

# **CHILDREN’S RIGHTS - PARENTS AND FAMILY**

## **IV. CONCLUDING OBSERVATIONS**

### **CERD**

- Australia, CERD, A/55/18 (2000) 17 at para. 36.

The conclusions of the “National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families” is noted and the measures taken to facilitate family reunion and to improve counselling and family support services for the victims is acknowledged. Concern is expressed that the Commonwealth Government does not support a formal national apology and that it considers inappropriate the provision of monetary compensation for those forcibly and unjustifiably separated from their families, on the grounds that such practices were sanctioned by law at the time and were intended to “assist the people whom they affected”. It is recommended that the State party consider the need to address appropriately the extraordinary harm inflicted by these racially discriminatory practices.

### **ICCPR**

- Switzerland, ICCPR, A/52/40 vol. I (1997) 19 at paras. 104 and 115.

#### *Paragraph 104*

The requirement for persons who adopt a child abroad under the regime of simple adoption to submit an application for full adoption in Switzerland if they wish the adoption to be recognized in Switzerland is of concern. That procedure makes permanent adoption subject to a two-year trial period, during which the adoptive parents may decide not to go ahead with the adoption and the child is entitled only to a temporary and renewable foreigner's residence permit. It is of concern because those two factors make the child's position very precarious from both the legal and emotional standpoints.

#### *Paragraph 115*

The necessary legislative measures should be taken to ensure that children who have been adopted abroad are granted, as soon as they arrive in Switzerland, either Swiss nationality if the parents are Swiss, or a temporary or permanent residence permit if the parents have such a permit, and the two-year trial period prior to the granting of adoption should not apply to them.

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- Australia, ICCPR, A/55/40 vol. I (2000) 71 at paras. 512 and 513.

### *Paragraph 512*

While noting the efforts by the State party to address the tragedies resulting from the previous policy of removing indigenous children from their families, the continuing effects of this policy remain of concern.

### *Paragraph 513*

The State party should intensify these efforts so that the victims themselves and their families will consider that they have been afforded a proper remedy (arts 2, 17 and 24).

- Argentina, ICCPR, A/56/40 vol. I (2001) 38 at para. 74(5).

Recent developments in which some of those responsible for the most serious violations of human rights, including forced disappearances, torture and removal of children from their parents for purposes of illegal adoption or trafficking, are being brought to trial, are welcomed. The establishment of a mechanism, without time restriction on its activities, to restore the identities of children who were forcibly removed from their families is particularly welcomed.

## ICESCR

- Philippines, ICESCR, E/1996/22 (1995) 30 at para. 111.

With regard to the issue of divorce, it is noted that different legal provisions apply in the predominantly Muslim provinces, where the Shari'a is given effect, and that in other parts of the State party divorce is legally forbidden. Concern is expressed about the discriminatory aspects of this approach and it is noted that civil marriage and divorce should be regulated so as to leave to the individuals concerned the duties that religion imposes. The prohibition on divorce often results in the breakdown of families, with highly detrimental consequences, particularly for abandoned women and children and also for the children of subsequent cohabitations, who must, by definition, be born out of wedlock.

- United Kingdom of Great Britain and Northern Ireland (Hong Kong), ICESCR, E/1997/22 (1996) 58 at para. 355.

Every possible measure should be taken to develop a fair and open one-way permit-approval mechanism in order to facilitate rapid family reunification.

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- Sri Lanka, ICESCR, E/1999/22 (1998) 22 at paras. 91 and 93.

### *Paragraph 91*

The Government should undertake an assessment of the impact on children of the prolonged absence of their mothers working abroad, with a view to educating Sri Lankan women in this regard, and to discourage women from leaving the country for employment abroad as domestic helpers, the conditions of which are often deplorable.

### *Paragraph 93*

It is recognized that economic conditions provide a strong incentive for many adults to seek work abroad, but it is noted that any resulting separation of parents, and especially mothers, from their children can have significant negative consequences, especially for the children. A study should be undertaken to shed more light on the issues involved and to provide a basis for more informed decision-making in such cases.

- Israel, ICESCR, E/1999/22 (1998) 43 at paras. 246 and 266.

### *Paragraph 246*

Concern is expressed over the effect of the directive of the Ministry of the Interior, according to which Palestinians may lose their right to live in the city if they cannot prove that East Jerusalem has been their "centre of life" for the past seven years. The serious lack of transparency in the application of the directive is regretted. It is noted with concern that this policy is being applied retroactively both to Palestinians who live abroad and to those who live in the West Bank or in nearby Jerusalem suburbs, but not to Israeli Jews or to foreign Jews who are permanent residents of East Jerusalem. This system has resulted in, *inter alia*, the separation of Arab families and the denial of their right to social services and health care, including maternity care for Arab women, which are privileges linked to residency status in Jerusalem. It is of deep concern that the implementation of a quota system for the reunification of Palestinian families affected by this residency law involves long delays and does not meet the needs of all divided families. Similarly, the granting of residency status is often a long process and, as a result, many children are separated from at least one of their parents, and spouses are not able to live together.

### *Paragraph 266*

The State party should reassess its Permanent Residency Law with a view to ensuring that its implementation does not result in impeding the enjoyment of economic, social and cultural rights by Palestinians in East Jerusalem. In particular, the quota system currently in place should be removed so that families separated by residency rules can be reunited without delay.

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- Ukraine, ICESCR, E/2002/22 (2001) 78 at paras. 494 and 511.

### *Paragraph 494*

The large number of children, especially newborns and children with disabilities, who are abandoned or are otherwise deprived of a family environment is of concern, and the absence of an effective strategy to address this phenomenon is regretted.

### *Paragraph 511*

The State party is urged to take effective measures, including the development of strategies and awareness-raising activities, aimed at reducing and preventing the abandonment of children. In particular, the State party should promote, through counselling and community-based programmes, the family as the best environment for the child and assist parents to keep their children at home. Moreover, effective measures should be taken to increase and strengthen family-based alternative care, so that children are placed in institutions only as a last resort.

## **CEDAW**

- Cuba, CEDAW, A/55/38 part II (2000) 73 at paras. 267 and 268.

### *Paragraph 267*

While the introduction of the option of divorce by consent constitutes a viable alternative to a court-supervised divorce, it may involve inherent risks of disadvantage for women.

### *Paragraph 268*

The implementation of divorce by consent should be monitored carefully, and in particular any negative impact this option might have for women with regard to issues such as alimony payments, custody and maintenance of children and distribution of property.

- Romania, CEDAW, A/55/38 part II (2000) 77 at para. 319.

The State party should consider how women's rights, including with regard to alimony and child custody, can be protected following dissolution of domestic partnerships.

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### CRC

- Russian Federation, CRC, CRC/C/16 (1993) 21 at paras. 78 and 86.

#### *Paragraph 78*

The serious problems of family life in the Russian Federation are considered to be an area of priority concern. Of particular concern is the tendency towards the breakdown of family culture as regards abandoned children, abortion, the divorce rate, the number of adoptions, the number of children born out of wedlock and recovery of maintenance obligations.

#### *Paragraph 86*

Greater efforts should be made to provide family life education, to organize discussions on the role of the family in society and to develop awareness of the equal responsibilities of parents.

- Indonesia (preliminary), CRC, CRC/C/20 (1993) 13 at para. 44.

Concern is expressed over the fact that the rights contained in article 14 of the Convention are not fully protected, in spite of the fact that they are non-derogable.

- Peru, CRC, CRC/C/20 (1993) 16 at para. 65.

The extent of violence within the family; the high number of abandoned and institutionalized children due to widespread family problems; and the fact that the Code on Children and Adolescents is not completely in conformity with the relevant provisions of the Convention on the Rights of the Child and relevant Conventions of the International Labour Organisation, especially with regard to minimum ages for admission to employment, are matters of concern.

- Romania, CRC, CRC/C/24 (1994) 21 at para. 97.

Greater efforts should be made to provide family education; to develop awareness of the equal responsibilities of parents; and to widely disseminate knowledge about modern methods of family planning, thereby reducing the practice of abortion.

- Belarus, CRC, CRC/C/24 (1994) 24 at para. 118.

It is hoped that the State party will become a party to the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, as well as the 1980 Convention on

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the Civil Aspects of International Child Abduction. Equally, the early adoption of the Family and Marriage Law is recommended and appropriate measures should be undertaken to address the serious problem of family breakdown in the State party.

- Jordan, CRC, CRC/C/29 (1994) 21 at para. 129.

A study on the extent and nature of domestic violence is recommended. Appropriate follow-up measures should be envisaged, especially in the fields of family education and social support.

- Poland, CRC, CRC/C/38 (1995) 20 at para. 135.

Greater efforts should be made to provide family education and to develop awareness of the role of the family in society and of the equal responsibilities of parents. Further steps should be taken to strengthen the system of assistance to both parents in the performance of their child-rearing responsibilities. It is further suggested that the problem of single parenthood be studied and that relevant programmes be established to meet the particular needs of single parents.

- Jamaica, CRC, CRC/C/38 (1995) 25 at para. 162.

The need for greater efforts in developing family education and awareness of the common parental responsibilities of both parents is stressed. Family planning information and services should be given greater attention and resources. Supporting further measures to promote early childhood development and providing childcare services and centres for working mothers is encouraged.

- Belgium, CRC, CRC/C/43 (1995) 20 at para. 105.

Concern is expressed over the fact that children who belong to disadvantaged groups appear more likely to be placed in care. In this regard, the importance of the family in the upbringing of a child is recalled and the view that the separation of a child from his or her family must take the child's best interest as a primary consideration is emphasized.

- Sri Lanka, CRC, CRC/C/43 (1995) 26 at paras. 150, 167 and 168.

### *Paragraph 150*

The situation of children whose mothers are working abroad, especially in Gulf countries, leaving their children behind, is of concern. Those children (between 200,000 and 300,000) often live in

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difficult circumstances and may be subjected to different types of abuse or exploitation.

### *Paragraph 167*

To avoid the abandonment of children by mothers working abroad, the State party should engage in dialogue with receiving countries to ensure an international agreement that permits migrant workers to take their children abroad. Ratification of the International Convention on the Rights of all Migrant Workers and Members of Their Families should be considered.

### *Paragraph 168*

To combat institutionalization and the abandonment of children born out of wedlock, an adequate alternative family care system that responds to the national culture and customs should be established. The authorities are encouraged to give full support to mothers of children born out of wedlock who wish to keep their children.

- Ukraine, CRC, CRC/C/46 (1995) 11 at paras. 57 and 72.

### *Paragraph 57*

The high rate of abandonment of children, especially new-born babies, and the lack of a comprehensive strategy to assist vulnerable families is worrisome. This situation can lead to illegal intercountry adoption or other forms of trafficking and sale of children. In this context, the absence of any law prohibiting the sale and trafficking of children, and the fact that the right of the child to have his/her identity preserved is not guaranteed by the law is also of concern.

### *Paragraph 72*

In view of the high rate of abandonment of children and of abortion, a strategy and policy to assist vulnerable families in supporting their children should be adopted. The adequacy of the current social security system and of family planning programmes should be evaluated. The training of social workers with the aim of mobilizing and strengthening communities is also recommended.

- Germany, CRC, CRC/C/46 (1995) 15 at paras. 107 and 111.

### *Paragraph 107*

Consideration should be given to extending and broadening the involvement of children in decisions affecting them in the family and in social life, including in proceedings relating to family reunification and adoption.

### *Paragraph 111*

The issue of asylum-seeking and refugee children deserves further study with a view to its reform. Such initiatives should reflect, *inter alia*, on the procedures, especially as they affect children of 16

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to 18 years of age, which govern the expulsion of children to third safe countries, family reunification and "airport regulation."

- Yugoslavia (Serbia and Montenegro), CRC, CRC/C/50 (1996) 17 at para. 98.

The attention of the State party is drawn to the constraints that are reported to be hampering the reunification of unaccompanied refugee children with their families and to the extent to which the rights of these children, most of whom are living in institutions, are being guaranteed and protected.

- Iceland, CRC, CRC/C/50 (1996) 23 at paras. 141 and 148.

### *Paragraph 141*

The best interest of the child to spend time in his/her family environment may be infringed by the long working hours of parents. Sufficient measures have not been taken to prevent children from being alone at home during their parents' working hours. In this connection, the insufficient availability of places in nursery schools is of concern.

### *Paragraph 148*

The procedures with regard to custody or to the separation of the child from his or her parents should be reviewed in order to ensure that the best interests of the child are always a primary consideration.

- Republic of Korea, CRC, CRC/C/50 (1996) 26 at paras. 157, 164 and 176.

### *Paragraph 157*

The reservations made by the State party to article 9, paragraph 3, article 21, paragraph (a) and article 40, paragraph 2 (b)(v) raise questions about their compatibility with the principles and provisions of the Convention, including the principles of the best interests of the child and respect for the views of the child.

### *Paragraph 164*

The insufficient measures taken to ensure that adoption is authorized by the competent authorities, on the basis of all pertinent and reliable information and of the informed consent of all persons concerned, including the child, as well as the high rate of inter-country adoption are of concern. With regard to child abuse and domestic violence, the lack of preventive policies and of adequate reporting mechanisms is a concern. Abandonment of children, the high rate of child headed families and the persistence of corporal punishment, widely envisaged by parents and teachers as an educational measure, are other subjects of concern.



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### *Paragraph 176*

The State party is encouraged to adopt further measures to provide assistance for the family, to ensure its responsibilities in the upbringing and development of the child, in particular in the light of articles 18 and 27 of the Convention. Special attention should be paid to the prevention of child abandonment, as well as to the prevention of, and appropriate assistance to, child-headed families.

- Croatia, CRC, CRC/C/50 (1996) 31 at paras. 197 and 198.

### *Paragraph 197*

That a number of unaccompanied children who have lost contact with their families are in institutions or in foster care is a concern. That some foster homes might accept responsibility for the care of children solely for the economic compensation provided to them is a further concern. The consequences for the children living under such conditions are not conducive to their sound development.

### *Paragraph 198*

That children might be removed from their families because of their health status or the difficult economic situation faced by their parents is a concern.

- Uruguay, CRC, CRC/C/57 (1996) 19 at para. 111.

That insufficient measures have been adopted to ensure that deprivation of liberty is only used as a measure of last resort, that children deprived of liberty are treated with humanity and in a manner which takes into account the needs of persons of their age, and that the right to maintain contact with their families and right to due process of law are ensured are matters of concern.

- United Kingdom of Great Britain and Northern Ireland (Hong Kong), CRC, CRC/C/57 (1996) 23 at paras. 150 and 152.

### *Paragraph 150*

Further measures need to be taken to address the issue of illegal immigrant children from China, especially with respect to the difficulties arising from families split between Hong Kong and China. In the light of the best interests of the child, action should be taken on an urgent basis to reduce the waiting period for family reunification, to raise the quota of permits and to consider other measures to deal with the problems that will arise in the future.

### *Paragraph 152*

Despite the recent increase in the number of social workers employed for child abuse cases, the case

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load of each professional may still be too high and the question of taking additional action to address such matters requires further study. The Committee encourages the efforts made to accord high priority to and to pursue more intensely the establishment of day-care centres in the community, including as a measure to prevent children being left unattended at home. The Committee also encourages the initiative undertaken to ensure, within the future, reviews of the Family Life Education Programme and an assessment of its effectiveness in preventing abuse.

- Bulgaria, CRC, CRC/C/62 (1997) 7 at para. 52.

Measures should be adopted to provide appropriate assistance to the family in the performance of its child-rearing responsibilities, including parental guidance and counselling, with a view to preventing domestic violence and abuse, abandonment and institutionalization of children. Research should be promoted in these areas.

- Ethiopia, CRC, CRC/C/62 (1997) 12 at para. 75.

Since children are able to lodge complaints only through their parents or legal guardians, the right to adequate recourse and complaint procedures for children victims of abuse, including sexual abuse, neglect or ill-treatment within their families, does not seem to be secured and is of concern. The enjoyment by children of their right to participate actively in the promotion of their own rights does not seem to be guaranteed and is also of concern.

- Myanmar, CRC, CRC/C/62 (1997) 25 at para. 174.

Occurrences of forced relocation, displacement and other types of involuntary population movements, which deeply affect families and the rights of children, should be prevented. The central tracing agency should be reinforced to favour family reunification.

- New Zealand, CRC, CRC/C/62 (1997) 38 at para. 241.

A study on the projected needs of single-parent families should be made in light of the increasing number of single-parent families, and measures should be taken to supplement those already in place to avoid potential negative consequences for these children and their parents in the future.

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- Bangladesh, CRC, CRC/C/66 (1997) 22 at para. 142.

The inadequate measures to assist parents in fulfilling their common child-rearing responsibilities and the lack of assistance or child support for many children living in single-parent families or other particularly vulnerable children are matters of concern. The inadequate provisions in legislation and in practice for alternative care for children deprived of a proper family environment are also of concern.

- Paraguay, CRC, CRC/C/66 (1997) 29 at paras. 190 and 210.

### *Paragraph 190*

The large number of children who are not acknowledged by their fathers and the inadequate measures taken to force fathers to be responsible for the welfare of their children are of concern.

### *Paragraph 210*

Parental education and family counselling should be promoted and measures should be taken to ensure adherence to the principle that both parents have common responsibilities for the upbringing of children.

- Azerbaijan, CRC, CRC/C/66 (1997) 41 at paras. 281 and 302.

### *Paragraph 281*

The inadequate support given to families living below the poverty line and to single-parent families is of concern.

### *Paragraph 302*

New and creative policies and programmes should be considered to adequately support vulnerable families, particularly those living in poverty or single-parent families. The status of families accommodating refugee or displaced children should be regularized.

- Lao People's Democratic Republic, CRC, CRC/C/69 (1997) 8 at para. 72.

All appropriate measures, including legal ones, should be taken to ensure that children maintain contact with both parents in case of divorce or separation, and to ensure the recovery of maintenance for the child.

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- Ireland, CRC, CRC/C/73 (1998) 14 at para. 98.

The appropriate measures should be taken to establish, as far as possible, procedures for the inclusion of the name of the father on the birth certificates of children born of unmarried parents.

- Maldives, CRC, CRC/C/79 (1998) 31 at paras. 232 and 233.

### *Paragraph 232*

The enactment of the State party's Family Law should be accelerated. Research and studies on the negative impact of family disruption on children should be undertaken. Furthermore, counselling services for parents should be improved.

### *Paragraph 233*

The establishment of alternative care measures, such as kafalah, for children deprived of a family environment should be considered.

- Luxembourg, CRC, CRC/C/79 (1998) 38 at paras. 252 and 270.

### *Paragraph 252*

It is of concern that the right of the child to know his or her parents is being denied to children born anonymously ("under x"), even if this right is proven to be in their best interests.

### *Paragraph 270*

All appropriate measures should be taken to ensure that the child's right to know his or her parents is enforced.

- Thailand, CRC, CRC/C/80 (1998) 35 at para. 173.

Efforts should be increased to provide support, including training, to parents, to discourage the abandonment of children. Additional programmes should be developed to facilitate alternative care, including foster care, additional training should be provided to social and welfare workers and independent complaint and monitoring mechanisms should be established for alternative care institutions.

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- Belize, CRC, CRC/C/84 (1999) 12 at paras. 77, 82 and 89.

### *Paragraph 77*

Legislative reform should be undertaken with a view to ensuring that fathers are also responsible for the registration of their children and that children born out of wedlock are guaranteed their right to preservation of identity, name and family relations.

### *Paragraph 82*

The lack of policies and programmes aimed at mother and child interaction activities within the home to promote leisure and creative play for children, particularly those under the age of two years, is of concern. Studies should be undertaken on play involving mother and child interaction with a view to developing adequate programmes and policies in this regard.

### *Paragraph 89*

The absence of specific legal provisions ensuring that children remain in contact with their families while in the juvenile justice system is of concern. Additional steps should be taken to reform the system of juvenile justice in the spirit of the Convention, in particular articles 37, 40 and 39, and of other United Nations standards in this field, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to considering deprivation of liberty only as a measure of last resort and for the shortest possible period of time, to protecting the rights of children deprived of their liberty, and to ensuring that children remain in contact with their families while in the juvenile justice system.

### *See also:*

- South Africa, CRC, CRC/C/94 (2000) 81 at para. 455.
  - Georgia, CRC, CRC/C/97 (2000) 18 at para. 145.
  - Suriname, CRC, CRC/C/97 (2000) 84 at para. 508.
  - United Kingdom of Great Britain and Northern Ireland (Overseas Territories), CRC, CRC/C/100 (2000) 40 at para. 264.
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- Guinea, CRC, CRC/C/84 (1999) 21 at para. 112.

The insufficient protection measures regarding domestic and intercountry adoption are of concern. Legal provisions regarding domestic and intercountry adoption should continue to be strengthened and accession to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 should be considered.

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- Yemen, CRC, CRC/C/84 (1999) 33 at para. 172.

Special attention should be given to enhancing the role of the family in the promotion of children's rights, and the importance of the status of women in family and social life should be stressed.

- Barbados, CRC, CRC/C/87 (1999) 9 at paras. 50 and 51.

### *Paragraph 50*

The challenges faced by children, as a result of changes in social and family structures, which have led to high numbers of single-parent households and reduced support from extended families, are of concern. The existing social security structures make it difficult for the State party to ensure that both parents contribute to the maintenance of the child. Attention should continue to be given to the risks of early parenthood and single parenthood, to the promotion of higher levels of involvement of fathers in the upbringing and development of the child, and to the need to provide necessary support to children in these cases.

### *Paragraph 51*

The Committee is concerned that the efforts to provide permanence and stability for children in care may, on occasion, lead to a premature decision that family reunification is no longer possible. Continued efforts to strengthen the foster care system in those instances where efforts to provide support to families prove insufficient are encouraged.

- Saint Kitts and Nevis, CRC, CRC/C/87 (1999) 17 at paras. 82 and 83.

### *Paragraph 82*

The apparent lack of legal protection with respect to the rights, including maintenance and inheritance rights, of children born out of wedlock from "visiting" or common law relationships and the financial and psychological impact of such relationships, is of concern. Efforts should be increased in developing family education and awareness through, *inter alia*, providing support, including training for parents, especially those in "visiting" and common law relationships, in parental guidance and joint parental responsibilities. All the necessary measures should be taken, including those of a legal nature, to ensure that the rights of children born of "visiting" and common law relationships are protected. Technical assistance should be sought from UNICEF and WHO.

### *Paragraph 83*

The absence of bilateral agreements for reciprocal enforcement of maintenance orders remains of concern. Efforts should be made to put in place the necessary measures to ensure the recovery of maintenance for children from parents who emigrate.

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### *See also:*

- Grenada, CRC, CRC/C/94 (2000) 72 at para. 400.
- Benin, CRC, CRC/C/87 (1999) 35 at para. 151.

The lack of policies and programmes to provide guidance and assistance to parents in fulfilling their parental responsibilities is of concern. Policies and programmes should be established to provide guidance and assistance to parents and to enhance their parental skills.

- Nicaragua, CRC, CRC/C/87 (1999) 54 at paras. 234 and 236.

### *Paragraph 234*

Efforts should be enforced to address family issues such as family disintegration, adolescent pregnancies and violence within the family. Furthermore, adequate financial and human resources for family and social programmes should be allocated.

### *Paragraph 236*

Accession to the Hague Convention on Protection of Children and Cooperation in Respect of intercountry Adoption of 1993 should be considered.

- Mexico, CRC, CRC/C/90 (1999) 34 at para. 181.

Further measures should be undertaken to promote the participation of children in the family, at school and in other social institutions, as well as to guarantee their effective enjoyment of the fundamental freedoms, including those of opinion, expression and association.

- India, CRC, CRC/C/94 (2000) 10 at paras. 93 and 94.

### *Paragraph 93*

Welcoming administrative policies which have generally been in line with international refugee law principles, the Committee is concerned that in the absence of legislation there remains no guarantee that children asylum-seekers and refugees will be ensured the protection and assistance provided by the Convention. The Committee is concerned that there exists the potential for children born of refugee parents to become stateless; that there is no adequate legal mechanism to deal with family reunification; and that although refugee children attend school on a *de facto* basis, there is no legislation which entitles these children to education.

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### *Paragraph 94*

It is recommended that the State party adopt comprehensive legislation to ensure adequate protection of refugee and asylum-seeking children, including in the field of physical safety, health, education and social welfare, and to facilitate family reunification. In order to promote the protection of refugee children, the State party is encouraged to consider ratifying the 1951 Convention relating to the Status of Refugees, and its 1967 Protocol; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.

- Sierra Leone, CRC, CRC/C/94 (2000) 24 at paras. 164-166, 186, 191 and 192.

### *Paragraph 164*

It is recommended that the State party make every effort to strengthen family ties and the capacity of parents to fulfil their role in contributing to the protection of children's rights and providing, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the Convention. The Committee recommends, *inter alia*, the strengthening of existing mechanisms which provide guidance to parents and families, and that equal emphasis, in such efforts, be placed on the roles of women and of men.

### *Paragraph 165*

Deep concern is expressed about the large number of children who have been deprived of a family environment through the death of, or separation from, their parents or other family. Concern is expressed that children deprived of their family environment may increasingly travel to the main towns, where they may live on the streets and be particularly vulnerable to exploitation and abuse.

### *Paragraph 166*

The State party is urged to make every effort to strengthen family tracing programmes and to plan for the effective provision of alternative care for separated children, with particular focus on unaccompanied children living in the streets of main towns and making use of the extended family, foster care and other alternative family structures.

### *Paragraph 186*

The Committee is deeply saddened by the direct effects of the armed conflict on all child victims, including child combatants, and is concerned at the tragic loss of life and severe psychological trauma inflicted upon them. The very high number of children who have been internally displaced within the country or who have been forced to leave as refugees is also a concern, including, in particular, those who have been separated from their parents.

### *Paragraph 191*

The situation of the continuing numbers of unaccompanied children in the State party is a concern.



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### *Paragraph 192*

The State party is urged to make every effort to support these children through, *inter alia*, family tracing activities and assistance in gaining access to health services, schools or vocational training activities, as appropriate.

- Armenia, CRC, CRC/C/94 (2000) 53 at paras. 322, 336 and 337.

### *Paragraph 322*

Deep concern is expressed over the prevailing policies and practices of institutionalization in Armenia. Concern is expressed that institutionalization, quite apart from being an alternative for children deprived of their parents, is effectively a substitute for parents who do not have the means to maintain their children. Moreover, the high numbers of children in institutions, and the living conditions there, are a concern. These institutions are inadequately organized to provide a family environment, to support family ties or to meet the individual needs of each child. Few community services are available to assist the parents to resolve the problems that force them to seek admission of their children. In the light of article 25 of the Convention, the inadequate system to review placement or monitor the situation of children in institutions is a concern.

### *Paragraph 336*

The situation of children living and/or working on the streets, who are amongst the most marginalized groups of children in Armenia, is a concern.

### *Paragraph 337*

The State party should ensure these children have access to health care; rehabilitation services for physical, sexual and substance abuse; services for reconciliation with families; comprehensive education, including vocational and life-skills training; and access to legal aid.

### *See also:*

- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at paras. 66 and 67.
- Jordan, CRC, CRC/C/97 (2000) 31 at para. 198.
- Dominican Republic, CRC, CRC/C/103 (2001) 91 at paras. 526 and 527.

- South Africa, CRC, CRC/C/94 (2000) 81 at paras. 435 and 448.

### *Paragraph 435*

The increasing number of single-parent and child-headed families and the impact (both financial and psychological) on children is noted with concern. The insufficient support and counsel in the areas

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of parental guidance and responsibilities are also matters of concern. The State party is encouraged to increase its efforts in developing family education and awareness through, *inter alia*, providing support, including training for parents, especially single parents, in parental guidance and joint parental responsibilities, in light of article 18 of the Convention. It is recommended that the State party take all necessary measures to reduce and prevent the increasing number of child-headed households and to introduce adequate support mechanisms for existing child-headed families. The State party should undertake a study on the situation of single parent, polygamous and child-headed families with a view to assessing the impact on children.

### *Paragraph 448*

The absence of formal legislative and administrative measures to ensure family reunification and to guarantee the right of access to education and health for refugee children are a concern. It is recommended that the State party develop a legislative and administrative framework to guarantee and facilitate family reunification.

### *See also:*

- Malta, CRC, CRC/C/97 (2000) 75 at paras. 440 and 441.
  
- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at paras. 42, 46 and 47.

### *Paragraph 42*

The infringement of a child's rights under the Convention as a result of indirect discrimination, or discrimination against his or her mother, under the Civil Code (e.g. in relation to custody, guardianship and nationality) is incompatible with article 2.

### *Paragraph 46*

Concern is expressed that the general principle of the best interests of the child contained in article 3 of the Convention is not a primary consideration in all actions concerning children, including in matters relating to family law (e.g. duration of custody under articles 1169 and 1170 of the Civil Law is arbitrary as it is determined by the child's age, and is discriminatory against the mother).

### *Paragraph 47*

Legislation and administrative measures should be reviewed to ensure that article 3 of the Convention is duly reflected therein.

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- Jordan, CRC, CRC/C/97 (2000) 31 at paras. 201 and 202.

### *Paragraph 201*

That there is no legislation to specifically guarantee the protection and rights of refugee children is a concern. In particular, there are no procedures to prevent refugee children from becoming stateless, no legislative measures applicable to family reunification, and no special status determination procedures for unaccompanied children.

### *Paragraph 202*

The State party should adopt special measures to deal with unaccompanied children; should develop and implement a functioning system for family reunification to better protect children from being separated from their parents; and should review discriminatory employment policies (i.e. issuance of work permits) which affect the capacity of refugee families to support themselves adequately.

### *See also:*

- Georgia, CRC, CRC/C/97 (2000) 18 at paras 130 and 131.
  
- Norway, CRC, CRC/C/97 (2000) 43 at paras. 231, 232 and 239-244.

### *Paragraph 231*

The State party's significant efforts to respect the best interests principle are acknowledged, but it is noted that improvements can be made. In particular, in the context of the role of municipal authorities, the best interests of the child are not always taken into full consideration. The best interests of children with an imprisoned parent, unaccompanied child asylum-seekers or refugees are not always a primary consideration.

### *Paragraph 232*

The State party should, in consultation with the office of the ombudsperson and with civil society, consider the implications of the best interests principle in the context of the above situations and further efforts should be made to ensure that the principle is a primary consideration in decisions which affect children.

### *Paragraph 239*

Concern is expressed that the best interests of the child, and in particular, child rights with regard to separation from parents, are not fully respected in the context of maintaining contact with parents serving prison sentences. Despite the State party's positive efforts, concern is expressed that when decisions to deport foreigners convicted of a criminal offence are taken, professional opinions on the impact of such decisions upon the children of the deported persons are not systematically referred to and taken into consideration.

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### *Paragraph 240*

Application of family contact rules for imprisoned persons should be flexible so as to ensure that a child maintains personal relations and direct contact with an imprisoned parent, where this is in the best interests of the child. The process through which deportation decisions are made should be reviewed to ensure that, where deportation will mean the separation of a child from his or her parent, the best interests of the child are taken into consideration.

### *Paragraph 241*

While supporting the State party's very positive approach to family reunification of non-Norwegian children, the significant domestic measures providing for family reunification are not applied to their full extent. In particular, concern is expressed that children are not always able to take advantage of these provisions either because they have not been informed of the possibilities for family reunification because of procedural delays, or because procedures are not systematic.

### *Paragraph 242*

A standard procedure should be established through which children and other concerned persons such as their parents or legal guardians are informed of the possibilities and procedures for family reunification and these procedures should be implemented systematically in accordance with set guidelines.

### *Paragraph 243*

Concern is expressed about the increase in the numbers of children being placed outside their parental home, in particular through the informal voluntary placement procedure which might not always guarantee that the best interests of the child are observed.

### *Paragraph 244*

The factors which lead to the need to place children outside their parental homes and the practice of informal placement itself should be analyzed, and effective measures should be taken to guarantee that the rights of children to family life and the best interests of the child are respected.

- Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at paras. 305, 316 and 317.

### *Paragraph 305*

The state party should establish a comprehensive national policy and guidelines governing foster care and adoption, including screening, as well as a central monitoring mechanism in this regard. The State party should ensure that adopted children who have reached the age of majority have the right of access to the identity of their biological parents, in accordance with Kyrgyz custom. When the State party envisages lifting its suspension on intercountry adoptions, it should accede to the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

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### *Paragraph 316*

It is noted that one of the many consequences of economic transition is deterioration in the family environment. This leads to an increase in homeless children in the streets and markets of Bishkek and other cities. Concern is expressed about the situation of children living and/or working on the streets, who are amongst the most marginalized groups of children in Kyrgyzstan.

### *Paragraph 317*

The State party should ensure these children have access to health care; rehabilitation services for physical, sexual, and substance abuse; services for reconciliation with their families; comprehensive education, including vocational and life-skills training; and legal aid.

- Cambodia, CRC, CRC/C/97 (2000) 64 at paras. 367, 368 and 387.

### *Paragraph 367*

Concern is expressed that children tend to be placed in child welfare centres or children's homes rather than in foster care or adopted; at the lack of regulations for the operation of such centres; and at the increasing number of orphans owing to the HIV/AIDS epidemic and the limited measures available to cope with this situation.

### *Paragraph 368*

Effective measures should be undertaken to promote, through counselling and community-based programmes, the family as the best environment for the child and to empower parents to take care of their children in order to avoid placement in child welfare centres.

### *Paragraph 387*

The necessary measures should be taken to introduce legislation for the protection of the rights of refugee children, in line with the relevant international standards, and to develop a family reunification procedure to assist refugee children who might be separated from their families.

- Suriname, CRC, CRC/C/97 (2000) 84 at paras. 477 and 478.

### *Paragraph 477*

While it is noted that the views of children over 12 may be heard in cases of adoption and that a bill has been prepared to apply the same rule in cases of custody and visitation after divorce, concern is expressed about the limited scope of the bill. The full implementation of article 12 of the Convention continues to be limited by traditional practices, culture and attitudes which consider children who express their views and opinions as "impudent" and "impertinent".

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### *Paragraph 478*

The State party should review and expand the scope of the bill providing for the opinion of children to be heard in custody and visitation rights cases; develop a systematic approach to increasing public awareness of the participatory rights of children; and encourage respect for the views of the child within the family, communities, schools, and in the care, administrative and judicial systems.

- Djibouti, CRC, CRC/C/97 (2000) 96 at paras. 542 and 543.

### *Paragraph 542*

The impact of gender discrimination on the sharing of parental responsibility and the impact on children of the continuing practice of polygamy are matters of concern. Concern is also expressed about the lack of detailed information regarding cases of children separated from their parents against their will when necessary for the best interests of the child and respecting the legal guarantees set by the provisions of article 9 of the Convention.

### *Paragraph 543*

The State party is encouraged to review its legislation, programmes and policies so as to promote the equal sharing of parental responsibility, discourage the practice of polygamy, and ensure adequate protection of children from abuse and neglect even when it may involve the need to separate children from their parents against their will.

- Finland, CRC, CRC/C/100 (2000) 8 at paras. 61 and 62.

### *Paragraph 61*

The Act on the Integration of Immigrants and Reception of Asylum-seekers of 1999 is noted. This introduces some reforms in the way unaccompanied children seeking asylum are received. Concern is expressed at the fact that the process of family reunification is still very long and that this could have a negative impact on the children involved.

### *Paragraph 62*

The State party is encouraged to examine the reasons for the delays in the procedures for processing asylum applications and for the settlement of children, with a view to shortening them.

- Burundi, CRC, CRC/C/100 (2000) 17 at paras. 131 and 132.

### *Paragraph 131*

Deep concern is expressed at the breakdown in nuclear family structures, at the emergence of a high proportion of single-parent-headed households, child-headed households and grandparent-headed

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households, and at the immediate and long-term consequences that these weaknesses in the family structure may have on children. The strong bias in favour of fathers in the context of child custody disputes is also a concern.

### *Paragraph 132*

Noting the efforts already made in this regard, the State party is encouraged to continue and strengthen support to families, including through assistance with agricultural production and legal and financial assistance in obtaining adequate housing and land and counselling to help resolve problems. The State party is urged to give particular attention to the establishment of psycho-social and parental guidance programmes to strengthen vulnerable family units such as single-parent-, child- and grandparent-headed households. It should be ensured that in granting one parent custody of a child, the decision is made in accordance with the best interests of the child, with the child's participation and with consideration for the emotional needs of the child.

- Tajikistan, CRC, CRC/C/100 (2000) 53 at paras. 297, 298 and 312.

### *Paragraph 297*

Concern is expressed about the large number of children, especially children with disabilities, who are abandoned or are otherwise deprived of a family environment. Foster care, or other forms of family-based alternative care, are not sufficiently developed and available. As a result, children are placed in institutions which, owing to lack of resources, provide children with very low quality housing and care. Further, concern is expressed about the absence of effective mechanisms for children to communicate concerns and complaints about their placement. Moreover, in the light of article 25 of the Convention, the Committee is concerned about the inadequate system to review placement, monitoring or follow-up of the situation of children in institutions.

### *Paragraph 298*

Effective measures should be taken, including the development of strategies and awareness-raising activities, to reduce and prevent the abandonment of children. In particular, it is recommended that the family be promoted as the best environment for the child, through counselling and community-based programmes to assist parents to keep children at home. Furthermore, in cases where placement of children is necessary, the State party should provide, promote and strengthen, as much as possible, foster care, family-type foster homes and other family-based alternative care. Children should be placed in institutions only as a last resort. All necessary measures should be taken to improve infrastructure and to improve the quality of care through adequate training of and support for all personnel. The State party should also establish effective mechanisms to receive and address complaints from children in care, monitor standards of care and establish regular periodic review of placement.

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### *Paragraph 312*

The State party should establish and implement a functional system of family reunification in order better to protect children from being separated from their parents.

### *See also:*

- Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at paras. 302 and 303.
  
- Colombia, CRC, CRC/C/100 (2000) 64 at paras. 362 and 364.

### *Paragraph 362*

Deep concern remains about the large numbers of children who have been deprived of a family environment as a consequence of abandonment by, the death of, or separation from their parents. In this regard, concern is expressed, *inter alia*, at reports regarding difficulties and slow progress in tracing separated families and children; the lack of adequate mechanisms of protection for children living in institutions; the placement of children in institutions for long periods and the predominance of the use of placement in institutions over the development of alternative care measures.

### *Paragraph 364*

The State party should develop additional programmes to facilitate alternative care, provide additional training for social and welfare workers and establish independent complaint and monitoring mechanisms for alternative care institutions. The State party is urged to make every effort to strengthen family tracing programmes and to increase its efforts in providing support, including training for parents, to discourage the abandonment of children. Adequate periodic review of the placement of children living in institutions should be ensured.

- Slovakia, CRC, CRC/C/100 (2000) 100 at paras. 570 and 571.

### *Paragraph 570*

Concern is expressed about the existing practice of placing children outside the parental home and into institutional care, the limited periodic review of placement, and insufficient follow-up of children who leave institutional care.

### *Paragraph 571*

Efforts should be continued and strengthened to provide families and children in need with adequate professional and other support and to reunite children placed in institutions with their families. With respect to alternative care, the State party is encouraged to strengthen the foster care system and to promote placement of children with foster families and family-type foster homes. Attention needs to be given to adequate periodic review of placement, in accordance with article 25 of the



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Convention, and follow-up of children who leave care.

- Latvia, CRC, CRC/C/103 (2001) 9 at paras. 56 and 57.

### *Paragraph 56*

Concern is expressed about the high number of children living in institutions, due mainly to the fact that children living in vulnerable families or with a very low income cannot be supported because of the lack of alternative care and of social assistance.

### *Paragraph 57*

In light of articles 18 and 26 of the Convention, comprehensive measures should be developed to support vulnerable families with a view to assisting them in their child-rearing responsibilities, for instance by increasing various forms of social assistance to families or by securing child-care services and facilities to help them with their child-rearing.

- Liechtenstein, CRC, CRC/C/103 (2001) 19 at paras. 90 and 91.

### *Paragraph 90*

Concern is expressed about the reservation made by the State party to article 10 (2) of the Convention as well as the State's policy regarding family reunification. These suggest that the State party has serious difficulties in dealing with applications for the purpose of family reunification in a positive, humane and expeditious manner and without adverse consequences for the applicants.

### *Paragraph 91*

The State party should take the necessary legal and other measures to establish a practice in the area of family reunification in accordance with the principles and provisions of the Convention. The State party is encouraged to consider the withdrawal of its reservation to article 10 (2) of the Convention.

- Ethiopia, CRC, CRC/C/103 (2001) 24 at paras. 158, 159, 164, 165, 186 and 187.

### *Paragraph 158*

In the context of population displacement caused by natural disasters or armed conflict, many children have been separated from their families, and this is of concern.

### *Paragraph 159*

The State party should continue and strengthen its efforts to ensure family reunification. Assistance should be sought from UNICEF and the Office of the United Nations High Commissioner for Refugees in this regard.

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### *Paragraph 164*

While noting the very positive changes made to the Family Code, which establish fathers and mothers on a more equal legal base in the context of family separation than was previously the case, concerns remain that traditional and discriminatory practices may continue in spite of the new legislation.

### *Paragraph 165*

The State party should make every effort to ensure that the provisions of the new Family Code are known by the population and respected and implemented in practice, and that structures are put in place to empower parents and children to claim child maintenance payments.

### *Paragraph 186*

Concern is expressed at the difficult situation faced by refugee and internally displaced children and their families in the State party, including in terms of their access to education and health services and in terms of family reunification.

### *Paragraph 187*

The State party should continue and strengthen its efforts to provide assistance to refugee and internally displaced children and their families, including with regard to education and health services and family reunification and reinstallation.

- Turkey, CRC, CRC/C/108 (2001) 18 at paras. 123, 124, 137 and 138.

### *Paragraph 123*

The high number of children who live in institutions, half of whom are placed there because of socio-economic problems affecting their families, is of concern. It is also of concern that these institutions are in some cases in a bad physical state and need adequately trained and competent staff. The reorganization of some of these institutions into family units of small groups of children is recognized with appreciation. It is further noted that the foster care system is not sufficiently developed and that the law on adoption is too restrictive.

### *Paragraph 124*

The State party should review the system of institutionalization of children and should ensure, in the light of article 25 of the Convention, the periodic review of children placed in institutions. More financial and human resources should be allocated to improve the situation of children living in institutions. In the light of article 20, the State party is encouraged to promote alternative care and to further improve the quantity, quality and efficiency of foster care, including by providing sufficient financial support. Further, in light of article 21, the State party is encouraged to review the law on adoptions with a view to facilitating the adoption process.

### *Paragraph 137*

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It is noted that personnel dealing with child asylum-seekers and refugees do not have training on child rights issues, in particular on how to deal with children who are unaccompanied and in cases of family reunification, as well as with children who come from areas affected by war and who may have been victims of traumatic experiences.

### *Paragraph 138*

Adequate training should be provided to officials who deal with child asylum-seekers and refugees, in particular in child-interviewing techniques and on how to ensure family reunification.

- Democratic Republic of the Congo, CRC, CRC/C/108 (2001) 31 at paras. 185, 186, 191-194, 211 and 212.

### *Paragraph 185*

It is of deep concern that the State seems increasingly to be shifting its duties and responsibilities onto parents and persons effectively or legally responsible for a child's upbringing. The large number of single-parent and child-headed households, the diminishing role of the extended family, and the negative effect of these changes on respect for children's rights are also matters of concern. Additionally, the increasing practice of "bi-linear" families under which a community leader assumes parental responsibilities for children, is of concern as this practice is replacing parents and has a negative impact on children.

### *Paragraph 186*

The State party should identify, within the framework of a coherent family policy, priorities in terms of the assistance required by parents and other guardians in the context of their care for children, and should ensure provision of the necessary financial and human resources, in particular for single parents and child-headed households. In addition, it is recommended that attention should be given to concerns related to "bi-linear" parenting practices.

### *Paragraph 191*

It is of concern that fathers are favoured by courts when determining which parent should have the care of children, that financial security is often the only criterion referred to by judges in such decisions, and that the best interests of the child are not a primary consideration.

### *Paragraph 192*

Steps should be taken to guarantee that child custody decisions are made on the basis of the best interests of the child and take due account of a child's views while also ensuring respect for a child's right to maintain contact with parents.

### *Paragraph 193*

Concern is expressed at the practice of "fictitious" care for children deprived of their parents, as

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replacement for genuine adoption, which deprives these children of care and education. Mechanisms

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### *Paragraph 266*

The necessary resources should be allocated for programmes and facilities for all children with disabilities, especially those living in rural areas, and community-based programmes should be developed to enable them to stay at home with their families. Also, support programmes for parents of children with disabilities are recommended, including counselling and, when necessary, financial assistance.

- Côte d'Ivoire, CRC, CRC/C/108 (2001) 59 at paras. 329 and 330.

### *Paragraph 329*

While noting the existence of the National Programme for the Control of AIDS, Sexually Transmitted Infections and Tuberculosis, the establishment of a special Ministry on HIV/AIDS, and the setting up of a committee on HIV/AIDS orphans, extreme concern remains at the alarmingly high incidence and increasing prevalence of HIV/AIDS amongst adults and children and the resulting large number of children orphaned by HIV/AIDS. The lack of alternative care for these children is also of concern. The large number of teachers dying of HIV/AIDS in the State party is of deep concern.

### *Paragraph 330*

The State party should increase its efforts to prevent HIV/AIDS. The State party is also urged to consider ways of minimizing the impact upon children of the HIV/AIDS-related deaths of parents, teachers and others, in terms of children's reduced access to a family life, to adoption, to emotional care and to education. Technical assistance should be sought from, among others, UNAIDS.

### *See also:*

- Cameroon, CRC, CRC/C/111 (2001) 71 at paras. 371 and 372.
  - Gabon, CRC, CRC/C/114 (2002) 47 at paras. 223 and 224.
  - Malawi, CRC, CRC/C/114 (2002) 104 at paras. 426 and 427.
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- United Republic of Tanzania, CRC, CRC/C/108 (2001) 71 at paras. 381, 407, 416, 417 and 419.

### *Paragraph 381*

All appropriate measures should be taken 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, especially those relating to marriage, custody, maintenance and inheritance rights.

### *Paragraph 407*

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The State party should establish mechanisms to ensure that children living and/or working on the streets are provided with nutrition, clothing and housing. Moreover, it should be ensured that these children are provided adequate access to health care; rehabilitation services for physical, sexual and substance abuse; services for reconciliation with their families; and education, including vocational and life-skills training.

### *Paragraph 416*

It is of concern that there have been reported incidents of the sale, trafficking and abduction of children, especially girls, primarily for domestic labour.

### *Paragraph 417*

Effective measures should be taken to prevent and combat the sale, trafficking and abduction of children. The State party should facilitate the reunification of child victims with their families and provide adequate care and rehabilitation for them.

### *Paragraph 419*

The State party should use deprivation of liberty only as a measure of last resort and for the shortest possible period of time; improve the conditions in detention facilities; protect the rights of children deprived of their liberty, including their right to privacy; and ensure that children remain in contact with their families while in the juvenile justice system.

### *See also:*

- Côte d'Ivoire, CRC, CRC/C/108 (2001) 59 at paras. 345 and 350.
- Kenya, CRC, CRC/C/111 (2001) 21 at para. 145.
- Cameroon, CRC, CRC/C/111 (2001) 71 at para. 393.
  
- Bhutan, CRC, CRC/C/108 (2001) 85 at paras. 460 and 461.

### *Paragraph 460*

It is of concern that as a result of events following the census in the late 1980s, there may be children in southern Bhutan who are separated from their parents, or whose parents are residing abroad as refugees.

### *Paragraph 461*

The State party should ensure that family reunification is dealt with in a positive, humane and expeditious manner, in accordance with article 10 of the Convention.

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- Monaco, CRC, CRC/C/108 (2001) 97 at paras. 511 and 512.

### *Paragraph 511*

The lack of rules concerning *in vitro*-fertilization and respect for a child's right to know his or her identity is a matter of concern.

### *Paragraph 512*

The State party should consider ways to ensure respect of a child's right to know his or her parents' identities, as far as possible.