing social worker posts in prisons to assist children in conflict with law;**
- (h) **Ensure that both sentenced and released persons under 18 are provided with educational opportunities, including vocational and life-skills training, and recovery and social reintegration services, in order to support their full development;**
- (i) **Seek technical cooperation and assistance from, inter alia, OHCHR, the United Nations Office on Drugs and Crime Prevention, and UNICEF.**

#### **Children belonging to minorities**

584. The Committee regrets that it has been largely precluded, through lack of information in the report, from examining compliance of the State party's obligations with the rights guaranteed under article 30 of the Convention with regard to children belonging to minorities, such as Khazakhs and Tsaatans. The Committee is concerned about the limited enjoyment of their human rights, particularly concerning their access to social and health services and education.

585. **The Committee recalls the obligations of the State party under articles 2 and 30 of the Convention and recommends that the State party ensure that children belonging to minorities fully enjoy all of their human rights equally and without discrimination. The Committee requests that the State party provide concrete and detailed information, in its next periodic report, on the implementation of article 30 of the Convention on children belonging to national or ethnic, religious and linguistic minorities.**

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

586. The Committee welcomes 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 June 2003, and of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in October 2004.

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

## 9. Follow-up and dissemination

### Follow-up

588. 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 high-level body, the Parliament, and to provincial or state governments and parliaments, when applicable, for appropriate consideration and further action.

### Dissemination

589. The Committee further recommends that the second periodic report and written replies submitted by the State party and related recommendations (concluding observations) that it adopted be made widely available in the languages of the country, including (but not exclusively) through 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

590. In the light of the recommendation on reporting periodicity adopted by the Committee and described in the report of 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 State parties is crucial. The Committee recognizes that some States parties experience difficulties in initiating timely and regular reporting. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its third and fourth periodic reports in one consolidated report by 1 September 2007, the due date for the submission of the fourth report. 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: Nicaragua

591. The Committee considered the third periodic report of Nicaragua (CRC/C/125/Add.3) at its 1042nd and 1043rd meetings (see CRC/C/SR.1042 and 1043), on 27 May 2005, and adopted the following concluding observations at its 1052nd meeting, on 3 June 2005.

## **A. Introduction**

592. The Committee welcomes the submission of the State party's third periodic report, prepared in a participatory way, as well as the timely responses to the list of issues, which allowed the Committee to have a better understanding of the situation of children in the State party.

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

593. The Committee welcomes:

(a) The establishment, in 1999, of the National Council for Economic and Social Planning (CONPES) aimed at advising the Government on a wide range of economic and social policies, including the country's development policy, "Enhanced economic growth and poverty reduction strategy" (ERCERP);

(b) The creation of the National Council for the Comprehensive Care and Protection of Children and Adolescents (CONAPINA), responsible for formulating and coordinating implementation of the national policy for children, and which include among its members a representative of children;

(c) The entry into force of a new Criminal Procedure Code in 2002;

(d) The entry into force of the General Health Act in May 2002;

(e) The establishment of the Ombudsman Office for Human Rights in June 1999 and of a Special Ombudsman Office for Children, in 2000;

(f) The creation of the National Commission on Violence against Women, Children and Adolescents in 2000;

(g) The following programmes and plans of actions:

- National Plan of Action 2002-2011 for Children and Adolescents;
- National Plan of Action 2001-2006 for the Prevention of Domestic and Sexual Violence;
- National Strategic Plan of Action for the Prevention and Eradication of Child Labour and Protection of Child Workers 2001-2005 with the setting up, in 2002, of the National Commission for the Eradication of Child Labour and the Protection of Young Workers (CNEPTI);
- National Education Plan 2001-2015.

594. The Committee also wishes to welcome the ratification of:

- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 2 December 2004 and of the Optional Protocol on the involvement of children in armed conflict on 17 March 2005;

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime 2000, on 12 October 2004;
- ILO Convention No. 182 (1999) concerning the prohibition and immediate action for the elimination of the worst forms of child labour, on 6 November 2000;
- The Rome Statute of the International Criminal Court 1998, on 8 September 2000;
- The Inter-American Convention on the Return of Children on 20 October 2004;
- The Protocol to the American Convention on Human Rights to abolish the death penalty, on 24 March 1999.

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

595. The Committee notes that the State party is one of the poorest countries in Latin America and that a large part of the population lives below the poverty line. The Committee also notes that the country still suffers from the effects of the 1980s civil war and that it is often exposed to serious natural disasters, such as hurricanes, floods, volcanic eruptions and earthquakes.

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

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

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

596. The Committee notes with satisfaction that some concerns and recommendations (CRC/C/15/Add.108) made upon the consideration of the State party's second periodic report (CRC/C/65/Add.4) have been addressed. However, it regrets that other concerns and recommendations have been insufficiently addressed, particularly those contained in paragraph 22 (the need to allocate substantial financial resources for the benefit of children); paragraph 24 (the persistent disparities between the Atlantic/Caribbean and Central/Pacific regions as well as between urban and rural areas); paragraph 33 (need to reinforce measures and raise awareness to prevent and combat cases of abuse and ill-treatment of children, including sexual abuse, both within and outside the family); paragraph 34 (regional disparities in access to health care, high rates of malnutrition in children under 5 and in school age and low access to health care in rural and remote areas); paragraph 39 (children belonging to indigenous groups); paragraph 40 (child labour and economic exploitation); and paragraph 43 (conditions of detention for children). The Committee notes that those concerns and recommendations are reiterated in the present document.

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

## Legislation and implementation

598. While the Committee welcomes the fact that the direct application of the Convention is constitutionally guaranteed under article 71 of the Constitution, and also welcomes the progress made by the State party in the legal, political and administrative realms, it remains concerned that children are in general not considered and treated as subjects of rights.

**599. The Committee recommends that the State party increase its efforts to guarantee the full implementation of the approved laws, policies and plans protecting and promoting the rights of children and to promote attitudes and practices fully respecting the child as a subject of rights.**

## National Plan of Action

600. While the Committee welcomes the National Plan of Action 2002-2011 for Children and Adolescents, it notes that it lacks adequate human and financial resources to effectively function and that its activities are not sufficiently taken into account by the authorities and institutions dealing with children's issues. The Committee also notes that several other specific plans of actions and programmes (para. 3 (g) above) have been adopted in the last years, but it does not have much information on their level of coordination with the National Plan of Action for Children and Adolescents.

**601. The Committee recommends that the State party implement the National Plan of Action for Children and Adolescents with the aim of realizing the principles and provisions of the Convention, and taking into account, inter alia, the outcome document "A world fit for children" adopted by the General Assembly special session on children in May 2002. The Committee also recommends that all the other programmes and plans which may have impact on children be adequately coordinated with the National Plan of Action for Children and Adolescents as well as with the Code on Children and Adolescents.**

## Coordination

602. The Committee welcomes the creation of the National Council for the Comprehensive Care and Protection of Children and Adolescents, responsible for formulating and coordinating implementation of the national policies for children.

**603. The Committee recommends that the State party give adequate support to the National Council for the Comprehensive Care and Protection of Children and Adolescents and enhance coordination - both at national and at local levels - between the different governmental bodies responsible for the implementation of the Convention.**

## Independent monitoring

604. The Committee notes that the Special Ombudsman for the Protection of Children and Adolescents resigned recently, following some changes in the institution which would have allegedly undermined its autonomy and independence. In this regard, the Committee is concerned that the Ombudsperson office could lose the elements of objectivity and impartiality that are necessary for an effective protection of children's human rights.

605. **In the light of its general comment No. 2 (2002) on national human rights institutions and the Paris Principles (General Assembly resolution 48/134, annex), the Committee recommends that the State party ensure that the Special Office of the Ombudsman remain an independent monitoring body for the implementation of the Convention and that it is provided with adequate human and financial resources. The Committee further recommends that the Special Office of the Ombudsman deal with complaints from children in a child-sensitive and expeditious manner and provide remedies for violations of their rights under the Convention.**

#### **Resources for children**

606. The Committee notes the current effort of the State party, together with other countries, to achieve debt relief, as well as the 2002 study undertaken by the Economic Commission for Latin America and the Caribbean and UNICEF, which reached the conclusion that one of the major causes of poverty in Nicaragua was the unequal distribution of income. The Committee - also taking into account that social expenditure does not seem to be proportional to the economic growth reported by the State party - expresses concern at the reported insufficient political will to increase the budget for programmes and policies for children, who suffer severely from the consequences of budgetary constraints and from the uneven distribution of income. In addition, the Committee is concerned that the free trade agreements currently under negotiation may negatively impact on the allocation of budget for social services.

607. **The Committee recommends that the State party, in accordance with article 4 of the Convention, increase budget allocations for the implementation of the rights recognized in the Convention, ensure a more balanced distribution of the income throughout the country and prioritize budgetary allocations to ensure implementation of the economic, social and cultural rights of all children, including those belonging to economically disadvantaged groups, such as indigenous children, “to the maximum extent of ... available resources and, where needed, within the framework of international cooperation”. Furthermore, the Committee recommends that the State party ensure that free trade agreements do not negatively affect the rights of children, e.g. in terms of access to affordable medicines, and that - if debt relief efforts are successful - it should invest the money saved in the adequate implementation of child rights and in other social services.**

#### **Data collection**

608. While the Committee welcomes the information that the State party is developing a national information system with the support of UNICEF, it remains concerned that, so far, insufficient data are available on the situation of children. The Committee notes in this regard that the State party does not yet collect statistical data on indigenous groups and other national or ethnic minorities.

609. **The Committee recommends that the State party continue to strengthen its efforts to develop a comprehensive system of collection of comparative and disaggregated data on the implementation of the Convention, in particular by providing adequate financial and other resources for the development and implementation of the above-mentioned national information system. The data should cover all children below the age of 18 years and be disaggregated into those groups of children who are in need of special protection, including indigenous children and children belonging to minority groups.**

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

610. While the Committee welcomes information provided in the report on the dissemination of the Convention and human rights education in Nicaragua, it is concerned that there is still not adequate access to and information on human rights, including the rights of the child, especially in the rural and remote areas.

**611. The Committee recommends that the State party continue to strengthen its efforts to disseminate the Convention throughout the country and to raise public awareness, in particular among children themselves and parents, about its principles and provisions.**

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

### **Cooperation with NGOs**

613. The Committee notes with appreciation the involvement of non-governmental organizations, including children's organizations, in several relevant activities, including the preparation of the periodic report.

**614. The Committee encourages the State party to continue, and where possible strengthen, the fruitful and constructive collaboration with non-governmental organizations in the development and implementation of programmes and activities aimed at improving children's rights.**

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

615. While the Committee notes that the new draft Civil Code contains measures aimed at solving this problem, it continues to be concerned at the current discrepancies between the minimum legal age for marriage of boys and girls. Furthermore the Committee considers that the minimum legal age for marriage with parental consent is too low (15 for boys and 14 for girls).

**616. With reference to its previous recommendations, the Committee recommends that the State party rapidly adopt and implement the new draft Civil Code in order to increase the minimum age for marriage and set it at the same age for boys and girls.**

## **3. General principles**

### **Non-discrimination**

617. The Committee is concerned that the country's adult-centred culture and the high poverty levels, concentrated especially in rural, indigenous and Caribbean areas, prevent the full enjoyment of rights by children belonging to vulnerable groups, such as children with disabilities, indigenous children and children living in rural or remote areas.

618. **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 throughout the country.**

619. **The Committee also 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, also taking into account general comment No. 1 (1996) on article 29 (1) of the Convention (aims of education).**

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

620. The Committee notes that both the Code on Children and Adolescents, and the Parent-Child Relatives Act, contain provisions protecting the principle of respect for the views of the child, but it is concerned at the limited implementation in practice, in particular in the family and in schools, of the right of the child to express his/her views.

621. **The Committee recommends that the State party continue to promote, facilitate and implement, within the family, schools, other institutions as well as in judicial and administrative procedures, the principle of respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention, with special attention at the development and implementation of programmes related to child labour, street children, sexual exploitation and other situations where children are involved.**

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

### **Birth registration**

622. While the Committee welcomes the massive campaigns for birth registration undertaken, it continues to be concerned that there is still a lack of institutional capacity in the Civil Registry System and that a quite consistent group of children are still not legally registered due to administrative, legal and cultural causes.

623. **The Committee reiterates its previous recommendation urging the State party take all possible steps to ensure immediate registration of the births of all children, and to promote and facilitate the registration of those children who were not registered at birth, in the light of article 7 of the Convention. In particular, the State party should modernize and ensure the proper operation and maintenance of the Civil Registry System, including by providing it with the necessary resources.**

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

624. The Committee notes that torture and other cruel, inhuman or degrading treatment or punishment is prohibited in the State party. However, the Committee is concerned by allegations of instances of ill-treatment of children by law enforcement officials, especially in police establishments.

**625. In the light of article 37 (a) of the Convention, the State party should take all necessary measures to address the causes and to prevent incidents of ill-treatment of children while in State care, including by adopting a prevention strategy against institutional violence.**

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

### **Family care and parental responsibilities**

626. While the Committee notes with appreciation that strengthening the family is an important strategy within the national policy for the comprehensive care of children and adolescents, it is concerned that insufficient financial and other resources have been provided for the implementation of this strategy. Furthermore, while noting that various legislative initiatives are currently under debate in this respect, the Committee is concerned at the lack of an appropriate and comprehensive regulation of family relations, e.g. via a comprehensive Code, as well as at the lack of specialized family courts.

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

**(a) Promote and support responsible parenthood, inter alia by providing families with financial allowances when needed;**

**(b) Approve and implement appropriate regulations of family relations that reflect and incorporate international standards ratified by the State party, such as the Convention on the Rights of the Child, preferably by developing a comprehensive code;**

**(c) Establish specialized family courts with trained judges and other professionals involved, and ensure that family law practice is accessible to everybody and that family law procedures are conducted without undue delay.**

### **Alternative care and adoption**

628. The Committee notes with concern the difficulties that some parents and families encounter - such as unemployment, malnutrition and lack of adequate housing - which may cause abandonment or abuse resulting in placement of children in institutions or in adoption.

**629. The Committee recommends that the State party undertake - in cases where a child is deprived of her/his family environment - maximum efforts to return the child to the family of origin. If that action is not in the best interests of the child, efforts should be undertaken to place the child in a family-type form of alternative care, with preference for kinship care and to use institutional placement only as a measure of last resort. In case**

**adoption is in the best interests of the child, preference should be given to domestic over inter-country adoption. The Committee recommends in this regard that the State party ensure that its legislation and practice regarding adoption is brought in line with article 21 of the Convention and that it become a party to the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Inter-country Adoption.**

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

630. While the Committee welcomes the National Plan of Action 2001-2006 for the prevention of domestic and sexual violence and the fact that children who are victims of abuse can directly file a complaint, it is concerned that domestic violence and abuse of children is an increasing phenomenon in Nicaraguan society.

631. **The Committee, reiterating its previous recommendation, urges the State party to strengthen its efforts in order to address ill-treatment of children within the family and reinforce the mechanisms monitoring the extent of the forms of violence, injury or abuse, neglect, maltreatment or exploitation considered by article 19, including within the family, schools, in institutional or other care, of a welfare, educational or penal nature. The Committee also recommends that the State party ensure adequate protection of child victims of abuses and avoid re-victimization of children who are involved in legal procedures, inter alia, by accepting videotaped testimony of children as admissible evidence in court.**

632. **Furthermore, the Committee encourages the State party to establish a toll-free child helpline service, which would give easy access to children in need of care and protection to counselling and support, and to provide it with adequate means in order to be able to give appropriate follow-up to the requests made.**

### **Corporal punishment**

633. While the Committee notes that there is legislation in place prohibiting all forms of violence against children, including corporal punishment, it expresses concern that this legislation does not seem to be interpreted as prohibiting all forms of corporal punishment and that corporal punishment is still widely accepted in society.

634. **The Committee recommends that the State party introduce - and enforce where applicable - legislation explicitly prohibiting all forms of corporal punishment of children in the home, schools and all other institutions and forms of childcare. The State party should also conduct awareness-raising and public education campaigns against corporal punishment and promote non-violent, participatory forms of discipline.**

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

### **Children with disabilities**

635. While the Committee welcomes the measures taken for disabled children, including the adoption of the Disabled Persons Act No. 202, it expresses concern about the general situation of disabled children in the country, who continue to face discrimination, and at the information that

only a small percentage of disabled children receive adequate support. Furthermore, the Committee expresses concern that there is no specific allocation of resources for the care of children with disabilities.

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

**(a) Ensure that policies and practice in relation to children with disabilities take due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities and of the Committee's recommendations adopted at its day of general discussion on "Children with disabilities" (see CRC/C/69);**

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

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

**(d) Strengthen public awareness campaigns to change negative public attitudes.**

#### **Health and standard of living**

637. The Committee is extremely concerned about the persistence of a high degree of poverty in the State party, especially in the Caribbean/Atlantic region and in rural areas, which create grievous gaps in access to health and health services between rural and urban zones and the Caribbean/Atlantic region. Serious concern is expressed at the State party's information that about 2.38 million people (out of a total of about 5.37 million) are in a condition of poverty, while 15.1 per cent of the population is in a situation of extreme poverty.

**638. Furthermore, the Committee is concerned that:**

**(a) Only about two thirds of the population have access to clean drinking water and that there is a huge discrepancy between the rates of urban and rural population having access to clean drinking water;**

**(b) One out of every three children suffers some degree of chronic malnutrition and that about 10 per cent of them are said to suffer from severe malnutrition;**

**(c) While the Committee notes the progress made in the reduction of infant and child mortality, including the National Plan for the Reduction of Maternal, Perinatal and Infant Mortality of March 2000, it continues to be concerned at the level of infant and child mortality as well as at the high rate of maternal mortality.**

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

(a) **Take all possible actions to reduce poverty and equalize living conditions throughout the country, and ensure access to basic goods and services, such as clean drinking water, especially in remote and rural areas;**

(b) **Ensure basic health care and services to all children throughout the country and urgently address the problem of malnutrition, with special emphasis on rural and remote areas;**

(c) **Strengthen its efforts to urgently tackle the grievous issue of infant, child and maternal mortality throughout the country.**

#### **HIV/AIDS**

640. While the Committee welcomes the enactment of Act No. 238 on the Protection and Defence of Human Rights in the presence of AIDS, as well as the Strategic National Plan against STDs and HIV/AIDS and it is concerned that antiretroviral treatment is not yet guaranteed to the newborn from seropositive mothers and that post-natal care is not provided to the seropositive mother. Furthermore, the Committee is concerned that the presence of HIV/AIDS is particularly high in frontier and harbour zones and that the potential of its spread represents a high, latent risk, despite the fact that official data show a low number of cases.

641. **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 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37);**

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

(c) **Guarantee antiretroviral treatment to newborns from HIV/AIDS seropositive mothers as well as post-natal monitoring of seropositive women;**

(d) **Pay particular attention to children infected by HIV/AIDS or who have become orphans due to the death of HIV/AIDS parents, through providing adequate medical, psychological and material support and by involving the community;**

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

(f) **Ensure the provision of adequate financial and human resources for the effective implementation of the Strategic National Plan against STDs and HIV/AIDS;**

**(g) Seek further technical assistance from, inter alia, the United Nations Joint Programme on HIV/AIDS (UNAIDS) and UNICEF.**

### **Adolescent health**

642. The Committee is concerned at the high rate of teenage pregnancies and at the lack of adequate sexual and reproductive health services. In this regard, the Committee is also concerned at the information that the authorities reportedly prohibited in 2003 the publication of a manual elaborated by experts on sexual education and reproductive health ("Manual for life").

**643. In the light of the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention (CRC/GC/2003/4), the Committee recommends that the State party ensure access to reproductive health services to all adolescents and immediately adopt a manual on sexual education and reproductive health which would take into account the above-mentioned general comment of the Committee.**

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

644. The Committee is concerned about:

(a) The still low literacy rate (76.7 per cent of adult and 86.2 per cent of children in 2002);

(b) Socio-economic and regional disparities - e.g. between urban and rural areas and between the Central/Pacific and Caribbean/Atlantic regions - in the access and enjoyment of the right to education, including lack of facilities in isolated and remote areas;

(c) The lack of adequate training of teachers, teachers' low salaries, which may lead to loss of motivation, high turnover rates, migration abroad and little interest in professional development.

645. Furthermore, the Committee expresses concern at lack of adequate resources for education and at the information that annually, an average of more than 850,000 children between 3 and 16 years of age remain outside the school system, and that only a small part of enrolled children complete the six years of primary schooling.

646. **The Committee encourages the State party to:**

**(a) Increase the efforts to eliminate any discrepancy in access to education between urban and rural areas and between the Central/Pacific and Caribbean/Atlantic regions;**

**(b) Emphasize the quality of education and devote more resources to education in the national budget;**

**(c) Strengthen measures aimed at increasing enrolment and completion rates and reducing dropout rates in pre-primary, primary and secondary education;**

- (d) Consider expanding the years of compulsory education with a view to eliminating the existing gap between the legal age for access to work and for compulsory education;**
- (e) Expand public provision of early childhood education and raise awareness amongst parents about the value of early childhood education;**
- (f) Strengthen efforts at teacher training, address the issue of teachers' salaries and expand recruitment of qualified ones;**
- (g) Include human rights education as part of the curriculum;**
- (h) Provide more demand-driven technical and vocational training and organize vocational counselling for children;**
- (i) Provide opportunities for children outside schools and working children so that they can get as much education as possible by specific programmes tailored to their life conditions;**
- (j) Ensure the provision of adequate financial and human resources for the effective implementation of the educational programmes and expand scholarship and other programmes of assistance to students;**
- (k) Seek technical assistance from the United Nations Educational, Scientific and Cultural Organization (UNESCO) and UNICEF.**

647. Furthermore, the Committee expresses concern at the information that the majority of public schools require students to pay a "voluntary quota" for their inscription fee, which, added to the expenses incumbent on families for clothing, food, school supplies and transportation, makes education of children for poor families virtually impossible.

648. **In the light of article 28 of the Convention, the Committee recommends that the State party ensure primary education for all children free of cost - including payment of a "voluntary quota" and/or school books or other school material - and provide support to families with financial problems for an adequate educational development of their children.**

## **8. Special protection measures**

### **Children of migrant families**

649. The Committee is concerned at the high number of families migrating abroad and at the possible negative consequences resulting from this phenomenon on the full enjoyment by children of their rights.

650. **The Committee recommends that the State party carry out a comprehensive study on the situation of children of migrant families with the aim of developing adequate strategies to ensure their protection and the full enjoyment of their rights.**

**Economic exploitation, including child labour**

651. The Committee expresses concern at the information that child labour has increased consistently in the last years owing to, inter alia, migration from the countryside and intensification of poverty.

652. The Committee further notes that domestic legislation does not seem to contain provisions punishing the sale and trafficking of children for the purpose of economic exploitation.

653. **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;**

(b) **Secure the prohibition of the sale and trafficking of children for the purpose of economic exploitation;**

(c) **Ensure the implementation of legislation fully covering article 32 of the Convention, and ILO Conventions No. 138 (1973) and No. 182 (1999);**

(d) **Ensure the implementation of the National Strategy Plan for the Prevention and Eradication of Child Labour and Protection of Young Workers (2001-2005);**

(e) **Undertake awareness-raising campaigns to prevent and combat the economic exploitation of children;**

(f) **Seek technical assistance from the International Programme on the Elimination of Child Labour (IPEC/ILO) and UNICEF, among others.**

654. The Committee is also concerned that the National Commission for the Eradication of Child Labour and the Protection of Young Workers (CNEPTI), which is the coordinating body between the Government, the NGOs and the organizations of employers and workers, lack the necessary financial resources for carrying out its monitoring activities for the eradication of child labour.

655. **The Committee recommends that the State party take all feasible measures - including by providing CNEPTI with the necessary financial and human resources - in order to enable it to carry out its important functions.**

**Street children**

656. The Committee is concerned at the growing number of street children living in the State party, especially in Managua, as well as at the increasing emergence of street youth gangs (*pandillas*) in the country, of which over 100 are believed to operate in the capital.

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

(a) **Carry out a comprehensive study to assess the scope, nature and causes of the presence of street children and youth gangs (*pandillas*) in the country in order to develop a comprehensive policy for their prevention and reduction;**

(b) **Provide street children with recovery and social reintegration services and provide them with adequate nutrition, housing, necessary health care and educational opportunities; and**

(c) **Seek assistance from, inter alia, UNICEF.**

#### **Substance abuse**

658. The Committee is concerned at the endemic abuse of substances among street children and members of youth gangs (*pandillas*).

659. **The Committee recommends that the State party establish programmes to prevent and combat substance abuse by street children and members of youth gangs (*pandillas*), including the provision of psychosocial assistance for addicts. The Committee also recommends that the State party seek technical cooperation from, among others, the World Health Organization (WHO) and UNICEF.**

#### **Sexual exploitation and trafficking**

660. While welcoming the measures taken by the State party to combat and raise awareness about the problem of sexual exploitation and trafficking in persons, the Committee is concerned at the information that a consistent number of children are victims of sexual violence, pornography, paid sexual activity and sexual tourism in Nicaragua and that sexual abuse and exploitation in its various forms, including trafficking, pornography and sexual tourism, have not been classified yet as crimes in the Penal Code.

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

(a) **Rapidly adopt the proposed new Nicaraguan Penal Code, which classifies sexual exploitation as a crime in its various forms;**

(b) **Undertake a study on 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;**

(c) **Approve and implement 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, respectively, at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;**

**(d) 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;**

**(e) Seek technical assistance from among others, UNICEF and the International Labour Organization (ILO).**

**662. The State party is also encouraged to become a party to the Inter-American Convention on International Traffic in Minors and to the Inter-American Convention on the Return of Children. Furthermore, the State party is encouraged to consider becoming a party to the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

### **Administration of juvenile justice**

663. While the Committee notes some progress in the juvenile justice system in the country, including the creation of a number of juvenile criminal courts in the main departmental capitals, it is concerned at the insufficient human and financial resources that are devoted to a proper administration of juvenile justice, including the appropriate implementation of the Code on Children and Adolescents. It is also concerned at the remaining gaps in issues of defence, prosecution and the definition and implementation of measures or sanctions alternative to deprivation of liberty for persons below 18. Furthermore, it is also concerned about:

**(a) The fact that no special places for deprivation of liberty exist for persons below 18 in conflict with the law;**

**(b) The poor conditions of detention - especially in police detention centres - including inappropriate cell space and lack of sufficient light and ventilation, inadequate hygienic standards and overcrowding.**

**664. The Committee reiterates its previous recommendation that the State party bring the system of juvenile justice fully in line with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System; and the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238). In this regard, the Committee recommends that the State party in particular:**

**(a) Allocate sufficient resources and increase the efforts in order to adequately implement the Code on Children and Adolescents in all departments, including by creating juvenile courts throughout the country;**

**(b) Take all necessary measures to establish separate detention facilities for persons below 18, in accordance with articles 111 and 214 of the Code on Children and Adolescents and with article 37 (c) of the Convention;**

**(c) Ensure that deprivation of liberty is used only as a measure of last resort and improve the conditions of detention of persons below 18 - especially in police detention centres - notably by complying with the international standards as to surface area, ventilation, fresh air, natural and artificial light, proper food, drinking water and hygienic conditions;**

**(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 reception 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) Provide training for penitentiary staff on children's rights and special needs;**

**(g) Request technical assistance in the area of juvenile justice and police training from, inter alia, OHCHR and UNICEF.**

#### **Children belonging to indigenous groups**

665. The Committee notes with concern that, despite constitutional recognition of indigenous customary rights, indigenous communities still suffer from institutional neglect, historic abandonment and indiscriminate pillaging of natural resources, especially in the Caribbean region.

**666. The Committee recommends that the State party pursue measures to effectively address the gap in life opportunities of indigenous children, and take adequate measures in order to provide protection for the rights of indigenous children as protected in the Constitution, taking due account of the recommendations adopted by the Committee at its day of general discussion on the rights of indigenous children in September 2003.**

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

#### **Follow-up**

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

#### **Dissemination**

**668. The Committee further recommends that the third periodic 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)**

**through the Internet, to the public at large, civil society organizations, youth groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.**

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

669. **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. The Committee appreciates the State party's performance in this regard and invites the State party to submit its fourth periodic report, which should not exceed 120 pages (see CRC/C/148), by 3 November 2007, as foreseen by the Convention.**

#### **Concluding observations: Costa Rica**

670. The Committee considered the third periodic report of Costa Rica (CRC/C/125/Add.4), at its 1044th and 1045th meetings (see CRC/C/SR.1044 and 1045), held on 30 May 2005, and adopted at the 1052nd meeting, held on 3 June 2005, the following concluding observations.

##### **A. Introduction**

671. The Committee welcomes the submission of the State party's third periodic report and notes with appreciation the analytical and self-critical nature of the report. The Committee also welcomes the written replies to its list of issues (CRC/C/Q/CRI/3), which give updated and detailed statistical information on the situation of children in the State party, and appreciates the very constructive dialogue it had with a high-level delegation which contributed to a better understanding of the implementation of the Convention by the State party.

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

672. The Committee welcomes the measures taken by the State party to ensure compatibility between the Convention and domestic law through the enactment of a set of laws, such as Law No. 8101 on responsible paternity (2001) and Law No. 8111 on immunization coverage (2001), and amendments of existing legislation, such as the revision of article 174 of the Penal Code which punishes the distribution of pornographic or erotic material in which minors or images of minors appear. The Committee also welcomes the entry into force of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

673. The Committee notes with appreciation the ratification by the State party of the Worst Forms of Child Labour Convention 1999 (No. 182), following the Committee's recommendation (CRC/C/15/Add.117, para. 26) at its twenty-third session. The Committee also welcomes the ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 24 February 2003.

674. The Committee welcomes the launch of the National Agenda for Children and Adolescents 2000 to 2010 initiated by the National Council on Children and Adolescents, in consultation with non-governmental organizations, as well as the establishment of various special permanent commissions focusing, inter alia, on the elimination of child labour and sexual exploitation, the prevention of child mistreatment, the protection of early childhood and the promotion of responsible paternity.

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

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

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

675. The Committee appreciates the State party's efforts to follow up on the concerns and recommendations formulated in its previous concluding observations (CRC/C/15/Add.117) upon consideration of the State party's second periodic report (CRC/C/65/Add.7), in particular with respect to basic health and welfare and sexual exploitation, but it regrets that some of the concerns and recommendations it made have been insufficiently addressed, for example with regard to child abuse and neglect, child labour, sexual exploitation and street children.

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

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

677. In the light of its recommendation (CRC/C/15/Add.117, para. 10), the Committee takes note of the effort made by the State party to establish Children and Adolescents Protection Boards (Juntas de protección) as decentralized institutions to guarantee the implementation of the Childhood and Adolescence Code. The Committee regrets however that the mandate of the Protection Boards and the Tutelary Committees has not yet been clearly regulated, as well as the fact that insufficient allocation of financial resources have hampered the Committee in the effective implementation of their mandate.

**678. The Committee reiterates its recommendation that the State party should take all necessary measures to strengthen the effectiveness of the Protection Boards and the Tutelary Committees and provide them, as well as the National Children's Trust (PANI), with adequate financial resources to enable them to fully carry out their mandate, and to strengthen its efforts to establish all Protection Boards and Tutelary Committees in all cantons and districts respectively.**

##### **Coordination and monitoring**

679. While recognizing the efforts made by the State party to establish a comprehensive protection system, the Committee is concerned that it is not fully functioning in accordance with its mandate under the Childhood and Adolescence Code, as neither the provisions relating to the Protection Boards nor to the Tutelary Committees have been regulated in such a way as to enable

those bodies to discharge their responsibilities with sufficient flexibility. The Committee takes note of the submission by PANI, and other institutions belonging to the National Council on Children and Adolescents of periodic reports to the Office of the Ombudsman (*Defensoría de los habitantes*). It is however concerned at the need for strengthened coordination among the various entities dealing with issues relating to children at the national and local levels.

**680. The Committee recommends that the State party take effective measures to ensure a clearly regulated and strengthened coordination among all entities dealing with issues relating to children both at the national and local levels. Furthermore, the Committee recommends the reinforcement of Protection Boards and Tutelary Committees, in order to guarantee an articulated and efficient functioning of all actors involved in the implementation of the Convention.**

#### **Allocation of resources**

681. While taking note of the financial difficulties which the State party is encountering, including a vulnerable economy and significant immigration, the Committee is concerned at the high rate of children and adolescents living below the poverty level. It is further concerned at the lack of resources allocated to PANI and the various institutions dealing with issues relating to the protection and promotion of children's rights at the national and local levels.

**682. The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by: (a) prioritizing budgetary allocation to ensure implementation of the economic, social and cultural rights of children to the "maximum extent of the State party's available resources"; and (b) identifying the amount and proportion of the State budget spent on children in the public sector and for non-profit organizations in order to evaluate the impact and effect of the expenditures and also, in view of the costs, the accessibility, and the quality and effectiveness of the services for children in the various sectors. The Committee further recommends that particular attention be given to children belonging to vulnerable groups, i.e. indigenous populations, migrants, and those living in rural areas, and that funding be identified for programmes aiming at alleviating their disadvantage.**

#### **Data collection system**

683. While noting with appreciation that, as a follow-up to its recommendation (CRC/C/15/Add.117, para. 12) concerning the need to develop a data collection system on children's rights, the State party has developed an Information system for Child and Adolescent Rights (*Sistema de información estadística de derechos de la niñez y adolescencia*), and welcoming the information provided by the State party in its written reply to the List of issues, the Committee remains concerned about the lack of disaggregated data on all areas covered by the Convention.

**684. The Committee recommends that the State party strengthen its efforts towards duly processing and regrouping the relevant data available in the various institutions dealing with issues relating to children, which should be used as indicators for monitoring the situation of children and adolescents in the country, and that this data be integrated into the national data collection system in order to inform decision-making at the policy level.**

**In particular, the Committee recommends that the State party produce data with respect to vulnerable groups, i.e. indigenous populations, migrants, refugees, and those living in rural areas, broken down by nationality, gender and age.**

### **Dissemination of the Convention**

685. The Committee notes with appreciation the efforts made by the State party to train personnel working with the various institutions belonging to the National Council on Children and Adolescents on the provisions of the Convention, as well as law enforcement personnel and academics.

**686. The Committee recommends that the State party continue its efforts to undertake training programmes and that they be extended to all personnel working with children, such as civil servants, health professionals, social workers, the police and penitentiary personnel, in order to strengthen the rights-based approach to their work. The Committee further recommends that the State party seek the technical cooperation of the United Nations Children's Fund (UNICEF) in this respect.**

## **2. General principles**

### **Non-discrimination**

687. The Committee welcomes the elaboration of the first National Development Plan for Costa Rica's Indigenous People, the translation into indigenous languages of the Childhood and Adolescence Code, the Law against Domestic Violence and the Law on Responsible Paternity, as well as the incorporation of the rights of indigenous people into the National Plan for Children and Adolescents. The Committee is concerned however at the limited access of indigenous children, migrant children and those living in rural areas, to basic education and health services, and at their low standard of living. The Committee also regrets the absence of information in the State party's report on the implementation of its previous recommendation regarding the protection of children of migrant families in irregular situations against discrimination. While welcoming the revocation by resolution No. 008857-99 of articles 6 and 7 of Executive Decree (Decreto ejecutivo) No. 21989-MEP-MTSS, the Committee is concerned at information received whereby migrant children are still neither eligible for scholarships, nor entitled to take part in students' councils.

**688. The Committee encourages the State party to continue to pay due attention to the needs of indigenous people by taking appropriate measures to address the high rate of infant mortality among the indigenous communities, and to substantially increase their level of education and standard of living, and endorses the recommendation of the Committee on the Elimination of Racial Discrimination in that regard (CERD/C/60/CO/3, para. 11). The Committee further recommends that the State party provide information on the number of migrant children who benefited from scholarships since the adoption of resolution No. 008857-99. In addition, the Committee recommends that the State party take steps to disseminate the contents of the resolution to the public at large. The Committee also recommends that the State party take appropriate measures to ensure the right of migrant children to take part in students' councils. The State party should provide**

**information in its next periodic report on the action taken to protect children of migrant families in irregular situations against discrimination as recommended by the Committee in its previous concluding observations.**

689. **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 Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and taking account of the Committee's general comment No. 1 (2001) on the aims of education.**

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

690. The Committee notes with appreciation the State party's many and various efforts to implement and promote the child's rights to express his/her views and to participate in decision-making processes and other activities regarding his/her position. But it also notes the State party's concern that cultural problems are a factor which impedes the implementation of these rights in the family.

691. **The Committee recommends that the State party undertake further and targeted measures to promote the child's rights to express his/her views freely within the family context and in institutions such as shelters and other institutions for children. The Committee further recommends that the State party ensure that the child's view is taken into account in any proceedings dealing with child issues. The Committee further recommends that the media take into account the views of the child. Finally, the Committee recommends that the State party take the necessary steps to promote awareness among children and adolescents of their participatory rights in the family, at school, within other institutions and in society in general through educational programmes on the implementation of these principles, and strengthen their opportunity to participate.**

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

### **Freedom of association**

692. The Committee is concerned at the contradiction between the information provided by the Ministry of Education in the State party's report whereby students have the right to freedom of association, including the right to participate in students political parties, and article 18 of the Childhood and Adolescence Code which establishes that persons below the age of 18 have the right to freedom of association, except for political or lucrative activities.

693. **The Committee recommends that the State party take appropriate measures to ensure the coherence of its legislation with regard to the right of persons below the age of 18 to be involved in political activities.**

### **Freedom of religion**

694. While recognizing the State party's acceptance of freedom of religion, the Committee is concerned at the fact that classes on Catholicism are part of the curriculum, which is discriminatory for non-Catholic children.

**695. The Committee recommends that the State party devise a curriculum that will ensure that the child's freedom of religion can be fully realized in the educational system without any discrimination.**

#### **Access to information**

696. The Committee notes the media involvement in the dissemination of information on the Convention inter alia via a weekly educational programme. But it is concerned at the incidence of sensationalized coverage of problems children may encounter or cause. The Committee is also concerned at the lack of information regarding the legal and other provisions which protect children from harmful information.

**697. The Committee recommends the State party to call on the media to promote and strengthen its role in the dissemination of information on the Convention, address the incidence of sensationalist news regarding children, for example by duly regulating the activities of mass media and the Internet with a view to preventing the dissemination of harmful information and by promoting the training of professionals working for mass media on the adequate treatment of child issues, in conformity with the provisions of the Convention and on the guidelines on reporting on children adopted by the International Federation of Journalists.**

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

698. While taking note that a bill prohibiting and penalizing torture is being examined by the Legislative Assembly, the Committee is concerned at the fact that the use of torture, in particular on children, is still not formally prohibited and criminalized in the Penal Code.

**699. The Committee reiterates its recommendation that the State party take all necessary measures to ensure the prohibition and penalization of torture in its legislation.**

#### **Corporal punishment**

700. The Committee welcomes the efforts made by the State party to sensitize the different actors involved on the need to eradicate corporal punishment in the family, in school and in other institutions, and the fact that the Legislative Assembly is examining a bill prohibiting corporal punishment. The Committee remains however concerned at the fact that corporal punishment is still not explicitly prohibited in domestic law, as recommended by the Committee in its previous concluding observations, and still perceived as "sometimes necessary" by a large portion of the population (CRC/C/15/Add.117, para. 17).

**701. The Committee reiterates its recommendation that the State party should incorporate the prohibition of corporal punishment in its legislation and continue to take appropriate measures to raise the awareness of the general public on the negative consequences of corporal punishment and other forms of violence in the upbringing of children, and to sensitize parents, teachers and others working with and for children about the alternative, non-violent means of discipline in the light of article 28 (2) of the Convention.**

#### 4. Family environment and alternative care

##### Children deprived of family environment

702. The Committee recognizes the continuum of alternative care services available from PANI for children deprived of a family environment. It is however concerned at the considerable duration of interim placement, which in some cases may last over three years, before the matter is brought before a judge for a decision on the final placement of these children.

**703. The Committee recommends that interim placement is done for the shortest period of time and regularly reviewed in accordance with article 25 of the Convention. The Committee further recommends that the matter be brought before a judge at the initial phase of the separation of the child from his or her parents.**

##### Adoption

704. The Committee welcomes the proposed amendment of the Adoption Act as a follow-up to its previous recommendation (CRC/C/15/Add.117, para. 19) to review its legislation in order to bring it into full compliance with article 21 of the Convention and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. But it remains concerned that this bill is still pending with the Legislative Assembly and that the practice of private or direct adoption which results in cases of trafficking is still not effectively prohibited.

**705. The Committee recommends to the State party that it take all effective measures to expedite the adoption of the above-mentioned amendments, implement the recommendations made by the Office of the Ombudsman (2001-2002) following the investigation undertaken on the process of adoption both at the national and international level, in order to put an end to the practice of private/direct adoptions, and ensure that they fully comply with article 21 of the Convention and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, in particular by providing the Council on Adoption and the national commission on adoption with the resources necessary for the effective performance of their mandates.**

##### Abuse and neglect

706. With reference to its previous recommendation (CRC/C/15/Add.117, para. 20) concerning the prevention of abuse and ill-treatment of children, the Committee notes the effort made by the State party to address the problems of child abuse and neglect, inter alia by promoting the reporting of alleged cases of child abuse, the waiver of civil/criminal responsibility in case of reporting in good faith, the establishment of a protocol for dealing with cases of child abuse and the functioning of the helpline 911. But the Committee is concerned that the provision of services to child victims is to a large degree left to non-governmental organizations and that a comprehensive prevention policy has not been developed.

**707. The Committee recommends the State party to strengthen its efforts to combat child abuse and neglect in particular by actively supporting helplines such as 911 and *Línea cuenta conmigo*, increase its support to non-governmental organizations and implement**

**programmes under PANI's responsibility to ensure that child victims do receive the necessary protection, counselling and other support. The Committee also recommends the review of existing legislation in order to ensure that legal procedures dealing with cases of child abuse are child sensitive, do respect the child's privacy and prevent revictimization of the child, inter alia, by accepting videotaped testimony of the child victim as admissible evidence. The Committee further recommends the State party to develop and implement a comprehensive policy for the prevention of child abuse and neglect. Finally, the Committee recommends that the State party provide information in its next periodic report on the number of cases of abuse concerning children with disabilities both in the family and in institutions which have been brought to courts.**

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

### **Children with disabilities**

708. The Committee notes the steps taken by the State party to strengthen the access to health services and information for children with disabilities, and train professionals working in public health institutions on the rights of disabled children, as well as the efforts to include children with disabilities in regular school, the prenatal and post-natal screening programmes. The Committee remains concerned, however, at the limited coverage of this progress to the economically disadvantaged and rural populations.

**709. The Committee recommends that the State party continue to expand programmes for children with disabilities including the prenatal and post-natal screening programmes, and ensure their access, inter alia through mobile clinics, to economically disadvantaged people in rural areas. The Committee further recommends that the State party strengthen its policy to integrate children in regular schools.**

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

710. The Committee welcomes the efforts made by the State party to combat infant mortality and strengthen the immunization coverage at the country level, as well as the progress made by the State party with respect to basic health-care coverage. It remains concerned however at the regional inequality in access to health services, in particular for adolescents.

**711. The Committee recommends that the State party continue to take all appropriate measures to ensure access to basic health care for all children and adolescents at the country level, and that priority be given to regions and communities with the lowest coverage rates. The Committee further recommends that the State party seek the technical cooperation of UNICEF in this respect.**

### **Adolescent health**

712. The Committee notes with appreciation the measures taken by the State party to implement its recommendation to develop adolescent-sensitive health policies and strengthen reproductive health education and services in order, inter alia, to prevent and reduce teenage pregnancies, and to enhance the prevention of substance abuse among adolescents. The Committee is concerned however that the number of teenage pregnancies remains significantly high.

713. **The Committee recommends that the State party continue to strengthen reproductive health education in secondary schools such as “Young Love” to prevent teenage pregnancies. The Committee also recommends that professional and administrative staff be adequately trained in order to improve their interactions with teenage mothers.**

## 6. Education, leisure and cultural activities

714. The Committee takes note of the efforts made by the State party to increase the level of school infrastructure at the country level, and ensure that all children, including refugee children, have access to education. The Committee also notes with great appreciation that 90 per cent of children attend preschool. The Committee welcomes the variety of measures by which children are relieved from additional costs of school attendance. The Committee takes note of new projects which provide opportunities of education for children who have left school before completion. Although courses and institutions for technical and vocational training were expanded, the Committee regrets that not more children between the ages of 15 and 18 receive vocational training in order to facilitate their transition to qualified labour, and the low completion rate of secondary school, in particular in rural areas, especially of deprived children and indigenous children, as well as the lack of school infrastructure in remote areas of the country.

715. **The Committee recommends that the State party continue to take effective measures to increase enrolment in primary and secondary school, reduce the high rate of drop-out students and repeaters, in particular in rural areas, and find ways to address the lack of school infrastructure in these areas, inter alia by finding alternative educational methods, e.g. vocational and apprenticeship programmes, which would take the specific needs of these populations into consideration. The State party should focus on the improvement of secondary education.**

## 7. Special protection measures

### Economic exploitation

716. The Committee welcomes the ratification by the State party of International Labour Organization Worst Forms of Child Labour Convention, 1999 (No. 182); the measures taken by the State party to prohibit the economic exploitation of children; as well as the various projects implemented with the technical and financial assistance of the International Labour Organization/International Programme on the Elimination of Child Labour to eliminate child labour. The Committee also welcomes the State party's efforts to prohibit hazardous work for persons below the age of 18. The Committee remains concerned however at the large number of working children between the ages of 5 and 17 who work in the “informal” labour market and have consequently been excluded from the educational system, in particular in rural areas.

717. **The Committee recommends that the State party continue to take effective measures, with the technical and financial assistance of International Labour Organization/International Programme on the Elimination of Child Labour, to eliminate prohibited child labour, in particular in rural areas where the phenomenon is more prevalent, inter alia by designing special programmes aiming at combating child labour.**

### **Sexual exploitation and abuse**

718. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as the measures taken by the State party to prevent and combat sexual abuse and exploitation of children. The Committee further welcomes the inclusive participation of non-governmental organizations in this process and the development of a National Plan against Sexual Exploitation of Children and Adolescents (2001). The Committee also welcomes the direct initiatives in cooperation with hotels and the travel industry to combat sex tourism. However, the Committee remains concerned at the low level of coordination among institutions, the lack of assistance available for victims of sexual exploitation, as well as information received by the Committee whereby the number of children victims of sexual exploitation might be increasing, in particular among street children.

**719. The Committee endorses the recommendations of the International Labour Organization/International Programme on the Elimination of Child Labour Assessment on the commercial sexual exploitation of minors of April 2002 whereby the State party should promote and develop universal policies that directly address the social, economic and ideological factors which render the under-18 population so vulnerable to sexual exploitation and foster the conditions for commission of this crime; promote and develop intersectoral programmes and institutions aimed at early prevention and at assisting young girls and adolescents at risk of sexual exploitation, or who are already its victims; promote and develop programmes of comprehensive assistance to victims; reform the legislation with a view to bringing penal standards into line with the Convention on the Rights of the Child and the Worst Forms of Child Labour Convention, 1999 (No. 182), as well as the allocation of a larger budget dedicated specifically to battling sexual exploitation. In developing these programmes, the Committee recommends the participation on a voluntary basis of adolescents who were themselves victims of commercial sexual exploitation. The Committee further recommends that the State party seek the technical cooperation of UNICEF in this respect. The Committee further recommends that the State party take appropriate measures to strengthen the role of PANI and the Ministry of Labour including through allocation of resources in combating child labour, in particular in the “informal” market. Finally, the Committee recommends that the State party provide information in its next periodic report about the measures taken to protect child domestic workers.**

### **Street children**

720. The Committee regrets the lack of information on street children in the State party's report, while the occurrence of children living in the street appears to be widespread. The concern is accentuated by the fact that, as indicated by the State party, a high number of street children are addicted to drugs and are victims of sexual exploitation.

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

(a) **Carry out an investigation for action to assess the scope and the causes of the phenomenon and consider establishing a comprehensive strategy to address the high number of street children, paying particular attention to the most vulnerable groups, with the aim of preventing and reducing this phenomenon in the best interest of these children and with their participation;**

(b) **Provide street children with recovery and reintegration services and when necessary with adequate nutrition, housing, necessary health care and educational opportunities;**

(c) **Seek assistance from, inter alia, UNICEF.**

#### **Substance abuse**

722. While noting the provision of the Juvenile Justice Law allowing the rehabilitation of convicted children and/or adolescents suffering from drug addiction as an alternative to imprisonment, the Committee is concerned at the scarcity of treatment centres for drug addiction which also limits the possibility of placing children in conflict with the law.

723. **The Committee recommends that the State party continue with the development of voluntary drug rehabilitation programmes. The Committee further recommends that the State party take administrative, social and educational measures to protect children from substance abuse and prevent the use of children in the illicit production and trafficking of such substances.**

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

724. While welcoming the measures taken by the State party to find alternatives to the imprisonment of children and adolescents, the Committee remains concerned at the insufficient number of judges specialized in the rights of the child. The Committee is further concerned at allegations of ill-treatment of children during detention and regrets in this respect the absence of information on provision of adequate training and control of the police and prison personnel, as recommended by the Committee in its previous concluding observations.

725. **The Committee recommends the State party in particular to:**

(a) **Ensure systematic training for all personnel working in the juvenile justice system;**

(b) **Continue to take all necessary measures to ensure that persons below the age of 18 benefit from alternatives to detention and, when needed, are only deprived of liberty as a last resort and for the shortest appropriate period of time;**

(c) **Ensure that persons below 18 when in custody are in any case separated from adults and those waiting for sentences are separated from those sentenced to deprivation of liberty;**

(d) **Take urgent measures to efficiently ensure the prevention of ill-treatment of persons below the age 18 in detention, in police centres and other detention places;**

- (e) Ensure the periodic review of deprivation of liberty;**
- (f) Strengthen the system of alternative measures to imprisonment through capacity-building and financial resources;**
- (g) Seek technical assistance from the UNICEF and Office of the United Nations High Commissioner for Human Rights, among others.**

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

726. With respect to indigenous communities, the Committee takes note of the State party's efforts to increase the number of schools providing bilingual education. It is however concerned at the insufficient number of indigenous teachers and schools, and at the fact that education does not fully take into account indigenous culture.

727. **The Committee recommends that the State party continue to increase the number of indigenous schools and adequately trained indigenous teachers, and ensure the right of indigenous children to learn to read and write in their own language through methods adapted to their own culture. The Committee recommends that the State party provide relevant information to indigenous children and their communities on, inter alia, birth registration procedures, reproductive health, HIV/AIDS, child abuse and neglect, child labour and sexual exploitation in order to raise awareness of their rights. The Committee further recommends that the State party strengthen mechanisms for the collection of data on children so as to identify existing gaps and barriers to the enjoyment of human rights by indigenous children, and with a view to developing legislation, policies and programmes to address such gaps and barriers.**

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

#### **Follow-up**

728. **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 parliament, when applicable, for appropriate consideration and further action.**

#### **Dissemination**

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

## 9. Next report

730. **The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. The Committee appreciates the State party's performance in this regard and it invites the State party to submit its next periodic report (fourth) by 19 September 2007. Such a report should not exceed 120 pages (see CRC/C/148). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.**

### **Concluding observations: Yemen**

731. The Committee considered the third periodic report of Yemen (CRC/129/Add.2) at its 1048th and 1049th meetings (see CRC/C/SR.1048 and 1049), held on 1 June 2005, and adopted at the 1052nd meeting (CRC/C/SR.1052), held on 3 June 2005, the following concluding observations.

#### **A. Introduction**

732. The Committee welcomes the State party's timely submission of the third periodic report, which is generally in compliance with the Committee's guidelines. The Committee also notes with appreciation the replies by the State party to the list of issues (CRC/C/Q/YEM/3).

733. The Committee notes with appreciation the presence of a high-level and cross-sectoral delegation, which contributed to an open dialogue and a better understanding of the process of implementation of the Convention in the State party.

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

734. The Committee welcomes the adoption of the Rights of the Child Act No. 45 of 2002, which seriously attempts to cover the provisions of the Convention.

735. The Committee notes with appreciation the establishment of the Fund for the Welfare and Rehabilitation of Disabled Persons Act No. 2 of 2002.

736. The Committee welcomes the Council of Ministers Decree No. 18 of 2002 concerning regulations to promote and protect breastfeeding.

737. The Committee notes with appreciation the promulgation of Ministerial Decree No. 167 establishing specialist teams to produce curricula for pre-school (kindergarten) education that incorporate various principles relating to children's rights.

738. The Committee notes with appreciation Republican Decree No. 38 of 2000 concerning the Implementing Regulations of the Juveniles Act.

739. The Committee welcomes the establishment of the Ministry of Human Rights, pursuant to Decree No. 105 of 2003.

740. The Committee welcomes the ratifications of the following international human rights instruments:

(a) The Optional Protocol to the Conventions on the Rights of the Child on the sale of children, child prostitution and child pornography, in December 2004; and

(b) ILO Convention No. 138 (1973) concerning minimum age for admission to employment and ILO Convention No. 182 (1999) concerning the prohibition and immediate action for the elimination of the worst forms of child labour, in 2000.

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

741. The Committee recognizes that the State party continues to face serious economic challenges, as well as the harsh geographic conditions and the scarcity of natural resources, all of which serve to seriously impede the full implementation of the Convention.

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

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

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

742. While welcoming the extensive information provided by the State party in its third periodic report, the Committee regrets that the report does not clearly outline the measures undertaken by the State party in order to follow up on the recommendations regarding its initial and second periodic reports (CRC/C/8/Add.20 and CRC/C/70/Add.1).

**743. The Committee reiterates its previous recommendations and urges that the State party take all necessary measures to address the recommendations in the concluding observations to the second periodic report, and to provide adequate follow-up to the recommendations contained in the present concluding observations on the third periodic report.**

#### **Legislation and implementation**

744. While welcoming the legislative measures, notably the promulgation of the Rights of the Child Act No. 45 of 2002, which has been undertaken by the State party in order to ensure the implementation of the Convention, the Committee remains nonetheless concerned that the existing legislation in the State party does not fully reflect the principles and provisions of the Convention, e.g. regarding the definition of the child, family law and the administration of juvenile justice.

**745. The Committee reiterates its recommendation to scrutinize carefully existing legislative and other measures both at the national and local levels to ensure that the provisions and principles of the Convention are implemented, through, inter alia, review of national legislation.**

## Coordination

746. The Committee notes the State party's efforts to strengthen the role of the Higher Council for Maternal and Child Welfare, which has the task of coordinating the implementation of the Convention. The Committee remains concerned that enhanced coordination is needed between the different bodies of the Government that contribute to the implementation and monitoring of the Convention through various strategies and plans.

**747. The Committee recommends that the State party continue to complete the restructuring of the Higher Council for Maternal and Child Welfare, and that its mandate provide for an effective coordination of all activities of the Government in the implementation of the Convention. It also recommends that the State party provide the Higher Council with adequate staff of high quality, particularly with respect to the implementation of the various plans and programmes for the implementation of the Convention.**

## National Plan of Action

748. The Committee takes note that the State party is developing a National Plan of Action for the period 2006-2010 and the comprehensive National Strategy for Children and Youth for the period 2006-2016 that reportedly cover all areas of the Convention, taking into account the objectives and goals of the outcome document "A world fit for children".

**749. The Committee recommends that the State party ensure that sufficient human and financial resources are allocated in time for the effective implementation of the National Plan of Action and that it promote and facilitate active involvement of children and youth, parents, NGOs and other interested and relevant bodies. It further recommends that the State party develop indicators and benchmarks for monitoring and evaluating the plan.**

## Independent monitoring structures

750. The Committee appreciates the work of the Ministry for Human Rights, inter alia in the dissemination of information on the rights of the child, including through the preparation of educational kits and in dealing with the complaints regarding violations of child rights. The Committee also welcomes the information provided by the delegation about the establishment of a Centre for Child's Rights, officially launched on 29 May 2005. However, the Committee expresses its concern at the lack of an independent body for human rights in general and children's rights in particular.

**751. The Committee recommends that the State party fully support the activities of the newly established Centre for Child's Rights within the Ministry for Human Rights, and initiate a process that can make it possible for this centre to develop into an independent body for the monitoring of the implementation of the Convention on the Rights of the Child. The Committee also recommends that the State party consider establishing an independent national human rights institution in accordance with the Paris Principles (General Assembly resolution 48/134, annex), and taking into account the Committee's general comment No. 2 (2002) on the role of national independent human rights**

**institutions, ensure that such a body is provided with adequate financial resources and personnel capable of dealing with complaints filed by children, or on behalf of children, in a child-sensitive manner. The Committee further recommends that the State party seek assistance in this regard from, inter alia, the Office of the High Commissioner for Human Rights.**

### **Resources for children**

752. The Committee notes that the information regarding budgetary allocations for various areas covered by the Convention, such as education, health care, alternative care and activities in the areas of special protection, which have increased in absolute terms. But it remains concerned that, owing to an inflation rate of about 12 per cent the net increase is very limited or absent and that in some areas budget allocations have relatively decreased.

**753. The Committee strongly recommends that the State party take all necessary measures for the realization of a net increase in budget allocations for the implementation of the Convention, where possible with the support of international financial institutions, bilateral and multilateral partners in accordance with article 4 of the Convention, and taking into account articles 2, 3 and 6 of the Convention.**

### **Data collection**

754. While taking note of the efforts made by the State party in the area of data collection, the Committee remains concerned at the lack of an adequate data-collection mechanism which allows for a systematic and comprehensive collection of disaggregated quantitative and qualitative data on all areas covered by the Convention in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies conducted with respect to children.

**755. The Committee recommends that the State party strengthen its efforts to establish a comprehensive and permanent mechanism to collect data within the national statistical system, disaggregated by gender, age, and rural and urban area incorporating all the areas covered by the Convention and covering all children below the age of 18 years, with emphasis on those who are particularly vulnerable, i.e. separated children, children with disabilities, children in conflict with the law, refugees and trafficked children. 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.**

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

756. The Committee takes note of the State party's efforts made to raise awareness of the Convention through seminars and workshops. However, the Committee is concerned at the lack of awareness of the Convention among professionals working with children, as well as in the general public, including children themselves, including in remote and rural areas.

757. **The Committee recommends that the State party strengthen its efforts to provide adequate and systematic training and sensitization on children's rights to professional groups working with and for children, such as parliamentarians, judges, lawyers, law enforcement and health personnel, teachers, school administrators and others as required, in particular in remote and rural areas. Furthermore, the Committee recommends that the State party target the public at large through, inter alia, radio and television.**

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

758. The Committee recognizes the activities of the NGOs in the area of child rights. However, the Committee is concerned that insufficient efforts have been made to involve civil society in the full implementation of the Convention, particularly in awareness-raising of the rights enshrined in the Convention, among both the public in general and during the reporting process.

759. **The Committee recommends that the State party systematically involve non-governmental organizations and other community-based groups, including children's associations, throughout all stages of the implementation of the Convention, including the formulation of the national plan of action, policies and programmes and in the preparation of the periodic reports to the Committee.**

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

760. The Committee is concerned about the legislative inconsistency concerning the definition of a child and in particular the difference between age of majority, 18 years, and age of maturity, 15. The Committee is further concerned at the minimum age for marriage for girls, 15, and that some may even get married earlier, as young as 12, due to the lack of law enforcement.

761. **The Committee recommends that the State party ensure that all persons below 18 years of age receive the same protection under the Convention. The Committee further recommends that the State party take the necessary measures to prevent marriages at a very young age and increase the legal age of marriage to an internationally acceptable level.**

### **3. General principles**

#### **Non-discrimination**

762. The Committee is deeply concerned at the persistence of discriminatory social attitudes against girls. Furthermore, the Committee is concerned at the disparities in the enjoyment of rights and at the social discrimination experienced by children belonging to the most vulnerable groups, inter alia, children who are also addressed as *Akhdam* children, children born out of wedlock, children with disabilities, street children and children living in rural areas.

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

(a) **Strengthen its efforts to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, particularly with regard to girl children, in accordance with article 2;**

**(b) Prioritize and target social services for children belonging to the most vulnerable groups, including those children referred as *Akhdam* children, children with disabilities, street children and children living in rural areas;**

**(c) Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes in this regard, particularly within the family;**

**(d) Train school teachers, media and members of the legal profession, particularly the judiciary, to be gender-sensitive; and**

**(e) Mobilize religious leaders to support such efforts.**

764. **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 (1) of the Convention (aims of education).**

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

765. The Committee notes that the principle of the best interests of the child is taken into consideration in the Rights of the Child Act, but remains concerned that the persistence of certain local customs and traditions impedes the implementation of this principle.

766. **The Committee recommends that the State party take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated in all legislation, as well as judicial and administrative decisions and in policies, programmes and services which have an impact on children. The Committee also encourages the State party to take all necessary measures to ensure that local customs and traditions do not impede the implementation of this general principle, notably through raising awareness among community leaders.**

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

767. The Committee notes that the Rights of the Child Act has fully integrated article 12 of the Convention. It also notes with appreciation that the State party has established the Children's Parliament as a new mechanism to guarantee children their right to express their views on issues concerning them. However, the Committee remains concerned that traditional attitudes towards children in society and local communities may limit respect for their views, especially within the family and schools.

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

**(a) Promote and facilitate respect for the views of children and their participation in all matters affecting them in all spheres of society, particularly at the local levels and in traditional communities, in accordance with article 12 of the Convention; and**

**(b) Provide educational information to, inter alia, parents, teachers, government administrative officials, the judiciary, traditional leaders and society at large on children's right to participate and to have their views taken into account.**

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

##### **Birth registration**

769. The Committee is still very concerned (see CRC/C/15/Add.102, para. 20) at the lack of birth registration of a significant number of children, which has negative consequences for the full enjoyment of their fundamental rights and freedoms.

**770. The Committee recommends that the State party take appropriate measures to ensure the registration of all births, in accordance with article 7 of the Convention, such as by organizing awareness-raising campaigns for birth registration, establishing civil registration mechanisms in hospitals, as well as encouraging the use of mobile registration units, particularly in remote and rural areas.**

##### **Corporal punishment**

771. The Committee is deeply concerned that corporal punishment is still used as a disciplinary measure in schools despite its official prohibition and is widely practised within the family and in other settings. The Committee is further concerned that corporal punishment, including flogging, is still lawful as a sentence for crime.

**772. The Committee recommends that the State party, as a matter of urgency:**

**(a) Review existing legislation and explicitly prohibit all forms of corporal punishment;**

**(b) Abolish by law the possibility of sentencing a child to any form of physical punishment; and**

**(c) Undertake well-targeted public-awareness campaigns on the negative impact of corporal punishment on children, and provide teachers and parents with training on non-violent forms of discipline as an alternative to corporal punishment.**

773. The Committee also reiterates its previous concluding recommendations (CRC/C/15/Add.102, paras. 21 and 34) and joins its voice to those made by the Human Rights Committee (CCPR/C/75/YEM, para. 16) and the Committee Against Torture (CAT/C/CR/31/4, para. 7).

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

774. The Committee takes note of the measures undertaken by the State party to guarantee children's access to information. However, it remains concerned about the limited access to information for children living in remote and rural areas.

**775. The Committee recommends that the State party strengthen its effort to ensure the right to information for children, especially those who live in remote and rural areas through, inter alia, mobile libraries.**

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

### **Parental responsibilities**

776. The Committee is concerned that existing laws and practice do not reflect article 18 of the Convention, according to which both parents have equal responsibility for the upbringing of their children, e.g. for children born out of wedlock, and that the best interests of the child is not a primary consideration in decisions regarding custody, guardianship and affiliation.

**777. The Committee urges that the State party expedite the amendments to the law now under consideration which, according to the information of the delegation, will bring the law in line with the provisions of the Convention. The Committee further recommends that the State party take the measures necessary for the full implementation of the amended law in practice.**

**778. The Committee further recommends that the State party undertake an in-depth and comprehensive study on the impact of polygamy with a view to finding out whether polygamy has negative consequences on the upbringing and development of the child and, if so, to develop measures to address those negative impacts.**

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

779. The Committee welcomes the care for children in need of alternative care such as *kafalah* (informal and formal), but remains concerned regarding the quality of care children receive in such orphanages, particularly those which are very large and lack proper regulations or mechanisms for the monitoring and control of child placement within these institutions.

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

**(a) Place greater emphasis on financial and other support, including relevant information for parents who face difficulties in the upbringing of their children;**

**(b) Promote small-scale alternative care in institutions and establish standard procedures for the quality of the care provided in institutions, including establishing standards and procedures for alternative care, including with regard to the domains of health, education and safety, and in accordance with the principles and provisions of the Convention; and**

**(c) Ensure that placement in institutions is periodically reviewed, in the light of article 25 of the Convention.**

## **Abuse and neglect**

781. The Committee is concerned at the high prevalence of abuse, including sexual abuse, and neglect of children within the State party, and at the lack of effective measures taken to combat this problem.

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

**(a) Assess the scope, nature and causes of child abuse and neglect with a view to adopting a comprehensive strategy and effective measures and policies;**

**(b) Develop and implement an effective system for reporting child abuse and neglect to a body/authority/centre that is well trained for handling reports of child abuse in a sensitive manner which, inter alia, fully respects the child's rights to privacy;**

**(c) Provide 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 take appropriate measures to prevent the criminalization and stigmatization of victims; and**

**(d) Seek technical assistance from, inter alia, the United Nations Children's Fund (UNICEF) and the World Health Organization (WHO).**

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

### **Children with disabilities**

783. While acknowledging the efforts made by the State party, the Committee remains concerned at the numerous problems faced by children with disabilities. It is particularly concerned at the lack of:

- (a) Accurate disaggregated statistical data on children with disabilities;
- (b) A comprehensive government policy for children with disabilities; and
- (c) Integration of children with disabilities into the regular schooling system.

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

**(a) Collect accurate disaggregated statistical data on children with disabilities;**

**(b) Establish a comprehensive policy for children with disabilities;**

**(c) Review the situation of children with disabilities, in terms of their access to employment, education, housing and health-care facilities, and allocate adequate resources to strengthen services for children with disabilities, support their families and provide training for professionals in this field;**

- (d) Formulate a strategy, one which includes appropriate teacher training, to ensure that all children with disabilities have access to education, and whenever possible they are integrated into the mainstream education system;**
- (e) Ensure accessibility to all public buildings as well as to the transport system;**
- (f) Take note 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); and**
- (g) Seek technical cooperation from, among others, UNICEF and WHO.**

### **Health and health services**

785. The Committee notes the efforts undertaken by the State party in the area of basic health and welfare, such as the immunization programme and control of diarrhoeal diseases, and the consequent improvements such as, inter alia, the decrease in the infant and under-five mortality rates. The Committee also welcomes the adoption of a Strategy for the Integrated Management of Childhood Illnesses (IMCI). However, the Committee is deeply concerned about the health situation and the fact that only 50 per cent of the population has access to health services. Particular matters of concern are:

- (a) The relatively low spending on health in the State party;
- (b) The insufficient focus on preventive health care;
- (c) The still-high infant, under-five, and maternal mortality rates, partly due to the weak antenatal and post-natal care and maternal malnutrition;
- (d) The high prevalence of malnutrition among children;
- (e) The poor provision of health care, particularly in rural areas, due to lack of necessary support structures such as education, communication, transport and other facilities; and
- (f) The high population growth rate.

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

- (a) Allocate appropriate financial and human resources to the area of health, with special attention to hiring female health workers and developing and implementing comprehensive policies and programmes to improve the health situation of children;**
- (b) Emphasize the role of preventive health care;**

- (c) **Continue to strengthen the efforts to decrease the infant, under-five, and maternal mortality rates through, inter alia, providing adequate ante- and post-natal care;**
- (d) **Improve access to health care, especially within rural areas, through coordinated and comprehensive health-care strategies with time-bound targets; and**
- (e) **Improve access to family planning involving both men and women.**

#### **Adolescent health**

787. While taking note of the efforts made by the State party, including the establishment of the National Programme to Prevent and Combat AIDS, the Committee is concerned at the lack of statistical data and the inadequate access by adolescents to reproductive and mental health-care facilities.

788. **The Committee recommends that the State party continue to strengthen its efforts to address adolescent health issues and develop a comprehensive policy to ensure reproductive and mental health counselling and services for all adolescents. The Committee also recommends that the State party pay particular attention to adolescent health, taking 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. It further recommends that the State party seek technical assistance from, among others, WHO, UNICEF and the United Nations Population Fund (UNFPA).**

#### **Harmful traditional practices**

789. While taking note of the efforts made by the State party to address the issue of female genital mutilation (FGM) and harmful traditional practices, the Committee reiterates its concern at the existence of harmful traditional practices in certain regions of the State party, including FGM, early marriages and deprivation of education.

790. **The Committee recommends that the State party, as a matter of urgency, undertake all necessary measures to eradicate harmful traditional practices, particularly those affecting the girl child, and those harmful to the physical and psychological well-being of children.**

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

791. The Committee is very concerned at the high number of children living in poverty in the State party.

792. **In accordance with article 27 of the Convention, the Committee recommends that the State party:**

- (a) **Reinforce its efforts to provide support and material assistance to economically disadvantaged families and to guarantee the right of children to an adequate standard of living;**

**(b) Pay particular attention to the rights and needs of children in the Poverty Reduction Strategy Programme and in all programmes intended to improve the standard of living in the country;**

**(c) Reform the social security system, with a view to broadening its coverage.**

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

793. The Committee welcomes the information regarding the efforts made by the State party to enhance the quality of education and improve the quality of teaching and working conditions of teachers. However, it remains deeply concerned that:

- (a) The quality of education remains still very deficient;
- (b) The level of illiteracy of women is high;
- (c) School enrolment rates remain very low;
- (d) Dropout rates are very high and secondary education enrolment rates have decreased;
- (e) Urban/remote/rural disparities remain very high;
- (f) Negative stereotypes of girls remain in school curricula; and
- (g) The qualifications of children entering the labour market are very low as a consequence of missing vocational training.

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

**(a) Ensure that primary education is free and compulsory for all children, as provided for in the Constitution and in the Rights of the Child Act;**

**(b) Ensure that adequate resource allocation is made for primary, secondary and vocational education;**

**(c) Continue its efforts to ensure that all children have equal access to educational opportunities with a view to eliminating the prevailing disparities between girls and boys as well as in urban and rural areas;**

**(d) Take the necessary measures to decrease the high rate of school dropout;**

**(e) Taking into account the Committee's general comment No. 1 (2001) on the aims of education, strengthen its efforts to include human rights education in school curricula at all levels, particularly with respect to the development of and respect for human rights, tolerance and equality of the sexes and ethnic minorities;**

(f) **Enhance the quality of education at all levels and provide better quality training for teachers; and**

(g) **Expand the system of vocational training, including children who dropped out of school before completing their education.**

## **8. Special protection measures**

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

795. The Committee notes the various measures adopted by the State party in order to address the problem of child labour, including the establishment of a child labour unit within the Ministry of Social Affairs and Labour and the appointment of a national coordinator for the International Labour Organization International Programme on the Elimination of Child Labour (IPEC). However, the Committee remains deeply concerned about:

(a) The high prevalence of child labour and the fact that the phenomenon is widely accepted in society; and

(b) The fact that many child labourers, notably children working as domestic servants, are very vulnerable to abuse, including sexual abuse, and completely lack protection.

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

(a) **Continue to strengthen its efforts to eradicate child labour, in particular by addressing the root causes of economic exploitation through poverty eradication and access to education;**

(b) **Ensure the effective implementation of the ILO Convention No. 138 (1973) concerning the minimum age for admission to employment as well as the ILO Convention No. 182 (1999), in particular by taking measures to ensure that no child under 18 is involved in hazardous work, establishing clear regulations for light work for children under 15, and ensuring proper registration of employees of all working children in line with the suggestions by the ILO Committee of Experts;**

(c) **Undertake a study to address the problems faced by children working in the informal sector, including those working as domestic servants and ensure their rights to education, health and family links; and**

(d) **Develop a comprehensive child labour monitoring system in collaboration with NGOs, community-based organizations and ILO/IPEC.**

### **Sexual exploitation**

797. The Committee is concerned that, regardless of the fact that child sexual abuse and sexual exploitation of children are reported to be problems in the State party, those issues have not been sufficiently addressed. The Committee is particularly concerned at:

- (a) The absence of statistics and data on the issue of child sexual abuse; and
- (b) Traditional attitudes regarding the subject which mean that a majority of abuse cases go unreported.

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

- (a) **Undertake a study on the prevalence of sexual abuse and exploitation;**
- (b) **Take all necessary measures to prevent and end this practice through a comprehensive strategy, notably by holding debates and launching awareness campaigns;**
- (c) **Ensure that victims of sexual abuse and exploitation have access to appropriate recovery and reintegration programmes and services;**
- (d) **Provide the Hot-Line Telephone Service for Psychological Aid with adequate human and financial resources; and**
- (e) **Seek assistance from, inter alia, WHO and UNICEF.**

#### **Substance abuse**

799. The Committee is concerned at the high number of people chewing *quat* among whom are a significant number of children.

800. **The Committee recommends that the State party consider *quat* as a dangerous substance and take all necessary measures to raise awareness on the risks of its consumption and to prohibit access to it by children.**

#### **Trafficking of children**

801. The Committee is deeply concerned at the information that many children are trafficked to Saudi Arabia, often with the support of their parents, and that quite a number of them are sent back to Yemen and end up in the streets of larger cities.

802. **The Committee urges that the State party strengthen its efforts to address this problem and pay particular attention, in close cooperation with the authorities of Saudi Arabia, inter alia, to children who are abused and exploited and undertake measures to prevent children who are sent back from ending up in the streets. The Committee also recommends that the State party undertake awareness campaigns on the risks that children are running when they are sent abroad.**

#### **Street children**

803. While welcoming the Programme for the Protection and Rehabilitation of Street Children and the construction of the Safe Childhood Centre in the capital municipality, also extended to the governorate of Aden, the Committee expresses its concern at the increasing number of street children and the vulnerability of these children to sexual abuse and exploitation and at the lack of a systematic and comprehensive strategy to address the situation and protect these children.

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

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

(b) **Promote and facilitate the reunification of street children with their parents and other relatives or alternative carers; and**

(c) **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 to provide these children with adequate protection and assistance.**

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

805. The Committee welcomes the Supreme Council Decree establishing a number of juvenile courts and centres in the State party. However, the Committee is concerned at the very low minimum age of criminal responsibility (7 years) and other shortcomings in the juvenile justice systems.

806. **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, 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) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Vienna Guidelines for Action on Children in the Criminal Justice System, and that due regard be taken of the Committee's 1995 discussion day on the administration of juvenile justice.**

807. **In this regard, the Committee recommends that the State party:**

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

(b) **Develop an effective system of alternative sentencing for persons below 18 who are in conflict with the law, such as community service and restorative justice, with the view inter alia, to ensuring that deprivation of liberty is a measure of last resort;**

(c) **Guarantee that all children have right to appropriate legal assistance and defence;**

(d) **Take necessary measures to make the deprivation of liberty as short as appropriate, inter alia by using suspended sentencing and conditional release;**

(e) **Ensure that persons below 18 in detention are separated from adults;**

- (f) Ensure that persons below 18 remain in regular contact with their families while in the juvenile justice system;**
- (g) Provide ongoing training for judges and law-enforcement officials; and**
- (h) Seek assistance from, inter alia, OHCHR, the Centre for International Crime Prevention, and UNICEF.**

#### **9. Optional Protocols to the Convention on the Rights of the Child and Amendment to article 43 (2) of the Convention**

808. The Committee notes the information provided by the delegation that the State party ratified the Optional Protocol to the Convention on the involvement of children in armed conflict in August 2004, but urges it to transmit without undue delay the instrument of ratification to the Secretary-General, including the necessary binding declaration and description of safeguards required under article 3, paragraph 2, of the Protocol.

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

##### **Follow-up**

809. 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 Parliament, when applicable, for appropriate consideration and further action.

##### **Dissemination**

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

#### **11. Next report**

811. The Committee, aware of the delay in the State party's reporting, wants to underline the importance of a reporting practice in full compliance with the rules set in article 44 of the Convention. Children have the right that the United Nations committee in charge of regularly examining the progress made in the implementation of their rights has the opportunity to do so. The Committee appreciates the State party's performance. In this regard, the Committee invites the State party to submit its fourth periodic report by 30 May 2008, which should not exceed 120 pages (see CRC/C/148).

## **C. Consideration of reports under the Convention's Optional Protocol on the sale of children, child prostitution and child pornography**

### **Concluding observations: Norway**

812. The Committee considered the initial report of Norway (CRC/C/OPSA/NOR/1) at its 1037th meeting (see CRC/C/SR.1037), held on 24 June 2005, and adopted at its 1052nd meeting, held on 3 June 2005, the following concluding observations.

#### **A. Introduction**

813. The Committee welcomes the submission of the State party's initial comprehensive report, which follows the guidelines for reporting and is the first report to be submitted under the Optional Protocol. The Committee appreciates the frank and open dialogue held with the delegation.

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

814. The Committee welcomes a number of measures taken by the State party to implement and strengthen the protection of the rights covered by the Optional Protocol, including the 2003-2005 Plan of Action to Combat Trafficking in Women and Children, the special Plan of Action on Children's and Young People's Use of the Internet and the Safety, Awareness, Facts and Tools (SAFT) project to disseminate knowledge about safe use of the Internet and combat sexual abuse of children and sexual exploitation of children.

815. The Committee also notes with satisfaction the incorporation of the Optional Protocol into Norwegian Law by the Human Rights Act in October 2003.

816. The Committee also notes with appreciation international and bilateral technical cooperation activities directed at combating the sale of children, child pornography and child prostitution.

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

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

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

817. The Committee takes note of the information provided on the various ministries and governmental bodies involved in implementing the Optional Protocol, but is concerned at the insufficient coordination among these bodies so as to ensure comprehensive intersectoral policies, at both central and local levels, to protect the rights covered by the Optional Protocol. The Committee also regrets the lack of mechanisms for the periodic evaluation of the implementation of the Optional Protocol.

818. **The Committee encourages the State party to strengthen coordination, at both central and local levels, in the areas covered by the Optional Protocol, and to establish mechanisms for the periodic evaluation of its implementation.**

### **National plans of action**

819. **While welcoming the 2003-2005 Plan of Action to Combat Trafficking in Women and Children, the Committee encourages the State party to continue its efforts under a new plan of action based on an evaluation of the current one.**

### **Dissemination and training**

820. The Committee expresses its concern at the lack of efforts to raise awareness among the public about the provisions of the Optional Protocol. It also notes with concern that it has been difficult to estimate the need for specific training courses due to a general lack of research-based information on the areas covered by the Optional Protocol.

821. **The Committee recommends that the State party take measures to raise awareness among its population, including children and parents, about the provisions of the Optional Protocol.**

### **Data collection**

822. The Committee regrets the lack of disaggregated data and recent national representative studies on the issues covered by the Optional Protocol.

823. **The Committee recommends that the State party ensure that research is undertaken into issues covered by the Optional Protocol, and that data, disaggregated inter alia by age, gender and minority group, are systematically collected and analysed.**

### **Budget allocations**

824. The Committee notes the limited information provided on budget allocations for the implementation of the Optional Protocol.

825. **The Committee encourages the State party to provide more complete information on the budget allocations for the implementation of the Optional Protocol in its next report.**

## **2. Prohibition of the sale of children, child pornography and child prostitution**

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

826. The Committee notes with appreciation the adoption by the State party, on 4 July 2003, of a revised provision on human trafficking in the Penal Code (sect. 224), which aims at preventing, suppressing and punishing trafficking in persons, especially women and children. The Committee also takes note of the provisions of section 204 of the Penal Code which sets penalties for involvement in child pornography, defined as moving or non-moving pictures of a sexual nature involving the use of children. The Committee is concerned that the offences contained in the legislation of the State party do not cover all the acts mentioned in article 3 (1) (c) of the Optional Protocol, that is, the acts of “producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography”.

827. **The Committee recommends that the State party ensure that all children under the age of 18 are protected under the Penal Code and that this protection cover all acts and activities related to “producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography”. Furthermore, the Committee encourages the State party to separate child pornography from the general provision of pornography, in line with the recommendations of the Parliament.**

828. **The Committee encourages the State party to consider adopting specific legislation on the obligations of Internet service providers in relation to child pornography on the Internet.**

### **3. Protection of the rights of child victims**

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

829. **The Committee requests the State party to provide more detailed information on how the principle of “discretionary prosecution” (State party’s report, paragraph 28) has been applied in practice, including examples of relevant case law, and on any cases where children have been prosecuted for crimes committed as a consequence of being the victim of human trafficking.**

830. The Committee is concerned that expertise relating to sexually exploited children is limited in the child welfare service in the State party.

831. **The Committee recommends that the State party continue to strengthen measures to ensure that child welfare workers receive adequate training on the provisions of the Optional Protocol and to provide assistance and support in this area for vulnerable children.**

832. The Committee notes the absence of specialized services available for victims of child pornography crimes.

833. **The Committee urges the State party to ensure that adequate services are available for victims of child pornography crimes.**

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

#### **Prohibition of the production and dissemination of material advertising offences**

834. The Committee notes that child pornography cases are dealt with by the regional police, which lack resources and technological competence effectively to handle the large amounts of data and material on the Internet.

835. **The Committee encourages the State party to continue its efforts to strengthen the capacity of the criminal police to deal with crimes related to child pornography on the Internet. The Committee also encourages the State party to continue its efforts to inform children and their parents about the safe use of the Internet.**

## **5. International assistance and cooperation**

### **Protection of victims**

836. The Committee notes that the State party is very active in initiating prevention projects in the Baltic States, and encourages the State party to continue its efforts of cooperation at the regional and international levels.

### **Law enforcement**

837. The Committee notes the positive efforts made by the State party to strengthen law-enforcement policies at the European and international levels, and it encourages the State party to continue these efforts and to further strengthen and improve its bilateral cooperation with law-enforcement agencies in States which face problems in the area covered by the Optional Protocol.

## **6. Training, follow-up, and dissemination**

### **Training**

838. The Committee recommends that the State party continue to strengthen systematic education and training on the provisions of the Convention for all relevant professional groups. In addition, the Committee recommends that the State party make the provisions of the Optional Protocol widely known, particularly to children, through, inter alia, school curricula.

### **Follow-up**

839. 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**

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

## **7. Next report**

841. In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next (fourth) periodic report under the Convention on the Rights of the Child due, in accordance with article 44 of the Convention, on 6 February 2008.

#### **IV. COOPERATION WITH UNITED NATIONS AND OTHER COMPETENT BODIES**

842. 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:

- UNICEF, ILO, UNHCR and the NGO Group for the Convention on the Rights of the Child, to be updated on recent activities and to meet with new members of the Committee;
- Ms. Gerison Lansdown, child rights consultant, and author of a publication published by UNICEF (Innocenti Research Centre) and Save the Children on “the evolving capacities of the child”.

#### **V. WORKING METHODS**

843. Between 12 and 13 May 2005, the Committee met informally to discuss its working methods. This meeting also provided an opportunity for newly elected members to be introduced to their new mandate and work. The Committee, inter alia, discussed draft new reporting guidelines for periodic reports; methods of work under the two Optional Protocols to the Convention on the Rights of the Child, and working methods foreseen for working in two parallel chambers.

844. At its 1052nd meeting, held on 3 June 2005, the Committee adopted new reporting guidelines for periodic reports (CRC/C/58/Rev.1) prepared by States parties under the Convention on the Rights of the Child. These guidelines will become effective for States parties to the Convention as of 1 January 2006.

845. At the same meeting, the Committee adopted a decision regarding the modalities for the consideration of initial reports under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (see chapter I).

846. The Committee also adopted a document indicating the composition of the two chambers of the Committee and the States parties reports they will consider at their forty-first session (9 to 27 January 2006) (see annex II). The division of membership into two chambers and the assigning of States parties reports to be considered by these chambers have been done on the basis of a random lottery.

#### **VI. GENERAL COMMENTS**

847. At its 1052nd meeting (first part, closed), held on 3 June 2005, the Committee discussed a first draft of a general comment on “implementing child rights in early childhood”.

848. At its 1052nd meeting, the Committee adopted its general comment No. 6 on “Treatment of unaccompanied and separated children outside of their country of origin” (see CRC/GC/2005/6).

## **VII. FUTURE DAY OF GENERAL DISCUSSION**

849. At its 1049th meeting, held on 1 June 2005, the Committee discussed organizational matters relating to its 2005 day of general discussion on “Children without parental care”.

## **VIII. DRAFT PROVISIONAL AGENDA FOR THE FORTIETH SESSION**

850. The following is the draft provisional agenda for the fortieth session of the Committee:

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

## **IX. ADOPTION OF THE REPORT**

851. At its 1052nd meeting, held on 3 June 2005, the Committee considered the draft report on its thirty-ninth session. The report was adopted unanimously by the Committee.

**Annex I**

**MEMBERSHIP OF THE COMMITTEE ON THE RIGHTS OF THE CHILD**

<b>Name of member</b>	<b>Country of nationality</b>
Ms. Ghalia Mohd Bin Hamad AL-THANI**	Qatar
Ms. Joyce ALUOCH**	Kenya
Ms. Alison ANDERSON*	Jamaica
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
Mr. David Brent PARFITT**	Canada
Mr. Awich POLLAR**	Uganda
Mr. Kamal SIDDIQUI**	Bangladesh
Ms. Lucy SMITH**	Norway
Ms. Nevena VUCKOVIC-SAHOVIC**	Serbia and Montenegro
Mr. Jean ZERMATTEN**	Switzerland

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\* Term expires on 28 February 2007.

\*\* Term expires on 28 February 2009.

**Annex II**

**COMMITTEE ON THE RIGHTS OF THE CHILD**

**Forty-first session (9-27 January 2006)**

CHAMBER A		CHAMBER B	
Ms. AL-THANI	Qatar	Ms. ALUOCH	Kenya
Ms. ANDERSON	Jamaica	Mr. FILALI	Algeria
Mr. DOEK	Netherlands	Ms. KHATTAB	Egypt
Mr. KOTRANE	Tunisia	Mr. LIWSKI	Argentina
Mr. KRAPPMANN	Germany	Mr. PARFITT	Canada
Ms. LEE	Republic of Korea	Mr. POLLAR	Uganda
Ms. ORTIZ	Paraguay	Ms. SMITH	Norway
Ms. OUEDRAOGO	Burkina Faso	Ms. VUCKOVIC-SAHOVIC	Serbia and Montenegro
Mr. SIDDIQUI	Bangladesh	Mr. ZERMATTEN	Switzerland

States parties considered		States parties considered	
CHAMBER A		CHAMBER B	
Peru, third periodic report	CRC/C/125/Add.6	Mauritius, second periodic report	CRC/C/65/Add.35
Azerbaijan, second periodic report	CRC/C/83/Add.13	Thailand, second periodic report	CRC/C/83/Add.15
Ghana, second periodic report	CRC/C/65/Add.34	Lithuania, second periodic report	CRC/C/83/Add.14
Hungary, second periodic report	CRC/C/70/Add.25	Liechtenstein, second periodic report	CRC/C/136/Add.2
Andorra	CRC/C/OPAC/AND/1	Bangladesh	CRC/C/OPAC/BGD/1
Switzerland	CRC/C/OPAC/CHE/1	Morocco	CRC/C/OPSA/MAR/1
Kazakhstan	CRC/C/OPSA/KAZ/1		
Andorra	CRC/C/OPSA/AND/1		

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