

## MADAGASCAR

### CRC A/51/41 (1996)

#### Concluding observations

227. The Committee considered the initial report of Madagascar (CRC/C/8/Add.5) at its 163<sup>rd</sup> to 165<sup>th</sup> meetings (CRC/C/SR.163-165), on 29 and 30 September 1994, and adopted, at its 183<sup>rd</sup> meeting, on 14 October 1994, the following concluding observations.

#### Introduction

228. The Committee expresses its appreciation for the detailed and comprehensive report submitted by Madagascar as well as for the extensive additional information provided in its written responses to the list of issues. The Committee welcomes the openness reflected in the report with respect to difficulties encountered in the implementation of the Convention on the Rights of the Child. In this connection, the Committee endorses, in general, the many recommendations contained in the report aimed at improving the effective application of the Convention in Madagascar. The Committee regards the report as a valuable document, which may be used in Madagascar in promoting awareness of the Convention, especially in regard to its application in law and practice.

229. The Committee also expresses its appreciation to the delegation for its frank and open attitude, which contributed to a constructive dialogue with the Committee. In this regard, the Committee takes note of the statement made by the delegation regretting that it had not been possible to include representatives from the departments concerned with the actual implementation of the Convention in Madagascar.

#### Positive factors

230. The Committee welcomes the establishment of the Intersectoral Follow-up Committee, which drafted the initial report and which is envisaged as a permanent coordinating body to ensure an effective follow-up in close evaluation and monitoring of the situation of children in Madagascar, as well as an appropriate follow-up in close collaboration with non-governmental organizations. The Committee expresses its satisfaction that representatives of international organizations are included in the follow-up committee, which may facilitate better coordination in the area of international cooperation and development assistance aimed at improving the situation of children in Madagascar.

#### Factors and difficulties impeding the implementation of the Convention

231. The Committee notes the difficulties facing the Government of the Republic of Madagascar in a period of political transition.

232. The Committee also notes that natural disasters and severe economic problems have had a negative impact on the situation of children. The Committee recognizes that certain traditional values in the rural areas have not favoured the rapid implementation of the Convention.

#### Principal subjects of concern

233. The Committee is concerned that the fundamental legal and administrative reforms needed to apply the Convention have still not been fully undertaken in Madagascar. As a result, many of the laws affecting children date from the period immediately following independence and need to be brought into full conformity with the principles and provisions of the Convention.

234. The Committee notes with concern the persistence of disparities in the enjoyment of the rights recognized by the Convention between the different regions of the country, to the detriment in particular of girls, rural children and children living in situations of extreme poverty. The Committee is also concerned that lasting prejudices and traditional beliefs affect certain groups of children, including disabled children and children born on a certain day of the week (considered to bring bad luck), preventing them from fully enjoying the rights recognized by the Convention.

235. The Committee is concerned that the national legislation establishes a different minimum age for marriage between boys and girls and that it authorizes the marriages of girls as young as 14 years of age who have obtained parental consent from the father or the mother. Such situations may raise the question of compatibility with the principles of non-discrimination and the best interests of the child, in particular as these children will be considered as adults and therefore no longer eligible for the protection afforded by the Convention. Furthermore, the Committee is concerned about the legal status of children born out of wedlock, particularly of incestuous unions.

236. The Committee is concerned at the difficulties to ensure birth registration of children. Such a situation implies the non-recognition of these children as persons before the law, which will affect the level of enjoyment of their fundamental rights and freedoms. In addition, such children are not included in relevant statistical and other information on children and their situation, therefore, cannot be properly monitored.

237. The Committee is concerned about the problems associated with ill-treatment, abuse and violence directed towards children in school and in the family, which is reinforced by social custom. In this connection, the Committee notes with concern that child abuse has not yet been clearly addressed, that adequate legal remedies for abused children do not exist and that there are inadequate safeguards against reprisals against children who report abuse.

238. With respect to basic health and welfare, the Committee notes with concern that in Madagascar, children have increasingly had difficulty in obtaining access to adequate primary health care and that many continue to suffer from lack of medicine and safe drinking water. In particular, the Committee is concerned over the alarming trend that child immunization is on the decrease.

239. With respect to education, the Committee notes with concern that there has been little progress in implementing the relevant articles of the Convention and that, in particular, the number of hours during which schools are open have been restricted, that teacher training has been inadequate and

that a high proportion of pupils drop out before finishing primary school. Moreover, the Committee is concerned at the difficulties arising from the changes introduced in the education system as far as the language of instruction is concerned.

240. With regard to child exploitation, the Committee is concerned that child labour continues to be a serious problem in Madagascar, particularly in the rural areas and in the informal sector. In this connection, the Committee notes with alarm that there is no effective inspection in rural areas to combat this problem nor is there labour legislation covering domestic workers.

241. With respect to sexual exploitation of the child, the Committee is concerned that insufficient measures have been taken to prevent and combat child pornography as well as prostitution involving children living and/or working on the streets, particularly children who are victimized by tourists.

242. With regard to the administration of juvenile justice, the Committee is concerned that the existing legislation does not reflect the spirit or the provisions of the Convention. In particular, the Committee is concerned that children may be subject to situations of deprivation of liberty, namely lengthy pre-trial detention, and that they might not benefit from the safeguards recognized in the Convention, in the light of articles 37 and 40. The Committee is also concerned by the serious conditions in the correctional facilities which, as recognized by the delegation, may adversely affect the fulfilment of the State party's obligations under the Convention and other international human rights standards.

#### Suggestions and recommendations

243. The Committee recommends that the Government develop information and awareness campaigns on the principles and provisions of the Convention, whenever appropriate in close cooperation with community and religious leaders, in order to create a wider awareness and contribute to the eradication of prevailing prejudices and cultural traditions that may be detrimental to the enjoyment of the rights of the child. It further suggests that special attention be paid to the training of professional groups, working with and for children, on the rights of the child.

244. The Committee recommends that the Government undertake a comprehensive review of national legislation, with a view to ensuring its full compatibility with the principles and provisions of the Convention. New legislation should be adopted in those areas where the protection of children is not yet adequately addressed, such as in the fields of child abuse and national and intercountry adoption or the administration of juvenile justice. To this end, the Committee suggests that the mandate of the Intersectoral Follow-up Committee be broadened accordingly.

245. The Committee emphasizes the importance of establishing an effective and permanent system of monitoring the implementation of the Convention and newly adopted legislation relating to children, and recognizes that the Intersectoral Follow-up Committee could be envisaged as the focal point for that purpose. The Committee also suggests that such a monitoring mechanism may strengthen its cooperation with non-governmental organizations and relevant professional groups, as well as religious and community leaders.

246. The Committee also recommends that serious consideration be given to the allocation of

available resources, including those deriving from international development aid, in order that they be used, to the maximum extent possible, for the effective implementation of the economic, social and cultural rights of children, in particular those belonging to the most vulnerable groups.

247. With respect to child exploitation, the Committee recommends that efforts to prevent and combat child labour, in particular in the informal sector, be greatly intensified, and that the Government consider ratifying the ILO Minimum Age Convention, 1973 (No. 138). In this regard, the Committee further recommends that the State party consider seeking assistance from ILO, in particular with a view to reinforcing its capacity to monitor the Convention on the Rights of the Child.

248. With respect to the administration of juvenile justice, the Committee recommends that the necessary facilities be provided to implement fully the provisions of the Convention. The Committee further recommends that the law reform to be undertaken in this field adequately reflect the provisions of the Convention as well as other relevant international standards, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. In this regard, it is suggested that serious attention be paid to the best interests and the dignity of the child, and the consideration of deprivation of liberty as a measure of last resort and for the minimum period possible. The Committee underlines the importance of technical assistance programmes in this area and encourages the State party to consider requesting such assistance from the Centre for Human Rights as well as from the Crime Prevention and Criminal Justice Branch of the Secretariat.

249. The Committee recommends that in the light of article 44, paragraph 6, of the Convention, the report submitted by the Government 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 thereon by the Committee.

## **CRC CRC/C/133 (2003)**

252. The Committee considered the second periodic report of Madagascar (CRC/C/70/Add.18), submitted on 12 February 2001, at its 902nd and 903rd meetings (see CRC/C/SR.902 and 903) held on 23 September 2003, and adopted at the 918th meeting, held on 3 October 2003 (see CRC/C/SR.918), the following concluding observations.

### **A. Introduction**

253. The Committee welcomes the submission of the State party's second periodic report and the written replies to its list of issues (CRC/C/Q/MDG/2) as well as the additional information provided in annexes. The Committee notes with appreciation the presence of a high-level delegation, which contributed to an open, frank and constructive dialogue and a better understanding of the implementation of the Convention in the State party.

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

254. The Committee notes with appreciation:

- (a) The establishment of an Inter-Ministerial Follow-up and Coordination Committee;
- (b) The adoption of the poverty reduction strategy paper;
- (c) The establishment of the National Human Rights Commission (Decree No. 96-1282 of 18 December 1996);
- (d) The adoption of a National Plan of Action for Education of Girls (Decree No. 95-645 of 10 October 1995);
- (e) The adoption of Act 94-033 of 13 March 1995 establishing general guidelines for the education and training system;
- (f) The adoption of the National Programme for the Improvement of Education (PNAE, phase II - Decree No. 97-1400 of 19 December 1997);
- (g) The production of the Guide to the Protection of Children;
- (h) The adoption of Act No. 96-030 on the special system for non-governmental organizations;
- (i) The enactment of Act 98-024 of 25 January 1999 on the revision of the Criminal Code concerning paedophilia;
- (j) The enactment of Act 2000-021 of 28 November 2000 amending and supplementing certain provisions of the Criminal Code relating to violence against women and to sexual offences;

(k) The ratification of International Labour Organization Convention (No. 138) on the Minimum Age for Admission to Employment and ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

### C. Factors and difficulties impeding progress in the implementation of the Convention

255. The Committee acknowledges that natural disasters, the external debt, the structural adjustment programme and the limited availability of financial and skilled human resources have had a negative impact on social welfare and on the situation of children and have impeded the full implementation of the Convention. Furthermore, the coexistence of customary law and statutory law does affect the implementation of the Convention in the State party where some traditional practices hinder the implementation of children's rights.

### D. Principal subjects of concern and recommendations

#### 1. General measures of implementation

#### Previous recommendations of the Committee

256. The Committee regrets that some of the concerns and recommendations (CRC/C/15/Add.26) it made upon consideration of the State party's initial report (CRC/C/8/Add.5) have been insufficiently addressed, particularly those contained in paragraphs 17-22, notably regarding the establishment of a monitoring mechanism, the fight against child labour and the reform of the juvenile justice system. Those concerns and recommendations are reiterated in the present document.

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

#### Legislation

258. The Committee welcomes the fact that international instruments on children's rights, including the Convention on the Rights of the Child, are considered as integral parts of the law according to the preamble to the new Constitution and notes that new laws have been adopted by the State party to harmonize the existing legislation with the Convention, but remains concerned that domestic legislation, including customary law, still does not fully reflect the provisions and principles of the Convention and that customary law does impede the implementation of the Convention.

259. The Committee, in line with its previous recommendations (CRC/C/15/Add.26, para. 18), recommends that the State party:

(a) Undertake all necessary steps to harmonize existing legislation and customary law with the provisions and principles of the Convention, using the recent review of existing laws, and expedite

plans to revise Order No. 62-038 of 19 September 1962 on the protection of children;

(b) Ensure the implementation of its legislation and its wide dissemination.

#### National plan of action

260. Although the State party is developing some sectoral plans, e.g. in the areas of health and education, the Committee is concerned at the lack of a comprehensive national strategy or plan of action for the implementation of the Convention.

261. The Committee encourages the State party to develop a comprehensive national plan of action for the implementation of the Convention, incorporating the objectives and goals of the outcome document entitled “A World Fit for Children” of the General Assembly special session on children. In this regard, the State party should seek technical assistance from the United Nations Children’s Fund (UNICEF) and involve civil society in the preparation and implementation of such a national plan of action.

#### Coordination

262. The Committee notes that the Department for Childhood, within the Ministry of Population, has an important role in the coordination of activities for the implementation of the Convention, but remains concerned at the insufficient human and financial resources for coordination among the various programmes and ministries, which affects the implementation of the Convention. The Committee is further concerned that coordination mechanisms are not yet in place in the various autonomous provinces.

263. The Committee recommends that the State party take all necessary measures to allocate sufficient human and financial resources to ensure that coordination is efficient and effective both at the national and at the provincial level.

#### Independent monitoring structures

264. The Committee notes the existence of a *médiateur* (Ordinance No. 92-012 of 29 April 1992) and of a National Human Rights Commission (Decree No. 96-1282 of 18 December 1996). Nevertheless, the Committee is concerned about the mandates of the *médiateur* and the Commission with regard to children’s rights; that these bodies are not yet fully operational; and that children cannot address complaints directly or are not aware of the existing procedures.

265. The Committee recommends that the State party:

(a) Expedite the activities aiming at the establishment of an institution to effectively monitor and evaluate progress in the implementation of the Convention at the national and local levels, 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, annex) and the Committee’s general comment No. 2 on national human rights institutions. In addition, the institution should be empowered to receive and investigate complaints of violations of child rights

in a child-sensitive manner and address them effectively;

(b) Review the role of the *médiateur* and the National Human Rights Commission in order to avoid any overlap in their functions with regard to children's rights and ensure proper coordination between them;

(c) Allocate sufficient financial and human resources to the two institutions;

(d) Seek technical assistance from, among others, the Office of the High Commissioner for Human Rights (OHCHR) and UNICEF.

#### Cooperation with civil society

266. While noting the adoption of Act No. 96-030 on the special system for NGOs, the Committee is concerned that insufficient efforts have been made to involve civil society in the full implementation of the Convention and the reporting process.

267. The Committee recommends that the State party continue to involve systematically communities and other elements of civil society, including children's associations, throughout all stages of the implementation of the Convention, including the formulation of policies and programmes, and in the drafting of the next report to the Committee.

#### Resources for children

268. The Committee welcomes the significant increase of the budget for health and education over the past several years and the adoption of the poverty reduction strategy paper (PRSP), but notes with concern that the budget for social services decreased in 2002 and that children's rights are not systematically taken into account in this regard.

269. While recognizing the difficult economic conditions, the Committee recommends that the State party:

(a) Make every effort to increase the proportion of the budget allocated to the realization of children's rights to the "maximum extent ... of available resources" and, in this context, to ensure the provision of appropriate human resources and to guarantee that the implementation of policies relating to social services for children remains a priority, including by seeking international cooperation to this end;

(b) Make respect for the implementation of children's rights a primary consideration in the implementation of PRSP;

(c) Develop ways to assess the impact of budgetary allocations on the implementation of children's rights, and to collect and disseminate information in this regard.

#### Data collection



270. The Committee is concerned at the existing lack of systematic and comprehensive collection of disaggregated data for all areas covered by the Convention and in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children.

271. The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age and urban and rural area. This system should cover all children up to the age of 18 years with specific emphasis on those who are particularly vulnerable, including child victims of abuse, neglect, or ill-treatment; children with disabilities; children in conflict with the law; working children; adopted children; street children; and children living in the autonomous provinces. The Committee suggests that the State party consider including the collection of such data as part of the census scheduled for 2004. It further encourages the State party to use these indicators and data for the formulation of policies and programmes for the effective implementation of the Convention.

#### Training/dissemination of the Convention

272. The Committee is aware of the measures undertaken to promote widespread awareness of the principles and provisions of the Convention and welcomes the production of the Guide to the Protection of Children, but it is of the opinion that these measures are not sufficient and need to be strengthened by providing the necessary resources. In this respect, the Committee is concerned at the lack of a systematic plan to introduce training and awareness among professional groups working for and with children and in the society at large.

273. In line with its previous recommendations (ibid., para. 17), the Committee recommends that the State party:

(a) Strengthen its efforts towards and systematize the dissemination of the principles and provisions of the Convention as a measure to sensitize society about children's rights through social mobilization;

(b) Involve systematically parliamentarians and community and religious leaders in its programmes in order to fight against customs and traditions that impede the implementation of the Convention, and adopt creative means of communications for illiterate people and for people living in remote areas;

(c) Undertake systematic education and training on the provisions of the Convention for all professional groups working for and with children, in particular parliamentarians, judges, lawyers, law enforcement officials, civil servants, municipal and local workers, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers;

(d) Further promote human rights education, including in the rights of the child, in the curricula of primary and secondary schools, as well as in the curricula for teacher training;

(e) Seek technical assistance from, among others, OHCHR, the United Nations Educational,

Scientific and Cultural Organization (UNESCO) and UNICEF.

## 2. Definition of the child

274. The Committee is concerned at the practice of early marriage, which is still widespread in some provinces, and different minimum ages for marriage for boys and girls.

275. The Committee recommends that the State party amend article 3 of Ordinance 62-089 of 1 October 1962 on marriage, which allows girls to marry from the age of 14, and increase this minimum age to that of boys, and develop sensitization programmes involving community and religious leaders and society at large, including children themselves, to eliminate the practice of early marriage.

## 3. General principles

### Non-discrimination

276. While noting the prohibition of discrimination under the Constitution, the adoption of the National Plan of Action for Education of Girls and the establishment of the Support Platform for children in difficult situations in Antananarivo, the Committee is concerned about the persistence of *de facto* discrimination in the State party. In particular, the Committee is concerned at the disparities in the enjoyment of rights, e.g. to education, experienced by children belonging to the most vulnerable groups, including girls, children with disabilities, children born out of wedlock and children living in remote areas. In addition, the Committee is concerned at the practice of customs in some parts of the country that lead to discrimination.

277. The Committee recommends that the State party:

- (a) Make greater efforts to ensure that all children within its jurisdiction enjoy all rights set out in the Convention without discrimination, in accordance with article 2;
- (b) Prioritize and target social services to children belonging to the marginalized and most vulnerable groups through a proactive and comprehensive strategy;
- (c) Ensure effective law enforcement, notably with regard to unlawful customs, undertake studies and launch comprehensive public information campaigns involving religious leaders to prevent and combat all forms of discrimination, within the framework of international cooperation where needed.

278. 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, taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).

### Best interests of the child

279. The Committee is concerned that in actions concerning children, the general principle of the best interests of the child contained in article 3 of the Convention is not always a primary consideration, such as in matters relating to family law.

280. The Committee recommends that the State party review its legislation and administrative measures to ensure that article 3 of the Convention is duly reflected therein and that this principle is taken into account when administrative, policy, court or other decisions are made.

#### Right to life

281. The Committee notes that the murder or rejection of children thought to be “born on an unlucky day” is beginning to disappear, but remains deeply concerned that such murders still occur and at the rejection or abandonment of twins in the Mananjary region.

282. In light of article 6 of the Convention, the Committee recommends that the State party take all necessary measures to stop these practices, including through awareness-raising in the society at large, which should involve traditional leaders. In addition, The Committee recommends that the State party take all necessary measures to ensure that the institutionalization of twins is a measure of last resort.

#### Respect for the views of the child

283. The Committee is concerned that, owing to traditional attitudes, respect for the views of the child remains limited within the family, in schools, in the courts, before administrative authorities and in the society at large, which tends to favour a paternalistic and authoritarian approach with regard to children.

284. The Committee encourages the State party to pursue its efforts:

(a) To promote and facilitate within the family, the schools, the courts and administrative bodies, through the adoption of legislation, respect for the views of children and their participation in all matters affecting them, in accordance with their age and maturity and in light of article 12 of the Convention;

(b) To provide educational information to, among others, parents, teachers, government administrative officials, the judiciary, traditional leaders and the society at large on children’s rights to express their views have them taken into account, and to participate actively.

#### 4. Civil rights and freedoms

##### Birth registration

285. While noting the obligation to officially register all births and the various initiatives that have been taken to increase the number of birth registrations, such as the “judicial ruling operation”, the Committee remains concerned at the large number of children whose birth is not being registered and at the difficulties of obtaining birth certificates.

286. In the light of article 7 of the Convention, the Committee urges the State party to strengthen its efforts to rehabilitate its civil registration service, including through awareness-raising campaigns, to ensure that all children are registered at birth and consider facilitating birth registration procedures, notably through mobile units for remote areas, and procedures for obtaining birth certificates free of charge.

#### Access to information

287. While noting the State party's efforts to enhance access to information for children (e.g. establishment of a library in all schools), the Committee shares the concern of the State party that children may nevertheless be exposed to harmful information through access to violent and pornographic videos.

288. The Committee recommends that the State party implement further means and measures of protecting children from information that may be harmful to them.

#### Ill-treatment

289. The Committee is concerned at the poor conditions of detention of children and at incidents of ill-treatment by prison guards, amounting in many cases to cruel, inhuman and degrading treatment prohibited under article 37 (a) of the Convention.

290. The Committee urges the State party to take all necessary measures to improve the conditions of detention of children, to provide these children with accessible and safe procedures for filing complaints to an independent body, and to ensure that each case of violence and abuse is duly investigated, that perpetrators are brought to justice without undue delay and that victims are provided with opportunities for social rehabilitation, full physical and psychological recovery and access to adequate procedures for seeking compensation. The Committee further recommends that the State party take the necessary steps to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

### 5. Family environment and alternative care

#### Family support

291. The Committee shares the State party's concern at the immediate and long-term consequences on children of the weakening of the family structure.

292. The Committee recommends that the State party continue and strengthen its support to families, including through legal and financial assistance in obtaining adequate housing, basic social services and counselling to help resolve problems. The Committee urges the State party to give particular attention to the establishment of psychosocial and parental guidance programmes to strengthen vulnerable family units such as single-parent households.

#### Adoption

293. The Committee is concerned that there is very little interest in simple adoption in the State party (report, para. 705), leading to various types of informal adoption such as “godparenting” that are not conducive to full respect for children’s rights. The Committee further welcomes the establishment of the inter-ministerial commission on intercountry adoption, but remains concerned that intercountry adoptions are not properly followed up.

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

(a) To raise awareness among the society at large about the two existing forms of adoption procedures, namely simple adoption and legal adoption;

(b) To monitor informal adoption practices such as “grandparenting” to ensure that children’s rights are fully respected;

(c) To improve the regular periodic review of the placement of children in adoptive families.

295. The Committee further recommends that the State party consider concluding bilateral agreements with the main countries of destination of adopted children for better follow-up of adoptions and take the necessary steps to ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

#### Protection from violence, abuse and neglect

296. While noting that child abuse is prohibited under the Criminal Code as amended by Act No. 98-024 of 25 January 1999, the Committee is concerned at the incidence of abuse, including sexual abuse, violence against and neglect of children in the State party; that corporal punishment is not prohibited under law; and that insufficient efforts have been made to protect children. In addition, the Committee is concerned at the lack of statistical data and a comprehensive plan of action, and the insufficient infrastructures.

297. The Committee recommends that the State party:

(a) Undertake further studies on violence, including sexual violence, against children within the family, at schools and in other institutions in order to assess its scope, nature and causes, with a view to adopting and implementing a comprehensive plan of action and effective measures and policies in conformity with article 19 of the Convention, and to changing attitudes;

(b) Take all necessary steps to introduce the legal prohibition of corporal punishment in schools and other institutions and at home, and train teachers in the use of alternative measures of discipline;

(c) Properly investigate cases of violence through a child-sensitive judicial procedure, notably by giving appropriate weight to children’s views in legal proceedings, and apply sanctions against perpetrators, giving due regard to the need to guarantee the child’s right to privacy;

(d) Establish an appropriate complaint procedure and inform children about this mechanism;

(e) Provide services for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention, and take measures to prevent the criminalization and stigmatization of victims;

(f) Take into consideration the recommendations of the Committee adopted on its days of general discussion on children and violence (CRC/C/100, para. 688 and CRC/C/111, paras. 701-745);

(g) Seek technical assistance from, among others, UNICEF and WHO.

## 6. Basic health and welfare

298. While taking note of the adoption of several national programmes relating to child survival, including the elimination of fees for health care for children, the Committee is deeply concerned at the high infant and under-5 mortality rates and low life expectancy in the State party. The Committee also remains concerned that health services in the local areas continue to lack adequate resources (both financial and human) and that health coverage is declining. The Committee is concerned that this situation has led to increasing recourse to traditional practitioners, some of whom are unscrupulous charlatans (report, para. 749). In addition, the Committee is concerned that the survival and development of children in the State party continue to be threatened by early childhood infectious diseases, diarrhoea and malnutrition. Concern is also expressed at the low immunization rate, the poor state of sanitation and the insufficient access to safe drinking water, especially in rural areas.

299. The Committee recommends that the State party:

(a) Increase the allocation of adequate human and financial resources and develop and implement comprehensive policies and programmes, in particular strengthening the expanded programme of immunization, the Bamako Initiative, the baby-friendly hospital Initiative and the nutritional programme to improve the health situation of children, particularly in rural areas;

(b) Facilitate access to primary health services; reduce the incidence of maternal, child and infant mortality; prevent and combat malnutrition and malaria; enhance hygiene, especially among vulnerable and disadvantaged groups of children; and promote proper breastfeeding practices;

(c) Pursue additional avenues of cooperation and assistance for the improvement of child health with, among others, WHO and UNICEF.

## Adolescent health

300. The Committee is concerned that insufficient attention has been given to adolescent health issues, including developmental, mental and reproductive health concerns, and substance abuse. The Committee is also concerned at the particular situation of girls given, for instance, the large number of early marriages and pregnancies, which can have a negative impact on their health.

301. The Committee recommends that the State party, in light of its general comment No. 4 on adolescent health and development:

(a) Undertake a comprehensive study to assess the nature and extent of adolescent health problems, with the full participation of children and adolescents, and use the results as a basis for the formulation of adolescent health policies and programmes, paying particular attention to adolescent girls;

(b) Strengthen sexual and reproductive health education and mental health and adolescent-sensitive counselling services, and make them accessible to adolescents;

(c) Seek further technical assistance from, among others, UNICEF, the United Nations Population Fund (UNFPA) and WHO.

### HIV/AIDS

302. While noting that the prevalence of HIV/AIDS is still low in the State party and the strong political will of the Government to address it, the Committee remains concerned at the recent dramatic increase of HIV/AIDS among adults and children.

303. The Committee recommends that the State party:

(a) Increase its current efforts to prevent HIV/AIDS, notably by adopting and implementing the recently prepared National Strategic Plan, taking into consideration general comment No. 3 on HIV/AIDS;

(b) Consider ways of minimizing the impact upon children of the HIV/AIDS-related deaths of parents, teachers and others, in terms of children's reduced access to family life, adoption, emotional care and education;

(c) Seek further technical assistance from, among others, UNAIDS and UNICEF.

### Children with disabilities

304. While noting the adoption of Act No. 97-044 on disabled persons, the Committee is concerned at the negative perception of children with disabilities, reflected in the practice of hiding these children. It is further concerned at the lack of statistical data on children with disabilities in the State party, and at the limited specialized health care, education and employment possibilities available for them. Finally, the Committee is concerned that there is no national system for early detection and that poor health conditions and poverty are leading to an increase in the number of children with disabilities.

305. The Committee recommends that the State party:

(a) Undertake awareness-raising campaigns in order to change the traditional negative perception of children with disabilities and to sensitize the population to the human rights of children with

disabilities;

(b) Carry out studies to assess the causes of disabilities in the State party in order to establish a strategy to prevent them;

(c) Ensure the use of adequate and comprehensive data in the development of policies and programmes for children with disabilities;

(d) Review the situation of children with disabilities in terms of their access to suitable health care, education services and employment opportunities;

(e) 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 (see CRC/C/69);

(f) Allocate adequate resources to strengthen services for children with disabilities, to support their families and for training of professionals in the field;

(g) Strengthen policies and programmes of inclusion in regular education, train teachers and make schools accessible;

(h) Establish a national system for early detection;

(i) Seek assistance from, among others, UNICEF and WHO.

#### Standard of living

306. The Committee notes the challenging socio-economic situation and the adoption, in 2003, of a chapter on special protection in the poverty reduction strategy paper. However, it is concerned about the increasingly high number of children who do not enjoy their right to an adequate standard of living, including children belonging to poor families, street children and children living in remote rural areas.

307. In accordance with article 27 of the Convention, the Committee recommends that the State party:

(a) Strengthen 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, in particular, access to drinking water, health, housing and hygiene;

(b) Pay particular attention to the rights and needs of children in the poverty reduction strategy paper and in all programmes intended to improve the standard of living in the country;

(c) Cooperate and coordinate its efforts with civil society and local communities.

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



308. The Committee notes with appreciation the adoption of Act No. 94-033 of 13 March 1995 on the general policy for the system of education and training, and the National Programme for the Improvement of Education (PNAE, phase II - Decree No. 97-1400 of 19 December 1997), but remains deeply concerned at the high illiteracy rate in the State party, which affects more women than men, the lack of pre-school education, the still low enrolment in primary and secondary education, the very high percentage of repeaters and dropouts in primary education, the low quality of education, the high teacher-pupil ratio, the very low percentage of children that complete primary education and the important regional disparities between rural and urban areas. In addition, the Committee is concerned that primary education is not totally free and that parents still have to pay for furniture and for the teachers. The Committee also welcomes the efforts undertaken by the State party to increase the enrolment of girls in school, notably through the National Plan of Action for Education of Girls (PANEF - 1996-2000), but it remains concerned at the disparities in school enrolment between boys and girls, with a much lower rate for the latter. Finally, the Committee is concerned at the lack of access to games and other leisure activities in schools and in local areas.

309. The Committee recommends that the State party:

- (a) Ensure that all children, especially girls, wherever they live, including in the least developed areas, have equal access to educational opportunities;
- (b) Take all necessary measures to make primary education completely free;
- (c) Increase resources to help children go on to secondary education;
- (d) Take the necessary measures to identify the causes of the high rates of repetition and dropout in primary school and provide remedies;
- (e) Establish bridges between formal and non-formal education;
- (f) Take the necessary measures to remedy the poor quality of education and the internal efficiency of the management of education;
- (g) Raise awareness about the importance of early childhood education and develop programmes to increase the enrolment at the pre-school level;
- (h) Take measures to enable children with disabilities to have access to regular schools and to ensure that these children have access to formal and vocational educational opportunities;
- (i) Orient education towards the aims mentioned in article 29, paragraph 1, of the Convention and the Committee's general comment No. 1 on the aims of education;
- (j) Provide teachers with adequate training and encourage more women to become teachers;
- (k) Encourage the participation of children at all levels of school life;
- (l) Provide playgrounds at all schools and encourage the participation of children, in particular girls,

in leisure and cultural activities;

(m) Seek technical assistance from, among others, UNESCO and UNICEF.

## 8. Special protection measures

### Economic exploitation, including child labour

310. While noting with appreciation the adoption of the national action plan on child labour and the ongoing programme with the International Programme for the Elimination of Child Labour of the International Labour Organization (ILO/IPEC), the Committee is deeply concerned at the fact that child labour in the State party is still widespread, in particular in the informal sector, including domestic labour, and that children may be working long hours at young ages and in difficult conditions, which have a negative effect on their development and school attendance.

311. The Committee recommends that the State party:

(a) Adopt the draft Labour Code, which increases the minimum age for employment from 14 to 15 years, and take the necessary measures for its effective implementation, including increasing the number of labour inspectors providing them with adequate means;

(b) Pay particular attention to the issue of domestic servants;

(c) Continue its collaboration with ILO/IPEC.

### Sale, trafficking and abduction

312. While welcoming the adoption of Act 98-024 of 25 January 1999 amending the Penal Code and other efforts undertaken by the State party to combat child trafficking through a national programme, and in particular the adoption of a travel document with five other countries of the region, the Committee is deeply concerned at the number of trafficked children who are exploited in the State party and in neighbouring countries.

313. The Committee recommends that the State party:

(a) Take measures to prevent and combat the sale and trafficking of children, including an awareness-raising campaign and educational programmes, particularly for parents;

(b) Undertake research and systematic data gathering;

(c) Facilitate the reunification of child victims with their families and provide adequate care, psychosocial support and reintegrative programmes for them;

(d) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime of 2000;

(e) Continue to seek assistance from ILO/IPEC and UNICEF.

### Street children

314. The Committee is concerned at the increasing number of street children and at the lack of a systematic and comprehensive strategy to address this situation and to provide these children with adequate assistance. In addition, the Committee notes the establishment of several villages for the reinsertion of vulnerable families.

315. The Committee recommends that the State party:

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

(b) Ensure that these children are provided with: recovery and rehabilitation services for physical, sexual and substance abuse; protection from police brutality; and services for reconciliation with their families, including through family support;

(c) Undertake a study on the causes and scope of the problem of street children and develop a comprehensive strategy, with children's participation, to address the high and increasing numbers of street children, with the aim of preventing and reducing this phenomenon;

(d) Closely monitor the families sent to the *villages d'insertion* and undertake an assessment of this initiative.

### Sexual exploitation, including prostitution and pornography

316. While welcoming the adoption of Act 98-024 of 25 January 1999 amending the Penal Code, the Committee is concerned about the increasing number of child victims of commercial sexual exploitation, including prostitution and pornography. Concern is also expressed at the lack of programmes for the physical and psychological recovery and social rehabilitation of child victims of such abuse and exploitation.

317. In light of article 34 and other related articles of the Convention, and taking into account the recent studies undertaken by the State party in that regard, the Committee recommends that the State party formulate a national plan of action and implement appropriate policies and programmes to prevent and combat commercial sexual exploitation, including prostitution and pornography. These policies and programmes should include training of the police force, courts and local administrative services, and the establishment of local networks involving all relevant actors to prevent, detect and refer cases of commercial sexual exploitation and to develop programmes for the recovery and rehabilitation of child victims in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children. The Committee also recommends that the State party reinforce its cooperation with UNICEF.

## Administration of juvenile justice

318. The Committee notes the adoption of Act No. 97-036 of 30 October 1997 which improves regulations regarding due process, but is concerned at the lack of juvenile judges and criminal courts for minors and at the limited number of social workers in this field. In addition, the Committee is deeply concerned about the possibility that children of 16 and 17 years of age are considered and sentenced as adults; the failure to separate children from adults in jails (with the exception of the jail in Antananarivo); the very poor conditions of detention made worse by the regular use of violence by guards; the frequent recourse to and excessive length of pre-trial detention; the lack of a formal obligation to inform parents about their child's detention; the very limited possibilities for the rehabilitation and reintegration into society of juveniles following judicial proceedings; and the sporadic training of judges, prosecutors and prison staff.

319. The Committee recommends that the State party continue its efforts to reform the legislation concerning the system of juvenile justice in line with the Convention, in particular articles 37, 40 and 39, and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System.

320. As part of this reform, the Committee particularly recommends that the State party:

- (a) Ensure that persons of 16 and 17 years of age are not considered and sentenced as adults and enjoy the full protection of the Convention;
- (b) Make sure that children below the age of 13 years are not brought before a criminal court and that educational measures permit deprivation of liberty only as a measure of last resort;
- (c) Undertake all necessary measures to establish juvenile courts and appoint trained juvenile judges in all regions of the State party;
- (d) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time, limit by law the length of pre-trial detention and ensure that the lawfulness of this detention is reviewed by a judge without delay and then regularly;
- (e) Provide children with legal or other assistance at an early stage of judicial proceedings;
- (f) Provide children with basic services (e.g. schooling);
- (g) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, notably by establishing special prisons for children with conditions suitable to their age and needs and by ensuring the existence of social services in all detention centres in the country; and in the meantime by guaranteeing separation from adults in all prisons and in pre-trial detention places all over the country;

(h) 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 dealing with complaints from children;

(i) Ensure that children remain in regular contact with their families while in the juvenile justice system notably by informing parents when their child is detained;

(j) Introduce regular medical examination of children by independent medical staff;

(k) Introduce training programmes on relevant international standards for all professionals involved in the system of juvenile justice;

(l) Make every effort to establish a programme of recovery and social rehabilitation of juveniles following judicial proceedings;

(m) Take into consideration the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238);

(n) Request technical assistance in the area of juvenile justice and police training from, among others, the Office of the High Commissioner for Human Rights and UNICEF.

## 9. Optional Protocols

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

322. The Committee encourages the State party to ratify and implement the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.

## 10. Dissemination of documentation

323. Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic 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 concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations. The Committee recommends that the State party request international cooperation in this regard.

## 11. Next report

324. 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 United Nations 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 reporting in a timely and regular manner. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its combined third and fourth periodic reports by 17 April 2008, due date for the submission of the fourth periodic report. Such a report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.