

KAZAKHSTAN

CRC CRC/C/132 (2003)

582. The Committee considered the initial report of Kazakhstan (CRC/C/41/Add.13) at its 885th and 886th meetings (see CRC/C/SR.885 and 886), held on 4 June 2003, and adopted, at its 889th meeting (see CRC/C/SR.889), held on 6 June 2003, the following concluding observations.

A. Introduction

583. The Committee welcomes the submission of the State party's initial report, which follows the guidelines for reporting, as well as the submission of the written replies to its list of issues (CRC/C/Q/KAZ/1). The Committee notes the informative and constructive dialogue held with the State party's high-level delegation.

B. Positive aspects

584. The Committee welcomes the adoption of the new Constitution in 1995, giving legal recognition to human rights and freedoms, the ratification of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 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 on the involvement of children in armed conflict.

585. The Committee notes the enactment of new legislation during the reporting period, such as the Marriage and Family Act (1998), the Education Act (1999), Family-type Children's Villages and Young Peoples' Homes Act (2000), the Civil Code (1994 and 1999), the Criminal Code (1997), the Code of Criminal Procedure (1997), the Code for the Execution of Criminal Penalties (1997), the Code of Administrative Offences (2001), the Rights of the Child Act (2002) and the Children with Disabilities Act (2002).

586. The Committee appreciates the cooperation of the State party with OHCHR and the agreement to establish in Kazakhstan one of the two regional offices of the OHCHR regional project for Central Asia. The Committee notes the cooperation with other United Nations bodies and agencies as well as other international and regional organizations, in particular programmes of WHO, ILO, UNHCR, UNFPA and UNICEF.

587. The Committee notes the preparation of the outline of State policy on young people and the "Youth Kazakhstan" programme; the Department on family problems dealing with protection of the rights and lawful interests of children, set up within the National Commission on Family and Women's Matters in the Office of the President; and the Council on Youth Affairs set up in July 2000.

C. Factors and difficulties impeding the implementation of the Convention

588. The Committee notes that the State party continues to deal with serious economic, social and political challenges following independence in 1991, including a deterioration of living standards, high unemployment and growing poverty affecting particularly the most vulnerable groups of society, including single-parent families, and certain regions disproportionately. Furthermore, the two major ecological disasters - the shrinking of the Aral Sea and the radioactive contamination at the Semipalatinsk nuclear testing facility - have affected the health of a significant part of the population and their access to safe drinking water.

D. Principal subjects of concern, suggestions and recommendations

1. General measures of implementation

Legislation and implementation

589. The Committee notes that international treaties ratified by Kazakhstan may be directly invoked in courts; however, it also notes that judicial practice demonstrates that these treaties are not used in domestic legal proceedings. It further notes that the Convention may take precedence over domestic law provisions in case of a conflict between the two, but is concerned that this is not always the case. The Committee, while welcoming the many legislative measures taken, is concerned that their implementation is lacking or insufficient and restricted due to limited resources.

590. The Committee recommends that the State party continue and strengthen its efforts to bring national laws into full compliance with the principles and provisions of the Convention. The Committee further recommends that, as a matter of priority, the State party make sure that a mechanism/body is in charge of the effective implementation of the laws enacted with a view to implementing the Convention, and that sufficient human, financial and other resources are available.

Coordination

591. The Committee notes the information received concerning the establishment of the National Commission on Family and Women's Matters in the Office of the President in 1998, as well as the Council on Youth Affairs set up in 2000 as a consultative body within the Government. Nevertheless, the Committee remains concerned that there is a lack of coordination in implementing all the rights in the Convention.

592. The Committee, noting the information provided by the delegation on the role of the National Commission, recommends that the State party either strengthen the role of this Commission and provide it with sufficient human and financial resources, or establish a separate permanent body to coordinate the implementation of the Convention at the national and local levels, including by effectively coordinating activities between central and local authorities and cooperating with NGOs and other sectors of civil society.

Independent monitoring structures

593. The Committee notes the appointment by the President of the first Ombudsman in September 2002, but it is not clear to the Committee whether the Ombudsman's Office has been established as a fully independent national human rights institution in accordance with the Paris Principles. Furthermore, the Committee, noting the information that the Ombudsman has received complaints from parents and NGOs, nevertheless is concerned that this institution does not include a mechanism to address individual complaints about violations of rights of children in a child-sensitive manner.

594. The Committee encourages the State party to ensure that the Ombudsman institution is an independent and effective national institution with powers in accordance with the Paris Principles, and adequate human, financial and other resources. Furthermore, the Committee encourages the State party to establish within its structure either a commissioner specifically responsible for children's rights, or a specific section or division within the Ombudsman's Office responsible for children's rights, especially for addressing complaints made by children in a child-sensitive manner. In this respect, the Committee refers to its general comment No. 2 on national human rights institutions.

National plan of action

595. The Committee welcomes the information that the State party is considering developing a comprehensive plan of action for the implementation of children's rights, but is concerned that the implementation of such a plan may face difficulties, particularly due to lack of resources.

596. The Committee recommends that the State party:

- (a) Expedite and implement its plan to develop a national plan of action for the implementation of the Convention, integrating "A world fit for children" into its objectives and targets;
- (b) Provide sufficient human, financial and other resources for an effective implementation of this plan and regularly assess its progress and impact.

Resources for children

597. The Committee notes the priority accorded by the State party to education and the information provided in its report on the budgetary allocations for health programmes, protection of mothers and children, and social security and assistance programmes. In particular, the Committee notes the adoption of a poverty reduction programme for 2003-2007 focusing on children and women. However, the Committee remains concerned that budget allocations for health services, education and other social services are low and that insufficient attention has been paid to article 4 of the Convention regarding implementation "to the maximum extent of available resources ..." of the economic, social and cultural rights of children.

598. The Committee further notes the discrepancy between the high level of GDP and the low standard of living of most of the population and is concerned that readjustment programmes may

negatively affect children in a disproportionate manner.

599. The Committee recommends that the State party, in light of articles 2, 3 and 6 of the Convention, pay particular attention to the full implementation of article 4 of the Convention by:

(a) Increasing the budget for the implementation of the Convention and prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children to the maximum extent of available resources, in particular children of socially marginalized groups and vulnerable children, with a view to making quality services accessible;

(b) Implementing its poverty reduction programme 2003-2007 with a view to improving the situation of children, in particular the most vulnerable, by, inter alia, targeted interventions to address the needs of the poorest groups of the population;

(c) Identifying the amount and proportion of the State budget spent on children through public and private institutions or organizations in order to evaluate the impact and effect of the expenditures and also, in view of the costs, the accessibility, quality and effectiveness of the services for children in the various sectors.

Data collection

600. The Committee is concerned that disaggregated data on persons under 18 years relating to the rights contained in the Convention are not systematically collected or used effectively to assess progress and design policies to implement the Convention.

601. The Committee recommends that the State party, as a priority, systematically collect disaggregated data incorporating all the areas covered by the Convention and covering all children below the age of 18 years, with emphasis on those 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. In this context, the Committee recommends that the State party seek technical assistance from UNICEF.

Training/dissemination of the Convention

602. The Committee notes the various publications produced and disseminated by the State party to increase awareness of the Convention and the many activities of NGOs in that regard. The Committee is nevertheless concerned that awareness of the Convention amongst professionals working with and for children and among the general public, including children themselves, remains very low.

603. The Committee recommends that the State party:

(a) Continue and strengthen its efforts, in close cooperation with NGOs and other stakeholders, to raise awareness of the Convention among the public at large and among children and their parents in particular, using a wide variety of creative methods;

- (b) 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.

Cooperation with NGOs

604. The Committee welcomes the information that efforts are being made by the State party to facilitate registration of NGOs and to establish relationships between the Government and civil society and increase mutual cooperation. However, the Committee remains concerned that increased efforts have to be made to involve and support civil society in the implementation of the Convention following the rights-based approach.

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

2. General principles

606. The Committee is concerned that the principles of non-discrimination (article 2 of the Convention), the best interests of the child (art. 3), the right to life, survival and development of the child (art. 6) and respect for the views of the child according to age and maturity (art. 12) are not fully reflected and applied in the State party's legislation, policies and programmes at the national and local levels.

607. The Committee recommends that the State party:

- (a) Appropriately integrate the general principles of the Convention, namely, articles 2, 3, 6 and 12, in all relevant legislation concerning children;
- (b) Apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services, that have an impact on all children;
- (c) Apply these principles in planning and policy-making at every level, as well as in actions taken by social and health welfare and educational institutions, courts of law and administrative authorities.

Non-discrimination

608. The Committee is concerned about the persistence of de facto discrimination, in particular, against children with disabilities, children in institutions, children of single parents, children living in rural areas, children living in ecologically hazardous areas, children born at home, children belonging to minority groups and girls.

609. The Committee recommends that the State party closely monitor the situation of these groups of children and develop comprehensive proactive strategies containing specific and well-targeted actions aimed at preventing and eliminating all forms of discrimination, including access to education, health care and employment.

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

Respect for the views of the child

611. The Committee welcomes the legislative provisions for measures designed to guarantee the right of children to express their views freely and to have those views taken into account. However, the Committee remains concerned that the age-limit set in this regard may hinder opportunities for children below this age to be heard, and that traditional attitudes towards children in society may limit the exercise of the rights contained in article 12 of the Convention.

612. The Committee recommends that the State party:

(a) Promote and facilitate, within the family and the school as well as in judicial and administrative procedures, listening to children and giving their views due weight, including children who are below the legal age-limit of 10 years if they are considered to be mature enough in this regard, so that children can participate in all matters affecting them, in accordance with article 12 of the Convention;

(b) Provide educational information to, among others, parents, teachers, government administrative officials, the judiciary, children themselves and society at large, on children's right to participate and to have their views taken into account;

(c) Undertake a regular review of the extent to which children's views are taken into consideration and of the impact this has on policy, programme implementation and children themselves.

3. Civil rights and freedoms

Birth registration

613. The Committee takes note of efforts made to ensure registration at birth; however, it remains concerned that some children, particularly children born in families of Kazakh repatriates, do not acquire nationality at birth, which may have negative consequences for the full enjoyment of their rights.

614. The Committee recommends that the State party take further measures in accordance with

article 7 of the Convention, including measures to facilitate applications for citizenship, so as to resolve the situation of stateless children. The Committee also suggests that the State party consider ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Access to appropriate information

615. In light of articles 13 and 17 of the Convention, the Committee is concerned that the quality and quantity of printed information, including children's books, available to children have decreased in recent years, while at the same time there is a lack of mechanisms to protect children from information and material injurious to their well-being. Furthermore, the Committee is concerned that the amendments to the Media Law may limit access to information.

616. The Committee recommends that the State party take all effective measures, including enacting or reviewing legislation where necessary, to ensure that the child's freedom of expression and the right of access to information is guaranteed and implemented.

Torture and other cruel, inhuman or degrading treatment or punishment

617. The Committee concurs with the content of the recommendations adopted by the Committee against Torture which are relevant to the situation of children below the age of 18. The Committee further notes that the Head of State expressed his concern that torture and ill-treatment of suspects and detainees by law enforcement officers were becoming widespread and common practices, and welcomes the recent efforts to broaden the scope of punishment for offences committed against children. However, the Committee remains deeply concerned by continuing allegations that the torture of persons under 18, including for purposes of extorting confessions, is widespread, and that the existing procedure for investigating such allegations is ineffective and does not provide for the protection of the victims.

618. The Committee also notes that corporal punishment is forbidden in educational institutions, but remains concerned that inappropriate methods of discipline, including corporal punishment, continue to be used in such institutions. The Committee is further concerned that appropriate measures have not been taken to effectively prevent and combat any form of ill-treatment and corporal punishment of children within the family.

619. In light of article 37 of the Convention and the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169), the State party should take all necessary and effective steps to prevent incidents of ill-treatment of children. The Committee recommends that the State party provide training to law enforcement officials, in particular on how to deal with persons under 18 years; ensure that children are adequately informed of their rights when they are detained; ensure that complaint procedures are simplified so that responses are appropriate, timely, child-friendly and sensitive to victims; and provide rehabilitative support to victims. The Committee further recommends that the State party implement the recommendations made by the Committee against Torture (A/56/44, para. 129), in particular as they relate to persons under 18 years of age.

620. The Committee recommends that the State party take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment, within the family, schools and other institutions. The Committee further recommends that the State party, through, for example, public awareness campaigns, promote positive, non-violent forms of discipline as an alternative to corporal punishment, especially in families, schools and other institutions.

4. Family environment and alternative care

Family environment

621. The Committee welcomes the information contained in the State party's report that principles of legislation governing the family have been brought into line with the principles and provisions of the Convention; it also welcomes the expansion in recent years of advice centres for families. The Committee shares the serious concern of the State party relating to the extremely large number of abandoned children becoming de facto orphans because of the rising number of families experiencing difficulties due to socio-economic circumstances. In addition, the Committee is also concerned that limiting the duration of maternity leave, abolishing family leave, as well as abolishing or failing to pay many benefits to women with small children, put additional strain on families.

622. In light of article 18, the Committee recommends that the State party:

- (a) Take all effective measures, including the development of strategies and awareness-raising activities, to reduce and prevent the abandonment of children;
- (b) Promote the family as the best environment for the child and provide counselling and community-based programmes to assist parents to keep children at home;
- (c) Improve social assistance and support to families through advice and parenting education to promote positive child-parent relationships and increase financial support and other benefits for families with children, in particular for those living in poverty.

Children deprived of a family environment/alternative care

623. The Committee welcomes the adoption of the Marriage and Family Act (1998) which introduces and promotes the concept of foster care as a way to reduce the number of children in institutions. However, the Committee is concerned that foster care and other forms of family-based alternative care are not sufficiently developed and available.

624. The Committee is further concerned at the continuing predominant use of institutional responses to provide assistance to children in difficulty and that these children have limited contact with the outside world and are not given the educational and vocational skills necessary for them to make an independent living once they leave the institution at the age of 18. The Committee also expresses concern at the low quality of care and conditions in some of these institutions.

625. In light of article 20 of the Convention, the Committee recommends that the State party:

- (a) Take effective measures, including the development of strategies and awareness-raising activities, to prevent and reduce the abandonment of children;
- (b) Take effective measures to increase and strengthen foster care, family-type foster homes and other family-based alternative care and correspondingly decrease institutional care as a form of alternative care;
- (c) Place children in institutions only as a measure of last resort and as a temporary measure;
- (d) Take all necessary measures to improve conditions in institutions, in accordance with article 3 (3) of the Convention, and increase the participation of children;
- (e) Provide support and child rights-oriented training for personnel in institutions, including social workers;
- (f) Improve considerably the quality of care and the living conditions in institutions and make sure that standards of care are systematically monitored, and establish regular periodic review of placement, in accordance with article 25 of the Convention;
- (g) Provide adequate follow-up and reintegration support and services for children who leave institutional care;
- (h) Pursue additional avenues for cooperation and assistance in this respect with UNICEF, UNDP and other international organizations.

Adoption

626. The Committee notes the existence of the National Board on Adoption and of regulations for organizations involved in domestic and intercountry adoption. However, taking into account the very large number of abandoned children, the Committee is concerned at the lack of a comprehensive policy regarding domestic and intercountry adoption, including effective monitoring and follow-up of adoptions. The Committee is concerned that adoptions are processed in such a way that seriously hinders the right of the child to know, as far as possible, her/his biological parents.

627. The Committee recommends that the State party establish a comprehensive national policy and guidelines governing adoption, including mechanisms to review, monitor and follow up adoptions, in order to prevent any form of abuse of adoption for the purpose of exploitation and trafficking. In light of articles 3 and 7 of the Convention, the Committee recommends that the State party undertake all necessary measures to allow all adoptive children to obtain, as far as possible, information on the identity of their parents. The Committee finally recommends that the State party ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

Periodic review of placement

628. The Committee notes that periodic review of placement is regulated by the Marriage and Family Act and the Civil Code; however, it remains concerned that financial and human resources may not be sufficient to adequately implement the legislative provisions. Furthermore, periodic review of placement of children placed under guardianship is not appropriately addressed.

629. In light of article 25 of the Convention, the Committee suggests that the State party establish effective mechanisms of periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Violence, abuse, neglect and maltreatment

630. The Committee notes the legislative provisions prohibiting neglect and the obligations on the part of the authorities to take the necessary steps to protect children from abuse and other forms of violence. Nevertheless, the Committee is concerned at the rising level of violence against children in general within society and, in particular, within the family. The Committee is deeply concerned at the sharp rise in the number of abandoned children whose parents' whereabouts are unknown. The Committee is further concerned at the insufficient resources, both financial and human, the lack of adequately trained personnel to prevent and combat such abuse and the insufficiency of rehabilitation measures and facilities for victims, including psychological recovery and reintegration.

631. The Committee recommends that the State party reinforce its efforts to implement a comprehensive strategy to prevent and combat domestic violence, ill-treatment and abuse and to adopt adequate measures and policies to contribute to changing attitudes. The Committee further recommends that cases of domestic violence, ill-treatment and abuse of children be properly investigated within a child-sensitive judicial procedure and sanctions applied to perpetrators. Measures should also be taken to ensure the provision of support services to children in legal proceedings and the physical and psychological recovery and social reintegration of the victims, in accordance with article 39 of the Convention.

632. In this respect, the Committee urges the State party to implement the recommendations of the Committee on the Elimination of Discrimination against Women (CEDAW) (A/56/38, para. 96) as they relate to children.

5. Basic health and welfare

Children with disabilities

633. The Committee welcomes the legislation relating to social, medical and educational support for children with special needs and is aware of the efforts of the State party to address the problems children with disabilities face, particularly relating to education, health and employment.

634. The Committee is deeply concerned by the information provided in the State party's report that the number of children with disabilities (currently 49,800) has tripled in the past 12 years, and notes that national legislation includes children only up to the age of 16 in the category of disabled children.

635. The Committee is concerned at the prevailing poor situation of children with disabilities. In particular it is concerned:

- (a) That in the Constitution, disability is not included in the list of grounds for protection from discrimination;
- (b) At the practice of institutionalizing children with disabilities;
- (c) At the lack of counselling and psychological care provided by the State for disabled children;
- (d) At the lack of State support to families with disabled children;
- (e) At the societal discrimination faced by children with disabilities;
- (f) At the considerable reduction of privileges, including free medical care and prosthetics;
- (g) At the considerable reduction in the resources allocated to residential homes;
- (h) At the limited inclusion of, and access by, children with disabilities to various areas of daily life, in particular with regard to the education system.

636. In light of article 23 of the Convention, the Committee recommends that the State party:

- (a) Undertake studies to determine the causes of and ways to prevent children becoming disabled;
- (b) Consider amending legislation so as to include all children below the age of 18 years into the category of disabled children;
- (c) Conduct public-awareness campaigns to raise awareness of the situation and the rights of children with disabilities and to counter negative attitudes which hamper the implementation of these rights. The promotion of their rights could further be advanced through, for instance, support to parents' organizations and community-based services and a sustained programme to move children from institutions to a good family environment;
- (d) Allocate the necessary resources for programmes, medicines and prostheses, trained staff and facilities for all children with disabilities, especially for those living in rural areas;
- (e) In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on the issue of "The rights of children with disabilities" (CRC/C/69, paras. 310-339), further encourage their integration into the regular educational system and inclusion into society, including by providing special training to teachers and by making schools more accessible.

Health and health services

637. While welcoming the efforts made in 2002 to increase the accessibility of health services in rural areas, the Committee remains concerned at the reduced quality and accessibility of health-care services, particularly affecting children in rural areas, as noted in the State party's report. The Committee further shares the concerns of CEDAW with respect to access to free medical care for women and the degree of environmental degradation, particularly as it affects access to clean drinking water, which has an extremely negative impact on the whole population and, in particular, women and children.

638. The Committee notes the international cooperation in the sphere of health, the special comprehensive medium-term programme for the protection of mother and child health 2001-2005, and the reduction, in recent years, of the infant mortality rate, the under-5 mortality rate and the maternal mortality rate, but is nevertheless concerned that these remain unacceptably high.

639. With regard to adolescent health, the Committee is concerned at the high rate of teenage pregnancies and abortions, which are one of the main causes of maternal mortality. Welcoming the national plan for counteracting the AIDS epidemic, it is further concerned at the emergence of problems relating to HIV/AIDS, drug addiction, alcoholism and increased use of tobacco.

640. The Committee expresses its concern at problems of poor access to safe drinking water, lack of food security and serious hazards arising from the Aral Sea disaster, as well as those relating to the Semipalatinsk nuclear testing site (closed in 1989), and notes that insufficient attention has been given to the long-term health and psychosocial consequences of the affected population.

641. The Committee urgently recommends that the State party:

- (a) Ensure that all children, especially from the most vulnerable groups and in rural areas, have access to primary health care, and encourages the State party to pursue its efforts in this respect and to implement the recommendations of CEDAW as they relate to children;
- (b) Develop a national policy in order to ensure an integrated and multidimensional approach to early childhood development;
- (c) Continue and strengthen implementation of the WHO Integrated Management of Childhood Illness programme;
- (d) Improve the specialized health care provided to children affected by the Semipalatinsk nuclear testing site, including its psychosocial aspect;
- (e) Strengthen its efforts to detect and prevent diseases related to nuclear contamination;
- (f) Focus more on a long-term developmental approach to the assistance extended to children through, inter alia, supporting United Nations initiatives in this area;

(g) Take all appropriate measures, including seeking international cooperation, to prevent and combat the damaging effects of environmental degradation on children, including pollution of the environment and food products.

6. Education, leisure and cultural activities

642. The Committee welcomes the efforts taken by the State party to improve the education system with the introduction of the Education Act 1999 which includes such aims as ensuring compulsory secondary education for all children of school age, providing free textbooks to vulnerable children and compulsory pre-school attendance. The Committee remains concerned at the many difficulties education is facing, inter alia:

- (a) The increase in the cost of education which limits access by children from economically disadvantaged households and rural areas;
- (b) The decrease in the number of pre-schools;
- (c) The increasing dropout rates in secondary and vocational education;
- (d) Important regional disparities in the number of educational establishments and in the quality of education, with rural areas being at particular disadvantage;
- (e) The implementation of education reforms without the necessary preliminary preparation and training of teachers.

643. The Committee recommends that the State party:

- (a) Ensure the availability of free primary education and accessibility for all children in the State party, giving particular attention to children in rural communities, children from minorities, including repatriates and refugees or asylum-seekers, children from disadvantaged groups and those who need special attention, and high-quality education, including in children's own languages;
- (b) Further pursue efforts to increase the number of pre-school establishments and encourage pre-school attendance, including by providing appropriate financial resources;
- (c) Ensure that legislation with regard to compulsory education is enforced, including through the provision of appropriate resources for that purpose;
- (d) Ensure that educational reforms are implemented with sufficient preparation and support to schools, including appropriate funding and teacher training, and establish a process for quality evaluation of the new programmes;
- (e) Improve the quality of education in the whole country in order to achieve the goals mentioned in article 29 (1) of the Convention and the Committee's general comment No. 1 on the aims of

education, and ensure that human rights education, including children's rights, is included into the school curricula, in the different languages of instruction where applicable.

7. Special protection measures

Refugee and internally displaced children

644. The Committee welcomes the information provided on the new bill on refugees and notes the efforts of the State party relating to the repatriation of ethnic Kazakhs in this regard; however, the Committee is concerned that:

- (a) De facto refugees from certain countries are not granted refugee status;
- (b) Problems exist in accessing education for children who have not been granted refugee status and do not have other documents that are required;
- (c) The treatment, including nutritional and medical care, provided for illegal migrants, including children, arriving in western Kazakhstan seeking work is inadequate;
- (d) Unaccompanied minors are not accorded the same treatment as other children deprived of their family environment.

645. The Committee recommends that the State party:

- (a) Ensure that the (draft) law conforms to article 22 of the Convention and other international standards on the protection of and assistance to refugee children, expedite its promulgation and ensure its effective implementation;
- (b) Introduce procedures for the issuance of proper internationally recognized birth certificates for refugee children and, if necessary, amend related legislation or administrative regulations;
- (c) Develop a procedure to attend to the specific needs and situation of unaccompanied child refugees and, in cases where no parents or other family members can be found, accord the child the same protection and care and social services as any other child permanently or temporarily deprived of his or her family environment receives;
- (d) Consider measures through which asylum-seeking and refugee children can be granted equal access to services, in particular education, irrespective of who they are and where they live;
- (e) Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;

- (f) Continue and strengthen its cooperation with UNHCR.

Administration of juvenile justice

646. The Committee welcomes the adoption in 1998 of the new Criminal Code introducing a special chapter entitled “Special features of criminal responsibility and punishment of minors” which takes on the requirements set out in articles 37 and 40 of the Convention.

647. The Committee further welcomes the information about two pilot projects on juvenile justice aiming at the establishment of a rights-based approach to juveniles in conflict with the law in full compliance with the Convention, but is concerned at the existing shortcomings in the juvenile justice system, inter alia:

- (a) The absence of specialized juvenile judges and/or courts and the insufficient number of legal professionals, social workers, community educators and supervision officers working in this field;
- (b) The parents or guardians of children kept in pre-trial detention are not immediately informed about such detention (in fact, often only after a lengthy period of time), which can last for 18 months;
- (c) The placement of children aged 11 to 14 in “special educational institutions” as a form of punishment provided for in the commentary to the Criminal Code and the vague legal provisions for the issuance of such decisions;
- (d) The placement of children from 3 to 18 in centres for temporary isolation, adaptation and rehabilitation for juveniles (CITARJ), without legal grounds or procedure;
- (e) The still large number of children sentenced to placement in corrective and other institutions and insufficient education and guidance provided in these institutions, and the lack of social and psychological recovery measures;
- (f) The existence of subordinate norms and departmental regulations and instructions that allow the restriction of freedom of children without fully complying with the provisions of the criminal, criminal-procedural and criminal-executive legislation.

648. The Committee recommends that the State party:

- (a) Ensure the full implementation of juvenile justice standards and in particular articles 37, 39 and 40 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), inter alia, by providing full support to the pilot projects aiming at such full implementation;
- (b) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible;

- (c) In light of article 39, take appropriate measures to promote the rehabilitation and social reintegration of children involved in the juvenile justice system, including adequate education and certification to facilitate their reintegration;
- (d) Ensure that existing norms and regulations allowing the restriction of freedom of children conform to the laws of Kazakhstan and international standards;
- (e) CITARJ should be transformed into centres for assistance and placement of lost, abandoned and homeless children, but only as a temporary measure and for the shortest time possible;
- (f) Seek assistance from, among others, OHCHR and UNICEF through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

Criminal Code

649. The Committee is concerned at the general lack of comprehensive information on the Criminal Code and the Criminal Procedure Code. The Committee notes, inter alia, that disorderly conduct has been defined as a serious crime constituting a danger to society, leading to the criminalization of behavioural problems.

650. The Committee recommends that the State party review its classification of serious crimes in order to reduce criminal law prosecution of 14 to 16-year-old children and abolish provisions that criminalize the behavioural problems of children (so-called status offences).

Economic exploitation

651. The Committee welcomes the new Labour Act which entered into force in 2000 and contains specific guarantees and provides for measures to protect children, and the recent ratification of ILO Convention No. 182. The Committee further notes the State party's awareness of young people participating in unregulated employment situations, particularly in the private sector, agriculture and at home, but is concerned at the lack of effective measures to reduce and eliminate child labour.

652. The Committee recommends that the State party:

- (a) Undertake a national survey on the causes and extent of child labour with a view to adopting and implementing a national plan of action to prevent and combat child labour;
- (b) Continue and strengthen its efforts to protect all children from economic exploitation, in particular from the worst forms of child labour, by implementing urgently ILO Convention No. 182.

Sexual exploitation and trafficking

653. The Committee is concerned at:

- (a) The growing involvement of children in the sex industry and the apparent indifference of

society towards the issue of child prostitution, including reports of parents themselves reportedly forcing their children to earn money through prostitution;

(b) The lack of specialized centres to accommodate and provide qualified services, including psychotherapeutic and rehabilitation and reintegration programmes, for child victims of sexual violence.

654. The Committee recommends that the State party:

(a) Develop and implement a comprehensive programme to combat trafficking, child prostitution and other forms of sexual exploitation of children, taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children and the recommendations of CEDAW in this respect (A/56/38, para. 97);

(b) Adopt measures to reduce the vulnerability of children to traffickers and establish crisis centres and telephone hotlines to give assistance and run rehabilitation and social reintegration programmes for child victims of trafficking and/or sexual exploitation;

(c) 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 put in place mechanisms to coordinate and monitor its implementation;

(d) Conduct further research relating to the occurrence of child trafficking and consider seeking technical cooperation from UNICEF in this respect.

Street children

655. The Committee is extremely concerned at:

(a) The increasing number of street children and the inappropriate policies and programmes implemented by the juvenile affairs services to address this situation;

(b) The inappropriateness of the preventive measures and the keeping of a special database on information on these children being considered as social assistance with a view to preventing abandonment and criminality;

(c) The vulnerability of street children to, inter alia, sexual abuse, violence, including from the police, exploitation, exclusion from education, substance abuse, STDs, HIV/AIDS and malnutrition.

656. The Committee recommends that the State party:

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

(b) Ensure that street children are provided with services which promote their physical and psychological recovery and social reintegration;

(c) Undertake a study to assess the scope and causes of the phenomenon and consider establishing a comprehensive strategy, with their participation, to address the high and increasing number of street children, with the aim of preventing and reducing this phenomenon in the best interests of these children;

(d) Consider addressing the situation of street children within the system of youth social welfare services rather than juvenile affairs services.

8. Dissemination of documents

657. In light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring at all levels of administration of the State party and among the general public, including concerned NGOs.

9. Next report

658. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention includes ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some States parties experience difficulties in reporting in a timely and regular manner. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit a consolidated second and third periodic report by 10 September 2006, date on which the third periodic report is due. Such a report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.