



**United Nations**

# **Report of the Committee on the Rights of the Child**

**General Assembly**  
**Official Records**  
**Sixty-seventh session**  
**Supplement No. 41 (A/67/41)**



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**United Nations • New York, 2012**

*Note*

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## **I. Organizational and other matters**

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

1. As at 3 February 2012, the closing date of the fifty-ninth session of the Committee on the Rights of the Child, there were 193 States parties to the Convention on the Rights of the Child. This makes it the most widely ratified human rights instrument, with almost universal ratification. It is also the human rights instrument with the highest number of reservations, although several countries withdrew their reservations during the period under the consideration of this report (25 May 2010–3 February 2012). An updated list of States that have signed, ratified or acceded to the Convention can be consulted at [www.ohchr.org](http://www.ohchr.org) or <http://treaties.un.org>.

2. As at the same date, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict had been ratified or acceded to by 143 States parties. Also, as at the same date, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography had been ratified or acceded to by 152 States parties. An updated list of States that have signed, ratified or acceded to the two Optional Protocols can be consulted at [www.ohchr.org](http://www.ohchr.org) or <http://treaties.un.org>.

### **B. Sessions of the Committee**

3. The Committee held six sessions since the adoption of its previous biennial report (A/65/41): fifty-fourth session (25 May–11 June 2010); fifty-fifth session (13 September–1 October 2010); fifty-sixth session (17 January–4 February 2011); fifty-seventh session (30 May–17 June 2011); fifty-eighth session (19 September–7 October 2011); and fifty-ninth session (16 January–3 February 2012). Subsequent to each session, the Committee issues a report of the session containing the full text of all concluding observations adopted as well as any decisions and recommendations (including those arising from a day of general discussion) and noting the general comments adopted. The full text of concluding observations adopted as well as any decisions and recommendations can be found on <http://www2.ohchr.org/english/bodies/crc>.

### **C. Membership and officers of the Committee**

4. From the fifty-fourth to the fifty-sixth session, the Committee maintained the same members and officers noted in its previous report to the General Assembly (A/65/41, annex I).

5. At its 1502nd meeting, held on 25 May 2010, the Committee approved the nomination of Ms. Azza el-Ashmawy (Egypt) in accordance with article 43, paragraph 7, of the Convention. Ms. El-Ashmawy was nominated by the Government of Egypt to replace Ms. Moushira Khattab, who resigned on 1 April 2010.

6. In accordance with article 43 of the Convention, the Thirteenth Meeting of States Parties to the Convention was convened on 21 December 2010 at United Nations Headquarters. The following nine members of the Committee were elected or re-elected for a term of four years beginning on 28 February 2011: Ms. Agnes Akosua Aidoo, Ms. Aseil al-Shehail, Mr. Jorge Cardona Llorens, Mr. Bernard Gastaud, Ms. Maria Herczog, Mr. Hatem Kotrane, Mr. Gehad Madi, Ms. Kirsten Sandberg and Ms. Hiranthi Wijemanne.

7. At its 1614th meeting, held on 30 May 2011, the Committee also approved the nomination of Ms. Pilar Nores de Garcia in accordance with article 43, paragraph 7, of the Convention. Ms. Nores was nominated by the Government of Peru to replace Ms. Susana Villarán de la Puente who resigned on 27 March 2011. The list of the members of the Committee, with an indication of their term of office, appears in annex I to the present report. Annex I also indicates the officers elected at the fifty-seventh session of the Committee.

#### **D. Adoption of the report**

8. At its 1713th meeting, held on 7 June 2012, the Committee considered the draft of its eleventh biennial report to the General Assembly, covering its activities from the fifty-fourth to the fifty-ninth session. The report was adopted unanimously by the Committee.

## **II. Reports by States parties under article 44 of the Convention, article 8 of the Optional Protocol on the involvement of children in armed conflict and article 12 of the Optional Protocol on the sale of children, child prostitution and child pornography**

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

9. In order to maintain an up-to-date register of the status of submission of reports and adoption of related concluding observations, prior to each session the Committee issues a comprehensive document outlining the number of reports submitted to date. This document, entitled "Submission of reports by States parties", also contains relevant information on the exceptional measures taken to address late or non-reporting States parties. The latest version of this report was issued prior to the fifty-ninth session of the Committee on 13 January 2012 in document CRC/C/59/2.

10. As of 5 January 2012, the Committee had received 528 reports pursuant to article 44 of the Convention, including 196 initial, 150 second periodic, 100 third periodic, 80 fourth periodic reports and 4 fifth periodic, as well as 90 initial State party reports and 1 second periodic report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and 75 initial reports and 1 second periodic report under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. As at 3 February 2012, the last day of the fifty-ninth session, the backlog of reports to be considered by the Committee stands at 92 reports: 47 under the Convention, 23 under Optional Protocol on the involvement of children in armed conflict and 22 under the Optional Protocol on the sale of children, child prostitution and child pornography. For the full list of these reports, see CRC/C/59/2, annexes I, II and III, respectively.

#### **B. Consideration of reports**

11. During its fifty-fourth to fifty-ninth sessions, the Committee considered 41 initial and periodic reports under the Convention, 18 initial reports under the Optional Protocol on the involvement of children in armed conflict and 17 initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography.

12. The following table indicates, by session, the reports of States parties considered by the Committee during the period covered by the present report. It further provides the document symbol of the session report in which the concluding observations of the Committee have been published, the symbols of the reports of States parties considered by the Committee and the document symbol of the concluding observations published as a separate document.

	<i>State party report</i>	<i>Concluding observations</i>
<i>Fifty-fourth session, 25 May–11 June 2010</i>		
<i>Convention on the Rights of the Child</i>		
Argentina	CRC/C/ARG/3-4	CRC/C/ARG/CO/3-4
Belgium	CRC/C/BEL/3-4	CRC/C/BEL/CO/3-4
Grenada	CRC/C/GRD/2	CRC/C/GRD/CO/2 and Corr.1
Japan	CRC/C/JPN/3	CRC/C/JPN/CO/3
Nigeria	CRC/C/NGA/3-4	CRC/C/NGA/CO/3-4
The former Yugoslav Republic of Macedonia	CRC/C/MKD/2	CRC/C/MKD/CO/2
Tunisia	CRC/C/TUN/3	CRC/C/TUN/CO/3
<i>Optional Protocol on the involvement of children in armed conflict</i>		
Argentina	CRC/C/OPAC/ARG/1	CRC/C/OPAC/ARG/CO/1
Colombia	CRC/C/OPAC/COL/1	CRC/C/OPAC/COL/CO/1
Japan	CRC/C/OPAC/JPN/1	CRC/C/OPAC/JPN/CO/1
Serbia	CRC/C/OPAC/SRB/1	CRC/C/OPAC/SRB/CO/1
The former Yugoslav Republic of Macedonia	CRC/C/OPAC/MKD/1	CRC/C/OPAC/MKD/CO/1
<i>Optional Protocol on the sale of children, child prostitution and child pornography</i>		
Argentina	CRC/C/OPSC/ARG/1	CRC/C/OPSC/ARG/CO/1
Belgium	CRC/C/OPSC/BEL/1	CRC/C/OPSC/BEL/CO/1
Colombia	CRC/C/OPSC/COL/1	CRC/C/OPSC/COL/CO/1
Japan	CRC/C/OPSC/JPN/1	CRC/C/OPSC/JPN/CO/1
Serbia	CRC/C/OPSC/SRB/1	CRC/C/OPSC/SRB/CO/1
The former Yugoslav Republic of Macedonia	CRC/C/OPSC/MKD/1	CRC/C/OPSC/MKD/CO/1

	<i>State party report</i>	<i>Concluding observations</i>
<i>Fifty-fifth session, 13 September–1 October 2010</i>		
<i>Convention on the Rights of the Child</i>		
Angola	CRC/C/AGO/2-4	CRC/C/AGO/CO/2-4
Burundi	CRC/C/BDI/2	CRC/C/BDI/CO/2
Guatemala	CRC/C/GTM/3-4	CRC/C/GTM/CO/3-4
Montenegro	CRC/C/MNE/1	CRC/C/MNE/CO/1
Nicaragua	CRC/C/NIC/4	CRC/C/NIC/CO/4
Spain	CRC/C/ESP/3-4	CRC/C/ESP/CO/3-4
Sri Lanka	CRC/C/LKA/3-4	CRC/C/LKA/CO/3-4
Sudan	CRC/C/SDN/3-4	CRC/C/SDN/CO/3-4
<i>Optional Protocol on the involvement of children in armed conflict</i>		
Bosnia and Herzegovina	CRC/C/OPAC/BIH/1	CRC/C/OPAC/BIH/CO/1
Montenegro	CRC/C/OPAC/MNE/1	CRC/C/OPAC/MNE/CO/1
Nicaragua	CRC/C/OPAC/NIC/1	CRC/C/OPAC/NIC/CO/1
Sierra Leone	CRC/C/OPAC/SLE/1	CRC/C/OPAC/SLE/CO/1
Sri Lanka	CRC/C/OPAC/LKA/1	CRC/C/OPAC/LKA/CO/1
Sudan	CRC/C/OPAC/SDN/1	CRC/C/OPAC/SDN/CO/1
<i>Optional Protocol on the sale of children, child prostitution and child pornography</i>		
Bosnia and Herzegovina	CRC/C/OPSC/BIH/1	CRC/C/OPSC/BIH/1
Montenegro	CRC/C/OPSC/MNE/1	CRC/C/OPSC/MNE/CO/1
Nicaragua	CRC/C/OPSC/NIC/1	CRC/C/OPSC/NIC/CO/1
Sierra Leone	CRC/C/OPSC/SLE/1	CRC/C/OPSC/SLE/CO/1
<i>Fifty-sixth session, 17 January–4 February 2011</i>		
<i>Convention on the Rights of the Child</i>		
Afghanistan	CRC/C/AFG/1	CRC/C/AFG/CO/1
Belarus	CRC/C/BLR/3-4	CRC/C/BLR/CO/3-4
Denmark	CRC/C/DNK/4	CRC/C/DNK/CO/4
Lao People's Democratic Republic	CRC/C/LAO/2	CRC/C/LAO/CO/2

	<i>State party report</i>	<i>Concluding observations</i>
New Zealand	CRC/C/NZL/3-4	CRC/C/NZL/CO/3-4
Singapore	CRC/C/SGP/2-3	CRC/C/SGP/CO/2-3
Ukraine	CRC/C/UKR/3-4	CRC/C/UKR/CO/3-4
<i>Optional Protocol on the involvement of children in armed conflict</i>		
Mexico	CRC/C/OPAC/MEX/1	CRC/C/OPAC/MEX/CO/1
<i>Optional Protocol on the sale of children, child prostitution and child pornography</i>		
Belarus	CRC/C/OPSC/BLR/1	CRC/C/OPSC/BLR/CO/1
Mexico	CRC/C/OPSC/MEX/1 and Corr.1	CRC/C/OPSC/MEX/CO/1
Ukraine	CRC/C/OPAC/UKR/1	CRC/C/OPAC/UKR/CO/1
<i>Fifty-seventh session, 30 May–11 June 2011</i>		
<i>Convention on the Rights of the Child</i>		
Bahrain	CRC/C/BHR/2-3	CRC/C/BHR/CO/2-3
Cambodia	CRC/C/KHM/2	CRC/C/KHM/CO/2
Costa Rica	CRC/C/CRI/4	CRC/C/CRI/CO/4
Cuba	CRC/C/CUB/2	CRC/C/CUB/CO/2
Czech Republic	CRC/C/CZE/3-4	CRC/C/CZE/CO/3-4
Egypt	CRC/C/EGY/3-4	CRC/C/EGY/CO/3-4
Finland	CRC/C/FIN/4	CRC/C/FIN/CO/4
<i>Optional Protocol on the involvement of children in armed conflict</i>		
Egypt	CRC/C/OPAC/EGY/1	CRC/C/OPAC/EGY/CO/1
<i>Optional Protocol on the sale of children, child prostitution and child pornography</i>		
Egypt	CRC/C/OPSC/EGY/1	CRC/C/OPSC/EGY/CO/1
<i>Fifty-eighth session, 19 September–7 October 2011</i>		
<i>Convention on the Rights of the Child</i>		
Iceland	CRC/C/ISL/3-4	CRC/C/ISL/CO/3-4
Italy	CRC/C/ITA/3-4 and Corr.1	CRC/C/ITA/CO/3-4

	<i>State party report</i>	<i>Concluding observations</i>
Panama	CRC/C/PAN/3-4	CRC/C/PAN/CO/3-4
Republic of Korea	CRC/C/KOR/3-4	CRC/C/KOR/CO/3-4
Seychelles	CRC/C/SYC/2-4	CRC/C/SYC/CO/2-4
Syrian Arab Republic	CRC/C/SYR/3-4 and Add.1	CRC/C/SYR/CO/3-4
<i>Optional Protocol on the sale of children, child prostitution and child pornography</i>		
Sweden	CRC/C/OPSC/SWE/1	CRC/C/OPSC/SWE/CO/1
<i>Fifty-ninth session, 16 January–3 February 2012</i>		
<i>Convention on the Rights of the Child</i>		
Azerbaijan	CRC/C/AZE/3-4	CRC/C/AZE/CO/3-4
Cook Islands	CRC/C/COK/1	CRC/C/COK/CO/1
Madagascar	CRC/C/MDG/3-4	CRC/C/MDG/CO/3-4
Myanmar	CRC/C/MMR/3-4	CRC/C/MMR/CO/3-4
Thailand	CRC/C/THA/3-4	CRC/C/THA/CO/3-4 and Corr.1
Togo	CRC/C/TGO/3-4	CRC/C/TGO/CO/3-4
<i>Optional Protocol on the involvement of children in armed conflict</i>		
Azerbaijan	CRC/C/OPAC/AZE/1	CRC/C/OPAC/AZE/CO/1
Democratic Republic of Congo	CRC/C/OPAC/COD/1	CRC/C/OPAC/COD/CO/1
Thailand	CRC/C/OPAC/THA/1	CRC/C/OPAC/THA/CO/1
<i>Optional Protocol on the sale of children, child prostitution and child pornography</i>		
Azerbaijan	CRC/C/OPSC/AZE/1	CRC/C/OPSC/AZE/CO/1
Thailand	CRC/C/OPSC/THA/1	CRC/C/OPSC/THA/CO/1
Togo	CRC/C/OPSC/TGO/1	CRC/C/OPSC/TGO/CO/1

13. The Government of Cuba sent its comments to the Committee's concluding observations (CRC/C/CUB/CO/2) on 20 October 2011. These comments can be found on the webpage of the fifty-seventh session (<http://www2.ohchr.org/english/bodies/crc/crcs57.htm>). The Government of the Syrian Arab Republic sent its comments about the Committee's concluding observations (CRC/C/SYR/CO/3-4) on 17 February 2012. They are available on the webpage of the fifty-eighth session (<http://www2.ohchr.org/english/bodies/crc/crcs58.htm>).

## C. Progress achieved: trends and challenges of the implementation process

14. In line with its practice regarding its biennial reports, in the present chapter, the Committee assesses achievements and challenges as well as current trends in child rights. In particular, the Committee will dedicate a section to the consideration and process that led to the adoption by the General Assembly on 19 December 2011 of the new Optional Protocol to the Convention on the Rights of the Child on a communications procedure (the text of the Optional Protocol can be found on [http://treaties.un.org/doc/source/signature/2012/CTC\\_4-11d.pdf](http://treaties.un.org/doc/source/signature/2012/CTC_4-11d.pdf)).

### 1. Progress achieved in general

15. During the period under review, the Committee on the Rights of the Child considered at six sessions a total of 76 reports under the Convention and the first two Optional Protocols. In addition, it issued general comment No. 13 (2011) on the right of the child to freedom from all forms of violence and started its work on the five draft general comments listed in paragraph 47.

16. Between sessions, the Committee members were personally engaged in numerous activities. These included participating in several meetings, conferences, seminars, lectures and courses. Additionally, many Committee members were involved in the follow-up to the Committee's concluding observations in a number of countries upon invitation from States, civil society organizations and the United Nations Children's Fund (UNICEF). This work remains indispensable to guarantee a better application of the Convention and its first two Optional Protocols.

17. The Committee was from the first actively involved in the process initiated by the United Nations High Commissioner for Human Rights in 2009 on strengthening the treaty body system. The Committee participated in various consultations; held a joint consultation with the Committee on the Elimination of Discrimination against Women in order to identify options for, inter alia, the future of the treaty body system; sent representatives to all the official meetings, including those held in Poznan, Poland, Dublin (I and II), Seoul and Sion, Switzerland; and held a number of meetings on this issue with the representatives of the Office of the United Nations High Commissioner for Human Rights. On 2 February 2012, the Committee on the Rights of the Child was the first treaty body to endorse as a whole the Dublin II outcome document.

### 2. The optional protocol to the Convention on the Rights of the Child on a communications procedure

18. The major recent achievement during the period under consideration is the adoption by the General Assembly on 19 December 2011 of the new Optional Protocol to the Convention on the Rights of the Child on a communications procedure. Indeed, the Committee on the Rights of the Child was the only human rights treaty body which was not able to consider communications from individuals. All the other core international human rights treaties have procedures allowing for individual communications. In addition, under certain circumstances, some of the treaty bodies can undertake inquiries in cases of violations of the treaty in question (the Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities and the Committee on Enforced Disappearances).

19. A core group of States (Chile, Egypt, Finland, France, Kenya, Maldives, Slovakia, Slovenia, Thailand and Uruguay) supported the initiative for a new optional protocol to establish a communications procedure under the Convention on the Rights of the Child. They contributed to the adoption on 17 June 2009 of Human Rights Council resolution 11/1. This resolution established an open-ended working group to explore the possibility of

elaborating an optional protocol to the Convention on the Rights of the Child to provide a communications procedure complementary to the reporting procedure under the Convention.

20. The Council noted in the preamble of the resolution that “children and their representatives lack a communications procedure under the Convention on the Rights of the Child” and recalled “the view of the Committee on the Rights of the Child ... that the development of a communications procedure for the Convention on the Rights of the Child would significantly contribute to the overall protection of children’s rights”.

21. The open-ended working group met from 16 to 19 December 2009. At its first meeting it elected Drahošlav Štefánek (Slovakia) as its Chairperson-Rapporteur. More than 80 States, representatives from intergovernmental organizations, UNICEF and non-governmental organizations, as well as a number of experts, attended the first session. Pursuant to paragraph 3 of resolution 11/1, the then Chairperson of the Committee on the Rights of the Child, Yanghee Lee, and Vice-Chairperson, Jean Zermatten, also participated in this session of the working group as resource persons.

22. During the session, the Chairperson and the Vice-Chairperson of the Committee also submitted papers on, respectively, “Reasons and timing for a communications procedure under the Convention on the Rights of the Child” and “Specific rights for children, including the right of the child to be heard and to participate”.

23. On the basis of a proposal by the Chairperson-Rapporteur, the working group decided to address the following areas: (a) reasons and timing for elaborating a communications procedure under the Convention; (b) existing international mechanisms, their efficiency and accessibility by children; (c) efficiency in the protection of the rights of the child under mechanisms existing at the national and regional levels; (d) unique nature of the rights of the child and specific rights enshrined in the Convention, including the right of the child to be heard; and (e) implications and feasibility of a communications procedure under the Convention. A report on this session was submitted to the thirteenth session of the Human Rights Council (A/HRC/13/43).

24. On 24 March 2010, the Council adopted resolution 13/3 by which it decided to extend the mandate of the Working Group until the seventeenth session of the Council. It also decided to mandate the Working Group to elaborate an optional protocol and requested the Chairperson of the Working Group to prepare a proposal for a draft optional protocol.

25. In order to assist the Chairperson-Rapporteur of the Working Group in preparing the proposal for a draft optional protocol, informal consultations with him on a non-paper containing possible elements of the draft optional protocol were held in Geneva on 26 May 2010, with the participation of all States parties and other stakeholders. Then, on 21 and 22 June 2010, the Office of the United Nations High Commissioner for Human Rights and the International Commission of Jurists, under the chairmanship of the Chair and Vice-Chairperson of the Committee on the Rights of the Child, organized an expert consultation in Geneva. The participants had expertise in litigating on children’s issues at the national or international levels and represented different regions of the world and legal systems. This consultation was convened in accordance with Council resolution 13/3, which also requested the Chairperson-Rapporteur, in the preparation of the proposal for a draft optional protocol, to take into account the views of relevant experts and, inter alia, to give due regard to the views of the Committee on the Rights of the Child. The Chairperson-Rapporteur of the Working Group attended the consultation.

26. The second session of the open-ended working group took place in two parts. It met from 6 to 10 December 2010 to discuss the first proposal for a draft optional protocol prepared by the Chairperson-Rapporteur (A/HRC/WG.7/2/2 and Corr.1), and then from 10 to 16 February 2011 to discuss the proposal as revised in December 2010

(A/HRC/WG.7/2/4). More than 75 States, representatives from intergovernmental organizations, UNICEF and non-governmental organizations, as well as a number of experts, were in attendance. The Chair and Vice-Chairperson of the Committee on the Rights of the Child participated in the session as resource persons as stipulated in paragraphs 3 and 4 of Council resolution 13/3.

27. The Committee on the Rights of the Child contributed to this session of the Working Group by commenting on the proposal for a draft optional protocol prepared by the Chairperson-Rapporteur (A/HRC/WG.7/2/3). The Committee welcomed the Chairperson-Rapporteur's proposal and its comprehensive approach and gave its view on a number of provisions of the draft.

28. Among other things, the Committee highlighted that it was essential that no right protected under these three instruments be excluded from the ambit of the communication procedure as these rights are interrelated, interdependent and indivisible. Other comments were provided on the collective communication procedure, the competence of the Committee to receive and consider communications, interim measures, friendly settlements and the inquiry procedure.

29. On 16 February 2011, the last day of its second session, the Working Group adopted its report ad referendum and agreed to transmit the draft optional protocol to the Human Rights Council at the latter's seventeenth session. On 17 June 2011, the Human Rights Council adopted resolution 17/18, by which it adopted the Optional Protocol and recommended its adoption by the General Assembly. On 19 December 2011, the General Assembly adopted resolution 66/138 containing the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. In a press release issued on 20 December 2011,<sup>1</sup> the Chairperson of the Committee, Mr. Zermatten, remarked that "the new Protocol takes into consideration the particular, special needs of children. In fulfilling its functions under the Protocol, the Committee will be guided by the principle of the best interests of the child and will bear in mind the rights and views of the child".

30. The Optional Protocol establishes the competence of the Committee on the Rights of the Child to examine individual and inter-State communications as well as to initiate inquiry procedures for grave or systematic violations of specific rights under the Convention and its Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict. It allows the Committee to request the adoption of interim measures to avoid possible irreparable damage, as well as measures to protect individuals who address the Committee. It also sets out provisions on the Committee's role with respect to friendly settlement agreements and follow-up procedures. The Optional Protocol stipulates that the Committee shall be guided by the principle of the best interests of the child and shall have regard to the rights and views of the child. Child-sensitive procedures will be guaranteed and safeguards will be introduced to prevent the manipulation of the child by those acting on his/her behalf.

31. The Optional Protocol opened for signature in Geneva on 28 February 2012 and was signed that day by 20 States. It will enter into force three months after the deposit of the tenth instrument of ratification or accession by any State which has signed, ratified or acceded to the Convention or either of the first two Optional Protocols.

32. At its fifty-ninth session, the Committee established a working group to start to develop rules of procedure regarding the implementation of the new Optional Protocol.

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<sup>1</sup> Available from [www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11732&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11732&LangID=E).

### 3. Trends and challenges

33. During the period under review, the Committee observed some positive emerging trends with regard to implementation of the Convention on the Rights of the Child worldwide. Sustained economic growth during most part of the first decade of 2000 and increases in social investment and protection in some regions have decreased poverty rates in many countries around the world, although inequalities continue to persist, seriously undermining the realization of human rights, notably child rights. Alongside increased social investment, good examples of social policies were developed in some countries, but sustainability and impact assessment of such policies for the realization of child rights remain major challenges. Additionally, democratic stability in many regions and open political mobilization in some countries have opened avenues for young people's participation and aspirations. Legislation to apply the Convention at national level continues to be developed, with a new emphasis on translating such legal frameworks into public policies.

34. However, the Committee also observed with concern a number of global and regional trends that challenge further progress on the realization of child rights. The continuation of the economic and financial crisis over recent years is affecting the fulfilment of the Convention in both developed and developing countries, causing, among other issues, drastic social cuts, reduced employment opportunities – especially for young people and women, rising food and fuel prices, reduced health services for the most needy, increased dropouts from school and reduced social protection to children and families in a vulnerable situation, in addition to slowing economic growth. States should not lose sight that, in view of the economic crisis affecting both developing and industrialized countries causing cost cutting measures both at home and in international cooperation, there is a need to protect, maintain and even increase social policy efforts and investment, especially regarding child rights. In times of fiscal constraint, continuing and even increasing funding of social policies and social protection of those in the most vulnerable situations, by employing an equitable approach and focusing on children, will have a strong development and economic payoff.

35. Climate change is also increasingly affecting the lives of millions of children worldwide. Changes in rainfall patterns, greater weather extremes and increasing droughts and floods can have serious health consequences on children, including lower standards of water and sanitation, increases in rates of malnutrition and the wider spread of diseases. Negative impacts on agriculture, principally — the sector most affected by climate change — also have damaging consequence on the economic life of families, who may be forced out of their homes or even their countries. The harmful effects thereof on children may include the end of access to proper education and health services, separation from their parents, and early introduction to child labour.

36. Discrimination and xenophobia are on the rise and especially affect women and children in situations of migration or poverty, or those belonging to minority ethnic or national communities and who are usually voiceless. While this is a manifestation of the difficulties of interculturality in a globalized world, it could also be increasingly linked to economic hardship, as it is well documented that, in situations of increasing poverty and unemployment, housing, social welfare, education and health care, outsiders or foreigners are unreasonably viewed as a “threat” to the “entitlements” of the local community.

37. Domestic violence and other forms of violence, including State violence, against children and women are on the rise in all regions of the world. While 32 States have introduced a comprehensive ban on corporal punishment and other forms of degrading physical and psychological punishment of children in all settings as part of their national legislation, much remains to be done both in terms of actually applying such legislation to all spheres of children's lives and reaching universality. There are approximately 70

countries that allow corporal punishment and other violent punishments as legal disciplinary measures in penal institutions. Around 30 countries permit corporal punishment in sentencing children for crimes, which in some countries includes flogging, stoning or amputation. Many developed and developing countries still allow “light” or “reasonable” forms of punishment in the home and the school thus fostering a climate of violence, which — as research demonstrates — is reproduced from generation to generation.

38. The Committee also noted with concern that there is a growing tendency in both developed and developing regions of the world to consider — or even reform earlier progressive legislation on juvenile criminal justice — by lowering the age of criminal responsibility and increasing penalties for children found guilty, in a misguided effort to reduce increasing public insecurity and, as a result, weakening the realization of children’s rights. While public security is a goal that the Committee understands and shares, evidence does not sustain the view (often held or repeated by the mass media) that juvenile delinquency is on the rise and that it is linked to insecurity in general; nor does it show that a harsher treatment of young offenders by itself improves public security.

39. Finally, albeit not exhaustively, depriving children of their family’s care when the latter is inadequate is on the rise worldwide, despite abundant evidence of the negative impact, provided both by research and practice, of out-of-home care on child development (such as low educational outcomes) and the fact that it is more expensive than family-based alternatives. Placing children into care, mostly residential care, is often a result of the lack of prevention and family support services, providing high-quality family-type placements and support to kinship care. It is increasingly affecting very young children (under 3 years), children with disabilities, and children belonging to minorities. Better parenting through education and support, preparation of foster parents and other carers, supervision and regular review, complaint mechanisms for children and family reunification need to be given priority.

### **III. Overview of the other activities of the Committee**

#### **A. Methods of work**

##### **1. Request to hold one session each year in parallel chambers**

40. At its 1342nd meeting on 6 June 2008 the Committee decided to request the General Assembly to approve its request to meet in two chambers for a period of four sessions, including the related pre-sessional working groups, beginning with its pre-sessional working group in October 2009 (see session report CRC/C/48/3). Pursuant to General Assembly resolution 63/244 authorizing the Committee to meet in two chambers for three sessions and related pre-sessional working groups, the Committee met in two chambers at its fifty-third session (11–29 January 2010), fifty-fourth (25 May–11 June 2010) and fifty-fifth sessions (13 September–1 October 2010).

41. During the three sessions in parallel chambers, the Committee examined 54 reports under the Convention and the Optional Protocols. While the two-chamber sessions enabled the Committee to keep the backlog of reports from growing beyond approximately 80 reports, they did not allow for any progress to be made toward a reduction of the backlog. Since the last of the two-chamber sessions was held in October 2010, the backlog has again begun to increase and, as at 3 February 2012, stands at 92 reports, 47 under the Convention and 45 under the first two Optional Protocols.

42. For this reason, the Committee recalls its decision adopted on 11 February 2011, in order to address the persisting backlog and to encourage timely reporting. In that decision, the Committee decided to request the General Assembly to approve the holding of one of its three annual sessions in two chambers every year, which would amount to 13 additional working days of sessional meetings and 5 additional days of pre-sessional meetings per year (see decision No. 10, annex III). The Committee strongly recommends that the General Assembly consider this request favourably.

## **2. New reporting guidelines and rules of procedure**

43. On 1 October 2010, the Committee adopted the harmonized treaty-specific reporting guidelines (CRC/C/58/Rev.2 and Corr.1). The purpose of the guidelines is: (a) to complement the guidelines for a common core document, as envisaged for all treaties; and (b) integrate information on the implementation of one or both the first two Optional Protocols to the Convention into the periodic reports due under the Convention, as foreseen for the periodic reports due under the first two Optional Protocols from all States parties to the Convention. The Committee decided that future State party reports should not exceed 60 pages. In this regard the Committee also adopted decision No. 9 on periodicity and format of reports (see annex II).

44. At its fifty-fifth session, the Committee discussed and adopted its revised rules of procedure in which the section on election of officers was amended.

45. At its fifty-ninth session, the Committee established a working group to start to develop rules of procedure regarding the implementation of the new Optional Protocol on a communications procedure.

## **3. General comments**

46. During the period under review, the Committee adopted the following general comment:

General comment No. 13 (2011) on the right of the child to freedom from all forms of violence, at its fifty-sixth session (see annex IV)

47. In addition, the Committee decided to embark on the elaboration of general comments on article 3, paragraph 1, of the Convention on the principle of the best interests of the child; on article 24 on the right to health; on business and children's rights; on article 31 on the right to rest and leisure; and the draft joint general comment with the Committee on the Elimination of Discrimination against Women on harmful practices.

## **4. Introduction meeting for new members**

48. On 27 May 2011, the Office of the United Nations High Commissioner for Human Rights organized an orientation programme for the seven newly elected or appointed members. Three current members of the Committee contributed to the orientation programme.

# **B. International cooperation and solidarity for the implementation of the Convention**

## **1. Cooperation with United Nations and other competent bodies**

49. During the period covered by the present report, the Committee pursued its active cooperation with United Nations bodies, specialized agencies and other competent bodies.

50. The Committee held meetings with the following United Nations agencies and bodies and other competent bodies.

*United Nations agencies and bodies*

- United Nations Children’s Fund (UNICEF): at a meeting held on 29 September 2011, the Committee met with UNICEF Headquarters, Regional and Deputy Regional Directors to seek ways to enhance the existing cooperation between the Committee and UNICEF (fifty-eighth session)
- The World Health Organization: the Committee met with the Assistant Director-General for Family, Women’s and Children’s Health, Dr. Flavia Bustreo, to discuss the work of the Commission on Information and Accountability for Women’s and Children’s Health established under the Global Strategy for Women’s and Children’s Health and modalities for strengthening its collaboration with the Organization (fifty-seventh session)
- International Labour Organization: the Committee met with representatives of the Organization’s International Programme on the Elimination of Child Labour on 17 September 2010 to discuss how to improve cooperation and collaboration in promoting the two Optional Protocols to the Convention (fifty-fifth session)

*Others*

- The African Committee of Experts on the Rights and Welfare of the Child in Addis Ababa, on 18 and 19 March 2010
- The Executive Committee of the NGO Group for the Convention on the Rights of the Child (fifty-fourth and fifty-ninth sessions)
- The International Play Association, to discuss a possible general comment on right to play (fifty-fifth session)
- The International Institute for Child Rights and Development to provide comments on the updated draft on the general comment on article 19 (fifty-fifth session)
- The Special Representative of the Secretary-General on Violence against Children, Ms. Marta Santos Pais (fifty-fifth session)
- The Chair of the African Committee of Experts on the Rights and Welfare of the Child, Ms. Agnes Kabore, and its secretary, Ms. Mariama Cisse, who attended the fifty-fifth session to observe dialogues related to reports from African States and meet with the working group from the Committee
- A delegation of judicial authorities from the Islamic Republic of Iran (fifty-sixth session)
- A Government delegation from Turkmenistan (fifty-sixth session)
- The Commission on the Promotion and Protection of the Rights of Women and Children of the Association of Southeast Asian Nations (fifty-sixth session)
- The Secretary-General and the Deputy Secretary-General of the Hague Conference on Private International Law (fifty-sixth session)
- The Executive Director of the African Child Policy Forum, Mr. David Mugawe, who introduced the supplement to the Forum’s report *The African Report on Child Wellbeing 2011*, entitled *Budgeting for Children* (fifty-seventh session)

- The Chairperson-Rapporteur of the working group to elaborate an optional protocol to the Convention on the Rights of the Child on a communications procedure, Mr. Drahoslav Štefánek (fifty-seventh session)
- The legal adviser of the Coalition to Stop the Use of Child Soldiers, Mr. Tomaso Falchetta, on 20 June 2011 (fifty-seventh session)
- The International Play Association, to discuss the outline and the next steps towards a draft outline of the general comment on article 31 on the right of the child to rest, leisure, play and participation in cultural and artistic life, on 23 September 2011 (fifty-eighth session)
- The Child Rights International Network, to present the new Wiki on Children's rights, on 28 September 2011 (fifty-eighth session)

51. The Committee also held meetings with experts from the following other United Nations human rights mechanisms:

- The Committee on the Elimination of Discrimination against Women at a joint consultation in order to identify options for the future of their work and the treaty body system as a whole, including by addressing their working methods, as well as to allow treaty body members to discuss in advance issues tabled by the Inter-Committee Meeting and the Chairpersons Meeting to be able to identify grounds for agreement (fifty-sixth session)
- Members of the Committee on the Elimination of Discrimination against Women at an international seminar organized in Sion, Switzerland, from 11 to 13 October 2010 by the Institute International des Droits de l'Enfant and UNICEF, to discuss a draft outline of the joint general comment on harmful practices (after the fifty-fifth session)

## 2. Participation in United Nations and other relevant meetings

52. The Chairperson of the Committee, Ms. Lee, participated in the twenty-second meeting of persons chairing the human rights treaty bodies. At this meeting, she was elected Chairperson/Rapporteur. The new Chairperson of the Committee, Mr. Zermatten, participated in the twenty-third meeting of chairs of treaty bodies. The Chairpersons and other members of the Committee also participated in the inter-committee meetings held during the period under review as follows:

- (a) Eleventh Inter-Committee Meeting (June 2010): Ms. Lee and Ms. Aidoo;
- (b) Twelfth Inter-Committee Meeting (June 2011): Ms. Lee and Mr. Zermatten.

53. On 25 May 2010, on the occasion of the tenth anniversary of the adoption of the two Optional Protocols respectively on the involvement of children in armed conflict and the sale of children, child prostitution and child pornography, the Chairperson of the Committee, Ms. Lee, attended a ceremony for the launch of a two-year global campaign for their universal ratification with the participation of the Secretary-General. The campaign — which is supported by the Special Representative on Violence against Children, the Special Representative for Children and Armed Conflict, the Committee on the Rights of the Child, UNICEF and the Office of the United Nations High Commissioner on Human Rights — aims to achieve the universal ratification of the Protocols by 2012.

54. Members of the Committee participated in a variety of meetings at the international, regional and national levels where issues relevant to the rights of the child were raised.

### **C. General thematic discussions**

55. In accordance with rule 79 of its rules of procedure, the Committee holds an annual day of general discussion on the second Friday of its September session. The Committee had decided at its fifty-second session that it would not hold a day of general discussion in 2010 due to the increasing backlog of reports pending consideration.

56. On 30 September 2011, at the fifty-eighth session of the Committee, the thematic discussion was devoted to the rights of children of incarcerated parents. The discussion was well attended by representatives of States parties, United Nations agencies, funds and programmes, non-governmental organizations (NGOs) and academic institutions. A summary of the discussions, the list of participants and the set of related recommendations adopted by the Committee at its fifty-ninth session can be found on the Committee's webpage (<http://www2.ohchr.org/english/bodies/crc/discussion2011.htm>).

## Annexes

## Annex I

## Membership of the Committee on the Rights of the Child

<i>Name of member</i>	<i>Country of nationality</i>
Ms. Agnes Akosua <b>Aidoo</b> **	Ghana
Ms. Hadeel <b>Al-Asmar</b> *	Syrian Arab Republic
Ms. Aseil <b>Al-Shehail</b> **	Saudi Arabia
Mr. Jorge Cardona <b>Llorens</b> **	Spain
Mr. Bernard <b>Gastaud</b> **	Monaco
Mr. Peter <b>Gurán</b> *	Slovakia
Ms. Maria <b>Herczog</b> **	Hungary
Mr. Sanphasit <b>Koompraphant</b> *	Thailand
Mr. Hatem <b>Kotrane</b> **	Tunisia
Ms. Yanghee <b>Lee</b> *	Republic of Korea
Mr. Gehad <b>Madi</b> **	Egypt
Ms. Marta <b>Mauras Perez</b> *	Chile
Ms. Pilar <b>Nores</b> *	Peru
Mr. Awich <b>Pollar</b> *	Uganda
Ms. Kirsten <b>Sandberg</b> **	Norway
Ms. Kamla Devi <b>Varmah</b> *	Mauritius
Ms. Hiranthi <b>Wijemanne</b> **	Sri Lanka
Mr. Jean <b>Zermatten</b> *	Switzerland

*Bureau of the Committee on the Rights of the Child 2011–2013*

Chairperson	Mr. Zermatten
Vice-Chairperson	Mr. Kotrane
Vice-Chairperson	Ms. Lee
Vice-Chairperson	Ms. Mauras Perez
Vice-Chairperson	Ms. Varmah
Rapporteur	Ms. Aidoo

\* Term expires on 28 February 2013.

\*\* Term expires on 28 February 2015.

## Annex II

### **Decision No. 9 of the Committee on the Rights of the Child on periodicity and format of reports, adopted at its fifty-fifth session on 1 October 2010\***

*The Committee on the Rights of the Child,*

*Stressing* the crucial importance of periodic reporting by States parties, in conformity with the obligations under article 44 of the Convention on the Rights of the Child,

*Concerned* by the workload of the Committee, including the challenge generated by the initial reporting obligations under the two Optional Protocols, and the current backlog of reports pending for review,

*Especially concerned* by State party reports' lack of conformity with reporting guidelines, the length of some periodic reports submitted under the Convention and the difficulties in ensuring timely translation for State party reports and replies to lists of issues,

*Decides*, therefore, to apply the following rules:

1. All States parties will be informed of the next due date for their reports in their concluding observations under the Convention. The due date will normally be five years after the date of the Committee's adoption of concluding observations. For States parties whose reports are delayed, the Committee will continue to allow combined periodic reports.
2. The Committee informs State parties that the Committee has adopted harmonized treaty-specific reporting guidelines on 1 October 2010 (CRC/C/58/Rev.2 and Corr.1) and that future State party reports should not exceed 60 pages. The Committee urges all States parties to submit their reports in accordance with the reporting guidelines both with regard to contents and length. Should a report exceeding the page limitations be submitted, the State party will be asked to review and eventually resubmit their report in accordance with the above-mentioned guidelines. The Committee reminds the State party that, if it is not in a position to review and resubmit the report, translation of the report for purposes of examination of the treaty body cannot be guaranteed.
3. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved by the fifth Inter-Committee Meeting of the human rights treaty bodies in June 2006 (HRI/GEN/2/Rev.6, chap. I). The treaty-specific document and the common core document together constitute the full report under the Convention on the Rights of the Child.

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\* To supersede previous related decisions.

## Annex III

### **Decision No. 10 of the Committee on the Rights of the Child to request approval from the General Assembly at its sixty-seventh session to work in two chambers once a year, adopted on 11 February 2011**

In view of the number of States parties to the Convention on the Rights of the Child, which now stands at 193, and to its Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, which now stand at 142 and 139, respectively, and their reporting obligations, the current status of submission of reports and the projected future submission of reports, the Committee on the Rights of the Child is convinced that effective and timely implementation of its responsibilities under article 44 of the Convention and articles 8 and 12 of its Optional Protocols require that it be granted more meeting time on a sustainable basis.

Faced with a backlog of reports pending consideration, the Committee adopted at its thirty-seventh session in 2004 a decision to work in two chambers, which was implemented in 2006. In the course of that year, the reports of 48 States parties were considered and the backlog of reports awaiting review was eliminated, thereby encouraging the submission of overdue reports by many States parties. When the Committee resumed single-chamber sessions, a backlog again began to accumulate. In 2008, it decided to request the General Assembly to approve the holding of a further four two-chamber sessions; three were approved and held in 2010. During those sessions, 54 reports under the Convention and the Optional Protocols were examined. While the two-chamber sessions enabled the Committee to keep the backlog of reports from growing beyond approximately 80 reports, they did not allow for any progress to be made toward a reduction of the backlog. Since the last of the double-chamber sessions in October 2010, the backlog has again begun to increase and currently stands at approximately 90 reports.

In order to address the backlog and to encourage timely reporting, so as to ensure appropriate monitoring of the Convention and its Optional Protocols on a sustainable basis, the Committee has concluded that it would require one of its three annual sessions to be held in two chambers, which would amount to 13 additional working days of sessional meetings and five additional days of pre-sessional meetings per year.

**The Committee therefore requests the General Assembly, at its sixty-seventh session, to approve the present request and to provide appropriate financial support to enable the Committee to work in two chambers at pre-sessional working group meetings due to take place in 2013 and at a session to be held in 2014.**

The Committee would consider the reports of States parties during its regular sessions, in two parallel chambers, each consisting of nine members of the Committee, taking due account of equitable geographical distribution, thereby increasing the number of reports of States parties to be examined from 10 to 18 during one annual session, which, over three sessions, would result in an increase in the number of reports considered from 30 to 38 reports per year.

## Annex IV

### **Oral statement of programme budget implications arising from the decision to be adopted by the Committee on the Rights of the Child at its sixty-seventh session**

1. By its decision of 4 February 2011 to be annexed to its biennial report to the General Assembly, A/67/41, the Committee on the Rights of the Child would request the General Assembly, at its sixty-seventh session, to approve:

(a) The holding of one of its three annual session in two chambers, starting from 2012, to enable it to consider up to 10 additional reports at that session each year; and

(b) The holding of one of its three annual pre-sessional working group meetings in two chambers, also starting from 2012, to enable the Committee to adopt the necessary 10 additional lists of issues on State party reports to be examined at the two-chamber session.

2. It may also be recalled that by its resolution 63/244, the General Assembly decided as an exceptional and temporary measure, to authorize the Committee to meet in parallel chambers, of nine members each, for 10 working days of each of its regular sessions and the 5 working days of each of its 3 pre-sessional working group meetings between October 2009 and October 2010, for the purposes of considering the reports of the States parties submitted under article 44 of the Convention, article 8 of the Optional Protocol thereto on the involvement of children in armed conflict and article 12 of the Optional Protocol thereto on the sale of children, child prostitution and child pornography, taking due account of equitable geographical distribution and the principal legal system.

3. As at 28 January 2011, the Committee had 90 reports received under the three instruments which were pending consideration by the Committee. If considered in strict chronological order of receipt, this represents a delay of three years from receipt to consideration of a report.

4. The activities to be carried out relate to programme 1, General Assembly and Economic and Social Council affairs and conference management; subprogramme 2, Supporting human rights bodies and organs, of programme 19, Human rights; and subprogramme 4, Support services, of programme 24, Management and support services, of the biennial programme plan and priorities for the period 2012–2013. They would also fall under section 2, General Assembly and Economic and Social Council affairs and conference management; section 24, Human rights; and section 29E, Administration, Geneva, of the proposed programme budget for the biennium 2012–2013.

5. The Secretariat in considering the estimates in response to the terms of the Committee's draft decision to be taken at its fifty-sixth session recalls the resources made available in response to resolution 63/44, cited in paragraph 2, which authorized the Committee to meet in parallel chambers, of nine members each, for 10 working days of each of its 3 regular sessions and the 5 working days of each of its 3 pre-sessional working group meetings between October 2009 and October 2010. In addition, the attention of the Committee is drawn that the General Assembly by its resolution 65/200 has requested the Secretary-General to submit to the General Assembly at its sixty-sixth session concrete proposals on the human rights treaty monitoring bodies, building on the work of the Secretary-General pursuant to Human Rights Council resolution 9/8 of 24 September 2008, to increase their effectiveness and to identify efficiencies in their working methods and

costs in order better to manage their workloads and programmes of work, bearing in mind budgetary constraints and taking account of the varying burdens on each Committee.

6. The Committee is hereby informed that although, it is estimated that additional resources will arise for the biennium 2012–2013 in response to the draft decision, given the limited timeframe, the Secretariat did not have sufficient time to fully analyse and determine the level of additional resources that would be required. It should be noted that the Secretariat is currently formulating the proposed programme budget for the biennium 2012–2013 and the resource requirements that are likely to arise from the report of the Committee on the Rights of the Child may impact the level of resources being proposed under the programme budget for the biennium 2012–2013.

7. Accordingly, should the Committee on the Rights of the Child adopt the draft decision the related resource requirements that would arise would be submitted, in accordance with rule 153 of the rules of procedure of the General Assembly, as applicable, based on the relevant decision the General Assembly may take at the sixty-sixth session, when it considers the draft resolution on the report of the Committee on the Rights of the Child.

## Annex V

### General comment No. 13 (2011) The right of the child to freedom from all forms of violence

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## I. Introduction

1. Article 19 states the following:

“1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

“2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.”

2. **Rationale for the present general comment.** The Committee on the Rights of the Child (hereinafter: the Committee) issues the present general comment on article 19 of the Convention on the Rights of the Child (hereinafter: the Convention), since the extent and intensity of violence exerted on children is alarming. Measures to end violence must be massively strengthened and expanded in order to effectively put an end to these practices which jeopardize children’s development and societies’ potential non-violent solutions for conflict resolution.

3. **Overview.** The general comment is based on the following fundamental assumptions and observations:

(a) “No violence against children is justifiable; all violence against children is preventable”;<sup>1</sup>

(b) A child rights-based approach to child caregiving and protection requires a paradigm shift towards respecting and promoting the human dignity and the physical and psychological integrity of children as rights-bearing individuals rather than perceiving them primarily as “victims”;

(c) The concept of dignity requires that every child is recognized, respected and protected as a rights holder and as a unique and valuable human being with an individual personality, distinct needs, interests and privacy;

(d) The principle of the rule of law should apply fully to children as it does to adults;

(e) Children’s rights to be heard and to have their views given due weight must be respected systematically in all decision-making processes, and their empowerment and participation should be central to child caregiving and protection strategies and programmes;

(f) The right of children to have their best interests be a primary consideration in all matters involving or affecting them must be respected, especially when they are victims of violence, as well as in all measures of prevention;

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<sup>1</sup> Report of the independent expert for the United Nations study on violence against children (A/61/299), para. 1.

(g) Primary prevention, through public health, education, social services and other approaches, of all forms of violence is of paramount importance;

(h) The Committee recognizes the primary position of families, including extended families, in child caregiving and protection and in the prevention of violence. Nevertheless, the Committee also recognizes that the majority of violence takes place in the context of families and that intervention and support are therefore required when children become the victims of hardship and distress imposed on, or generated in, families;

(i) The Committee is also aware of widespread and intense violence applied against children in State institutions and by State actors including in schools, care centres, residential homes, police custody and justice institutions which may amount to torture and killing of children, as well as violence against children frequently used by armed groups and State military forces.

4. **Definition of violence.** For the purposes of the present general comment, “violence” is understood to mean “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse” as listed in article 19, paragraph 1, of the Convention. The term violence has been chosen here to represent all forms of harm to children as listed in article 19, paragraph 1, in conformity with the terminology used in the 2006 United Nations study on violence against children, although the other terms used to describe types of harm (injury, abuse, neglect or negligent treatment, maltreatment and exploitation) carry equal weight.<sup>2</sup> In common parlance the term violence is often understood to mean only physical harm and/or intentional harm. However, the Committee emphasizes most strongly that the choice of the term violence in the present general comment must not be interpreted in any way to minimize the impact of, and need to address, non-physical and/or non-intentional forms of harm (such as, inter alia, neglect and psychological maltreatment).

5. **States’ obligations and the responsibilities of family and other actors.** References to “States parties” relate to the obligations of States parties to assume their responsibilities towards children not only at the national level, but also at the provincial and municipal levels. These special obligations are due diligence and the obligation to prevent violence or violations of human rights, the obligation to protect child victims and witnesses from human rights violations, the obligation to investigate and to punish those responsible, and the obligation to provide access to redress human rights violations. Regardless of whether violence takes place, States parties have a positive and active obligation to support and assist parents and other caregivers to secure, within their abilities and financial capacities and with respect for the evolving capacities of the child, the living conditions necessary for the child’s optimal development (arts. 18 and 27). States parties, furthermore, shall ensure that all persons who, within the context of their work, are responsible for the prevention of, protection from, and reaction to violence and in the justice systems are addressing the needs and respecting the rights of children.

6. **Evolution of general comment No. 13.** The present general comment builds on the existing guidance provided by the Committee in its review of States parties’ reports and the respective concluding observations, the recommendations of two days of general discussion on violence against children, held in 2000 and 2001, general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment,<sup>3</sup> and references in other general comments to the topic of violence.

<sup>2</sup> Translations of the Convention into other languages do not necessarily include exact equivalents of the English term “violence”.

<sup>3</sup> *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 41 (A/65/41), annex IV.*

The present general comment draws attention to the recommendations of the 2006 report of the independent expert for the United Nations study on violence against children (A/61/299) and calls on States parties to implement those recommendations without delay. It calls attention to the detailed guidance available in the Guidelines for the Alternative Care of Children.<sup>4</sup> It also draws on the expertise and experience of United Nations agencies, Governments, non-governmental organizations (NGOs), community organizations, development agencies, and children themselves in seeking to implement article 19 in practice.<sup>5</sup>

7. **Article 19 in context.** The Committee recognizes that:

(a) Article 19 is one of many provisions in the Convention directly relating to violence. The Committee also recognizes the direct relevance to article 19 of the Optional Protocol on the sale of children, child prostitution and child pornography and the Optional Protocol on the involvement of children in armed conflict. However, the Committee holds that article 19 forms the core provision for discussions and strategies to address and eliminate all forms of violence in the context of the Convention more broadly;

(b) Article 19 is strongly linked to a broad range of provisions in the Convention beyond those relating directly to violence. In addition to the articles containing the rights identified as principles of the Convention (see section V of the present general comment), implementation of article 19 must be situated in the context of articles 5, 9, 18 and 27;

(c) Children's rights to respect for their human dignity, physical and psychological integrity and to equal protection under the law are also recognized in other international and regional human rights instruments;

(d) Implementation of article 19 requires cooperation within and between national, regional and international human rights bodies, mechanisms and United Nations agencies;

(e) Cooperation is needed in particular with the Special Representative of the Secretary-General on Violence against Children, who has the mandate to promote the implementation of the recommendations of the United Nations study on violence against children in close collaboration with Member States and a wide range of partners, including United Nations agencies and organizations, civil society organizations and children, in order to safeguard the child's right to freedom from all forms of violence.

8. **Dissemination.** The Committee recommends that States parties widely disseminate the present general comment within government and administrative structures, to parents, other caregivers, children, professional organizations, communities and civil society at large. All channels of dissemination, including print media, the Internet and children's own communication means, should be used. This will necessitate translating it into relevant languages, including sign languages, Braille and easy-to-read formats for children with disabilities. It also requires making culturally appropriate and child-friendly versions available, holding workshops and seminars, implementing age- and disability-specific support to discuss its implications and how best to implement it, and incorporating it into the training of all professionals working for and with children.

9. **Reporting requirements under the Convention.** The Committee refers States parties to the reporting requirements outlined in the treaty-specific reporting guidelines (CRC/C/58/Rev.2 and Corr.1), in general comment No. 8 (para. 53), and in the concluding

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<sup>4</sup> General Assembly resolution 64/142, annex.

<sup>5</sup> See the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20, annex).

observations of the Committee adopted following the dialogues with representatives of States parties. The current general comment consolidates and specifies the measures on which States parties are expected to give information in the reports to be submitted under article 44 of the Convention. The Committee also recommends that States parties include information on progress made towards implementing the recommendations of the United Nations study on violence against children (A/61/299, para. 116). Reporting should comprise laws and other regulations taken to prohibit violence and to intervene appropriately when violence occurs and also measures for the prevention of violence, awareness-raising activities and the promotion of positive, non-violent relationships. In the reports it should be furthermore specified who has responsibility for the child and family at each stage of intervention (including prevention), what those responsibilities are, at what stage and under what circumstances professionals can intervene, and how different sectors work together.

10. **Additional sources of information.** The Committee also encourages United Nations agencies, national human rights institutions, NGOs and other competent bodies to provide it with relevant information on the legal status and prevalence of all forms of violence and progress towards their elimination.

## II. Objectives

11. The present general comment seeks:

(a) To guide States parties in understanding their obligations under article 19 of the Convention to prohibit, prevent and respond to all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation of children, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child, including State actors;

(b) To outline the legislative, judicial, administrative, social and educational measures that States parties must take;

(c) To overcome isolated, fragmented and reactive initiatives to address child caregiving and protection which have had limited impact on the prevention and elimination of all forms of violence;

(d) To promote a holistic approach to implementing article 19 based on the Convention's overall perspective on securing children's rights to survival, dignity, well-being, health, development, participation and non-discrimination – the fulfilment of which are threatened by violence;

(e) To provide States parties and other stakeholders with a basis on which to develop a coordinating framework for eliminating violence through comprehensive child rights-based caregiving and protection measures;

(f) To highlight the need for all States parties to move quickly to fulfil their obligations under article 19.

## III. Violence in children's lives

12. **Challenges.** The Committee acknowledges and welcomes the numerous initiatives developed by Governments and others to prevent and respond to violence against children. In spite of these efforts, existing initiatives are in general insufficient. Legal frameworks in a majority of States still fail to prohibit all forms of violence against children, and where laws are in place, their enforcement is often inadequate. Widespread social and cultural

attitudes and practices condone violence. The impact of measures taken is limited by lack of knowledge, data and understanding of violence against children and its root causes, by reactive efforts focusing on symptoms and consequences rather than causes, and by strategies which are fragmented rather than integrated. Resources allocated to address the problem are inadequate.

13. **The human rights imperative.** Addressing and eliminating the widespread prevalence and incidence of violence against children is an obligation of States parties under the Convention. Securing and promoting children's fundamental rights to respect for their human dignity and physical and psychological integrity, through the prevention of all forms of violence, is essential for promoting the full set of child rights in the Convention. All other arguments presented here reinforce but do not replace this human rights imperative. Strategies and systems to prevent and respond to violence must therefore adopt a child rights rather than a welfare approach. (See para. 53 for more details.)

14. **Societal development and children's contribution.** A respectful, supportive child-rearing environment free from violence supports the realization of children's individual personalities and fosters the development of social, responsible and actively contributing citizens in the local community and larger society. Research shows that children who have not experienced violence and who develop in a healthy manner are less likely to act violently, both in childhood and when they become adults. Preventing violence in one generation reduces its likelihood in the next. Implementation of article 19 is therefore a key strategy for reducing and preventing all forms of violence in societies and for promoting "social progress and better standards of life" and "freedom, justice and peace in the world" for the "human family" in which children have a place and a value equal to that of adults (Convention preamble).

15. **Survival and development – the devastating impact of violence against children.** Children's survival and their "physical, mental, spiritual, moral and social development" (art. 27, para. 1) are severely negatively impacted by violence, as described below:

(a) The short- and long-term health consequences of violence against children and child maltreatment are widely recognized. They include: fatal injury; non-fatal injury (possibly leading to disability); physical health problems (including failure to thrive, later lung, heart and liver disease and sexually transmitted infections); cognitive impairment (including impaired school and work performance); psychological and emotional consequences (such as feelings of rejection and abandonment, impaired attachment, trauma, fear, anxiety, insecurity and shattered self-esteem); mental health problems (such as anxiety and depressive disorders, hallucinations, memory disturbances and suicide attempts); and health-risk behaviours (such as substance abuse and early initiation of sexual behaviour);

(b) Developmental and behavioural consequences (such as school non-attendance and aggressive, antisocial, self-destructive and interpersonal destructive behaviours) can lead, inter alia, to deterioration of relationships, exclusion from school and coming into conflict with the law). There is evidence that exposure to violence increases a child's risk of further victimization and an accumulation of violent experiences, including later intimate partner violence;<sup>6</sup>

(c) The impact on children, in particular adolescents, of high-handed or "zero tolerance" State policies in response to child violence is highly destructive as it is a punitive approach victimizing children by reacting to violence with more violence. Such policies are often shaped by public concerns over citizens' security and by the high profile given to

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<sup>6</sup> See Paulo Sérgio Pinheiro, independent expert for the United Nations Secretary-General's study on violence against children, *World Report on Violence against Children* (Geneva, 2006), pp. 63–66.

these issues by mass media. State policies on public security must carefully consider the root causes of children's offences in order to provide a way out of a vicious circle of retaliating violence with violence.

16. **The cost of violence against children.** The human, social and economic costs of denying children's rights to protection are enormous and unacceptable. Direct costs may include medical care, legal and social welfare services and alternative care. Indirect costs may include possible lasting injury or disability, psychological costs or other impacts on a victim's quality of life, disruption or discontinuation of education, and productivity losses in the future life of the child. They also include costs associated with the criminal justice system as a result of crimes committed by children who have experienced violence. The social costs arising from a demographic imbalance due to the discriminatory elimination of girls before birth are high and have potential implications for increased violence against girls including abduction, early and forced marriage, trafficking for sexual purposes and sexual violence.

## IV. Legal analysis of article 19

### A. Article 19, paragraph 1

#### 1. "... all forms of ..."

17. **No exceptions.** The Committee has consistently maintained the position that all forms of violence against children, however light, are unacceptable. "All forms of physical or mental violence" does not leave room for any level of legalized violence against children. Frequency, severity of harm and intent to harm are not prerequisites for the definitions of violence. States parties may refer to such factors in intervention strategies in order to allow proportional responses in the best interests of the child, but definitions must in no way erode the child's absolute right to human dignity and physical and psychological integrity by describing some forms of violence as legally and/or socially acceptable.

18. **The need for child rights-based definitions.** States parties need to establish national standards for child well-being, health and development as securing these conditions is the ultimate goal of child caregiving and protection. Clear operational legal definitions are required of the different forms of violence outlined in article 19 in order to ban all forms of violence in all settings. These definitions must take into account the guidance provided in the present general comment, must be sufficiently clear to be usable and should be applicable in different societies and cultures. Efforts to standardize definitions internationally (in order to facilitate data collection and cross-country exchange of experiences) should be encouraged.

19. **Forms of violence – overview.** The following non-exhaustive lists outlining forms of violence apply to all children in all settings and in transit between settings. Children can experience violence at the hands of adults, and violence may also occur among children. Furthermore, some children harm themselves. The Committee recognizes that forms of violence often co-occur and that they can span the categories used here for convenience. Both girls and boys are at risk of all forms of violence, but violence often has a gender component. For example, girls may experience more sexual violence at home than boys whereas boys may be more likely to encounter — and experience violence within — the criminal justice system. (See also para. 72 (b) on the gender dimensions of violence.)

20. **Neglect or negligent treatment.** Neglect means the failure to meet children's physical and psychological needs, protect them from danger, or obtain medical, birth

registration or other services when those responsible for children's care have the means, knowledge and access to services to do so. It includes:

- (a) Physical neglect: failure to protect a child from harm,<sup>7</sup> including through lack of supervision, or failure to provide the child with basic necessities including adequate food, shelter, clothing and basic medical care;
- (b) Psychological or emotional neglect: including lack of any emotional support and love, chronic inattention to the child, caregivers being "psychologically unavailable" by overlooking young children's cues and signals, and exposure to intimate partner violence, drug or alcohol abuse;
- (c) Neglect of children's physical or mental health: withholding essential medical care;
- (d) Educational neglect: failure to comply with laws requiring caregivers to secure their children's education through attendance at school or otherwise; and
- (e) Abandonment: a practice which is of great concern and which can disproportionately affect, inter alia, children out of wedlock and children with disabilities in some societies.<sup>8</sup>

21. **Mental violence.** "Mental violence", as referred to in the Convention, is often described as psychological maltreatment, mental abuse, verbal abuse and emotional abuse or neglect and this can include:

- (a) All forms of persistent harmful interactions with the child, for example, conveying to children that they are worthless, unloved, unwanted, endangered or only of value in meeting another's needs;
- (b) Scaring, terrorizing and threatening; exploiting and corrupting; spurning and rejecting; isolating, ignoring and favouritism;
- (c) Denying emotional responsiveness; neglecting mental health, medical and educational needs;
- (d) Insults, name-calling, humiliation, belittling, ridiculing and hurting a child's feelings;
- (e) Exposure to domestic violence;
- (f) Placement in solitary confinement, isolation or humiliating or degrading conditions of detention; and
- (g) Psychological bullying and hazing<sup>9</sup> by adults or other children, including via information and communication technologies (ICTs) such as mobile phones and the Internet (known as "cyberbullying").

22. **Physical violence.** This includes fatal and non-fatal physical violence. The Committee is of the opinion that physical violence includes:

<sup>7</sup> States parties are also obliged to support caregivers to prevent accidents (art. 19 and art. 24, para. 2 (e)).

<sup>8</sup> In many countries children are abandoned because parents and caregivers living in poverty do not have the means to support them. According to the definition, neglect is a failure of care when parents have the means to meet their children's needs. The Committee has often urged States parties to "render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities" (art. 18, para. 2 of the Convention).

<sup>9</sup> "Hazing" refers to rituals and other activities involving harassment, violence or humiliation which are used as a way of initiating a person into a group.

(a) All corporal punishment and all other forms of torture, cruel, inhuman or degrading treatment or punishment; and

(b) Physical bullying and hazing by adults and by other children.

23. Children with disabilities may be subject to particular forms of physical violence such as:

(a) Forced sterilization, particularly girls;

(b) Violence in the guise of treatment (for example electroconvulsive treatment (ECT) and electric shocks used as “aversion treatment” to control children’s behaviour); and

(c) Deliberate infliction of disabilities on children for the purpose of exploiting them for begging in the streets or elsewhere.

24. **Corporal punishment.** In general comment No. 8 (para. 11), the Committee defined “corporal” or “physical” punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting (“smacking”, “slapping”, “spanking”) children, with the hand or with an implement – a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, caning, forcing children to stay in uncomfortable positions, burning, scalding, or forced ingestion. In the view of the Committee, corporal punishment is invariably degrading. Other specific forms of corporal punishment are listed in the report of the independent expert for the United Nations study on violence against children (A/61/299, paras. 56, 60 and 62).

25. **Sexual abuse and exploitation.** Sexual abuse and exploitation includes:

(a) The inducement or coercion of a child to engage in any unlawful or psychologically harmful sexual activity;<sup>10</sup>

(b) The use of children in commercial sexual exploitation; and

(c) The use of children in audio or visual images of child sexual abuse;

(d) Child prostitution, sexual slavery, sexual exploitation in travel and tourism, trafficking (within and between countries) and sale of children for sexual purposes and forced marriage. Many children experience sexual victimization which is not accompanied by physical force or restraint but which is nonetheless psychologically intrusive, exploitive and traumatic.

26. **Torture and inhuman or degrading treatment or punishment.** This includes violence in all its forms against children in order to extract a confession, to extrajudicially punish children for unlawful or unwanted behaviours, or to force children to engage in activities against their will, typically applied by police and law-enforcement officers, staff of residential and other institutions and persons who have power over children, including non-State armed actors. Victims are often children who are marginalized, disadvantaged and discriminated against and who lack the protection of adults responsible for defending

<sup>10</sup> Sexual abuse comprises any sexual activities imposed by an adult on a child, against which the child is entitled to protection by criminal law. Sexual activities are also considered as abuse when committed against a child by another child, if the child offender is significantly older than the child victim or uses power, threat or other means of pressure. Sexual activities between children are not considered as sexual abuse if the children are older than the age limit defined by the State party for consensual sexual activities.

their rights and best interests. This includes children in conflict with the law, children in street situations, minorities and indigenous children, and unaccompanied children. The brutality of such acts often results in life-long physical and psychological harm and social stress.

27. **Violence among children.** This includes physical, psychological and sexual violence, often by bullying, exerted by children against other children, frequently by groups of children, which not only harms a child's physical and psychological integrity and well-being in the immediate term, but often has severe impact on his or her development, education and social integration in the medium and long term. Also, violence by youth gangs takes a severe toll on children, whether as victims or as participants. Although children are the actors, the role of adults responsible for these children is crucial in all attempts to appropriately react and prevent such violence, ensuring that measures do not exacerbate violence by taking a punitive approach and using violence against violence.

28. **Self-harm.** This includes eating disorders, substance use and abuse, self-inflicted injuries, suicidal thoughts, suicide attempts and actual suicide. Suicide among adolescents is of particular concern to the Committee.

29. **Harmful practices.** These include, but are not limited to:

- (a) Corporal punishment and other cruel or degrading forms of punishment;
- (b) Female genital mutilation;
- (c) Amputations, binding, scarring, burning and branding;
- (d) Violent and degrading initiation rites; force-feeding of girls; fattening; virginity testing (inspecting girls' genitalia);
- (e) Forced marriage and early marriage;
- (f) "Honour" crimes; "retribution" acts of violence (where disputes between different groups are taken out on children of the parties involved); dowry-related death and violence;
- (g) Accusations of "witchcraft" and related harmful practices such as "exorcism";
- (h) Uvulectomy and teeth extraction.

30. **Violence in the mass media.** Mass media, especially tabloids and the yellow press, tend to highlight shocking occurrences and as a result create a biased and stereotyped image of children, in particular of disadvantaged children or adolescents, who are often portrayed as violent or delinquent just because they may behave or dress in a different way. Such stirred-up stereotypes pave the way for State policies based on a punitive approach, which may include violence as a reaction to assumed or factual misdemeanours of children and young persons.

31. **Violence through information and communications technologies.**<sup>11</sup> Child protection risks in relation to ICT comprise the following overlapping areas:

- (a) Sexual abuse of children to produce both visual and audio child abuse images facilitated by the Internet and other ICT;

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<sup>11</sup> Information technologies such as the Internet and mobile phones have great potential as positive tools to help keep children safe and as a way to report suspected or actual violence or maltreatment. A protective environment needs to be created through regulation and monitoring of information technologies including empowering children to safely use these technologies.

(b) The process of taking, making, permitting to take, distributing, showing, possessing or advertising indecent photographs or pseudo photographs (“morphing”) and videos of children and those making a mockery of an individual child or categories of children;

(c) Children as users of ICT:

(i) As recipients of information, children may be exposed to actually or potentially harmful advertisements, spam, sponsorship, personal information and content which is aggressive, violent, hateful, biased, racist, pornographic,<sup>12</sup> unwelcome and/or misleading;

(ii) As children in contact with others through ICT, children may be bullied, harassed or stalked (child “luring”) and/or coerced, tricked or persuaded into meeting strangers off-line, being “groomed” for involvement in sexual activities and/or providing personal information;

(iii) As actors, children may become involved in bullying or harassing others, playing games that negatively influence their psychological development, creating and uploading inappropriate sexual material, providing misleading information or advice, and/or illegal downloading, hacking, gambling, financial scams and/or terrorism.<sup>13</sup>

32. **Institutional and system violations of child rights.** Authorities at all levels of the State responsible for the protection of children from all forms of violence may directly and indirectly cause harm by lacking effective means of implementation of obligations under the Convention. Such omissions include the failure to adopt or revise legislation and other provisions, inadequate implementation of laws and other regulations and insufficient provision of material, technical and human resources and capacities to identify, prevent and react to violence against children. It is also an omission when measures and programmes are not equipped with sufficient means to assess, monitor and evaluate progress or shortcomings of the activities to end violence against children. Also, in the commission of certain acts, professionals may abuse children’s right to freedom from violence, for example, when they execute their responsibilities in a way that disregards the best interests, the views and the developmental objectives of the child.

## 2. “while in the care of ...”

33. **Definition of “caregivers”.** The Committee considers that, while respecting the evolving capacities and progressive autonomy of the child, all human beings below the age of 18 years are nonetheless “in the care of” someone, or should be. There are only three conditions for children: emancipated,<sup>14</sup> in the care of primary or proxy caregivers, or in the

<sup>12</sup> Exposure to pornography can lead to an increase in child-on-child sexual abuse as children exposed to pornography “try out” what they have seen in practice with younger children or those to whom they have easy access and over whom they have control.

<sup>13</sup> Adapted from a table developed by the EUKids Online project, cited in *AUPs in Context: Establishing Safe and Responsible Online Behaviours* (Becta, 2009), p. 6. See also the Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents. Available from <http://iicongressomundial.net/congresso/arquivos/Rio%20Declaration%20and%20Call%20for%20Action%20-%20FINAL%20Version.pdf>.

<sup>14</sup> In line with the Committee’s previous recommendation to States parties to increase the age for marriage to 18 years for both girls and boys (general comment No. 4 (2003) on adolescent health and development in the context of the Convention of the Rights of the Child, para. 20), and given their specific vulnerability to maltreatment, the Committee considers that article 19 applies also to children

de facto care of the State. The definition of “caregivers”, referred to in article 19, paragraph 1, as “parent(s), legal guardian(s) or any other person who has the care of the child”, covers those with clear, recognized legal, professional-ethical and/or cultural responsibility for the safety, health, development and well-being of the child, primarily: parents, foster parents, adoptive parents, caregivers in *kafalah* of Islamic law, guardians, extended family and community members; education, school and early childhood personnel; child caregivers employed by parents; recreational and sports coaches — including youth group supervisors; workplace employers or supervisors; and institutional personnel (governmental or non-governmental) in the position of caregivers — for example responsible adults in health-care, juvenile-justice and drop-in and residential-care settings. In the case of unaccompanied children, the State is the de facto caregiver.

34. **Definition of care settings.** Care settings are places where children spend time under the supervision of their “permanent” primary caregiver (such as a parent or guardian) or a proxy or “temporary” caregiver (such as a teacher or youth group leader) for periods of time which are short-term, long-term, repeated or once only. Children will often pass between caregiving settings with great frequency and flexibility but their safety in transit between these settings is still the responsibility of the primary caregiver – either directly, or via coordination and cooperation with a proxy caregiver (for example to and from school or when fetching water, fuel, food or fodder for animals). Children are also considered to be “in the care of” a primary or proxy caregiver while they are physically unsupervised within a care setting, for example while playing out of sight or surfing the Internet unsupervised. Usual care settings include family homes, schools and other educational institutions, early childhood care settings, after-school care centres, leisure, sports, cultural and recreational facilities, religious institutions and places of worship. In medical, rehabilitative and care facilities, at the workplace and in justice settings children are in the custody of professionals or State actors, who must observe the best interests of the child and ensure his or her rights to protection, well-being and development. A third type of setting in which children’s protection, well-being and development also must be secured, are neighbourhoods, communities and camps or settlements for refugees and people displaced by conflict and/or natural disasters.<sup>15</sup>

35. **Children without obvious primary or proxy caregivers.** Article 19 also applies to children without a primary or proxy caregiver or another person who is entrusted with the protection and well-being of the child such as, for instance, children in child-headed households, children in street situations, children of migrating parents or unaccompanied children outside their country of origin.<sup>16</sup> The State party is obliged to take responsibility as the de facto caregiver or the one “who has the care of the child”, even if these children are not within the context of physical care settings such as foster homes, group homes or NGO facilities. The State party is under the obligation “to ensure the child such protection and care as is necessary for his or her well-being” (art. 3, para. 2) and to “ensure alternative care” to “a child temporarily or permanently deprived of his or her family environment” (art. 20). There are different ways to guarantee the rights of these children, preferably in family-like care arrangements, which must be carefully examined with respect to the risk of these children being exposed to violence.

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under the age of 18 who have attained majority or emancipation through early marriage and/or forced marriage.

<sup>15</sup> The United Nations study on violence against children describes settings in which violence against children occurs; see also the detailed guidance available in the Guidelines for the Alternative Care of Children.

<sup>16</sup> As defined in the Committee’s general comment No. 6 (2005), para. 7.

36. **Perpetrators of violence.** Children may be subjected to violence by primary or proxy caregivers and/or by others against whom their caregiver does provide protection (for example neighbours, peers and strangers). Furthermore, children are at risk of being exposed to violence in many settings where professionals and State actors have often misused their power over children, such as schools, residential homes, police stations or justice institutions. All of these conditions fall under the scope of article 19, which is not limited to violence perpetrated solely by caregivers in a personal context.

### 3. “shall take ...”

37. “Shall take” is a term which leaves no leeway for the discretion of States parties. Accordingly, States parties are under strict obligation to undertake “all appropriate measures” to fully implement this right for all children.

### 4. “all appropriate legislative, administrative, social and educational measures”

38. **General measures of implementation and monitoring.** The Committee draws the attention of States parties to general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child.<sup>17</sup> The Committee also refers States parties to its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child.<sup>18</sup> These measures of implementation and monitoring are essential to bring article 19 into reality.

39. **“All appropriate ... measures”.** The term “appropriate” refers to the broad range of measures cutting across all sectors of Government, which must be used and be effective in order to prevent and respond to all forms of violence. “Appropriate” cannot be interpreted to mean acceptance of some forms of violence. An integrated, cohesive, interdisciplinary and coordinated system is required, which incorporates the full range of measures identified in article 19, paragraph 1, across the full range of interventions listed in paragraph 2. Isolated programmes and activities which are not integrated into sustainable and coordinated government policy and infrastructures will have limited effects. Child participation is essential in the development, monitoring and evaluation of the measures outlined here.

40. Legislative measures refer to both legislation, including the budget, and the implementing and enforcing measures. They comprise national, provincial and municipal laws and all relevant regulations, which define frameworks, systems, mechanisms and the roles and responsibilities of concerned agencies and competent officers.

41. State parties that have not yet done so must:

(a) Ratify the two Optional Protocols to the Convention, and other international and regional human rights instruments that provide protection for children, including the Convention on the Rights of Persons with Disabilities and its Optional Protocol and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Review and withdraw declarations and reservations contrary to the object and purpose of the Convention or otherwise contrary to international law;

<sup>17</sup> *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 41 (A/59/41)*, annex IV. See in particular paras. 9 (range of measures required), 13 and 15 (regarding withdrawal and eligibility of reservations), and 66 and 67 (dissemination of the Convention).

<sup>18</sup> *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 41 (A/59/41)*, annex VIII.

(c) Strengthen cooperation with treaty bodies and other human rights mechanisms;

(d) Review and amend domestic legislation in line with article 19 and its implementation within the holistic framework of the Convention, establishing a comprehensive policy on child rights and ensuring absolute prohibition of all forms of violence against children in all settings and effective and appropriate sanctions against perpetrators;<sup>19</sup>

(e) Provide adequate budget allocations for the implementation of legislation and all other measures adopted to end violence against children;

(f) Ensure the protection of child victims and witnesses and effective access to redress and reparation;

(g) Ensure that relevant legislation provides adequate protection of children in relation to media and ICT;

(h) Establish and implement social programmes to promote optimal positive child-rearing by providing, through integrated services, necessary support for the child and for those who have the care of the child;

(i) Enforce law and judicial procedures in a child-friendly way, including remedies available to children when rights are violated;

(j) Establish and support an independent national institution of children's rights.

42. Administrative measures should reflect governmental obligations to establish policies, programmes, monitoring and oversight systems required to protect the child from all forms of violence. These include:

(a) *At the national and sub-national government levels:*

(i) Establishing a government focal point to coordinate child protection strategies and services;

(ii) Defining the roles, responsibilities and relationships between stakeholders on inter-agency steering committees with a view to their effectively managing, monitoring and holding accountable the implementing bodies at national and subnational levels;

(iii) Ensuring that the process of decentralizing services safeguards their quality, accountability and equitable distribution;

(iv) Implementing systematic and transparent budgeting processes in order to make the best use of allocated resources for child protection, including prevention;

(v) Establishing a comprehensive and reliable national data collection system in order to ensure systematic monitoring and evaluation of systems (impact analyses), services, programmes and outcomes based on indicators aligned with universal standards, and adjusted for and guided by locally established goals and objectives;

(vi) Providing independent national human rights institutions with support and promoting the establishment of specific child rights mandates such as child rights ombudsmen where these do not yet exist.<sup>20</sup>

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<sup>19</sup> In the context of "sanctions", the term "perpetrators" excludes children who harm themselves. The treatment of children who harm other children must be educational and therapeutic.

<sup>20</sup> See general comment No. 2, in particular paras. 1, 2, 4 and 19.

- (b) *At the levels of governmental, professional and civil society institutions:*
- (i) Developing and implementing (through participatory processes which encourage ownership and sustainability):
    - a. Intra- and inter-agency child protection policies;
    - b. Professional ethics codes, protocols, memoranda of understanding and standards of care for all childcare services and settings (including daycare centres, schools, hospitals, sport clubs and residential institutions etc.);
  - (ii) Involving academic teaching and training institutions with regard to child protection initiatives;
  - (iii) Promoting good research programmes.

43. Social measures should reflect governmental commitment to fulfilling child protection rights and provide for basic and targeted services. They can be initiated and implemented by both State and civil society actors under the responsibility of the State. Such measures include:

- (a) *Social policy measures to reduce risk and prevent violence against children, for example:*
- (i) Integration of child caregiving and protection measures into mainstream systems of social policy;
  - (ii) Identification and prevention of factors and circumstances which hinder vulnerable groups' access to services and full enjoyment of their rights (including indigenous and minority children and children with disabilities, among others);
  - (iii) Poverty reduction strategies, including financial and social support to families at risk;
  - (iv) Public health and safety, housing, employment and education policies;
  - (v) Improved access to health, social welfare and justice services;
  - (vi) "Child-friendly cities" planning;
  - (vii) Reduced demand for and access to alcohol, illegal drugs and weapons;
  - (viii) Collaboration with the mass media and the ICT industry to devise, promote and enforce global standards for child caregiving and protection;
  - (ix) Development of guidelines for protecting children from information and material produced by mass media disrespecting the human dignity and integrity of the child, abolishing stigmatizing language, refraining from the dissemination of re-victimizing reports on events in family or elsewhere affecting a child and promoting professional methods of investigation based on the use of diverse sources which can be examined by all parties involved;
  - (x) Opportunities for children to express their view and expectations in the media and be not only engaged in children's programmes, but also involved in the production and transmission of all kinds of information, including as reporters, analysts and commentators in order to support an adequate image of children and childhood in the public.
- (b) *Social programmes to support the child individually and to support the child's family and other caregivers to provide optimal positive child-rearing, for example:*
- (i) For children: childcare, early child development and after-school care programmes; child and youth groups and clubs; counselling support to children

experiencing difficulties (including self-harm); 24-hour toll-free child helplines with trained personnel; foster family services which are subject to periodic review;

(ii) For families and other caregivers: community-based mutual-help groups to address psychosocial and economic challenges (for example parenting and micro-credit groups); welfare programmes to support families' standard of living, including direct allowances to children at a certain age; counselling support to caregivers having difficulties with employment, housing and/or child-rearing; therapeutic programmes (including mutual help groups) to assist caregivers with challenges related to domestic violence, addictions to alcohol or drugs or with other mental health needs.

44. Educational measures should address attitudes, traditions, customs and behavioural practices which condone and promote violence against children. They should encourage open discussion about violence, including the engagement of media and civil society. They should support children's life skills, knowledge and participation and enhance the capacities of caregivers and professionals in contact with children. They can be initiated and implemented by both State and civil society actors under the responsibility of the State. Specific examples include, but are not limited to:

(a) *For all stakeholders*: public information programmes, including awareness campaigns, via opinion leaders and the media, to promote positive child-rearing and to combat negative societal attitudes and practices which condone or encourage violence; dissemination of the Convention, the present general comment and State party reports in child friendly and accessible formats; supporting measures to educate and advise on protection in the context of ICTs;

(b) *For children*: provision of accurate, accessible and age-appropriate information and empowerment on life skills, self-protection and specific risks, including those relating to ICTs and how to develop positive peer relationships and combat bullying; empowerment regarding child rights in general — and in particular on the right to be heard and to have their views taken seriously — through the school curriculum and in other ways;

(c) *For families and communities*: education on positive child-rearing for parents and caregivers; provision of accurate and accessible information on specific risks and how to listen to children and take their views seriously;

(d) *For professionals and institutions (government and civil society)*:

(i) Providing initial and in-service general and role-specific training (including intersectoral where necessary) on a child rights approach to article 19 and its application in practice, for all professionals and non-professionals working with, and for, children (including teachers at all levels of the educational system, social workers, medical doctors, nurses and other health professionals, psychologists, lawyers, judges, police, probation and prison officers, journalists, community workers, residential caregivers, civil servants and public officials, asylum officers and traditional and religious leaders);

(ii) Developing officially recognized certification schemes in association with educational and training institutions and professional societies in order to regulate and acknowledge such training;

(iii) Ensuring that the Convention is part of the educational curriculum of all professionals expected to work with and for children;

(iv) Supporting "child-friendly schools" and other initiatives which include, inter alia, respect for children's participation;

(v) Promoting research on child caregiving and protection.

## B. Article 19, paragraph 2

“such protective measures should, as appropriate, include ...”

45. **Range of interventions.** A holistic child protection system requires the provision of comprehensive and integrated measures across the full range of stages identified in article 19, paragraph 2, taking account of the socio-cultural traditions and legal system of the respective State party.<sup>21</sup>

46. **Prevention.** The Committee emphasizes in the strongest terms that child protection must begin with proactive prevention of all forms of violence as well as explicitly prohibit all forms of violence. States have the obligation to adopt all measures necessary to ensure that adults responsible for the care, guidance and upbringing of children will respect and protect children’s rights. Prevention includes public health and other measures to positively promote respectful child-rearing, free from violence, for all children, and to target the root causes of violence at the levels of the child, family, perpetrator, community, institution and society. Emphasis on general (primary) and targeted (secondary) prevention must remain paramount at all times in the development and implementation of child protection systems. Preventive measures offer the greatest return in the long term. However, commitment to prevention does not lessen States’ obligations to respond effectively to violence when it occurs.

47. Prevention measures include, but are not limited to:

(a) *For all stakeholders:*

(i) Challenging attitudes which perpetuate the tolerance and condoning of violence in all its forms, including gender, race, colour, religion, ethnic or social origin, disability and other power imbalances;

(ii) Disseminating information regarding the Convention’s holistic and positive approach to child protection through creative public campaigns, schools and peer education, family, community and institutional educational initiatives, professionals and professional groups, NGOs and civil society;

(iii) Developing partnerships with all sectors of society, including children themselves, NGOs and the media;

(b) *For children:*

(i) Registering all children to facilitate their access to services and redress procedures;

(ii) Supporting children to protect themselves and their peers through awareness of their rights and development of social skills as well as age-appropriate empowerment strategies;

(iii) Implementing “mentoring” programmes that engage responsible and trusted adults in the lives of children identified as needing extra support beyond that provided by their caregivers;

(c) *For families and communities:*

(i) Supporting parents and caregivers to understand, embrace and implement good child-rearing, based on knowledge of child rights, child development and

<sup>21</sup> The detailed guidance available in the Guidelines for the Alternative Care of Children should also be taken into account at each stage.

techniques for positive discipline in order to support families' capacity to provide children with care in a safe environment;

(ii) Providing pre- and post-natal services, home visitation programmes, quality early-childhood development programmes, and income-generation programmes for disadvantaged groups;

(iii) Strengthening the links between mental health services, substance abuse treatment and child protection services;

(iv) Providing respite programmes and family support centres for families facing especially difficult circumstances;

(v) Providing shelters and crisis centres for parents (mostly women) who have experienced violence at home and their children;

(vi) Providing assistance to the family by adopting measures that promote family unity and ensure for children the full exercise and enjoyment of their rights in private settings, abstaining from unduly interfering in children's private and family relations, depending on circumstances;<sup>22</sup>

(d) *For professionals and institutions (Government and civil society):*

(i) Identifying prevention opportunities and informing policy and practice on the basis of research studies and data collection;

(ii) Implementing, through a participatory process, rights-based child protection policies and procedures and professional ethics codes and standards of care;

(iii) Preventing violence in care and justice settings by, inter alia, developing and implementing community-based services in order to make use of institutionalization and detention only as a last resort and only if in the best interest of the child.

48. **Identification.**<sup>23</sup> This includes identifying risk factors for particular individuals or groups of children and caregivers (in order to trigger targeted prevention initiatives) and identifying signs of actual maltreatment (in order to trigger appropriate intervention as early as possible). This requires that all who come in contact with children are aware of risk factors and indicators of all forms of violence, have received guidance on how to interpret such indicators, and have the necessary knowledge, willingness and ability to take appropriate action (including the provision of emergency protection). Children must be provided with as many opportunities as possible to signal emerging problems before they reach a state of crisis, and for adults to recognize and act on such problems even if the child does not explicitly ask for help. Particular vigilance is needed when it comes to marginalized groups of children who are rendered particularly vulnerable due to their alternative methods of communicating, their immobility and/or the perceived view that they are incompetent, such as children with disabilities. Reasonable accommodation should be provided to ensure that they are able to communicate and signal problems on an equal basis with others.

49. **Reporting.**<sup>24</sup> The Committee strongly recommends that all States parties develop safe, well-publicized, confidential and accessible support mechanisms for children, their

<sup>22</sup> Human Rights Committee, general comment No. 17 (1989) on the rights of the child; European Court of Human Rights, *Olsson vs. Sweden* (No. 1), Judgement of 24 March 1988, Series A No. 130, para. 81; Inter-American Court of Human Rights, *Velásquez Rodríguez vs. Honduras*, Judgement on the Merits, 10 January 1989, Series C, No. 3, para. 172.

<sup>23</sup> Paragraphs 48 ff can also be applied to processes in informal and customary systems of justice.

<sup>24</sup> See also the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.

representatives and others to report violence against children, including through the use of 24-hour toll-free hotlines and other ICTs. The establishment of reporting mechanisms includes: (a) providing appropriate information to facilitate the making of complaints; (b) participation in investigations and court proceedings; (c) developing protocols which are appropriate for different circumstances and made widely known to children and the general public; (d) establishing related support services for children and families; and (e) training and providing ongoing support for personnel to receive and advance the information received through reporting systems. Reporting mechanisms must be coupled with, and should present themselves as help-oriented services offering public health and social support, rather than as triggering responses which are primarily punitive. Children's right to be heard and to have their views taken seriously must be respected. In every country, the reporting of instances, suspicion or risk of violence should, at a minimum, be required by professionals working directly with children. When reports are made in good faith, processes must be in place to ensure the protection of the professional making the report.

50. **Referral.** The person receiving the report should have clear guidance and training on when and how to refer the issue to whichever agency is responsible for coordinating the response. Following this, intersectoral referrals may be made by trained professionals and administrators when children are found to be in need of protection (immediate or longer-term) and specialized support services. Professionals working within the child protection system need to be trained in inter-agency cooperation and protocols for collaboration. The process will involve: (a) a participatory, multi-disciplinary assessment of the short- and long-term needs of the child, caregivers and family, which invites and gives due weight to the child's views as well as those of the caregivers and family; (b) sharing of the assessment results with the child, caregivers and family; (c) referral of the child and family to a range of services to meet those needs; and (d) follow-up and evaluation of the adequateness of the intervention.

51. **Investigation.** Investigation of instances of violence, whether reported by the child, a representative or an external party, must be undertaken by qualified professionals who have received role-specific and comprehensive training, and require a child rights-based and child-sensitive approach. Rigorous but child-sensitive investigation procedures will help to ensure that violence is correctly identified and help provide evidence for administrative, civil, child-protection and criminal proceedings. Extreme care must be taken to avoid subjecting the child to further harm through the process of the investigation. Towards this end, all parties are obliged to invite and give due weight to the child's views.

52. **Treatment.** "Treatment" is one of the many services needed to "promote physical and psychological recovery and social reintegration" for children who have experienced violence, and must take place "in an environment which fosters the health, self-respect and dignity of the child" (art. 39). In this respect attention must be given to: (a) inviting and giving due weight to the child's views; (b) the safety of the child; (c) the possible need for her or his immediate safe placement; and (d) the predictable influences of potential interventions on the child's long-term well-being, health and development. Medical, mental health, social and legal services and support may be required for children upon identification of abuse, as well as longer-term follow-up services. A full range of services, including family group conferencing and other similar practices, should be made available. Services and treatment for perpetrators of violence, especially child perpetrators, are also needed. Children who are aggressive towards other children have often been deprived of a caring family and community environment. They must be regarded as victims of their child-rearing conditions, which imbue them with frustration, hatred and aggression. Educational measures must have priority and be directed to improve their pro-social attitudes, competencies and behaviours. Simultaneously, the life conditions of these children must be examined in order to promote their care and support and that of other children in the family and neighbourhood. In terms of children who harm themselves, it is

recognized that this is a result of severe psychological distress and may be a result of violence by others. Self-harm should not be criminalized. Interventions must be supportive and not in any way punitive.

53. **Follow-up.** The following must always be clear: (a) who has responsibility for the child and family from reporting and referral all the way through to follow-up; (b) the aims of any course of action taken – which must be fully discussed with the child and other relevant stakeholders; (c) the details, deadlines for implementation and proposed duration of any interventions; and (d) mechanisms and dates for the review, monitoring and evaluation of actions. Continuity between stages of intervention is essential and this may best be achieved through a case management process. Effective help requires that actions, once decided through a participatory process, must not be subject to undue delay. The follow-up must be understood in the context of article 39 (recovery and reintegration), article 25 (periodic review of treatment and placements), article 6, paragraph 2 (right to development) and article 29 (aims of education which present intentions and aspirations for development). Contact of the child with both parents should be ensured in accordance with article 9, paragraph 3, unless this is contrary to the best interests of the child.

54. **Judicial involvement.**<sup>25</sup> At all times and in all cases, due process must be respected. In particular, the protection and the further development of the child and his or her best interests (and the best interests of other children where there is a risk of a perpetrator reoffending) must form the primary purpose of decision-making, with regard given to the least intrusive intervention as warranted by the circumstances. Furthermore, the Committee recommends the respect of the following guarantees:

(a) Children and their parents should be promptly and adequately informed by the justice system or other competent authorities (such as the police, immigration, or educational, social or health-care services);

(b) Child victims of violence should be treated in a child-friendly and sensitive manner throughout the justice process, taking into account their personal situation, needs, age, gender, disability and level of maturity and fully respecting their physical, mental and moral integrity;

(c) Judicial involvement should be preventive where possible, proactively encouraging positive behaviour as well as prohibiting negative behaviour. Judicial involvement should be an element of a coordinated and integrated approach across sectors, supporting and facilitating other professionals to work with children, caregivers, families and communities, and facilitating access to the full range of child caregiving and protection services available;

(d) In all proceedings involving children victims of violence, the celerity principle must be applied, while respecting the rule of law.

55. Judicial involvement may consist of the following:

(a) Differentiated and mediated responses such as family group conferencing, alternative dispute-resolution mechanisms, restorative justice and kith and kin agreements (where processes are human-rights respecting, accountable and managed by trained facilitators);

(b) Juvenile or family court intervention leading to a specific measure of child protection;

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<sup>25</sup> See also: Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice, adopted on 17 November 2010; Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime; and General Assembly resolution 65/213.

(c) Criminal law procedures, which must be strictly applied in order to abolish the widespread practice of de jure or de facto impunity, in particular of State actors;

(d) Disciplinary or administrative proceedings against professionals for neglectful or inappropriate behaviour in dealing with suspected cases of child maltreatment (either internal proceedings in the context of professional bodies for breaches of codes of ethics or standards of care, or external proceedings);

(e) Judicial orders to ensure compensation and rehabilitation for children who have suffered from violence in its various forms.

56. When appropriate, juvenile or family specialized courts and criminal procedures should be established for child victims of violence. This could include the establishment of specialized units within the police, the judiciary and the prosecutor's office with the possibility of providing accommodations in the judicial process to ensure equal and fair participation of children with disabilities. All professionals working with and for children and involved in such cases should receive specific interdisciplinary training on the rights and needs of children of different age groups, as well as on proceedings that are adapted to them. While implementing a multidisciplinary approach, professional rules on confidentiality should be respected. The decision to separate a child from his or her parent(s) or family environment must be made only when it is in the child's best interests (art. 9 and art. 20, para. 1). However, in cases of violence where perpetrators are primary caregivers, within the child rights safeguards listed above, and depending on the severity and other factors, intervention measures focusing on social and educational treatment and a restorative approach are often preferable to a purely punitive judicial involvement. Effective remedies should be available, including compensation to victims and access to redress mechanisms and appeal or independent complaint mechanisms.

57. **Effective procedures.** Such protective measures as mentioned in article 19, paragraphs 1 and 2, and as integrated into a systems-building approach (see para. 71), require "effective procedures" to ensure their enforcement, quality, relevance, accessibility, impact and efficiency. Such procedures should include:

(a) Intersectoral coordination, mandated by protocols and memorandums of understanding as necessary;

(b) The development and implementation of systematic and ongoing data collection and analysis;

(c) The development and implementation of a research agenda; and

(d) The development of measurable objectives and indicators in relation to policies, processes and outcomes for children and families.

58. Outcome indicators should focus on the child's positive development and well-being as a rights-bearing person, beyond a purely narrow focus on incidence, prevalence and types or extent of violence. Child death reviews, critical injury reviews, inquests and systemic reviews must also be taken into account when identifying the underlying causes of violence and in recommending corrective courses of actions. Research must build on the existing body of international and national child protection knowledge and benefit from interdisciplinary and international collaboration in order to maximize complementarity. (See also para. 72 (j) on accountability in relation to national coordinating frameworks.)

## V. Interpretation of article 19 in the broader context of the Convention

59. **Definition of a child rights approach.** Respect for the dignity, life, survival, well-being, health, development, participation and non-discrimination of the child as a rights-bearing person should be established and championed as the pre-eminent goal of States parties' policies concerning children. This is best realized by respecting, protecting and fulfilling all of the rights in the Convention (and its Optional Protocols). It requires a paradigm shift away from child protection approaches in which children are perceived and treated as "objects" in need of assistance rather than as rights holders entitled to non-negotiable rights to protection. A child rights approach is one which furthers the realization of the rights of all children as set out in the Convention by developing the capacity of duty bearers to meet their obligations to respect, protect and fulfil rights (art. 4) and the capacity of rights holders to claim their rights, guided at all times by the rights to non-discrimination (art. 2), consideration of the best interests of the child (art. 3, para. 1), life, survival and development (art. 6), and respect for the views of the child (art. 12). Children also have the right to be directed and guided in the exercise of their rights by caregivers, parents and community members, in line with children's evolving capacities (art. 5). This child rights approach is holistic and places emphasis on supporting the strengths and resources of the child him/herself and all social systems of which the child is a part: family, school, community, institutions, religious and cultural systems.

60. **Article 2 (non-discrimination).** The Committee stresses that States parties shall take adequate measures to assure to every child the right to protection from all forms of violence "without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status". This includes discrimination based on prejudices towards commercially sexually exploited children, children in street situations or children in conflict with the law or based on children's clothing and behaviour. States parties must address discrimination against vulnerable or marginalized groups of children, such as outlined in paragraph 72 (g) of the present general comment, and make proactive efforts to ensure that such children are assured their right to protection on an equal basis with all other children.

61. **Article 3 (best interests of the child).** The Committee emphasizes that the interpretation of a child's best interests must be consistent with the whole Convention, including the obligation to protect children from all forms of violence. It cannot be used to justify practices, including corporal punishment and other forms of cruel or degrading punishment, which conflict with the child's human dignity and right to physical integrity. An adult's judgment of a child's best interests cannot override the obligation to respect all the child's rights under the Convention. In particular, the Committee maintains that the best interests of the child are best served through:

(a) Prevention of all forms of violence and the promotion of positive child-rearing, emphasizing the need for a focus on primary prevention in national coordinating frameworks;

(b) Adequate investment in human, financial and technical resources dedicated to the implementation of a child rights-based and integrated child protection and support system.

62. **Article 6 (life, survival and development).** Protection from all forms of violence must be considered not only in terms of the child's right to "life" and "survival", but also in terms of their right to "development", which must be interpreted in line with the overall goal of child protection. Thus, the obligation of the State party includes comprehensive

protection from violence and exploitation which would jeopardize a child's right to life, survival and development. The Committee expects States to interpret "development" in its broadest sense as a holistic concept, embracing the child's physical, mental, spiritual, moral, psychological and social development. Implementation measures should be aimed at achieving the optimal development for all children.

63. **Article 12 (right to be heard).** The Committee is of the opinion that child participation promotes protection and child protection is key to participation. The child's right to be heard commences already with very young children who are particularly vulnerable to violence. Children's views must be invited and given due weight as a mandatory step at every point in a child protection process. The child's right to be heard has particular relevance in situations of violence (see the Committee's general comment No. 12 (2009),<sup>26</sup> paras. 118 ff). With regard to family and child-rearing, the Committee expressed that this right plays a preventive role against all forms of violence in the home and family. The Committee furthermore underlines the importance of children's participation in the development of prevention strategies in general and in school, in particular in the elimination and prevention of bullying, and other forms of violence in school. Initiatives and programmes that are aimed at strengthening children's own capacities to eliminate violence should be supported. As the experience of violence is inherently disempowering, sensitive measures are needed to ensure that child protection interventions do not further disempower children but rather contribute positively to their recovery and reintegration via carefully facilitated participation. The Committee notes that barriers to participation are faced by particularly marginalized and/or discriminated groups. Addressing these barriers is especially relevant for child protection, as such children are often among those most affected by violence.

64. The following two articles of the Convention also have all-embracing relevance which gives them particular significance for the implementation of article 19.

65. **Article 4 (appropriate measures).** Article 4 obliges States parties to undertake all appropriate measures to implement all the rights in the Convention, including article 19. In applying article 4 of the Convention, it must be noted that the right to protection from all forms of violence outlined in article 19 is a civil right and freedom. Implementation of article 19 is therefore an immediate and unqualified obligation of States parties. In the light of article 4, whatever their economic circumstances, States are required to undertake all possible measures towards the realization of the rights of the child, paying special attention to the most disadvantaged groups (see the Committee's general comment No. 5, para. 8). The article stresses that available resources must be utilized to the maximum extent.

66. **Article 5 (direction and guidance consistent with evolving capacities).** Implementation of article 19 requires recognition of, and support for, the primary importance of parents, extended families, legal guardians and community members in the caregiving and protection of children and the prevention of violence. This approach is consistent with article 5, which promotes respect for the responsibilities, rights and duties of caregivers to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the Convention (including in article 19). (See also para. 72 (d) on the primacy of families in the context of national coordinating frameworks and other articles relevant to families.)

67. **Other relevant articles.** The Convention contains numerous articles which relate explicitly or implicitly to violence and child protection. Article 19 should be read in

<sup>26</sup> General comment No. 12 (2009) on the right of the child to be heard, *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 41 (A/65/41)*, annex IV.

conjunction with these articles. These comprehensive references demonstrate the need to take account of the pervasive threat to the implementation of child rights by violence in all its forms and to ensure the protection of children in all situations of life and development.

## VI. National coordinating framework on violence against children

68. **Beyond national plans of action.** The Committee recognizes that many national plans of action adopted by States parties to implement the rights of the child include measures to prohibit, prevent and eliminate all forms of violence against children. Such plans of action, while contributing to more enjoyment by children of their rights, have nevertheless faced many challenges in their implementation, monitoring, evaluation and follow-up. For example, they have often lacked links with the overall development policy, programmes, budget and coordinating mechanisms. In order to establish a more feasible and flexible instrument, the Committee is proposing a “coordinating framework on violence against children” for all child rights-based measures to protect children from violence in all its forms and to support a protective environment.<sup>27</sup> Such a coordinating framework can be used in place of national plans of action where these do not yet exist or where they are proving unwieldy. Where national plans of action are being effectively implemented already, the coordinating framework can nonetheless complement those efforts, stimulate discussion and generate new ideas and resources to improve their functioning.

69. **National coordinating framework on violence against children.** This coordinating framework can provide a common frame of reference and a mechanism for communication among Government ministries and also for State and civil society actors at all levels with regard to needed measures, across the range of measures and at each stage of intervention identified in article 19. It can promote flexibility and creativity and allow for the development and implementation of initiatives led simultaneously by both Government and community, but which are nonetheless contained within an overall cohesive and coordinated framework. In previous recommendations and general comments, including its general comment No. 5 on general measures of implementation, the Committee has already urged States parties to develop plans and strategies for specific aspects of the Convention (for example juvenile justice or early childhood). It is in this context that the Committee recommends the development of a national coordinating framework on protection against all forms of violence, including comprehensive prevention measures.

70. **Different starting points.** The Committee acknowledges that protecting children from all forms of violence is highly challenging in most countries and that States parties are designing and implementing measures from very different starting points, in terms of existing legal, institutional and service infrastructures, cultural customs and professional competencies, as well as levels of resources.

71. **The process of developing a national coordinating framework.** There is no single model for such coordinating frameworks for freedom from all forms of violence. Some countries have invested in a discrete system of protecting children whereas others prefer to integrate protection issues into mainstream systems of implementing the rights of children. Experience shows that the process of developing a system is essential to its successful implementation. Skilful facilitation is required to ensure the participation of and ownership by senior representatives of all stakeholder groups, possibly through a multidisciplinary

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<sup>27</sup> See also the overarching recommendations of the independent expert for the United Nations study on violence against children (A/61/299), para. 96.

working group which has appropriate decision-making power, which meets regularly and which is prepared to be ambitious. A system of prevention and protection against all forms of violence should build on the strengths in existing formal and informal structures, services and organizations. Gaps should be identified and filled, based on the obligations outlined in article 19 and the Convention more broadly, and in other international and regional human rights instruments, and supported by the guidance provided in the United Nations study on violence against children, the present general comment and additional implementation supports. National planning should be a transparent and inclusive process, with full disclosure to the general public and assurance of the involvement of Government, NGOs, research and professional practice experts, parents and children. It should be accessible and understandable to both children and adults. The national coordinating framework should be fully costed and financed, including human and technical resources, and presented, if possible, within the national child budget.

72. **Elements to be mainstreamed into national coordinating frameworks.** The following elements need to be mainstreamed across the measures (legislative, administrative, social and educational) and stages of intervention (from prevention through to recovery and reintegration):

(a) *Child rights approach.* This approach is based on the declaration of the child as a rights holder and not a beneficiary of benevolent activities of adults. It includes respecting and encouraging consultation and cooperation with, and the agency of, children in the design, implementation, monitoring and evaluation of the coordinating framework and specific measures therein, taking account of the age and evolving capacities of the child or children;

(b) *The gender dimensions of violence against children.* States parties should ensure that policies and measures take into account the different risks facing girls and boys in respect of various forms of violence in various settings. States should address all forms of gender discrimination as part of a comprehensive violence-prevention strategy. This includes addressing gender-based stereotypes, power imbalances, inequalities and discrimination which support and perpetuate the use of violence and coercion in the home, in school and educational settings, in communities, in the workplace, in institutions and in society more broadly. Men and boys must be actively encouraged as strategic partners and allies, and along with women and girls, must be provided with opportunities to increase their respect for one another and their understanding of how to stop gender discrimination and its violent manifestations;

(c) *Primary (general) prevention.* See paragraph 42 of the present general comment for details;

(d) *The primary position of families in child caregiving and protection strategies.*<sup>28</sup> Families (including extended families and other forms of family-type care arrangements) have the greatest potential to protect children and to prevent violence. Families can also support and empower children to protect themselves. The need to strengthen family life, support families and work with families with challenges must therefore be a priority child protection activity at every stage of intervention, particularly prevention (through establishing good child caregiving) and in early intervention. However, the Committee also recognizes that much of the violence experienced by children, including sexual abuse, takes place within a family context and stresses the necessity of intervening in families if children are exposed to violence by family members;

<sup>28</sup> See also the Guidelines for the Alternative Care of Children.

(e) *Resilience and protective factors.* It is of critical importance to understand resilience and protective factors, i.e. internal and external strengths and supports which promote personal security and reduce abuse and neglect and their negative impact. Protective factors include stable families; nurturing child-rearing by adults who meet the child's physical and psychosocial needs; positive non-violent discipline; secure attachment of the child to at least one adult; supportive relationships with peers and others (including teachers); a social environment that fosters pro-social, non-violent and non-discriminatory attitudes and behaviours; high levels of community social cohesion; and thriving social networks and neighbourhood connections;

(f) *Risk factors.* Proactive, tailored measures need to be taken to reduce the risk factors to which individual children or groups of children may be exposed in general or in particular contexts. This includes parental risk factors such as substance abuse, mental health problems and social isolation as well as family risk factors such as poverty, unemployment, discrimination and marginalization. At a universal level all children aged 0–18 years are considered vulnerable until the completion of their neural, psychological, social and physical growth and development. Babies and young children are at higher risk due to the immaturity of their developing brain and their complete dependency on adults. Both girls and boys are at risk, but violence often has a gender component;

(g) *Children in potentially vulnerable situations.* Groups of children which are likely to be exposed to violence include, but are not limited to, children: not living with their biological parents, but in various forms of alternative care; not registered at birth; in street situations; in actual or perceived conflict with the law; with physical disabilities, sensory disabilities, learning disabilities, psychosocial disabilities and congenital, acquired and/or chronic illnesses or serious behavioural problems; who are indigenous<sup>29</sup> and from other ethnic minorities; from minority religious or linguistic groups; who are lesbian, gay, transgender or transsexual; at risk of harmful traditional practices; in early marriage (especially girls, and especially but not exclusively forced marriage); in hazardous child labour, including the worst forms; who are on the move as migrants or refugees, or who are displaced and/or trafficked; who have already experienced violence; who experience and witness violence in the home and in communities; in low socio-economic urban environments, where guns, weapons, drugs and alcohol may be easily available; living in accident- or disaster-prone areas or in toxic environments; affected by HIV/AIDS or who are themselves HIV infected; who are malnourished; looked after by other children; who are themselves carers and heads of households; born to parents who are themselves still under 18; who are unwanted, born prematurely or part of a multiple birth; hospitalized with inadequate supervision or contact with caregivers; or exposed to ICTs without adequate safeguards, supervision or empowerment to protect themselves. Children in emergencies are extremely vulnerable to violence when, as a consequence of social and armed conflicts, natural disasters and other complex and chronic emergencies, social systems collapse, children become separated from their caregivers and caregiving and safe environments are damaged or even destroyed;

(h) *Resource allocation.* Human, financial and technical resources needed across different sectors must be allocated to the maximum extent of available resources. Robust

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<sup>29</sup> In some societies, in contrast to non-indigenous families, “neglect” as distinct from “abuse” is the primary reason leading to the removal of indigenous children from their families. Non-punitive family support services and interventions directly addressing causes (such as poverty, housing and historical circumstances) are often more appropriate. Specific efforts are required to address discrimination in the provision of services and the range of intervention options available to indigenous and other minority communities.

monitoring mechanisms must be developed and implemented to ensure accountability regarding allocation of budgets and their efficient utilization;

(i) *Coordination mechanisms.* Mechanisms must be explicitly outlined to ensure effective coordination at central, regional and local levels, between different sectors and with civil society, including the empirical research community. These mechanisms must be supported by the administrative measures outlined above;

(j) *Accountability.* It must be ensured that States parties, national and local agencies and organizations, and relevant civil society stakeholders proactively and cooperatively establish and apply standards, indicators, tools, and systems of monitoring, measurement and evaluation to fulfil their obligations and commitments to protect children from violence. The Committee has consistently expressed its support for systems of accountability, including in particular through data collection and analysis, indicator construction, monitoring and evaluation as well as support for independent human rights institutions. The Committee recommends that States parties publish an annual report on progress made with regard to the prohibition, prevention and elimination of violence, submit it to parliament for consideration and discussion, and invite all relevant stakeholders to respond to the information contained therein.

## VII. Resources for implementation and the need for international cooperation

73. **States parties' obligations.** In the light of States parties' obligations under articles 4 and 19, inter alia, the Committee considers that resource constraints cannot provide a justification for a State party's failure to take any, or enough, of the measures that are required for child protection. States parties are therefore urged to adopt comprehensive, strategic and time-bound coordinating frameworks for child caregiving and protection. In particular the Committee highlights the necessity to consult with children in the development of these strategies, frameworks and measures.

74. **Sources of support.** Within the context of different starting points highlighted in paragraph 70, and on the understanding that budgets at national and decentralized levels should be the primary source of funds for child caregiving and protection strategies, the Committee draws the attention of States parties to the avenues of international cooperation and assistance outlined in articles 4 and 45 of the Convention. The Committee calls upon the following partners to support, both financially and technically, child protection programmes, including training, which take full account of the requirements stipulated in article 19 and the Convention more broadly:<sup>30</sup> States parties providing development cooperation; donor institutions (including the World Bank, private sources and foundations); United Nations agencies and organizations; and other international and regional bodies and organizations. This financial and technical support should be provided systematically through strong and equitable partnerships, at the national and international levels. Child rights-based protection programmes should be one of the main components in assisting sustainable development in countries receiving international assistance. The Committee also encourages such bodies to continue to work with the Committee, the

<sup>30</sup> See general comment No. 5 (paras. 61, 62 and 64) on: the need for the mainstreaming of children's rights into international cooperation and technical assistance; the need for such cooperation and assistance to be guided by, and to fully promote implementation of, the Convention; the allocation of a substantive part of international aid and assistance specifically to children; and the need for Poverty Reduction Strategy Papers and sector-wide approaches to development to include a strong focus on children's rights.

Special Representative of the Secretary-General on Violence against Children and other international and regional human rights mechanisms to advance this goal.

75. **Resources needed at the international level.** Investment is also needed in the following areas at the international level to assist States parties to fulfil their obligations in relation to article 19:

(a) Human resources: improved communication, cooperation and individual exchange within and between professional associations (for example medical, mental health, social work, legal, education, child maltreatment, academic/research, child rights and training organizations/institutions); improved communication and cooperation within and between civil society groups (for example research communities, NGOs, child-led organizations, faith-based organizations, organizations of persons with disabilities, community and youth groups, and individual experts involved in the development and exchange of knowledge and practice);

(b) Financial resources: improved coordination, monitoring and evaluation of donor aid; further development of financial and human capital analyses in order for economists, researchers and States parties to fully measure the costs of implementing holistic child protection systems (with an emphasis on primary prevention) versus the costs of managing the direct and indirect (including intergenerational) impact of violence at the individual, community, national and even international levels; and reviews by international financial institutions of “their policies and activities to take account of the impact they may have on children”;<sup>31</sup>

(c) Technical resources: evidence-based indicators, systems, models (including model legislation), tools, guidelines, protocols and practice standards for use by communities and professionals, with guidance on their adaptation to different contexts; a platform for systematic sharing and accessing of information (knowledge and practice); universally established clarity and transparency in budgeting for child rights and child protection, as well as in outcome monitoring of child protection during up and down cycles of economies and challenging circumstances (technical assistance should be established over time, through information, models and related training).

76. **Regional and international cross-border cooperation.** In addition to development assistance, cooperation is also needed to address child protection issues which cut across national borders such as: cross-border movement of children — either unaccompanied or with their families — either voluntarily or under duress (for example due to conflict, famine, natural disasters or epidemics) which can put children at risk of harm; cross-border trafficking of children for labour, sexual exploitation, adoption, removal of body parts or other purposes; conflict which cuts across borders and which may compromise a child’s safety and access to protection systems, even if the child remains in the country of origin; and disasters that impact several countries simultaneously. Specific legislation, policies, programmes and partnerships may be required to protect children affected by cross-border child protection issues (for example cybercrime and extraterritorial prosecution of those who sexually abuse children through travel and tourism and traffickers of families and children), whether these children are in traditional caregiving situations or where the State is the de facto caregiver, as in the case of unaccompanied children.

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<sup>31</sup> A/61/299, para. 117.