

COMMITTEE ON THE RIGHTS OF THE CHILD
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GENERAL COMMENT No. 9 (2006)

The rights of children with disabilities

A. Introduction

Why a General Comment on children with disabilities?

1. It is estimated that there are 500-650 million persons with disabilities in the world, approximately 10% of the world population, 150 million of whom are children. More than 80% live in developing countries with little or no access to services. The majority of children with disabilities in developing countries remains out of school and is completely illiterate. It is recognized that the majority of causes for disabilities such as war, illness and poverty are preventable along with preventing and/or reducing the secondary impacts of disabilities, often caused by the lack of early/timely intervention. Therefore, more is needed to create the necessary political will and a real commitment to investigate and put into practice the most effective actions to prevent disabilities with the participation of all levels of society.

2. The past few decades have witnessed positive focus on persons with disabilities in general and children in particular. The reason for this is partly because of the increasingly heard voice of individuals with disabilities and their advocates from national and international non-governmental organizations (NGOs) and partly because of the growing attention paid to persons with disabilities in the framework of the human rights treaties and the United Nations human rights treaty bodies. These treaty bodies have considerable potential in this field but have generally been underused in advancing the rights of persons with disabilities. When adopted in November 1989 the Convention on the Rights of the Child (hereafter the Convention) was the first human rights treaty which contained a specific reference to disability (article 2 on non-discrimination) and a separate article 23 dedicated to special rights and needs of children with disabilities. After the Convention entered into force (2 September 1990) the Committee on the Rights of the Child has paid sustained and particular attention to disability-based discrimination¹. In various concluding observations of other human rights treaty bodies' attention has been paid under "other status" in the articles on non-discrimination to disability-based discrimination. In 1994 the Committee on Economic, Social and Cultural Rights issued its General Comment No. 5 on persons with disabilities (E/1995/22) and stated: "The effects of disability-based discrimination have been particularly

¹ See Wouter Vandenhoele, *Non-Discrimination and Equality in the View of the UN Human Rights Treaty Bodies*, p.170-172, Antwerpen/Oxford, Intersentia 2005.

severe in the fields of education, employment, housing, transport, cultural life, and access to public places and services. The Special Rapporteur on Disability of the United Nations Commission for Social Development was first appointed in 1994. The task of the Special Rapporteur is to monitor of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, adopted by the General Assembly in 1993², and to advance the status of persons with disabilities throughout the world. In 1997 the Committee devoted its Day of General Discussion to children with disabilities. It resulted in an elaborated set of recommendations (see CRC/C/66, paragraphs 310-339), including that the Committee should consider the possibility of drafting a General Comment on children with disabilities. The Committee also notes with appreciation the work of the Ad-Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities which adopted the draft text of the Convention on the Rights of Persons with Disabilities in its eighth session in New York on 25 August 2006.

3. The Committee, in reviewing State party reports, has accumulated a wealth of information on the status of children with disabilities worldwide and found that in the overwhelming majority of countries some recommendations had to be made specifically for children with disabilities. The problems identified and addressed have varied from exclusion from decision making to the severe discrimination and actual killing of children with disabilities. Poverty is both a cause and a consequence of disability. Children with disabilities and their families have the right to an adequate standard of living, including adequate food, clothing and housing and to the continuous improvement of living conditions. The question of children with disabilities living in poverty should be addressed by allocating adequate budgetary resources as well as by ensuring access by children with disabilities to social protection and poverty reduction programmes.

4. The Committee has noted that no reservations or declarations have been entered specifically to article 23 by any State party.

5. The Committee also notes that children with disabilities are still experiencing serious difficulties and barriers in the full enjoyment of the rights enshrined in the Convention. The Committee emphasizes that the barrier is not the disability itself but it is a combination of social, cultural, attitudinal and physical barriers which children with disabilities encounter in their daily lives. The strategy for promoting their rights is therefore to take the necessary action to remove those barriers. Acknowledging the importance of articles 2 and 23 for children with disabilities, the Committee states from the outset that the implementation of the Convention for children with disabilities should not be limited to these articles.

6. This General Comment is meant to provide guidance and assistance to States parties in their efforts to implement the rights of children with disabilities, in a comprehensive manner which covers all the provisions of the Convention. It means that the Committee will first make some observations related directly to articles 2 and 23 but elaborated attention will be paid to the importance of including explicitly children with disabilities in the framework of the general measures of implementation. This will be followed by observations on the meaning and the implementation of the various articles of the Convention (clustered in accordance with the Committee's practice) for children with disabilities.

Definition

² Adopted by the United Nations General Assembly, forty-eighth session, resolution 48/96, annex, of 20 December 1993.

7. According to article 1, paragraph 2, of the draft text of the Convention on the Rights of Persons with Disabilities³, “Persons with disabilities include those who have long-term physical, mental, intellectual, or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”

B. The key provisions for children with disabilities (Articles 2 and 23 of the Convention)

Article 2

8. Article 2 requires States parties to ensure that all children in their jurisdiction enjoy all the rights enshrined in the Convention. This obligation requires States parties to take appropriate measures to prevent all forms of discrimination, including discrimination on the ground of disability. The explicit mentioning of disability as a prohibited ground for discrimination in article 2 is unique and can be explained by the fact that children with disabilities belong to one of the most vulnerable groups of children. In many cases forms of multiple discrimination increase the vulnerability of certain groups based on a combination of factors, i.e. indigenous girls with disabilities, children with disabilities living in rural areas and so on. It was therefore felt necessary to mention disability explicitly in the non-discrimination article. Discrimination takes place – often de facto – regarding various aspects of the life and development of children with disabilities. As an example, social discrimination and stigmatization leads to their marginalization and exclusion and may even threaten their survival and development in the form of violence. Discrimination in service provision excludes them from education and denies them access to quality health and social services. The lack of appropriate education and vocational training discriminates against them by denying them job opportunities in the future. Social stigma, fears, overprotection, negative attitudes, misbeliefs and prevailing prejudices against children with disabilities remain strong in many communities leading to the marginalization and alienation of children with disabilities. In the course of this General Comment the Committee shall elaborate on these aspects.

9. In general, the States parties in their efforts to prevent and eliminate all forms of discrimination against children with disabilities should take the following measures:

- a) Include explicitly in constitutional provisions on non-discrimination disability as a forbidden ground for discrimination and/or include specific prohibition of discrimination on the ground of disability in specific anti-discrimination laws or legal provisions.
- b) Provide for effective remedies in case of violations of the rights of children with disabilities, which are easily accessible for children with disabilities and their parents and/or others caring for the child.
- c) Conduct awareness raising and educational campaigns targeting the public at large and specific groups of professionals with a view to preventing and eliminating the de facto discrimination of children with disabilities.

³ The Draft Convention on the Rights of Persons with Disabilities adopted by the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities in its eighth session in New York on 25 August 2006.

10. Girls with disabilities are often even more vulnerable to discrimination in societies due to gender discrimination. In this context, States parties are requested to pay particular attention to girls with disabilities by taking the necessary measures, and when needed extra measures, in order to ensure that they are well protected, have access to all services and are fully included in society.

Article 23

11. Paragraph 1 of article 23 should be considered as the leading principle of the implementation of the Convention for children with disabilities: the enjoyment of a full and decent life in conditions that ensure dignity, promote self reliance and facilitate active participation in the community. The measures taken by States parties regarding the realization of the rights of children with disabilities should be directed towards this goal. The core message of this paragraph is that children with disabilities should be included in the society. Measures taken for the implementation of the rights in the Convention regarding children with disabilities, for example in the areas of education and health, should explicitly aim at the maximum inclusion of those children in society.

12. According to paragraph 2 of article 23 States parties to the Convention recognize the right of the child with disability to special care and shall encourage and ensure the extension of assistance to the eligible child and those responsible for his or her care. The assistance has to be appropriate to the child's condition and to the circumstances of the parents or others caring for the child. Paragraph 3 of article 23 gives further rules for the costs of specific measures and what it should try to achieve.

13. In order to meet the requirements of article 23 it is necessary that States parties develop and effectively implement a comprehensive policy with a plan of action which not only aims at the full enjoyment of the rights enshrined in the Convention without discrimination but which also ensures that a child with disability and her or his parents and others taking care of the child do receive the special care and assistance they are entitled to under the Convention.

14. With regard to the specifics of paragraphs 2 and 3 of article 23, the Committee makes the following observations:

- a) The provision of special care and assistance is subject to available resources and free of charge whenever possible. The Committee urges the States parties to make the special care and assistance to children with disabilities a matter of high priority and to invest to the maximum extent of available resources in the elimination of the discrimination of children with disabilities and their maximum inclusion in society.
- b) The care and assistance shall be designed to ensure that children with disabilities have effective access to and receive education, training, health care services, recover services, preparation for employment and recreation opportunities. The Committee when dealing with specific areas of the Convention hereafter will elaborate on the measures necessary to achieve this.

15. With reference to article 23, paragraph 4, the Committee has noted that the international exchange of information between States parties in the areas of prevention and treatment is quite limited. The Committee recommends that States parties take effective, and where appropriate targeted, measures for an active promotion of information as envisaged by

article 23, paragraph 4, in order to enable States parties to improve their capabilities and skills in the areas of prevention and treatment of disabilities of children.

16. It is often not clear how and to which degree the needs of developing countries are taken into account as required by article 23, paragraph 4. The Committee strongly recommends States parties to ensure that in the framework of bilateral or multilateral development assistance particular attention is paid to children with disabilities and their survival and development in accordance with the provisions of the Convention, for example, by developing and implementing special programmes aiming at their inclusion in society and allocating earmarked budgets to that effect. States parties are invited to provide information in their reports to the Committee on the activities and results of this international cooperation.

C. General measures of implementation (articles 4, 42 and 44, paragraph 6, of the Convention)⁴

Legislation

17. In addition to the legislative measures recommended with regard to non-discrimination (see paragraph 9) the Committee recommends that States parties undertake a comprehensive review of all domestic laws and related regulations in order to ensure that all provisions of the Convention are applicable to all children, including children with disabilities who should be mentioned explicitly, where appropriate. National laws and regulations should contain clear and explicit provisions for the protection and exercise of the specific rights of children with disabilities, in particular those enshrined in article 23 of the Convention.

National plans of action and policies

18. The need for a national plan of action that integrates all the provisions of the Convention on the Rights of the Child is a well-recognized fact and has often been a recommendation made by the Committee to States parties. Plans of action must be comprehensive, including plans and strategies for children with disabilities, and should have measurable outcomes. The draft text of the Convention on the Rights of Persons with Disabilities in article 4, paragraph 1(c)⁵, emphasizes the importance of inclusion in this aspect stating that States parties undertake “to take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes”. It is also essential that all programmes are adequately supplied with financial and human resources and have built in monitoring mechanisms, for example, indicators that allow for accurate outcome measurements. Another factor that should not be overlooked is the importance of including all children with disabilities in policies and programmes. Some States parties have initiated excellent programmes but have not included all children with disabilities.

Data and statistics

19. In order to fulfill their obligations, it is necessary for States parties to set up and develop data gathering mechanisms, which are accurate, standardized and allow

⁴ In this General Comment the Committee focuses on the need to pay special attention to children with disabilities in the context of the general measures. For a more elaborated explanation of the content and importance of these measures see the Committee’s General Comment No. 5 (2003) on general measures of implementation for the Convention on the Rights of the Child (CRC/GC/2003/5).

⁵ The Draft Convention on the Rights of Persons with Disabilities adopted by the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities in its Eighth session in New York on 25 August 2006.

disaggregation, and which reflect the actual situation of children with disabilities. The importance of this issue is often overlooked and not viewed as a priority despite the fact that it influences not only the measures that need to be taken in terms of prevention but also the distribution of very valuable resources that are needed to fund programmes. One of the main challenges in obtaining accurate statistics is the lack of a widely accepted clear definition for disabilities. States parties are encouraged to establish an appropriate definition that guarantees the inclusion of all children with disabilities so that children with disabilities may benefit from the special protection and programmes developed for them. Extra efforts are often needed to collect data on children with disabilities because they are often hidden by their parents or others caring for the child.

Budget

20. Allocation of budget: in the light of article 4 "...States parties shall undertake such measures to the maximum extent of their available resources...". Although the Convention does not make a specific recommendation of the most appropriate percentage of the State budget that should be dedicated to services and programmes for children, it does however insist that children should be a priority. The implementation of this right has been a concern to the Committee since many States parties not only do not allocate sufficient resources but have also shown a decline in the budget allocated to children over the years. This has many serious implications especially for children with disabilities who often rank quite low, or even not at all, on priority lists. For example, if a State party is failing to allocate sufficient funds to ensure compulsory and free quality education for all children, it will be unlikely to allocate funds for training of teachers for children with disabilities or for providing necessary teaching aids and transportation for children with disabilities. Decentralization and privatization are now forms of economic reform. However, it should not be forgotten that it is the State Party's ultimate responsibility to oversee that adequate funds are allocated to children with disabilities along with strict guidelines for service delivery. Resources allocated to children with disabilities should be sufficient as well as not used for other purposes, to cover all their needs including programmes established for training professionals working with children with disabilities such as teachers, physiotherapists and policy makers as well as for education campaigns, financial support for families, income maintenance, social security, assistive devices and related services. Furthermore, funding must be ensured for other programmes necessary for including children with disabilities into mainstream education including renovating schools rendering them physically accessible to children with disabilities.

Coordination body: "Focal point for disabilities"

21. Services for children with disabilities are often delivered by various governmental and non-governmental institutions, and more often than not, these services are fragmented and not-coordinated resulting in overlapping of functions and gaps in provisions. Therefore, the setting up of an appropriate coordinating mechanism becomes essential. This body should be multisectorial, including all organizations public or private and must be empowered and supported from the highest possible levels of Government to allow it to function at its full potential. A coordination body for children with disabilities as part of a broader coordination system for the rights of the child or a national coordination system for persons with disabilities, has the advantage of working within an already established system provided this system is functioning adequately and is capable of devoting the adequate financial and human resources necessary. On the other hand, a separate coordination system may serve to focus attention on children with disabilities.

International cooperation and technical assistance

22. In order to make information among States parties freely accessible and to cultivate an atmosphere of knowledge sharing concerning, inter alia, the management and rehabilitation of children with disabilities, States parties should recognize the importance of international cooperation and technical assistance. Particular attention should be paid to developing countries that need assistance in setting up and/or funding programmes that protect and promote the rights of children with disabilities. These countries are experiencing increasing difficulties in mobilizing adequate resources for meeting the pressing needs of persons with disabilities and would urgently need assistance in the prevention of disability, the provision of services and rehabilitation as well as in the equalization of opportunities. However, in order to respond to these growing needs, the international community should explore new ways and means of raising funds, including substantial increase of resources, and take the necessary follow-up measures for mobilizing resources. Therefore, voluntary contributions from Governments, increased regional and bilateral assistance as well as contributions from private sources should also be encouraged. UNICEF and WHO have been instrumental in helping developing countries develop and implement specific programmes for children with disabilities. The process of knowledge exchange is also valuable in sharing updated medical knowledge as well as good practices, such as early identification and community-based approaches to early intervention and support to families, and addressing common challenges.

23. Countries that have endured, or endure, internal or foreign conflict, in which case land mines were laid, face a particular challenge. States parties are often not privy to plans of the sites where the land mines and unexploded ordnances were planted and the cost of removing these mines is very high. The Committee emphasizes the importance of international cooperation in accordance with the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, in order to prevent injuries and deaths caused by landmines and unexploded ordnances that remain in place. In this regard the Committee recommends that States parties closely cooperate with a view to a complete removal of all landmines and unexploded ordnances in areas of armed conflict and/or previous armed conflict.

Independent monitoring

24. Both the Convention and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities recognize the importance of the establishment of an appropriate monitoring system⁶. The Committee has very often referred to “the Paris Principles”⁷ as the guidelines which national human rights institutions should follow (see the Committee’s General Comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2)). National human rights institutions can take many shapes or forms such as an Ombudsman or a Commissioner and may be broad based or specific for certain focal points. Whatever mechanism is chosen, it must be:

- a) Independent with adequate financial support, including human resources;
- b) Well known to children with disabilities and their caregivers;
- c) Accessible not only in the physical sense but also accessible so that children with disabilities can send in their complaints or issues easily and confidentially; and

⁶ See also the General Comment No. 5 (1994) of the Committee on Economic, Social and Cultural Rights on persons with disabilities contained in document E/1995/22.

⁷ Principles relating to the status and functioning of national institutions for protection and promotion of human rights, A/RES/48/134 of 20 December 1993.

- d) It must have the appropriate legal authority to receive, investigate and address the complaints of children with disabilities in a manner sensitive to both their childhood and to their disabilities.

Civil society

25. Although caring for children with disabilities is an obligation of the State, NGOs' often carry out these responsibilities without the appropriate support, funding or recognition from Governments. States parties are therefore encouraged to support and cooperate with NGOs enabling them to participate in the provision of services for children with disabilities and to ensure that they operate in full compliance with the provisions and principles of the Convention. In this regard the Committee draws the attention of States parties to the recommendations adopted on its Day of General Discussion on the private sector as a service provider (see CRC/C/121, paragraphs 630-653).

Dissemination of knowledge and training of professionals

26. Knowledge of the Convention on the Rights of the Child and the specific provisions devoted to children with disabilities is a necessary and powerful tool to ensure the realization of these rights. States parties are encouraged to disseminate knowledge by, inter alia, conducting systematic awareness campaigns, producing appropriate material such as a child friendly version of the Convention in print and Braille and using the mass media to foster positive attitudes towards children with disabilities.

27. As for professionals working with and for children with disabilities, training programmes must include targeted and focused education on the rights of children with disabilities as a pre-requisite for qualification. These professionals include but are not limited to policy makers, judges, lawyers, law enforcement officers, educators, health workers, social workers and media personnel among others.

D. General principles (articles 2, 3, 6 and 12 of the Convention)

Non-discrimination

28. See paragraphs 8-10 under the key provisions for children with disabilities.

Best interests of the child

29. "In all actions concerning children...the best interests of the child shall be a primary consideration". The broad nature of this article aims at covering all aspects of care and protection for children in all settings. It addresses legislators who are entrusted with setting the legal frame-work for protecting the rights of children with disabilities as well as the legal system that makes decisions concerning children with disabilities. It should be the bases on which programmes and policies are set and it should be considered in every service provided for children with disabilities and any other action affecting them.

30. The best interests of the child is of particular relevance in institutions and other facilities that provide services for children with disabilities as they are expected to conform to standards and regulations and have the safety, protection and care of children as their prime consideration, and that this consideration should outweigh any other and under all circumstances, for example, when allocating budgets.

Right to life, survival and development

31. The inherent right to life, survival and development is a right that warrants particular attention where children with disabilities are concerned. In many countries of the world children with disabilities are subject to a variety of practices that completely or partially compromise this right. In addition to being more vulnerable to infanticide, some cultures view a child with any form of disability as a bad omen that may “tarnish the family pedigree” accordingly a certain designated individual from the community systematically kills children with disabilities. These crimes often go unpunished or perpetrators receive reduced sentences. States parties are urged to undertake all necessary measures that are required to put an end to these practices including raising public awareness, setting up appropriate legislation, and enforcing the law that ensures appropriate punishment of all those that directly or indirectly violate the right to life, survival and development of children with disabilities.

Respect for the views of the child

32. More often than not, adults with and without disabilities make policies and decisions related to children with disabilities while the children themselves are left out of the process. It is essential that children with disabilities are heard in all procedures affecting them and that their views be respected in accordance with their evolving capacities. This should include their representation in various bodies such as parliament, committees and other forums where they voice views and participate in making the decisions that affect them as children in general and as children with disabilities specifically. Engaging them in such a process not only ensures that the policies are targeted to their needs and desires, it is also a valuable tool of inclusion since it ensures that the decision making process is a participatory one. Children should be equipped with whatever mode of communication to facilitate expressing their views. Furthermore, States parties should support the development of training for families and professionals on promoting and respecting the evolving capacities of children to take increasing responsibilities for decision-making in their own lives.

33. Children with disabilities often require special services in health and education to allow them to achieve their fullest potential and these are further discussed in respective paragraphs. But it is noted that very often spiritual, emotional and cultural development and well-being of children with disabilities are overlooked. Their participation in events and activities that are aimed at these essential aspects of a child’s life is either totally lacking, minimal and their participation is often limited to activities that specifically target them. This only leads to further marginalization of children with disabilities and enforces their feelings of isolation. Programmes and activities designed for the child’s cultural development and spiritual well-being should involve and cater for both children with and without disabilities in an integrated and participatory fashion.

E. Civil rights and freedoms (articles 7, 8, 13-17, and 37(a) of the Convention)

34. The right to name and nationality, preservation of identity, freedom of expression, freedom of thought, conscience and religion, freedom of association and peaceful assembly, the right to privacy and the right not to be subjected to torture or other cruel inhuman or degrading treatment or punishment and not to be unlawfully deprived of liberty are all universal civil rights and freedoms which must be respected, protected and promoted for all including for children with disabilities. Particular attention should be focused here on areas

where the rights of children with disabilities are more likely to be violated or where special programmes are needed for their protection.

Birth registration

35. Children with disabilities are disproportionately vulnerable to non-registration at birth. Without birth registration they are not recognized in law and they become invisible in government statistics. Non-registration has profound consequences for the enjoyment of their human rights, including the lack of citizenship and access to social and health services and education. Children with disabilities who are not registered at birth are at greater risk of neglect, institutionalization, and even death.

36. In the light of article 7 of the Convention, the Committee recommends that States parties adopt all appropriate measures to ensure the registration of children with disabilities at birth. Such measures should include developing and implementing an effective system of birth registration, waiving registration fees, introducing mobile registration offices and, for children not yet registered, registration units in schools. In this context, States parties should ensure that the provisions of article 7 are fully enforced in conformity with the principles of non-discrimination (article 2) and of the best interests of the child (article 3).

Access to appropriate information and mass media

37. Access to information and communications, including information and communications technologies and systems, enables children with disabilities to live independently and participate fully in all aspects of life. Children with disabilities and their caregivers should have access to information concerning their disabilities that educates them on the process of disability, including causes, management and prognosis. This knowledge is extremely valuable as it not only enables them to adjust to their disabilities, it also allows them to be involved and make informed decisions regarding their own care. Children with disabilities should also have the appropriate technology and other services and languages, e.g. Braille and sign language, that enables them to access all forms of media, including television, radio and printed material as well as new information and communication technologies and systems, such as the Internet.

38. On the other hand, States parties are required to protect all children, including children with disabilities from harmful information, especially pornographic material and material that promotes xenophobia or any other form of discrimination and could potentially reinforce prejudices.

Accessibility to public transportation and facilities

39. The physical inaccessibility to public transportation and other facilities including governmental buildings, shopping areas, recreational facilities among others, is a major factor in the marginalization and exclusion of children with disabilities as well as markedly compromising their access to services, including health and education. And although this provision is mostly realized in developed countries, it remains largely un-addressed in the developing world. All States parties are urged to set out appropriate policies and procedures that make public transportation safe, easily accessible and free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, to children with disabilities

40. All new public buildings should comply with international specifications for access of persons with disabilities and existing public buildings, including schools, health facilities,

governmental buildings, shopping areas, undergo necessary alterations that make them as accessible as possible.

**F. Family environment and alternative care
(articles 5, 18, paragraphs 1-2, articles 9-11, 19-21, 25, 27, paragraph 4, and article 39 of
the Convention)**

Family support and parental responsibilities

41. Children with disabilities are best cared for and nurtured within their own family environments provided that the family is adequately supported in all aspects. This support includes education of parent/s, and siblings, not only on the disability and its causes but also on each child's unique physical and mental requirements, psychological support that is sensitive to the stress and difficulties imposed on families of children with disabilities, education on the family's common language, for example sign language, so that parents and siblings can communicate with family members with disabilities, material support in the form of special allowances as well as consumable supplies and necessary equipment, such as special furniture and mobility devices that is deemed necessary for the child with a disability to live a dignified, self-reliant lifestyle, fully included in the family and community. In this context, support should be extended to children who are affected by the disabilities of their caregivers. For example, a child living with a parent or other caregiver with disabilities should receive the support that would protect fully his or her rights and allows him or her to continue to live with this parent whenever it is in his or her best interests. Support services should also include different forms of respite care, such as care assistance in the home and day care facilities directly accessible at community level. Such services enable parents to work, as well as relieve stress and maintain healthy family environments.

Violence, abuse and neglect

42. Children with disabilities are more vulnerable to all forms of abuse be it mental, physical or sexual in all settings, including the family, schools, private and public institutions, including alternative care, work environment and community at large. It is often quoted that children with disabilities are five times more likely to be victims of abuse. In the home and in institutions, children with disabilities are often subjected to mental and physical violence and sexual abuse as well as being particularly vulnerable to neglect and negligent treatment since they often present an extra physical and financial burden on the family. In addition, the lack of access to a functional complaint receiving, monitoring system, is conducive to systematic and continuing abuse. School bullying is a particular form of violence that children are exposed to and more often than not, this form of abuse targets children with disabilities. The main reasons for their particular vulnerability include, inter alia:

- a) Their inability to hear, move, and dress, toilet, and bath independently, increases their vulnerability to intrusive personal care or abuse.
- b) Living in isolation from parents, siblings, extended family and friends, increases the likelihood of abuse.
- c) Should they have communication or intellectual impairments, they may be ignored, disbelieved or misunderstood should they complain about abuse.
- d) Parents or others taking care of the child may be under considerable pressure or stress because of physical, financial and emotional issues in caring for their

child. Studies indicate that those under stress may be more likely to commit abuse.

- e) Children with disabilities are often wrongly perceived as being non-sexual and not having an understanding of their own bodies and therefore can be targets of abusive people, particularly those who base abuse on sexuality.

43. In addressing the issue of violence and abuse, States parties are urged to take all necessary measures for the prevention of abuse of and violence against children with disabilities, such as:

- a) Train and educate parents or others taking care of the child to understand the risks and signs of abuse of the child.
- b) Ensure that parents are vigilant about choosing caregivers and facilities for their children and improve their ability to detect abuse.
- c) Provide and encourage support groups for parents, siblings and others taking care of the child to assist them in caring for their children and coping with their disabilities.
- d) Ensure that children and caregivers know that the child is entitled as a matter of right to be treated with dignity and respect and they have the right to complain to appropriate authorities if those rights are breached.
- e) Schools must take all measures to combat school bullying and pay particular attention to children with disabilities providing them with the necessary protection while maintaining their inclusion into the mainstream education system.
- f) Ensure that institutions providing care for children with disabilities are staffed with specially trained personnel, subject to appropriate standards, regularly monitored and evaluated and have accessible and sensitive complaint mechanisms.
- g) Establish an accessible, child-sensitive complaint mechanism and a functioning monitoring system based on the Paris Principles. (See paragraph 24 of this General Comment).
- h) Take all necessary legislative measures that are required to punish and remove perpetrators from the home ensuring that the child is not deprived of his or her family and continue to live in a safe and healthy environment.
- i) Treatment and re-integration of victims of abuse and violence with a special focus on their overall recovery programmes.

44. In this context the Committee would also like to draw States parties' attention to the report of the independent expert for the United Nations study on violence against children (A/61/299) which refers to children with disabilities as a group of children especially vulnerable to violence. The Committee encourages States parties to take all appropriate measures to implement overarching recommendations as well as setting-specific recommendations contained in this report.

Family-type alternative care

45. The role of the extended family, which is still a main pillar of childcare in many communities and is considered one of the best alternatives for child care, should be strengthened and empowered to support the child and his or her parents or others taking care of the child.

46. Recognizing that the foster family is an accepted and practiced form of alternative care in many States parties, it is nevertheless a fact that many foster families are reluctant to take on the care of a child with disability as children with disabilities often pose a challenge in the extra care they may need and the special requirements in their physical, psychological and mental upbringing. Organizations that are responsible for foster placement of children must, therefore, conduct the necessary training and encouragement of suitable families as well as providing the support that will allow the foster family to appropriately take care of the child with disability.

Institutions

47. The Committee has often expressed its concern at the high number of children with disabilities placed in institutions and that institutionalization is the preferred placement option in many countries. The quality of care provided, whether educational, medical or rehabilitative, is often much inferior to the standards necessary for the care of children with disabilities either because of the lack of standards identified or lack of implementation and monitoring of these standards. Institutions are also a particular setting where children with disabilities are more vulnerable to mental, physical, sexual and other forms of abuse as well as neglect and negligent treatment. (See paragraphs 42-44 above). The Committee therefore urges States parties to use the placement in institution only as a measure of last resort, when it is absolutely necessary and in the best interests of the child. It recommends that the States parties prevent the use of placement in institution merely with the goal of limiting the child's liberty or freedom of movement. In addition, attention should be paid to transforming existing institutions, with a focus on small residential care facilities organized around the rights and needs of the child, to developing national standards for care in institutions, and to establishing rigorous screening and monitoring procedures to ensure effective implementation of these standards.

48. The Committee is concerned at the fact that children with disabilities are not often heard in separation and placement processes. In general, decision making processes do not attach enough weight to children as partners even though these decisions have a far-reaching impact on the child's life and future. Therefore, the Committee recommends that States parties continue and strengthen their efforts to take into consideration the views of children with disabilities and facilitate their participation in all matters affecting them within the evaluation, separation and placement process, in out-of-home care and during the transition process. The Committee also emphasizes that children should be heard throughout the protection measure process, before making the decision as well as during and after its implementation. In this context, the Committee draws the attention of the States parties to the Committee's recommendations adopted on its day of general discussion on children without parental care (CRC/C/153, paragraphs 636-689).

49. In addressing institutionalization, States parties are therefore urged to set up programmes for de-institutionalization of children with disabilities, re-placing them with their families, extended families or foster care system. Parents and other extended family members

should be provided with the necessary and systematic support/training for including their child back into their home environment.

Periodic review of placement

50. Whatever form of placement chosen for children with disabilities by the competent authorities, it is essential that a periodic review of the treatment provided to the child, and all other circumstances relevant to his or her placement, is carried out to monitor his or her well being.

G. Basic health and welfare

(articles 6, 18, paragraphs 3, 23, 24, 26, and 27, paragraphs 1-3, of the Convention)

Right to health

51. “Attainment of the highest possible standard of health” as well as access and affordability of quality health care is an inherent right for all children. Children with disabilities are often left out because of several challenges, including discrimination, inaccessibility because of the lack of information and/or financial resources, transportation, geographic distribution and physical access to health care facilities. Another factor is the absence of targeted health care programmes that address the specific needs for children with disabilities. Health policies should be comprehensive and must address early detection of disabilities, early intervention, including psychological as well as physical treatment, rehabilitation including physical aids, for example limb prosthesis, mobility devices, hearing aids, and visual aids.

52. It is important to emphasize though that health services should be provided within the same public health system that provides for children with no disabilities, free of charge, whenever possible, and be as updated and modernized as possible. The importance of community based assistance and rehabilitation strategies should be emphasized when providing health services for children with disabilities. States parties must ensure that health professionals working with children with disabilities are trained to the highest of standards possible and practice with a child centered approach. In this respect, many States parties would greatly benefit from international cooperation with international organizations as well as other States parties.

Prevention

53. Causes of disabilities are multiple and therefore prevention varies. Inherited diseases that often cause disabilities can be prevented in some societies that practice consanguineous marriages and under such circumstances public awareness and appropriate pre-conception testing would be recommended. Communicable diseases are still the cause of many disabilities around the world and immunization programmes need to be stepped up aiming to achieve universal immunization against all preventable communicable diseases. Poor nutrition has a long-term impact upon children's development and it can lead to disabilities, such as blindness caused by Vitamin A deficiency. The Committee recommends that States parties introduce and strengthen prenatal care for children and to ensure adequate quality of the assistance during the delivery. It also recommends that States parties provide adequate post-natal health care services and develop campaigns to inform parents and others taking care of the child about basic child health care and nutrition. In this regard, the Committee also recommends that the States parties continue to cooperate and seek technical assistance with, among others, WHO and UNICEF.

54. Domestic and road traffic accidents are a major cause of disability in some countries and policies to prevent this need to be established and implemented such as the laws on seat belts and traffic safety. Lifestyle issues, such as alcohol and drug abuse during pregnancy, are also preventable causes of disabilities and in some countries the fetal alcohol syndrome presents a major cause for concern. Public education, identification and support for pregnant mothers who may be abusing such substances are just some of the measures that may be taken to prevent cause of disability among children. Hazardous environment toxins also contribute to the causes of many disabilities. Toxins, such as lead, mercury, asbestos, etc., are commonly found in most countries. Countries should establish and implement policies to prevent dumping of hazardous materials and other means of polluting the environment. Furthermore, strict guidelines and safeguards should also be established to prevent radiation accidents.

55. Armed conflicts and their aftermath, including availability of and accessibility to small arms and light weapons, are also major causes of disabilities. States parties are obliged to take all necessary measures to protect children from the detrimental effects of war and armed violence and to ensure that children affected by armed conflict have access to adequate health and social services, including psychosocial recovery and social reintegration. In particular, the Committee stresses the importance of educating children, parents and the public at large about the dangers of landmines and unexploded ordnance in order to prevent injury and death. It is crucial that States parties continue to locate landmines and unexploded ordnances, take measures to keep children away from suspected areas, and strengthen their de-mining activities and, when appropriate, seek the necessary technical and financial support within a framework of international cooperation, including from United Nations agencies. (See also paragraph 23 on landmines and unexploded ordnances and paragraph 78 on armed conflicts under special protection measures).

Early identification

56. Very often, disabilities are detected quite late in the child's life, which deprives him or her of effective treatment and rehabilitation. Early identification requires high awareness among health professionals, parents, teachers as well as other professionals working with children. They should be able to identify the earliest signs of disability and make the appropriate referrals for diagnosis and management. Therefore, the Committee recommends that States parties establish systems of early identification and early intervention as part of their health services, together with birth registration and procedures for following the progress of children identified with disabilities at an early age. Services should be both community- and home-based, and easy to access. Furthermore, links should be established between early intervention services, pre-schools and schools to facilitate the smooth transition of the child.

57. Following identification, the systems in place must be capable of early intervention including treatment and rehabilitation providing all necessary devices that enable children with disabilities to achieve their full functional capacity in terms of mobility, hearing aids, visual aids, and prosthetics among others. It should also be emphasized that these provisions should be offered free of cost, whenever possible, and the process of acquiring such services should be efficient and simple avoiding long waits and bureaucracies.

Multidisciplinary care

58. Children with disabilities very often have multiple health issues that need to be addressed in a team approach. Very often, many professionals are involved in the care of the child, such as neurologists, psychologists, psychiatrists, orthopedic surgeons and physiotherapists among others. Ideally these professionals should collectively identify a plan

of management for the child with disability that would ensure the most efficient health care is provided.

Adolescent health and development

59. The Committee notes that children with disabilities are, particularly during their adolescence, facing multiple challenges and risks in the area of establishing relationships with peers and in the area of reproductive health. Therefore, the Committee recommends that States parties provide adolescents with disabilities with adequate, and where appropriate, disability specific information, guidance and counselling and fully take into account the Committee's General Comments No. 3 (2003) on HIV/AIDS and the rights of the child (CRC/GC/2003/3) and No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child (CRC/GC/2003/4).

60. The Committee is deeply concerned about the prevailing practice of forced sterilisation of children with disabilities, particularly girls with disabilities. This practice, which still exists, seriously violates the right of the child to her or his physical integrity and results in adverse life-long physical and mental health effects. Therefore, the Committee urges States parties to prohibit by law the forced sterilisation of children on grounds of disability.

Research

61. Causes, prevention and management of disabilities do not receive the much needed attention on national and international research agendas. States parties are encouraged to award this issue priority status ensuring funding and monitoring of disability focused research paying particular attention to ethical implications.

H. Education and leisure (articles 28, 29 and 31 of the Convention)

Quality education

62. Children with disabilities have the same right to education as all other children and shall enjoy this right without any discrimination and on the basis of equal opportunity as stipulated in the Convention⁸. For this purpose, effective access of children with disabilities to education has to be ensured to promote "the development of the child's personality, talents and mental and physical abilities to their fullest potential (see articles 28 and 29 of the Convention and the Committee's General Comment No. 1 (2001) on the aims of education (CRC/GC/2001/1)). The Convention recognizes the need for modification to school practices and for training of regular teachers to prepare them to teach children with diverse abilities to ensure that they achieve positive educational outcomes.

⁸ In this context the Committee would like to make a reference to the United Nations Millennium Declaration (A/RES/55/2) and in particular to the Millennium Development Goal No. 2 which targets for addressing universal primary education. Governments are committed to ensure that, by 2015, "children everywhere, boys and girls alike, will be able to complete a full course of primary schooling and that girls and boys will have equal access to all levels of education". The Committee would also like to refer to other international commitments which endorse the idea of inclusive education, inter alia, the Salamanca Statement and Framework for Action on Special Needs Education adopted by the World Conference on Special Needs Education: Access and Quality, Salamanca, Spain, 7-10 June 1994 (United Nations Educational, Scientific and Cultural Organization and Ministry of Education and Science of Spain) and the Dakar Framework for Action, Education for All: Meeting our Collective Commitments, adopted by the World Education Forum, Dakar, Senegal, 26-28 April 2000.

63. As children with disabilities are very different from each other, parents, teachers and other specialized professionals have to help each individual child to develop his or her ways and skills of communication, language, interaction, orientation and problem solving which best fit the potential of this child. Everybody, who furthers the child's skills, abilities and self-development, has to precisely observe the child's progress and carefully listen to the child's verbal and emotional communications in order to support education and development in a well-targeted and most appropriate manner.

Self-esteem and self-reliance

64. It is crucial that the education of a child with disability includes the strengthening of positive self-awareness by the experience made by the child that he or she is respected by others as a human being without any limitation of dignity. The child must be able to observe that others respect him or her and recognize his or her human rights and freedoms. Inclusion of the child with disability in the groups of children of the class room can show the child that he or she has recognized identity and belongs to the community of learners, peers, and citizens. Peer support enhancing self-esteem of children with disabilities should be more widely recognized and promoted. Education also has to provide the child with empowering experience of control, achievement, and success to the maximum extent possible for the child.

Education in the school system

65. Early childhood education is of particular relevance for children with disabilities as often their disabilities and special needs are first recognized in these institutions. Early intervention is of utmost importance to help children to develop their full potential. If a child is identified as having a disability or developmental delay at an early stage, the child has much better opportunities to benefit from early childhood education which should be designed to respond to her or his individual needs. Early childhood education provided by the State, the community or civil society institutions can provide important assistance to the well-being and development of all children with disabilities (see the Committee's General Comment No. 7 (2005) on implementing child rights in early childhood (CRC/C/GC/7 and Rev.1)). Primary education, including primary school and, in many States parties, also secondary school, has to be provided for children with disabilities free of costs. All schools should be without communicational barriers as well as physical barriers impeding the access of children with reduced mobility. Also higher education, accessible on the basis of capacities, has to be accessible for qualified adolescents with disabilities. In order to fully exercise their right to education, many children need personal assistance, in particular, teachers trained in methodology and techniques, including appropriate languages, and other forms of communication, for teaching children with a diverse range of abilities capable of using child-centred and individualised teaching strategies, and appropriate and accessible teaching materials, equipment and assistive devices, which States parties should provide to the maximum extent of available resources.

Inclusive education

66. Inclusive education⁹ should be the goal of educating children with disabilities. However, placement and type of education must be dictated by the individual educational needs of the child, since the education of some of children with disabilities requires a kind of support which the regular school cannot offer. In general, schools with appropriate accommodation and individual support should be the goal of educating children with disabilities. The Committee notes the explicit commitment towards the goal of inclusive education in the draft text of the International Convention on the Rights of Persons with Disabilities and encourages States parties which have not begun a programme towards inclusion to introduce the necessary measures to achieve this goal. However, the Committee underlines that the extent of inclusion may vary. A continuum of services and programme options must be maintained in circumstances where inclusive education is not feasible to achieve in the immediate future or where the capacity of the child with disability cannot be promoted “to its fullest potential”.

67. Movement towards inclusive education has received much support in recent years. However, the term inclusive may have different meanings. At its core, inclusive education is a set of values, principles, and practices that seeks meaningful, effective, and quality education for all students, that does justice to the diversity of learning conditions and requirements not only of children with disabilities, but for all students. This goal can be achieved by different organizational means which respect the diversity of children. Inclusion may range from full-time placement of all students with disabilities into one regular classroom or placement into the regular class room with varying degree of inclusion including a certain portion of special education. It is important to understand that inclusion should not be understood nor practiced as simply integrating children with disabilities into the regular system regardless of their challenges and needs. Close cooperation among special educators and regular educators is essential. Schools’ curricula must be re-evaluated and developed to meet the needs of children with and without disabilities. Modification in training programmes for teachers and other personnel involved in the educational system must be achieved in order to fully implement the philosophy of inclusive education.

Career education and vocational training

68. Education for career development and transition is for all persons with disabilities regardless of their age. It is imperative to begin preparation at an early age because career development is seen as a process that begins early and continues throughout life. Developing career awareness and vocational skills as early as possible, beginning in the elementary school, enables children to make better choices later in life in terms of employment. Career education in the elementary school does not mean using young children to perform labor that ultimately opens the door for economic exploitation. It begins with students choosing goals according to their evolving capacities in the early years. It should then be followed by a functional secondary school curriculum that offers adequate skills and access to work experience, under systematic coordination and monitoring between the school and the work place.

69. Career development and vocational skills should be included in the school curriculum. Career awareness and vocational skills should be incorporated into the years of compulsory education. In countries where compulsory education does not go beyond the elementary

⁹ UNESCO’s Guidelines for Inclusion: Ensuring Access to Education for All (UNESCO 2005) provides the following definition “Inclusion is seen as a process of addressing and responding to the diversity of needs of all learners through increasing participation in learning, cultures and communities, and reducing exclusion within and from education. It involves changes and modifications in content, approaches, structures and strategies, with a common vision which covers all children of the appropriate age range and a conviction that it is the responsibility of the regular system to educate all children...Inclusion is concerned with the identification and removal of barriers...”

school years, vocational training beyond elementary school should be mandatory for children with disabilities. Governments must establish policies and allocate sufficient funds for vocational training.

Recreation and cultural activities

70. The Convention stipulates in article 31 the right of the child to recreation and cultural activities appropriate to the age of the child. This article should be interpreted to include mental, psychological as well as the physical ages and capabilities of the child. Play has been recognized as the best source of learning various skills, including social skills. The attainment of full inclusion of children with disabilities in the society is realized when children are given the opportunity, places, and time to play with each other (children with disabilities and no disabilities). Training for recreation, leisure and play should be included for school-aged children with disabilities.

71. Children with disabilities should be provided with equal opportunities to participate in various cultural and arts activities as well as sports. These activities must be viewed as both medium of expression and medium of realizing self-satisfying, quality of life.

Sports

72. Competitive and non-competitive sports activities must be designed to include children with disabilities in an inclusive form whenever possible. That is to say, a child with a disability who is able to compete with children with no disability should be encouraged and supported to do so. But sports are an area where, because of the physical demands of the sport, children with disabilities will often need to have exclusive games and activities where they can compete fairly and safely. It must be emphasized though that when such exclusive events take place, the media must play its role responsibly by giving the same attention as it does to sports for children with no disabilities.

I. Special protection measures (articles 22, 38, 39, 40, 37(b)-(d), and 32-36 of the Convention)

Juvenile justice system

73. In the light of article 2 States parties have the obligation to ensure that children with disabilities who are in conflict with the law (as described in article 40, paragraph 1) will be protected by all the provisions and guarantees contained in the Convention, not only by those specifically relate to juvenile justice (articles 40, 37 and 39) but by all other relevant provisions, for example in the area of health care and education. In addition, States parties should take where necessary specific measures to ensure that children with disabilities de facto are protected by and do benefit from the rights mentioned above.

74. With reference to the rights enshrined in article 23 and given the high level of vulnerability of children with disabilities, the Committee recommends – in addition to the general recommendation made in the previous paragraph – that the following elements of the treatment of children with disabilities (allegedly) in conflict with the law are taken into account:

- a) Ensure that a child with disability who comes in conflict with the law is interviewed using appropriate languages and otherwise dealt with by

professionals such as police officers, attorneys/advocates/social workers, prosecutors and/or judges, who have received proper training in this regard.

- b) Develop and implement alternative measures with a variety and flexibility that allow for an adjustment of the measure to the individual capacities and abilities of the child in order to avoid the use of judicial proceedings. Children with disabilities in conflict with the law should be dealt with as much as possible without resorting to formal/legal procedures. Such procedures should only be considered when necessary in the interest of public order. In those cases special efforts have to be made to inform the child about the juvenile justice procedure and his or her rights therein.
- c) Children with disabilities in conflict with the law should not be placed in a regular juvenile detention center by way of pre-trial detention nor by way of a punishment. Deprivation of liberty should only be applied if necessary with a view to providing the child with adequate treatment for addressing his or her problems which have resulted in the commission of a crime and the child should be placed in an institution that has the specially trained staff and other facilities to provide this specific treatment. In making such decisions the competent authority should make sure that the human rights and legal safeguards are fully respected.

Economic exploitation

75. Children with disabilities are particularly vulnerable to different forms of economic exploitation, including the worst forms of child labor as well as drug trafficking and begging. In this context, the Committee recommends that States parties which have not yet done so ratify the ILO Convention No. 138 concerning the minimum age for admission to employment and the ILO Convention No. 182 concerning the prohibition of and immediate action for the elimination of the worst forms of child labor. In the implementation of these conventions States parties should pay special attention to the vulnerability and needs of children with disabilities.

Street children

76. Children with disabilities, specifically physical disabilities, often end up on the streets for a variety of reasons, including economic and social factors. Children with disabilities living and/or working on the streets need to be provided with adequate care, including nutrition, clothing, housing, educational opportunities, life-skills training as well as protection from the different dangers including economic and sexual exploitation. In this regard an individualized approach is necessary which takes full account of the special needs and the capacities of the child. The Committee is particularly concerned that children with disabilities are sometimes exploited for the purpose of begging in the streets or elsewhere; sometimes disabilities are inflicted on children for the purpose of begging. States parties are required to take all necessary actions to prevent this form of exploitation and to explicitly criminalize exploitation in such manner and take effective measures to bring the perpetrators to justice.

Sexual exploitation

77. The Committee has often expressed grave concern at the growing number of child victims of child prostitution and child pornography. Children with disabilities are more likely than others to become victims of these serious crimes. Governments are urged to ratify and implement the Optional Protocol on the sale of children, child prostitution and child

pornography (OPSC) and in fulfilling their obligations to the Optional Protocol, States parties should pay particular attention to the protection of children with disabilities recognizing their particular vulnerability.

Children in armed conflict

78. As previously noted above, armed conflicts are a major cause of disabilities whether children are actually involved in the conflict or are victims of combat. In this context, Governments are urged to ratify and implement the Optional Protocol on the involvement of children in armed conflict (OPAC). Special attention should be paid to the recovery and social re-integration of children who suffer disabilities as a result of armed conflicts. Furthermore, the Committee recommends that States parties explicitly exclude children with disabilities from recruitment in armed forces and take the necessary legislative and other measures to fully implement that prohibition.

Refugee and internally displaced children, children belonging to minorities and indigenous children

79. Certain disabilities result directly from the conditions that have led some individuals to become refugees or internally displaced persons, such as human-caused or natural disasters. For example, landmines and unexploded ordnances kill and injure refugee, internally displaced and resident children long after armed conflicts have ceased. Refugee and internally displaced children with disabilities are vulnerable to multiple forms of discrimination, particularly refugee and internally displaced girls with disabilities, who are more often than boys subject to abuse, including sexual abuse, neglect and exploitation. The Committee strongly emphasizes that refugee and internally displaced children with disabilities should be given high priority for special assistance, including preventative assistance, access to adequate health and social services, including psychosocial recovery and social reintegration. UNHCR has made children a policy priority, and has adopted several documents to guide its work in that area, including the Guidelines on Refugee Children in 1988, which are incorporated into UNHCR Policy on Refugee Children. The Committee also recommends that States parties take into account the Committee's General Comment No. 6 (2005) on the treatment of unaccompanied and separated children outside of their country of origin (CRC/GC/2005/6).

80. All appropriate and necessary measures undertaken to protect and promote the rights of children with disabilities must include and pay special attention to the particular vulnerability and needs of children belonging to minorities and indigenous children who are more likely to be already marginalized within their communities. Programmes and policies must always be culturally and ethnically sensitive.
