

## **CHILDREN'S RIGHTS - BEST INTERESTS**

### **IV. CONCLUDING OBSERVATIONS, CONTINUED**

#### **ICCPR**

- Greece, ICCPR, A/60/40 vol. I (2005) 60 at para. 90(17).

(17) The Committee is...concerned at the reported neglect of the situation of unaccompanied minors seeking asylum or illegally residing in the country (art. 24).

The Committee recommends that the State party develop a procedure to address the specific needs of unaccompanied non-citizen children and to ensure their best interests in the course of any immigration, expulsion and related proceedings.

- Slovenia, ICCPR, A/60/40 vol. I (2005) 74 at para. 93(15).

(15) The Committee is concerned at the reported neglect of unaccompanied minors seeking asylum or illegally residing in the territory of the State party. The Committee, while recognizing that registration is distinct from conferral of nationality, is also concerned that some children are registered at birth without a nationality (art. 24).

The State party should develop specific procedures to address the needs of unaccompanied children and to ensure their best interests in the course of any immigration and related proceedings. The State party should also ensure the right of every child to acquire a nationality.

#### **CAT**

- Belgium, CAT, A/58/44 (2003) 49 at paras. 129 and 131.

129. The Committee is concerned about:

...

(f) The possibility of extending the detention of foreigners for as long as they do not cooperate in their repatriation, the possibility of placing unaccompanied minors in detention for lengthy periods, and information that asylum-seekers who have been formally released have been transferred to the transit area of the national airport, without assistance and without being allowed to leave;

...

131. The Committee recommends that the State party:

...

(e) Set a time limit for the detention of foreigners against whom an expulsion order is

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issued, draft specific legislation on unaccompanied minors that takes account of the best interests of the child, and monitor asylum-seekers who have been released;

...

### CRC

- Mauritania, CRC, CRC/C/111 (2001) 8 at paras. 60, 61 and 69.

60. The Committee notes with concern that there is no procedure available for children who are abused and/or neglected within the family.

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

...

(d) Provide proper alternative placement when this is in the best interest of the child.

...

69. The Committee recommends that the State party:

...

(d) Develop youth-sensitive counselling, care and rehabilitation facilities that are accessible, without parental consent, when this is in the best interests of the child.

### *See also:*

- Turkey, CRC, CRC/C/108 (2001) 18 at para. 134.
- The Netherlands (Antilles), CRC, CRC/C/118 (2002) 129 at paras. 571 and 572.

- Oman, CRC, CRC/C/111 (2001) 36 at paras. 177 and 178.

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

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

### *See also:*

- Qatar, CRC, CRC/C/111 (2001) 59 at paras. 298 and 299.

- Cameroon, CRC, CRC/C/111 (2001) 71 at paras. 363 and 364.

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363. ...The Committee is...concerned that there is no legislative structure for the protection of the best interests of the child in cases of intercountry adoption.

364. The Committee recommends that the State party:

...

(c) Establish a formal procedure to guarantee the best interests of the child in cases of intercountry adoption and consider ratifying the 1993 Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption; and

...

- Gambia, CRC, CRC/C/111 (2001) 89 at paras. 436 and 437.

436. While noting that the Adoption Act (1992) provides for the regulation of adoptions (domestic and intercountry), the Committee expresses concern that informal adoptions, which are generally not monitored with respect to the best interests of the child, are more widely accepted and practised within the State party...

437. In light of article 21 of the Convention, the Committee recommends that the State party strengthen administrative procedures for formal domestic and intercountry adoptions, in order to prevent the abuse of the practice of informal adoption and guarantee the protection of the rights of children...

- Lebanon, CRC, CRC/C/114 (2002) 11 at paras. 55, 56, 65 and 66.

55. The Committee is concerned that the comparative studies regarding the compatibility between the Convention and domestic legislation have not examined the implications of the general principle of the best interests of the child in relation to the State party's laws, as previously recommended (CRC/C/15/Add.54, para. 35), its policies on issues such as institutionalization and imprisonment, and its practices with regard to children with disabilities.

56. The Committee reiterates its recommendation to the State party to take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated in all legislation, as well as in judicial and administrative decisions and in policies, programmes and services which have an impact on children.

...

65. The Committee is deeply concerned at the large number of children placed in institutions, a significant majority of whom are placed there because of socio-economic problems affecting their families and without judicial procedure...

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66. The Committee recommends that in the light of article 9, the State party:

(a) Take effective measures to implement fully the legislation relating to alternative care of children to ensure that a child is not separated from his or her parents against its will, except when competent authorities subject to judicial review and procedures determine that such separation is necessary for the best interests of the child; and

...

- Greece, CRC, CRC/C/114 (2002) 25 at paras. 144, 145 and 169.

144. The Committee is concerned that upon the separation of some Muslim parents, custody of children below a certain age is systematically awarded to mothers and custody of children above a certain age is systematically awarded to fathers, without due regard for the best interests and opinion of the child.

145. The Committee recommends that in the context of child custody decisions the State party ensure full respect for the Convention including, *inter alia*, the obligation to give due consideration to the best interests and views of the child.

...

169. The Committee recommends that the State party:

...

(c) Ensure that in the context of any cross-border efforts to address trafficking, the best interests of the children concerned are a primary consideration;

...

- Gabon, CRC, CRC/C/114 (2002) 47 at paras. 213 and 214.

213. ...The Committee is...concerned at the complicated adoption procedure which may lead to practices that do not pay adequate attention to the best interests of the child.

214. The Committee recommends that the State party:

...

(d) Review and, if necessary, change its legislation on adoption in order to guarantee that the best interests of the child are fully taken into account as well as other relevant articles of the Convention;

...

- Mozambique, CRC, CRC/C/114 (2002) 65 at paras. 277 and 278.

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277. While acknowledging that the principle of the best interests of the child has been included in the Constitution, the Committee is concerned that:

- (a) The best interests principle is not included in all other legislation relevant to children;
- (b) As noted in paragraph 89 of the State party's report, "There is no uniform or systematic acceptance of the importance of this concept at central, provincial or local levels" and that the principle "is sometimes absent from the definition of policies that are important for the lives of children".

278. The Committee recommends that the State party:

- (a) Take action to ensure that the best interests principle is included in all relevant legislative instruments and is taken into consideration in all policy-making processes and programmes of relevance to children and the implementation of the Convention;
- (b) Ensure that administrative, judicial, legislative and other relevant officials are given training on the meaning and implementation of the best interests principle, with a view to ensuring its consistent application at central and local government levels.

- Malawi, CRC, CRC/C/114 (2002) 104 at paras. 397, 398, 404 and 405.

397. The Committee is concerned about the various legal minimum ages, which are inconsistent, discriminatory and/or too low. In particular, the Committee is concerned that the Constitution defines a child as any person below the age of 16 years, at the too low minimum age of criminal responsibility (7 years), and the absence of a clear minimum age for employment.

398. The Committee recommends that the State party take the necessary legislative measures:

...

- (b) To increase the legal age of criminal responsibility in accordance with the best interests of the child;

...

404. While noting that many policies take into consideration the best interests of the child and that the Constitutional Technical Review has recommended that the principle of the best interests of the child should be provided for in the Constitution, the Committee is concerned that this principle is not fully taken into consideration in domestic law. The Committee also regrets that customary law and social traditions are an impediment to the implementation of this principle.

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405. The Committee recommends that the State party take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated in all legislation, as well as judicial and administrative decisions and in projects, programmes and services which have an impact on children. The Committee also encourages the State party to take all necessary measures to ensure that customary law does not impede the implementation of this general principle, notably through raising awareness among community leaders.

- Belgium, CRC, CRC/C/118 (2002) 29 at paras. 118 and 119.

118. The Committee welcomes the creation of a special bureau for unaccompanied minors in the Aliens Office for handling their requests to stay. It also notes a number of other activities, among others: concerning the establishment of special reception centres for unaccompanied minors; a draft law on the creation of a guardianship service, access to education and missing persons, which contains provisions on unaccompanied minors...

119. In accordance with the principles and provisions of the Convention, especially articles 2, 3 and 22, and with respect to unaccompanied persons under 18 years of age, the Committee recommends that the State party:

...

(c) Approve as soon as possible the draft law on the creation of a guardianship service, in order to ensure the appointment of a guardian for an unaccompanied minor from the beginning of the asylum process and thereafter as long as necessary, and make sure that this service is fully independent, allowing it to take any action it considers to be in the best interests of this minor;

...

(f) Ensure that, if family reunification is carried out, it is done in the best interests of the child;

...

- Niger, CRC, CRC/C/118 (2002) 37 at paras. 157, 158, 163 and 164.

157. While noting that respect for the views of the child has been introduced in the Ordinance 99-11 on the creation of juvenile courts, the Committee is concerned that respect for the views of the child remains limited within the family, in schools, in the courts and before administrative authorities, and in the society at large, owing to traditional attitudes.

158. The Committee recommends that the State party develop a systematic approach to increasing public awareness of the participatory rights of children in the best interests of the child, particularly at the local levels and in traditional communities, with the involvement

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of community and religious leaders, and ensure that the views of children are heard and taken into consideration in accordance with their age and maturity in families, communities, schools, care institutions and the judicial and administrative systems. In that regard, the Committee recommends that the State party launch campaigns to change the traditional attitude which does not allow children to express their views.

...

163. The Committee is concerned at the practice of repudiation of women, which can lead to the separation of the child from his/her mother, and at the custom applicable in divorce cases which holds that children are entrusted to their mothers before they are 7 years old and to their fathers when older, without the views of the child and his/her best interests being taken into account. In addition, the Committee is concerned that the recovery of maintenance is not ensured.

164. The Committee recommends that the State party take all necessary measures to stop these practices and reinforce its efforts to sensitize the population on the obvious negative impact and the contradiction of these practices with the best interests of the child and other relevant provisions of the Convention. In addition, the Committee recommends that the State party take all necessary measures to ensure the recovery of maintenance.

- Spain, CRC, CRC/C/118 (2002) 117 at paras. 499 and 500.

499. The Committee notes with concern that there are different procedures for child's protection in the 17 Autonomous Communities and that they are not always compatible with the best interest of the child, especially with regard to children placed in foster families...

500. The Committee recommends that the State party:

(a) Ensure that protection procedures for children have a minimum common standard and are compatible with the best interest of the child;

...

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 75 and 76.

75. The Committee notes with concern the growing number of cases of HIV/AIDS among the youth, notwithstanding the existing National Plan of Action for HIV/AIDS, and reiterates its concern ([CRC/C/15/Add.36], para. 12) about the number of teenage pregnancies, in particular in some of the provinces.

76. The Committee recommends that the State party:

...

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(c) Take further measures, including the allocation of adequate human and financial resources, to evaluate the effectiveness of training programmes in health education, in particular as regards reproductive health, and to develop youth-sensitive and confidential counselling, care and rehabilitation facilities that are accessible without parental consent when this is in the best interests of the child;

...

### *See also:*

- Republic of Moldova, CRC, CRC/C/121 (2002) 89 at para. 407.
- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/121 (2002) 23 at paras. 117 and 118.

117. While noting that the “welfare” of the child is included in child care and protection legislation, the Committee is concerned that the principle of primary consideration for the best interests of the child is not consistently reflected in legislation and policies affecting children throughout the State party, notably in the juvenile justice system and immigration practices.

118. The Committee, in line with its previous recommendations ([CRC/C/15/Add.34], para. 24) recommends that the State party adopt the best interests of the child as a paramount consideration in all legislation and policy affecting children throughout its territory, notably within the juvenile justice system and in immigration practices.

- Seychelles, CRC, CRC/C/121 (2002) 41 at para. 185, 186, 193, 194, 197 and 198.

185. Noting the recognition of the best interests principle in the Children’s Act, the Committee remains concerned that the principle is not fully recognized and implemented in all legislation, policies and programmes for children.

186. In light of article 3, the Committee recommends that the State party ensure that the best interests principle is reflected in all relevant legislation, policies and programmes for children, in particular in the proceedings and decisions of the Family Tribunal.

...

193. While acknowledging the State party’s efforts to destigmatize and streamline judicial proceedings with respect to family issues through the creation of the Family Tribunal, the Committee is concerned that the functioning of the Tribunal is not always in conformity with the principles and provisions of the Convention.

194. The Committee recommends that the State party:



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(a) Ensure that the general principles of the Convention, in particular the best interests principle and respect for the views of the child, are integrated into all proceedings and decisions of the Family Tribunal;

...

197. ...[T]he Committee is deeply concerned that there is no periodic review of private or public alternative care facilities and that private and public institutions are not subject to the same standards or procedures.

198. The Committee recommends that the State party review its policies on alternative care for children deprived of a family with a view to developing a more integrated and accountable system of care and support by:

...

(c) Establishing a set of standards and procedures for all public and private organizations working with these children that encompass the principles of the best interests of the child and respect for the views of the child and that ensure that their placement is periodically reviewed, in accordance with article 25 of the Convention.

- Poland, CRC, CRC/C/121 (2002) 120 at paras. 529, 530, 539 and 540.

529. The Committee is concerned at the large number of children in the State party living in institutions, a significant proportion of whom are “social” rather than natural orphans.

530. The Committee recommends that the State party:

(a) Ensure periodic review of placement of children in institutions which takes into account the views and best interests of the child while aiming, whenever possible, at reintegrating them into their families, with appropriate counselling and support, or at finding other forms of care than institutionalization;

...

539. The Committee notes the State party’s efforts to speed up the processing of refugee cases, but is concerned that the claims of unaccompanied minors are slowed down by cumbersome procedures for appointing a legal representative of such minors applying for refugee status, who is solely responsible for administrative matters and not obligated to act in the best interests of the child...

540. The Committee recommends that the State party:

(a) Amend current legislation on refugee processing so as to ensure that all unaccompanied minors are immediately appointed a legal guardian responsible for them who is obligated to act in their best interest to take their views into account;

...

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- Israel, CRC, CRC/C/121 (2002) 131 at paras. 579 and 580.

579. The Committee is concerned that the general principle of the best interests of the child contained in article 3 of the Convention is not incorporated in all legislation concerning children and is not always considered in practice, for example by rabbinical courts.

580. The Committee recommends that the State party continue its efforts to fully incorporate in legislation and in practice article 3 of the Convention.

- Estonia, CRC, CRC/C/124 (2003) 9 at paras. 54 and 55.

54. The Committee welcomes the priorities as described in the State party's report to support the family structure, but remains concerned that there is a high number of children in institutions and that:

...

(b) Conditions in institutions are poor and the system of periodic review of placement does not adequately take into account the views and best interests of the child by providing appropriate counselling and support or finding forms of alternative care;

...

55. The Committee recommends that the State party:

...

(h) Establish effective mechanisms for complaints from children in care and for monitoring standards of care and establish efficient regular periodic review of placement, taking into account the best interests of the child;

...

- Republic of Korea, CRC, CRC/124 (2003) 24 at paras. 118-121, 124 and 125.

118. The Committee notes the State party's establishment of group homes as an alternative to the Institutionalization of children separated from their families. However, it is concerned that the establishment of group homes and the development of the foster care system remain limited, and that private alternative care institutions are not subject to governmental regulations or regular inspections.

119. The Committee recommends that the State party:

...

(b) Ensure the periodic review of placement of children in all public and private institutions, which takes into account the views and best interests of the child and, wherever possible, aims to reintegrate children into a family environment;

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...

120. The Committee remains concerned that, due to prevailing negative cultural traditions, domestic adoptions may be arranged without authorization or involvement of the competent authorities and that such arrangements do not necessarily take into account the best interests of the child or, where appropriate, the views of the child...

121. The Committee reiterates its previous recommendation to the State party and calls for:

(a) A comprehensive review of the system of domestic and intercountry adoptions with a view to reforming legislation in order to bring it into full conformity with the principles and provisions of the Convention on the Rights of the Child, in particular article 21;

...

124. The Committee is concerned at the high number of divorced and single parents, primarily mothers, who do not receive the child maintenance payments to which they are legally entitled.

125. In the light of article 27 and the principle of the best interests of the child (art. 3), the Committee recommends that the State party take all effective measures to enforce child maintenance obligations based on a court order or agreements between parties in a manner that does not stigmatize the child or his or her custodial parent. For instance, the State party might consider establishing a national fund to ensure payment of overdue child maintenance obligations to the custodial parent while enforcement measures are enacted, or introducing a system in which child support payments are automatically deducted from the salaries of those employees with child maintenance obligations.

- Italy, CRC, CRC/124 (2003) 36 at paras. 164, 165, 168, 169, 186 and 187.

164. The Committee welcomes the adoption by the Constitutional Court of the best interests of the child as a constitutional principle, but remains concerned that the general principle of the best interests of the child (art. 3) is not fully applied and duly integrated in the implementation of the policies and programmes of the State party.

165. The Committee recommends that the State party take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated into all legislation and budgets, as well as judicial and administrative decisions and into projects, programmes and services which have an impact on children.

...

168. The Committee is concerned that adopted children cannot know the identity of their natural parents even after having reached majority and when this is proved to be in their best interests...

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169. In the light of article 7 of the Convention, the Committee recommends that the State party:

(a) Ensure, as far as possible, respect for the child's right to know his or her parents' identity should he/she be an adopted child or a child born out of wedlock who has not been recognized by either of his or her parents;

...

186. The Committee welcomes the establishment of the Committee for the Protection of Foreign Children and the specific reference made to the Convention in Law 40/98 on immigration regarding access to health. However, the Committee remains concerned at the lack of adequate structures to receive unaccompanied minors; the lack of harmonization of the procedure dealing with unaccompanied minors in the various regions; the new provision under Act 189/2002 which permits the detention of undocumented immigrants; the implementation of Decree 113/99 which leads to an increase in repatriations without adequate follow-up; and the change which occurred in 2000 regarding residence permits for minors.

187. In accordance with the principles and provisions of the Convention, especially articles 2, 3, 22 and 37, and with respect to children, whether seeking asylum or not, the Committee recommends that the State party:

(a) Strengthen efforts to establish enough special reception centres for unaccompanied minors, with special attention to those who have been victims of trafficking and/or sexual exploitation;

(b) Ensure that the stay in these centres is for the shortest time possible and that access to education and health is guaranteed during and after the stay in a reception centre;

(c) Adopt, as soon as possible, a harmonized procedure in the best interests of the child to deal with unaccompanied minors throughout the State party;

(d) Ensure that assisted repatriation is envisaged when it is in the best interests of the child and that a follow-up is guaranteed for those children.

- Romania, CRC, CRC/124 (2003) 49 at paras. 226 and 227.

226. The Committee notes the information provided by the State party that the principle of the "best interests of the child" lies at the foundation of its strategy in the field of child protection. However, it remains concerned that this is not fully incorporated into legislation.

227. The Committee, in line with its previous recommendations ([CRC/C15/Add.16], para.

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14), recommends that the State party ensure that the best interests of the child shall be a paramount consideration in all legislation and policies affecting children, and take proactive measures to promote the full understanding and practical implementation of this principle.

- Viet Nam, CRC, CRC/C/124 (2003) 67 at paras. 290 and 291.

290. The Committee is concerned that, although acting in the best interests of the child is a priority for the Government, the best interests principle is not expressly included in all legislation concerning children.

291. The Committee recommends that the State party, in accordance with article 3 of the Convention, review and, where appropriate, amend its legislation in order to ensure that “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”.

- Czech Republic, CRC, CRC/C/124 (2003) 78 at paras. 347, 348, 352, 353, 365, 366, 384 and 385.

347. The Committee welcomes the amendment to section 216b of the Criminal Code concerning the deletion from the text of the words “unless such person has attained majority earlier” in the definition of the child as a person younger than 18 years of age. However, the Committee is concerned at the information received on the ongoing debate on the juvenile justice reform in the State party intended to lower the age of criminal responsibility.

348. In the spirit of the Convention, especially with reference to articles 3 (best interests of the child) and 12 (right to life, survival and development), the Committee urges the State party to retain the present age of criminal responsibility of 15 years.

...

352. While noting that the principle of the “interest and welfare” of the child is contained in the Act on the Family and in the Law on Social and Legal Protection of Children, the Committee is concerned that the principle of primary consideration for the best interests of the child is still not adequately defined and reflected in all legislation, court decisions and policies affecting children. Furthermore, the Committee is concerned that there are insufficient research and training for professionals in this respect.

353. The Committee, in line with its previous recommendations (CRC/C/15/Add.81, para. 30), recommends that the principle of the best interests of the child in article 3 be appropriately analysed with regard to various situations (such as separation from parents, review of placement) involving the child or groups of children (e.g. minorities) and

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integrated into all revisions to legislation concerning children and legal procedures in courts, as well as into judicial and administrative decisions and into projects, programmes and services which have an impact on children. The Committee encourages the State party to ensure that research and educational programmes for professionals dealing with children are reinforced and that article 3 of the Convention is fully understood and that this principle is effectively implemented.

...

365. The Committee notes the adoption of the Act of Residential Care in 2002, but is concerned that it has not addressed the full range of rights covered by the Convention. The Committee also notes that children may be placed in institutions under the jurisdiction of three different ministries and that a court may order reformative (preventive) upbringing of a child below the age of 15, which means in practice that such a child will be placed in the same institution as juvenile delinquents. The Committee welcomes the policy of deinstitutionalization, but remains deeply concerned at the increasing number of children placed in institutions by preliminary injunction and at the frequent use of this special measure, which can be revoked only after a lengthy and complex procedure. Furthermore, the Committee is concerned that the general principles of the Convention are not always observed in such situations and that:

...

(b) Temporary measures may be extended for lengthy periods and that there are no regulations for review of placement;

(c) Children are often placed at significant distances from parents, who, in turn, may not be aware of their visiting rights; punitive measures such as limitation of phone calls or meetings with parents may also be used;

(d) Contacts with parents are sometimes made conditional upon the behaviour of children in care;

...

366. The Committee recommends that the State party:

...

(c) Ensure that issuance of preliminary orders by courts is used as a temporary measure and that the best interests of the child remain a primary consideration;

...

384. The Committee is concerned that there is a growing number of children living on the street in urban areas vulnerable to, *inter alia*, sexual abuse, violence, including from the police, exploitation, lack of access to education, substance abuse, sexually transmitted diseases, HIV/AIDS and malnutrition. Furthermore, the Committee notes that the primary response to the situation of these children, as described by the State party in its report, is institutionalization.

385. The Committee recommends that the State party:

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(a) Strengthen its efforts to identify the numbers of street children with the aim of preventing and reducing this phenomenon in the best interest of these children and with their participation;

...

- Haiti, CRC, CRC/124 (2003) 95 at paras. 420, 421, 430 and 431.

420. The Committee is concerned that the principle of the best interests of the child is not fully recognized and implemented in the relevant legislation and in decisions relevant to children. The Committee is especially concerned that the existing legislation, as referred to in the State party's report (para. 51), allows parents to send their children to prison for a period of up to six months, without the involvement of a court or similar body, which constitutes a violation of article 37, paragraph (d), of the Convention. However, the Committee welcomes the information that this rule is rarely applied in practice.

421. The Committee recommends that the State party ensure that the principle of the best interests of the child is reflected in all relevant legislation, policies, programmes and otherwise in the implementation of the Convention. The Committee particularly recommends that the State party abolish the rule of *correction paternelle*, which allows parents to place a child in prison.

...

430. The Committee is particularly concerned about the high number of children who are separated from their parents...

431. In the light of articles 9, 12, 20 and 25 of the Convention, the Committee recommends that the State party:

(a) Ensure that a child shall not be separated from his or her parents against his/her will, unless such separation is in the best interests of the child and if it has been decided by a competent authority, subject to judicial review;

...

- Eritrea, CRC, CRC/C/132 (2003) 8 at paras. 57 and 58.

57. The Committee notes with appreciation that the Constitution accords both parents equal rights and duties within the family, yet it is concerned that the Transitional Civil Code and customary laws do not generally recognize the principle enshrined in article 18 of the Convention "that both parents have common responsibilities for the upbringing and development of the child", particularly with regard to the custody of children in divorce.

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58. The Committee recommends that the State party ensure that, when judicial proceedings or family councils decide to grant one parent custody of the child, the decision is taken on the basis of the best interest and with the participation of the child...

- Zambia, CRC, CRC/C/132 (2003) 32 at paras. 187, 188, 193 and 194.

187. The Committee notes the information that children deprived of a family environment (orphans and other vulnerable children) should be cared for by the extended family and that foster care is supported by special fees paid to foster parents, but is concerned that these forms of alternative care are not sufficiently encouraged and supported.

188. The Committee recommends that the State party strengthen the capacity of the extended family and foster parents to take care of orphans and other vulnerable children by providing them with adequate financial and other support in the best interests of the child.

...

193. The Committee notes that the Adoption Act of 1958 provides for the regulation of domestic and intercountry adoptions, but remains concerned that informal adoptions, which are generally not monitored with respect to the best interests and other rights of the child, are more widely accepted and practised within the State party.

194. In light of article 21 of the Convention, the Committee recommends that where adoption is considered, the State party encourage and promote formal domestic and intercountry adoptions, in order to prevent the abuse of the practice of informal adoption and protect the rights of children. In light of the increasing number of children deprived of a family environment, the Committee recommends that the State party promote and encourage formal adoptions...

- Solomon Islands, CRC, CRC/C/132 (2003) 58 at paras. 307 and 308.

307. The Committee is concerned that although it is contained in some statutes relating to children's issues, the principle of the best interests of the child is not defined in legislation and not implemented by the State party or reflected in policy, programmes or activities.

308. The Committee recommends that the State party:

(a) Take action to ensure that the principle of the best interests of the child is included in all relevant legislative instruments and in all policy-making processes and programmes of relevance to children and the Convention's implementation;

(b) Ensure that administrative, judicial, legislative and other relevant officials are given



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training on the meaning and implementation of the best interests principle, with a view to ensuring its consistent application at central and local government levels.

- Libyan Arab Jamahiriya, CRC, CRC/C/132 (2003) 74 at paras. 372 and 373.

372. The Committee is concerned that the general principle of the best interests of the child contained in article 3 of the Convention is not explicitly incorporated in all legislation concerning children and is not always considered in practice. In particular, the Committee is not persuaded that a rigid custodial line of mother, maternal grandmother and father and the exclusion from custodial arrangements of foreign parents outside the State party necessarily give effect to this principle.

373. The Committee recommends that the State party refer to, and fully incorporate in legislation and practice, article 3 of the Convention, including in the area of custody of children.

- Morocco, CRC, CRC/C/132 (2003) 100 at paras. 482 and 483.

482. The Committee is concerned that in actions concerning children, the general principle of the best interests of the child contained in article 3 of the Convention is not always a primary consideration, including in matters relating to family law (e.g. custody under the law is determined by the child's age rather than the child's best interests).

483. The Committee recommends that the State party in its review of legislation and administrative measures ensure that article 3 of the Convention is duly reflected therein and taken into consideration.

- Syrian Arab Republic, CRC, CRC/C/132 (2003) 116 at paras. 554 and 555.

554. The Committee is concerned that the general principle of the best interests of the child contained in article 3 of the Convention is not expressly incorporated in all legislation concerning children and is not always considered in practice. For example, the Committee notes that a draft bill proposes to raise the ages in article 146 of the Personal Status Code. It remains concerned that custody is determined by criteria such as age, rather than what arrangement is in the child's best interest.

555. The Committee recommends that the State party fully incorporate in legislation and practice article 3 of the Convention.

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- Canada, CRC, CRC/C/133 (2003) 14 at paras. 74, 75, 78 and 79.

74. The Committee values the fact that the State party holds the principle of the best interests of the child to be of vital importance in the development of all legislation, programmes and policies concerning children and is aware of the progress made in this respect. However, the Committee remains concerned that the principle that primary consideration should be given to the best interests of the child is still not adequately defined and reflected in some legislation, court decisions and policies affecting certain children, especially those facing situations of divorce, custody and deportation, as well as Aboriginal children. Furthermore, the Committee is concerned that there is insufficient research and training for professionals in this respect.

75. The Committee recommends that the principle of “best interests of the child” contained in article 3 be appropriately analysed and objectively implemented with regard to individual and groups of children in various situations (e.g. Aboriginal children) and integrated in all reviews of legislation concerning children, legal procedures in courts, as well as in judicial and administrative decisions and in projects, programmes and services that have an impact on children. The Committee encourages the State party to ensure that research and educational programmes for professionals dealing with children are reinforced and that article 3 of the Convention is fully understood, and that this principle is effectively implemented.

...

78. The Committee notes with satisfaction that Canada is a party to the Hague Convention on the Civil Aspects of International Child Abduction of 1980 and notes the concern of the State party that parental abductions of children are a growing problem.

79. The Committee recommends that the State party apply the Hague Convention to all children abducted to Canada, encourage States that are not yet party to the Hague Convention to ratify or accede to this treaty and, if necessary, conclude bilateral agreements to deal adequately with international child abduction. It further recommends that maximum assistance be provided through diplomatic and consular channels in order to resolve cases of illicit transfer and non-return in the best interests of the children involved.

- Pakistan, CRC, CRC/C/133 (2003) 37 at paras. 198, 199, 210 and 211.

198. The Committee notes that the principle of the best interests of the child is taken into consideration in some pieces of legislation, but remains concerned that this principle is not fully taken into consideration in domestic law. The Committee is also concerned that customary law and social traditions can sometimes be an impediment to the implementation of this principle.

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199. The Committee recommends that the State party take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated in all legislation, as well as in judicial and administrative decisions and in projects, programmes and services which have an impact on children. The Committee also encourages the State party to take all necessary measures to ensure that customary law does not impede the implementation of this general principle, notably by raising awareness among community leaders.

...

210. The Committee is concerned that the State party's legislation uses age limits, instead of the best interests of the child, as criteria in determining custody in case of divorce. Such permission, in addition to implying that siblings can be separated, discriminates between the sexes and fails to acknowledge the child's right to express her/his views and have them taken into account.

211. The Committee recommends that the State party review its current legislation concerning custody in order to ensure that the principle of the best interests of the child is a primary consideration, in order to prevent siblings being separated only because of sex and/or age, and in order to ensure that children's views are heard and duly taken into consideration in custody decisions, in accordance with the principles and provisions of the Convention.

- Bangladesh, CRC, CRC/C/133 (2003) 93 at paras. 463 and 464.

463. The Committee notes that the principle of the best interests of the child has been given increased importance and the State party's efforts to raise awareness of this general principle, *inter alia*, through media campaigns, but remains concerned that the best interests of the child are not fully taken into consideration in policy-making and implementation and other administrative and judicial decisions.

464. The Committee recommends that the State party take all appropriate measures to ensure that the principle of the best interests of the child is integrated into all legislation, as well as in judicial and administrative decisions and in projects, programmes and services which have an impact on children. The Committee also encourages the State party to take all necessary measures to ensure that traditional practices and customary law do not impede the implementation of this general principle, notably through raising awareness among community leaders and within society at large.

- Indonesia, CRC, CRC/C/137 (2004) 8 at paras. 53, 54, 65, 66, 71 and 72.

53. The Committee is concerned that in actions concerning children, the general principle

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of the best interest of the child as contained in article 3 of the Convention is not a primary consideration, including in matters relating to family law (e.g. custody under the law is determined by the child's age rather than the child's best interests).

54. The Committee recommends that the State party review its legislation and administrative measures to ensure that article 3 of the Convention is duly reflected therein and implemented in all parts of the territory.

...

65. The Committee is concerned that according to Islamic law applicable to Muslims in Indonesia, in divorce proceedings decisions relating to custody of children are based on the age of the children rather than on their best interests...

66. The Committee recommends that the State party:

(a) Review its legislation relating to custody of the child with a view to ensuring that all decisions are based on the principle of the best interest of the child, in line with articles 3 and 12 of the Convention;

...

71. The Committee is concerned that the current adoption legislation discriminates between groups of different ethnic origins, does not provide sufficient safeguards against abusive practices, including trafficking of children, and does not take sufficiently into account the principle of the best interest of the child.

72. The Committee recommends that the State party:

(a) Amend the current legislation on adoption so as to ensure that it conforms to articles 2 and 3 of the Convention;

(b) Take the necessary measures to monitor and supervise effectively the system of adoption of children in accordance with the principle of the best interest of the child;

...

- Papua New Guinea, CRC, CRC/C/137 (2004) 94 at paras. 504 and 505.

504. The Committee is concerned at the high incidence of informal adoption which lacks the guarantees that the best interests of the child are taken into account and which may lead, *inter alia*, to the use of young informally adopted girls as domestic servants.

505. The Committee recommends that the State party take all necessary measures to ensure that all existing practices of adoption comply with article 21 of the Convention, that both legal parents are required to give their consent for the adoption and that the children's views,

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where appropriate, and their best interests are taken into account...

- Slovenia, CRC, CRC/C/137 (2004) 104 at paras. 565 and 566.

565. While welcoming the new Implementation of Fostering Activities Act of 2003, which provides for a more systematic regulation of fostering activities, the Committee is concerned that the mechanisms for reviewing and monitoring the placement of fostered children are not sufficient. Furthermore, the Committee is concerned at the lack of standards and regulations on adoption and of a national adoption register.

566. The Committee recommends that the State party ensures that the legislation on foster care and adoption is in conformity with the Convention and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993. The law on adoption should guarantee the right of the child to know his/her origin and access to information about his/her background. Furthermore, the Committee recommends that the State party: (a) establish a national register of children to be adopted and of families qualified to adopt, which takes full account of the best interests of the child; (b) put in place mechanisms for monitoring the situation of fostered and adopted children; and (c) ensure that procedures of fostering and adoption are handled by a qualified and efficient multidisciplinary team.

- El Salvador, CRC, CRC/C/140 (2004) 8 at paras. 69, 70, 89 and 90.

69. The Committee expresses its concern about the potential negative impact of international trade-related intellectual property agreements on access to affordable medicines.

70. The Committee recommends to the State party that it systematically consider the best interests of the child when negotiating trade-related intellectual property rights and implementing them into national law. In particular, the State party should conduct an assessment of the impact of international intellectual property rights agreements on the accessibility of affordable generic medicines, with a view to ensuring children's enjoyment of the highest attainable standard of health.

...

89. The Committee is deeply concerned that measures taken under the so-called "Tough Hand Plan" (*Plan Mano Dura*), adopted in July 2003, and the Anti-Gang Laws, in force since October 2003, including the second Anti-Gang Law (*Ley para el combate de las actividades delincuenciales de grupos o asociaciones ilícitas especiales*) of 1 April 2004, are in breach of the Convention. The Committee expresses concern at, *inter alia*, the notion of a "capable minor" (*menor habilitado*), which provides for the possibility of prosecuting

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a child as young as aged 12, as an adult; and the fact that the law criminalizes physical features, such as the use of signs or symbols as a means of identification and the wearing of tattoos or scars. Moreover, the Committee is concerned that the Anti-Gang Laws undermine the Juvenile Offenders Act by introducing a dual system of juvenile justice. The Committee also expresses concern at the large number of children who have been detained as a consequence of the "Tough Hand Plan" and the Anti-Gang Laws, and regrets the lack of social and educational policies to address the problems of gang involvement and violence and crime among adolescents.

90. The Committee urges the State party to immediately abrogate the second Anti-Gang Law and to apply the Juvenile Offenders Act as the only legal instrument in the area of juvenile justice. The Committee reaffirms the State party's obligation to ensure that measures taken to prevent and combat crime are fully in conformity with international human rights standards and based on the principle of the best interests of the child. It recommends that the State party adopt comprehensive strategies which are not limited to penal measures but also address the root causes of violence and crime among adolescents, in gangs and outside gangs, including policies for social inclusion of marginalized adolescents; measures to improve access to education, employment and recreational and sports facilities; and reintegration programmes for juvenile offenders.

- Rwanda, CRC, CRC/C/140 (2004) 36 at paras. 201 and 202.

201. While noting that domestic adoptions are regulated by the Civil Code and Law No. 27/2001 on the Rights of the Child and Protection of Children against Abuse, the Committee expresses concern that informal adoptions, which are generally not monitored with respect to the best interests of the child, are more widely accepted and practised within the State party. The Committee is also concerned that intercountry adoptions do not always respect the requirements of article 21 of the Convention.

202. In the light of article 21 of the Convention, the Committee recommends that the State party strengthen administrative and legislative procedures for formal domestic and intercountry adoptions, in order to prevent the abuse of the practice of informal adoption and guarantee the protection of the rights of the children concerned. In view of the increasing number of children deprived of a family environment, the Committee recommends that the State party promote and encourage formal domestic adoptions and reinforce its foster care programme...

- Liberia, CRC, CRC/C/140 (2004) 67 at paras. 342 and 343.

342. The Committee takes note of the efforts made in the State party to trace the members

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of separated families and to reunify children and their parents. The Committee is deeply concerned at:

(a) The large numbers of children who have been deprived of a family environment through the death of, or separation and abandonment from, their parents or other family;

...

343. The Committee urges the State party:

...

(d) To take all appropriate measures to ensure that non-orphan children living in institutional homes are brought back to their families, taking into consideration the best interests of the child;

...

- France, CRC, CRC/C/140 (2004) 124 at paras. 602-605.

602. The Committee takes note of the law adopted on 22 January 2002 related to the right to know one's origins. However, the Committee remains concerned that the rights enumerated in article 7 of the Convention may not be fully respected by the State party and that the right to conceal the identity of the mother if she so wishes is not in conformity with the provisions of the Convention...

603. The Committee recommends that the State party take all appropriate measures to ensure that the provisions of article 7, especially the right of the child to know, as far as possible, his or her parents, be fully enforced in the light of the principles of non-discrimination (art. 2) and the best interests of the child (art. 3)...

604. The Committee notes that the Constitution provides for freedom of religion and that the law of 1905 on the separation of church and State prohibits discrimination on the basis of faith. The Committee equally recognizes the importance the State party accords to secular public schools. However, in the light of articles 14 and 29 of the Convention, the Committee is concerned by the alleged rise in discrimination, including that based on religion. The Committee is also concerned that the new legislation (Law No. 2004-228 of 15 March 2004) on wearing religious symbols and clothing in public schools may be counterproductive, by neglecting the principle of the best interests of the child and the right of the child to access to education, and not achieve the expected results. The Committee welcomes that the provisions of the legislation will be subject to an evaluation one year after its entry into force.

605. The Committee recommends that the State party, when evaluating the effects of the legislation, use the enjoyment of children's rights, as enshrined in the Convention, as a crucial criteria in the evaluation process and also consider alternative means, including

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mediation, of ensuring secular character of public schools, while guaranteeing that individual rights are not infringed upon and that children are not excluded or marginalized from the school system and other settings as a result of such legislation. The dress code of schools may be better addressed within the public schools themselves, encouraging participation of children. The Committee further recommends that the State party continue to closely monitor the situation of girls being expelled from schools as a result of the new legislation and ensure they enjoy the right of access to education.

- Botswana, CRC, CRC/C/143 (2004) 25 at paras. 139 and 140.

139. The Committee notes with concern that there is an increasing number of children without adequate parental support due to various reasons, *inter alia*, the lack of child support by fathers.

140. The Committee recommends that the State party:

...

(b) Take the necessary legislative and other measures to ensure that the best interests of the child are of primary consideration and that guardianship with one of the parents after divorce is not automatically granted to the father;

...

- Croatia, CRC, CRC/C/143 (2004) 36 at para. 209.

209. The Committee recommends that the State party give high priority to the assistance provided to families in order to prevent placement of children in alternative care. The Committee further recommends that the State party promote family-based assistance in foster care as a form of alternative care and ensure that institutionalization is used only as a measure of last resort, i.e. that it is professionally indicated and in the best interests of the child, and conduct periodic reviews of the placement of children in light of article 25...

- Equatorial Guinea, CRC, CRC/C/143 (2004) 64 at paras. 349-352.

349. While the Committee welcomes the existence in the country of institutions where the many orphans in the State party can be accommodated, as well as the information that a new one is under construction, it recalls that the institutionalization of children should always be a temporary measure of last resort, professionally indicated and in the best interests of the child...

350. The Committee recommends in this regard that the State party:



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(a) Ensure children are placed in institutions only following proper judicial proceedings and that children in institutions maintain contact with their parents or other caregivers, and that it facilitate, when possible, return of institutionalized children to their families or extended families;

...

351. The Committee is concerned that some customary laws automatically grant parental authority to the father in the event of parental separation or divorce.

352. The Committee recommends that the State party ensure that when judicial proceedings or family councils decide to grant one parent custody of the child, the decision be taken based on the principle of the best interests of the child and with the child expressing his/her views. The State party should also ensure that both parents have common responsibilities for the upbringing and development of the child and receive adequate legal and other assistance in this regard, and that they are adequately informed of their rights and responsibilities, particularly in the case of separation or divorce.

- Antigua and Barbuda, CRC, CRC/C/143 (2004) 93 at paras. 491 and 492.

491. The Committee is concerned that currently, no legal provisions exist to protect the right of a separated parent and/or child to remain in contact with each other.

492. The Committee recommends that the State party review existing legislation to ensure adequate protection of the right of a separated parent and/or child, with due consideration given to the best interests of the child.

- Sweden, CRC, CRC/C/146 (2005) 8 at paras. 45, 46, 51 and 52.

45. The Committee welcomes the new legislative measures and programmes incorporating the principle of the best interests of the child, in particular the 1998 amendment of the Parental Code, the instructions given to the National Board of Health and Welfare, the 1998 amendment of the Social Services Act, and the Care of Young Persons Act. Nonetheless, the Committee is concerned that the best interests of asylum-seekers and migrant children are not sufficiently taken into consideration in asylum processes.

46. The Committee recommends that the State party take appropriate and efficient measures in order to ensure that the principle of the best interests of the child form the basis and guide the process and decisions in asylum cases involving children, *inter alia*, by reforming the guidelines and procedures of the Swedish Migration Board.

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...

51. The Committee notes with appreciation that financial assistance is made available to cover the costs incurred by individuals when restoring illicitly transferred or non-returned children and the review currently under way of the implementation of the Hague Convention No. 28 on the Civil Aspects of International Child Abduction of 1980. However, the Committee notes that there are still a number of pending cases to be solved involving children of mixed marriages.

52. The Committee recommends that the State party continue strengthening measures to prevent and combat illicit transfer and non-return of children and to solve pending cases, with due regard to the best interests of the child.

- Albania, CRC, CRC/C/146 (2005) 19 at paras. 101, 102, 109, 110, 139, 140, 147 and 148.

101. The Committee notes the progress reported by the State party in giving primary consideration to the best interests of the child. However, the Committee regrets that the determination of what constitutes the “best interests” seems to be the decision of adults alone involving little consultation with children, even when they are able to state their opinions and interests.

102. The Committee recommends that the State party strengthen its efforts to ensure that the general principle of the best interests of the child is understood and appropriately integrated into all legal provisions, judicial and administrative decisions, and projects, programmes and services having an impact on children.

...

109. The Committee notes the significant efforts made by the State party to ensure that every child is registered within 30 days after birth. Nevertheless, it appears that those failing to meet the deadline encounter additional difficulties.

110. The Committee recommends that the State party take appropriate measures to promote the registration of all children, including through facilitating late registration when necessary and paying particular attention to the most vulnerable and marginalized groups. In this context, the State party should ensure that the provisions of article 7 be fully enforced in the light of the principles of non-discrimination (art. 2) and the best interests of the child (art. 3), including the right of the child to know, as far as possible, his or her parents. Meanwhile, immediate access to basic services, such as health and education, should be ensured to children who were not registered at birth, while their registration is being properly prepared.

...

139. The Committee welcomes the progress made in establishing a clearer legal framework governing the treatment of refugees and the prevention of statelessness, including the progress made in securing access by all refugee and asylum-seeking children to Albanian

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schools. Nevertheless, the Committee considers that additional steps need to be taken to ensure full compliance of the relevant legislation and practice with the Convention.

140. The Committee recommends that the State party amend the current asylum legislation by introducing specific provisions ensuring that the best interests and the views of the child are taken into account, in particular during the status determination procedures...

...

147. The Committee is very concerned that street children represent the most unprotected category of children in Albania and regrets the lack of information in the State party's report in this respect.

148. The Committee recommends that the State party:

(a) Undertake a study to consider elaborating a comprehensive strategy to address the increasing number of street children with the aim of preventing and reducing this phenomenon in the best interests of these children and with their participation;

...

- Luxembourg, CRC, CRC/C/146 (2005) 36 at paras. 190 and 191.

190. The Committee is concerned about the fact that parents automatically lose parental authority over their children when they are placed in foster care or in institutions by the courts, apparently without determining whether such an automatic measure is in the best interests of the child.

191. The Committee recommends that the State party take all possible measures, including revision of the existing legislation, in order to adequately protect parental rights and parent-child relationship and that the transfer of parental authority be used only in exceptional circumstances and in the best interests of the child.

- Austria, CRC, CRC/C/146 (2005) 47 at paras. 269 and 270.

269. While the Committee acknowledges the efforts undertaken by the State party at the Federal and Länder level to increase the number of adequate accommodation places for unaccompanied and separated asylum-seeking children, it remains concerned that the existing reception facilities are still insufficient compared to the number of applicants and that unaccompanied and separated asylum-seeking children are not systematically assigned guardians.

270. The Committee recommends that the State party:

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(a) Ensure that guardians are systematically assigned to unaccompanied and separated asylum-seeking children and that the best interests of the child are duly taken into account;

...

(d) Fully take into account the principle of the best interests of the child when deciding on the deportation of unaccompanied and separated asylum-seeking children and to avoid their placement in custody pending deportation.

- Islamic Republic of Iran, CRC, CRC/C/146 (2005) 88 at paras. 457, 458, 462, 463, 472 and 473.

457. The Committee reiterates its deep concern that the age of majority is set at pre-defined ages of puberty for boys at 15 and for girls at 9, because it implies that boys from 15 to 18 years and girls from 9 to 18 years are not covered by the provisions and principles of the Convention. The Committee notes the increase in the age of marriage for girls from 9 to 13 years (while that of boys remains at 15) and is seriously concerned at the very low minimum ages...

458. The Committee urges the State party to review its legislation so that the age of majority is set at 18 years of age and that minimum age requirements conform with all the principles and provisions of the Convention and with internationally accepted standards, and in particular that they are gender neutral, in the best interests of the child, and ensure that they are enforced...

...

462. The Committee regrets that in all actions or decision-making relating to children the general principle of the best interests of the child, as provided for under article 3 of the Convention, continues not to be a primary consideration, including in matters relating to family law. In particular, the Committee regrets that article 1169 of the Civil Law relating to the custody of children after divorce prevents the court from taking the best interests of the child into account. In the Committee's view, custody determined solely on the basis of a child's age is both arbitrary and discriminatory against the mother.

463. The Committee reiterates its previous recommendation that the State party review its legislation and administrative measures to ensure that article 3 is reflected therein and implemented in all actions concerning children.

...

472. The Committee is concerned about information that a large number of Iranian children, particularly those living in rural areas, are still not registered at birth and that birth registration is required for school enrolment. It is also concerned about reports that a large number of children born of non-Iranian parents, and in particular Afghan parents who have not registered in Iran, will similarly remain unregistered, thereby excluding them from obtaining a refugee registration card.

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473. In the light of article 7 of the Convention, the Committee encourages the State party to adopt all appropriate measures to ensure the registration of all children at birth, including all refugee children born in rural areas. Such measures should include the establishment of mobile registration offices and, for children not yet registered, registration units in schools. In this context, the State party should ensure that the provisions of article 7 are fully enforced in conformity with the principles of non-discrimination (art. 2) and of the best interests of the child (art. 3), including the right of the child to know, as far as possible, his or her parents. Meanwhile, immediate access by children not registered at birth to basic services, such as health and education, should be ensured, while the registration of these children is properly prepared.

- Togo, CRC, CRC/C/146 (2005) 104 at paras. 541, 542, 569 and 570.

541. The Committee is concerned that in actions concerning children, the general principle of the best interests of the child, as contained in article 3 of the Convention, is not a primary consideration, including in matters relating to family law (e.g. custody under the law is determined by the child's age rather than the child's best interests).

542. The Committee recommends that the State party review its legislation and administrative measures to ensure that the principle of the best interests of the child is explicitly incorporated therein and that it is a primary consideration in all decisions, programmes and policies concerning children, at the national and local level, in courts, in schools and other institutions, in the family and in society at large.

...

569. The Committee welcomes the promulgation of Act No. 98-106 prohibiting female genital mutilation. However, the Committee is deeply concerned at its persistence along with other practices harmful to the health of children, particularly the girl child, including forced and early marriages, dowry disputes, initiation rites such as scarification, and rites regarding girls training in voodoo priesthood.

570. While noting the measures taken to combat harmful traditional practices, the Committee recommends that the State party:

...

(e) Continue discussions with voodoo priests to ensure that the best interests of the girl child are protected at all times;

...

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- Bolivia, CRC, CRC/C/146 (2005) 121 at paras. 620, 621, 632 and 633.

620. The Committee notes that the Code for Children and Adolescents stipulates that the principle of the best interests of the child, contained in article 3 of the Convention, is a primary consideration in all measures concerning children. However, the Committee is concerned that this principle is not given adequate attention in national legislation and policies and that awareness of its significance is low among the population.

621. The Committee recommends that the State party take measures to raise awareness of the meaning and practical application of the principle of the best interests of the child and ensure that article 3 of the Convention is duly reflected in its legislation and administrative measures.

...

632. The Committee reiterates its concern about the situation of children living in prisons with one of their parents and about the living conditions of these children and the regulation of their care if they are separated from their parent in prison.

633. The Committee recommends that the State party develop and implement clear guidelines on the placement of children with their parent in prison, in instances where this is considered to be in the best interest of the child (e.g. the age of the children, the length of stay, contact with the outside world and movement in and outside the prison) and ensure that the living conditions in prisons are adequate for the child's development, as required by article 27 of the Convention. It further recommends that the State party develop and implement adequate alternative care for children who are removed from prison, which is regularly supervised and allows the child to maintain personal relations and direct contact with its parent remaining in prison.

- Nigeria, CRC, CRC/C/146 (2005) 135 at paras. 698 and 699.

698. While noting the existence of institutional structures whose objectives are to ensure the best interests of the child and respect for the views of the child such as Children's Clubs in schools and the Children's Parliament at the national level, the Committee is concerned that two general principles of the Convention, as laid down in articles 3 and 12 are not fully applied and duly integrated into the implementation of the policies and programmes of the State party. Given the prevalence of the traditional views on the place of children in the hierarchical social order, the Committee is concerned that children's opinions are not given sufficient consideration and that respect for the views of the child remains limited within the family, at schools, in the courts and before administrative authorities and in the society at large.

699. The Committee encourages the State party to pursue its efforts to ensure the

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implementation of the principles of the best interests of the child and respect for the views of the child. In this connection, the Committee recommends the State party to fully support the functioning and further development of the Children's Parliament, both at the national and State level, and to promote the full implementation of the right of the child to participate actively in the family, at school, within other institutions and bodies, and generally in society. The general principles should also be incorporated in all policies and programmes relating to children. Awareness-raising among the public at large as well as educational programmes on the implementation of these principles should be reinforced.

- Saint Lucia, CRC, CRC/C/150 (2005) 10 at paras. 55, 56, 65 and 66.

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

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

...

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

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

- Philippines, CRC, CRC/C/150 (2005) 24 at paras. 151, 152, 156, 157, 161 and 162.

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

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

...

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

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

...

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

162. The Committee recommends that the State party:

(a) Adopt necessary legislative, administrative and budgetary measures in order to fully



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implement the Health Sector Reform Agenda and ensure that the reform process is carried out by giving primary consideration to the best interests of the child and to the full enjoyment of their rights;

...

- Bosnia and Herzegovina, CRC, CRC/C/150 (2005) 49 at paras. 230, 231, 242 and 243.

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

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

...

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

243. The Committee recommends that the State party ensure that institutionalization is used only as a measure of last resort, meaning that it is professionally indicated and in the best interests of the child, and that it systematically conduct periodic reviews of the placement of children, in conformity with article 25 of the Convention...

- Nepal, CRC, CRC/C/150 (2005) 66 at paras. 332 and 333.

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

333. The Committee recommends to the State party that it review the current practice of children living with their parents in prison, with a view to limiting the stay to instances in which it is in his/her best interest, and to ensuring that the living conditions are suitable for his/her needs for the harmonious development of his/her personality. The Committee also recommends that children of parents in prison should be provided with adequate alternative care, for instance, within the extended family and be allowed regular contact with their

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parents.

- Norway, CRC, CRC/C/150 (2005) 105 at paras. 485-488.

485. The Committee is concerned that the best interests of the child are not adequately taken into consideration in cases where foreign nationals who have children in Norway are permanently deported as a consequence of having committed a serious criminal offence.

486. The Committee urges the State party to ensure that the best interests of the child are a primary consideration in the decisions taken regarding deportation of their parents.

487. The Committee is concerned at the number of children who have been removed from their families and live in foster homes or other institutions. In this regard, the Committee notes the State party's willingness to review its practices concerning the removal of children from their family environment.

488. The Committee recommends that the State party take measures to address the causes of the rising number of children who are removed from their families, including through adequate support to biological parents. The State encourages the State party to give priority to protecting the natural family environment and ensure that removal from the family and placement in foster care or institutions is used only as a measure of last resort when in the best interests of the child.

- Nicaragua, CRC, CRC/C/150 (2005) 132 at paras. 628 and 629.

628. The Committee notes with concern the difficulties that some parents and families encounter - such as unemployment, malnutrition and lack of adequate housing - which may cause abandonment or abuse resulting in placement of children in institutions or in adoption.

629. The Committee recommends that the State party undertake - in cases where a child is deprived of her/his family environment - maximum efforts to return the child to the family of origin. If that action is not in the best interests of the child, efforts should be undertaken to place the child in a family-type form of alternative care, with preference for kinship care and to use institutional placement only as a measure of last resort. In case adoption is in the best interests of the child, preference should be given to domestic over inter-country adoption. The Committee recommends in this regard that the State party ensure that its legislation and practice regarding adoption is brought in line with article 21 of the Convention and that it become a party to the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Inter-country Adoption.

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- Yemen, CRC, CRC/C/150 (2005) 161 at paras. 765, 766, 776 and 777.

765. The Committee notes that the principle of the best interests of the child is taken into consideration in the Rights of the Child Act, but remains concerned that the persistence of certain local customs and traditions impedes the implementation of this principle.

766. The Committee recommends that the State party take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated in all legislation, as well as judicial and administrative decisions and in policies, programmes and services which have an impact on children. The Committee also encourages the State party to take all necessary measures to ensure that local customs and traditions do not impede the implementation of this general principle, notably through raising awareness among community leaders.

...

776. The Committee is concerned that existing laws and practice do not reflect article 18 of the Convention, according to which both parents have equal responsibility for the upbringing of their children, e.g. for children born out of wedlock, and that the best interests of the child is not a primary consideration in decisions regarding custody, guardianship and affiliation.

777. The Committee urges that the State party expedite the amendments to the law now under consideration which, according to the information of the delegation, will bring the law in line with the provisions of the Convention. The Committee further recommends that the State party take the measures necessary for the full implementation of the amended law in practice.