



**Convention on the  
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COMMITTEE ON THE RIGHTS OF THE CHILD  
Thirty-fourth session  
15 September-3 October 2003

**REPORT ON THE THIRTY-FOURTH SESSION  
(Geneva, 15 September-3 October 2003)**

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**I. RECOMMENDATION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD ON ITS WORKING METHODS\***

*The Committee on the Rights of the Child,*

*Welcoming once again* the rapid and unprecedented number of ratifications of and accessions to the Convention on the Rights of the Child of 1989, making it, with 192 States parties, the most widely accepted international human rights instrument,

*Recalling* that in accordance with article 44 of the Convention, States parties are requested periodically to submit reports to the Committee on the Rights of the Child for the purpose of examining progress made in achieving the realization of the obligations recognized under the Convention,

*Noting with great concern* that the Committee on the Rights of the Child is faced with an extremely heavy workload and a significant backlog of States parties' reports awaiting review, and that reports submitted cannot be considered by the Committee until approximately two years after their submission,

*Aware* that 13 initial reports and 100 second periodic reports are overdue,

*Aware also* that since the two Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict entered into force in 2002, States parties have begun to submit initial reports on the implementation of these protocols,

*Recalling* the approval by the General Assembly at its forty-ninth session of the Committee's recommendation adopted at its fifth session in January 1994 requesting the Assembly to increase the number of its annual sessions and pre-sessional working groups to enable the Committee to address its workload,

*Recalling also* that in January 2000, the Committee decided to consider the reports of 27, rather than 18, States parties annually, thereby increasing its workload by 50 per cent, in order to address the backlog of States parties' reports awaiting review,

*Highlighting* the fact that in order to rationalize its work and that of States parties, the Committee decided at its thirtieth session in 2002 to request all States parties to limit their periodic reports to 120 pages,

*Welcoming* the entry into force on 18 November 2002 of the amendment to article 43, paragraph 2, of the Convention increasing the membership of the Committee from 10 to 18 members,

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\* Adopted at its thirty-fourth session.

*Welcoming also* the ongoing dialogue the Committee has established with States parties to the Convention on its working methods, including during its informal meeting with States parties in Geneva on 19 January 2003,

*Recalling* the Secretary-General's emphasis, in his report on strengthening the United Nations: an agenda for further change (A/57/387 and Corr.1), on the importance of continued efforts to modernize the human rights treaty system, and the General Assembly's call for streamlined reporting procedures contained in its resolution 57/300,

*Convinced* that fundamental reform of its working methods is required so that the Committee can consider States parties' reports in a timely manner,

1. *Decides* that beginning at its thirty-eighth session in January 2005, for an initial period of two years, it will consider the reports of States parties in two parallel chambers, each consisting of nine members of the Committee, taking due account of equitable geographical distribution, thereby increasing the number of States parties' reports to be examined from 27 to 48 a year;
2. *Requests* the General Assembly at its fifty-eighth session to approve the Committee's decision and to provide appropriate financial resources to enable the Committee to work in two chambers, beginning at the pre-sessional working group for its thirty-eighth session.

## **II. ORGANIZATIONAL AND OTHER MATTERS**

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

1. As at 3 October 2003, the closing date of the thirty-fourth session of the Committee on the Rights of the Child, there were 192 States parties to the Convention on the Rights of the Child. The Convention was adopted by the General Assembly in its resolution 44/25 of 20 November 1989 and opened for signature and ratification or accession in New York on 26 January 1990. It entered into force on 2 September 1990, in accordance with the provisions of article 49 thereof. An updated list of States that have signed, ratified or acceded to the Convention is available on: [www.ohchr.org](http://www.ohchr.org).
2. As at the same date, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict had been ratified or acceded to by 63 States parties and signed by 115 States. The Optional Protocol entered into force on 12 February 2002. Also as at the same date, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography had been ratified or acceded to by 65 States parties and signed by 108 States. It entered into force on 18 January 2002. The two Optional Protocols to the Convention were adopted by the General Assembly in its resolution 54/263 of 25 May 2000 and opened for signature and ratification or accession in New York on 5 June 2000. A list of States that have signed, ratified or acceded to the two Optional Protocols is available on: [www.ohchr.org](http://www.ohchr.org).
3. The texts of the declarations, reservations or objections made by States parties with respect to the Convention are reproduced in document CRC/C/2/Rev.8.

## **B. Opening and duration of the session**

4. The Committee on the Rights of the Child held its thirty-fourth session at the United Nations Office at Geneva from 15 September to 3 October 2003. The Committee held 29 meetings. An account of the Committee's deliberations at its thirty-fourth session is contained in the relevant summary records (see CRC/C/SR.890; 892; 903; 906-909; 912-915 and 918).

## **C. Membership and attendance**

5. All the members of the Committee attended the thirty-fourth session. A list of members, together with an indication of the duration of their terms of office, is provided in annex I to the present report. Mr. Ibrahim Al-Sheddi (absent from 15 to 19 September and from 30 September to 3 October); Ms. Moushira Khattab (absent on 22, 25 and 26 September), Mr. Hatem Kotrane (absent from 25 September to 1 October); and Ms. Awa N'Deye Ouedraogo (absent on 15 September) were not able to attend the session in its entirety. Ms. Joyce Aluoch and Ms. Marjorie Taylor could not attend the thirty-fourth session.

6. The following United Nations bodies were represented at the session: Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Children's Fund (UNICEF), Office of the United Nations High Commissioner for Refugees (UNHCR).

7. The following specialized agencies were also represented at the session: International Labour Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Health Organization (WHO).

8. Representatives of the following non-governmental organizations also attended the session:

### General consultative status

International Confederation of Free Trade Unions, International Council of Women, International Movement ATD Fourth World, International Save the Children Alliance, Zonta International.

### Special consultative status

Amnesty International, Arab Organization for Human Rights, Coalition against Trafficking in Women, Defence for Children International, International Commission of Jurists, International Confederation of Social Workers, International Federation of Women in Legal Careers, International Federation Terre des Hommes, International Service for Human Rights, World Federation of Methodist and Uniting Church Women, World Organization against Torture.

### Others

NGO Group for the Convention on the Rights of the Child, NGO Working Group for Nutrition, International Baby Food Action Network.

#### **D. Agenda**

9. At its 890th meeting, on 15 September 2003, the Committee adopted the following agenda on the basis of the provisional agenda (CRC/C/131):

1. Adoption of the agenda
2. Organizational matters
3. Submission of reports by States parties
4. Consideration of reports of States parties
5. Cooperation with other United Nations bodies, specialized agencies and other competent bodies
6. Day of general discussion
7. Methods of work of the Committee
8. General comments
9. Future meetings
10. Other matters

#### **E. Pre-sessional working group**

10. In accordance with a decision of the Committee at its first session, a pre-sessional working group met in Geneva from 10 to 13 June 2003. All the members except Mr. Ibrahim Al-Sheddi, Ms. Joyce Aluoch, Ms. Saisuree Chutikul, Ms. Awa N'Deye Ouedraogo, Ms. Marilia Sardenberg and Ms. Marjorie Taylor participated in the working group. Representatives of OHCHR, ILO, UNICEF, UNESCO, UNHCR and WHO also participated. A representative of the NGO Group for the Convention on the Rights of the Child, as well as representatives from various national and international non-governmental organizations, also attended.

11. The purpose of the pre-sessional working group is to facilitate the Committee's work under articles 44 and 45 of the Convention, primarily by reviewing State party reports and identifying in advance the main questions that would need to be discussed with the representatives of the reporting States. It also provides an opportunity to consider questions relating to technical assistance and international cooperation.

12. Mr. Jaap Doek chaired the pre-sessional working group, which held eight meetings at which it examined lists of issues put before it by members of the Committee relating to the initial reports of three countries (San Marino, Brunei Darussalam and Singapore) and the second

periodic reports of six countries (Canada, New Zealand, Pakistan, Madagascar, Bangladesh and Georgia). The lists of issues were transmitted to the Permanent Missions of the States concerned with a note requesting written answers to the issues raised in the list, if possible, before 6 August 2003.

#### **F. Organization of work**

13. The Committee considered the organization of its work at its 890th meeting, on 15 September 2003. The Committee had before it the draft programme of work for the thirty-fourth session, prepared by the Secretary-General in consultation with the Chairperson of the Committee, and the report of the Committee on its thirty-third session (CRC/C/132).

#### **G. Future regular meetings**

14. The Committee decided that its thirty-fifth session would take place from 12 to 30 January 2004 and that its pre-sessional working group for the thirty-sixth session would meet from 2 to 6 February 2004.

### **III. REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION AND THE OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT**

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

15. The Committee had before it the following documents:

- (a) Notes by the Secretary-General on initial reports by States parties due in 1992 (CRC/C/3), 1993 (CRC/C/8/Rev.3), 1994 (CRC/C/11/Rev.3), 1995 (CRC/C/28), 1996 (CRC/C/41), 1997 (CRC/C/51), 1998 (CRC/C/61) and 1999 (CRC/C/78); and on periodic reports by States parties due in 1997 (CRC/C/65), 1998 (CRC/C/70), 1999 (CRC/C/83), 2000 (CRC/C/93), 2001 (CRC/C/104) and 2002 (CRC/C/117);
- (b) Note by the Secretary-General on States parties to the Convention and status of the submission of reports (CRC/C/130);
- (c) Note by the Secretary-General on the follow-up to the consideration of initial reports by States parties to the Convention (CRC/C/27/Rev.11);
- (d) Note by the Secretary-General on areas in which the need for technical advice and advisory services has been identified in the light of the observations adopted by the Committee (CRC/C/40/Rev.20);
- (e) Note by the Secretariat on methods of work of the Committee: Compilation of the conclusions and recommendations adopted by the Committee on the Rights of the Child (CRC/C/19/Rev.10).



16. The Committee was informed that, in addition to the nine reports that were scheduled for consideration by the Committee at its current session and those which had been received prior to the Committee's thirty-fourth session (see CRC/C/132, para. 19), the Secretary-General had received the initial reports of the Bahamas (CRC/C/8/Add.50) and Albania (CRC/C/11/Add.27), the second periodic reports of China (CRC/C/83/Add.10 and 11), Trinidad and Tobago (CRC/C/83/Add.12) and Uganda (CRC/C/65/Add.33) and the third periodic reports of Costa Rica (CRC/C/125/Add.4) and Australia (CRC/C/129/Add.4).

17. As at 3 October 2003, the Committee had received 179 initial and 77 second periodic reports and 9 third periodic reports. A total of 218 reports (170 initial and 48 second periodic) have been considered by the Committee.

18. At its 897th meeting, held on 18 September 2003, the Committee considered the first ever initial report under the Optional Protocol of the Convention on the involvement of children in armed conflict (CRC/C/OPAC/NZ/1) and adopted related concluding observations (CRC/C/OPAC/CO/2003/NZL).

19. At its thirty-fourth session, the Committee examined initial and periodic reports submitted by nine States parties under article 44 of the Convention. It devoted 18 of its 29 meetings to the consideration of reports (see CRC/C/SR.890; 892-897; 900-903; 906-909; 912-915 and 918).

20. The following reports, listed in the order in which they were received by the Secretary-General, were before the Committee at its thirty-fourth session: Brunei Darussalam (CRC/C/61/Add.5), San Marino (CRC/C/8/Add.46), Singapore (CRC/C/51/Add.8), Pakistan (CRC/C/65/Add.21), Madagascar (CRC/C/70/Add.18), New Zealand (CRC/C/93/Add.4 and (CRC/C/OPAC/NZ/1), Canada (CRC/C/83/Add.6), Bangladesh (CRC/C/65/Add.22) and Georgia (CRC/C/104/Add.1).

21. In accordance with rule 68 of the provisional rules of procedure of the Committee, representatives of all the reporting States were invited to attend the meetings of the Committee at which their reports were examined.

22. The following sections, arranged on a country-by-country basis according to the sequence followed by the Committee in its consideration of the reports, contain concluding observations reflecting the main points of discussion and indicating, where necessary, issues that require specific follow-up. More detailed information is contained in the report submitted by the States parties and in the summary records of the relevant meetings of the Committee.

## **B. Consideration of reports under the Convention**

### **Concluding observations: San Marino**

23. The Committee considered the initial report of San Marino (CRC/C/8/Add.46), submitted on 25 April 2002, at its 892nd and 893rd meetings (see CRC/C/SR.892 and 893), held on 16 September 2003, and adopted, at the 918th meeting, held on 3 October 2003 (see CRC/C/SR.918), the following concluding observations.

## **A. Introduction**

24. The Committee notes with appreciation the submission of the State party's initial report. The Committee also takes note of the timely submission of the written replies to its list of issues (CRC/C/Q/SMR/1), which allowed for a clearer understanding of the situation of children in the State party. The Committee also notes with appreciation the presence of a high-level and multisectoral delegation, which contributed to an open dialogue and a better understanding of the implementation of the Convention in the State party.

## **B. Positive aspects**

25. The Committee notes with appreciation the many measures taken to implement the Convention, inter alia:

(a) The ratification of the International Convention on the Elimination of All Forms of Racial Discrimination;

(b) That all children with disabilities are in regular schools with the exception of severely disabled children;

(c) The adoption of Law No. 61 of 30 April 2002 on the suppression of the sexual exploitation of children;

(d) The establishment of a special juvenile justice procedure as a result of the enactment of Law No. 83/1999 of 28 October 1999.

## **C. Principal subjects of concern and recommendations**

### **1. General measures of implementation**

#### **Legislation**

26. The Committee welcomes Act No. 36 of 26 February 2002 which has changed the system of the sources of law in the State party by considering general international law as an integral part of its constitutional order and notes that new laws have been adopted by the State party to harmonize the existing legislation with the Convention, but remains concerned that domestic legislation still does not fully reflect the principles of the Convention. The Committee is further concerned that *ius commune* is still the predominant rule, which may not always be conducive to the realization of children's rights.

27. **The Committee encourages the State party to take all necessary measures to ensure that its domestic legislation conforms fully to the principles and provisions of the Convention. In that regard, the Committee recommends that the State party make a comprehensive review of its *ius commune* to identify the provisions of domestic legislation which contradict the principles and provisions of the Convention.**

### **Child rights policy and coordination**

28. The Committee notes that the child rights policy is part of the general policy and is concerned that within that framework insufficient attention is given to a rights-based approach to the implementation of the Convention. The Committee further notes the coordinating role of the Minor Service (as established in Law No. 21 of 3 May 1977) in child welfare and child protection, but is concerned about the lack of a clear statutory mandate for the coordination of the implementation of the Convention.

29. **The Committee recommends that the State party systematically work on the development of a strong rights-based child policy covering all rights contained in the Convention. Furthermore, it recommends that the State party establish a clear statutory mandate for the Minor Service as the coordinating body within the Government for the implementation of the Convention.**

### **Independent monitoring structures**

30. The Committee is concerned that there is no comprehensive and independent monitoring of the Convention's implementation in the State party.

31. **The Committee recommends that the State party consider establishing an independent mechanism in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex) and, in light of the Committee's general comment No. 2 on national human rights institutions, monitor and evaluate progress in the implementation of the Convention.**

### **Training/dissemination of the Convention**

32. While noting the efforts to disseminate the Convention, the Committee is of the opinion that education for children and training activities for professional groups on children's rights are not systematic.

33. **The Committee recommends that the State party pursue its efforts to disseminate the Convention, both to children and to the broader public. It also recommends that the State party undertake systematic ongoing education and training programmes on the provisions of the Convention for all professional groups working for and with children, such as judges, lawyers, law enforcement officials, civil servants, teachers, health personnel including psychologists, and social workers.**

## **2. General principles**

### **Non-discrimination**

34. While noting that discrimination is prohibited under the Declaration of Citizens' Rights and of the Fundamental Principles of the San Marino Constitutional Order, the Committee remains concerned that no criminal law provisions exist to combat racism and discrimination.

35. **The Committee recommends that the State party:**

(a) **Make greater efforts to ensure that all children within its jurisdiction enjoy all rights set out in the Convention without discrimination, in accordance with article 2;**

(b) **Adopt and implement provisions in order to combat racism and discrimination;**

(c) **Ratify the Convention on the Elimination of All Forms of Discrimination against Women.**

36. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

#### **Best interests of the child and respect for the views of the child**

37. While noting the efforts undertaken by the State party, the Committee is concerned that two general principles of the Convention, as laid down in articles 3 (best interests of the child) and 12 (respect for the view of the child), are not fully applied and duly integrated into the implementation of the policies and programmes of the State party.

38. **The Committee encourages the State party to pursue its efforts to ensure the implementation of the principles of the best interests of the child and respect for the views of the child. In this connection, particular emphasis should be placed on 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 reflected 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.**

### **3. Civil rights and freedoms**

39. The Committee is concerned at the lack of information on the implementation of articles 13 to 18 of the Convention in the daily life of children.

40. **The Committee requests the State party to include in its next report information on the implementation in practice of articles 13 to 18 of the Convention, e.g. in schools and in the family.**

### **4. Family environment and alternative care**

#### **Adoption**

41. While welcoming the adoption of Act No. 83 of 20 July 1999 on the adoption of foreign children and noting that de facto almost all adoptions are intercountry adoptions, the Committee is concerned about possible irregularities in these cases of adoption. It is further concerned that

the Registry Office does not make any reference to the natural parents of adopted children, which implies that such children do not have the right to know their natural parent(s).

**42. The Committee recommends that the State party provide the child, in accordance with article 8 of the Convention, with the right to know, as far as possible, his/her natural parent(s) and to ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993. The Committee further recommends that the State party undertake a study on intercountry adoptions to better assess the situation.**

#### **Protection from abuse and neglect**

43. The Committee welcomes the information that article 234 of the Penal Code also includes the prohibition of corporal punishment, but is concerned at the lack of any concrete statistical data and other information on the prevention and prevalence of and intervention in cases of child abuse and neglect.

**44. The Committee recommends that the State party undertake awareness-raising campaigns on the negative impact of corporal punishment. Furthermore, the State party should undertake studies to assess the prevalence and nature of violence against children and develop a comprehensive plan of action based on this study for the prevention of and intervention in cases of child abuse and neglect, including the provision of services for recovery and social reintegration of victims, taking into account the recommendations of the Committee adopted at its days of general discussion on children and violence (see CRC/C/100, para. 688 and CRC/C/111, paras. 701-745).**

### **5. Basic health and welfare**

45. The Committee is concerned at the very high prevalence of obesity among children in the State party.

46. The Committee recommends that the State party take effective measures to continue and strengthen its special programmes to address the issue of child obesity and promote a healthy lifestyle among children.

### **6. Optional Protocols**

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

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

## **7. Dissemination of documentation**

49. Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations. The Committee recommends that the State party request international cooperation in this regard.

## **8. Periodicity of submission of reports**

50. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States' responsibilities to children under the Convention includes ensuring that the United Nations Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some States parties experience difficulties in reporting in a timely and regular manner. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its combined second, third and fourth periodic reports by 24 December 2008, due date for the submission of the fourth periodic report. Such a report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.

## **Concluding observations: Canada**

51. The Committee considered the second periodic report of Canada (CRC/C/83/Add.6) at its 894th and 895th meetings (see CRC/C/SR.894 and 895), held on 17 September 2003, and adopted at the 918th meeting, held on 3 October 2003 (see CRC/C/SR.918), the following concluding observations.

### **A. Introduction**

52. The Committee welcomes the submission of the State party's second periodic report and the detailed written replies to its list of issues (CRC/C/Q/CAN/2), which give updated information on the situation of children in the State party. However, the submission of a synthesis report based on both federal and provincial reports would have provided the Committee with a comparative analysis of the implementation of the Convention and a more coordinated and comprehensive picture of the valuable measures adopted by Canada to implement the Convention. It notes with appreciation the high-level delegation sent by the State party and welcomes the positive reactions to the suggestions and recommendations made during the discussion.

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

53. The Committee is encouraged by numerous initiatives undertaken by the State party and it looks forward to the completion of the National Plan of Action for Children which will further structure such initiatives and ensure their effective implementation. In particular, the Committee would like to note the following actions and programmes:

- The National Children Agenda;
- National Child Benefit;
- The establishment of the Secretary of State for Children and Youth;
- The Federal-Provincial-Territorial Council of Ministers on Social Policy Renewal;
- The Social Union Framework Agreement;
- Enactment of Bill C-27 amending the Criminal Code;
- Canada School Net;
- Gathering Strength: Canada's Aboriginal Action Plan;
- The constructive role played by the Canadian International Development Agency (CIDA) to assist developing countries in fulfilling the rights of their children and the declaration by the head of the delegation that Canada will double its international aid by 2010.

## **C. Principal areas of concern and recommendations**

### **1. General measures of implementation**

#### **The Committee's previous recommendations**

54. The Committee, while noting the implementation of some of the recommendations (CRC/C/15/Add.37 of 20 June 1995) it made upon consideration of the State party's initial report (CRC/C/11/Add.3), regrets that the rest have not been, or have been insufficiently, addressed, particularly those contained in: paragraph 18, referring to the possibility of withdrawing reservations; paragraph 20, with respect to data collection; paragraph 23, relating to ensuring that the general principles are reflected in domestic law; paragraph 24, relating to implementation of article 22; paragraph 25, suggesting a review of the penal legislation that allows corporal punishment. The Committee notes that those concerns and recommendations are reiterated in the present document.

55. **The Committee urges the State party to make every effort to address those recommendations contained in the concluding observations on the initial report that have not yet been implemented and to provide effective follow-up to the recommendations contained in the present concluding observations on the second periodic report.**

### **Reservations and declarations**

56. The Committee notes the efforts of the Government towards the removal of the reservation to article 37 (c) of the Convention, but regrets the rather slow process and regrets even more the statement made by the delegation that the State party does not intend to withdraw its reservation to article 21. The Committee reiterates its concern with respect to the reservations maintained by the State party to articles 21 and 37 (c).

**57. In light of the 1993 Vienna Declaration and Programme of Action, the Committee urges the State party to reconsider and expedite the withdrawal of the reservations made to the Convention. The Committee invites the State party to continue its dialogue with the Aboriginals with a view to the withdrawal of the reservation to article 21 of the Convention.**

### **Legislation and implementation**

58. The Committee notes that the application of a considerable part of the Convention falls within the competence of the provinces and territories, and is concerned that this may lead, in some instances, to situations where the minimum standards of the Convention are not applied to all children owing to differences at the provincial and territorial level.

**59. The Committee urges the Federal Government to ensure that the provinces and territories are aware of their obligations under the Convention and that the rights in the Convention have to be implemented in all the provinces and territories through legislation and policy and other appropriate measures.**

### **Coordination, monitoring**

60. The Committee notes with satisfaction the launching in 1997 of the “National Children’s Agenda” multisectoral initiative and the creation of the position of Secretary of State for Children and Youth. However, the Committee remains concerned that neither the Continuing Committee of Officials on Human Rights nor the Secretary of State for Children and Youth is specifically entrusted with coordination and monitoring of the implementation of the Convention.

**61. The Committee encourages the State party to strengthen effective coordination and monitoring, in particular between the federal, provincial and territorial authorities, in the implementation of policies for the promotion and protection of the child, as it previously recommended (CRC/C/15/Add.37, para. 20), with a view to decreasing and eliminating any possibility of disparity or discrimination in the implementation of the Convention.**

### **National plan of action**

62. The Committee notes the introduction in January 1998 of the “Gathering Strength: Canada’s Aboriginal Action Plan” and is encouraged by the preparation of a national plan of action in accordance with the Convention on the Rights of the Child and the final outcome document of United Nations General Assembly Special Session on Children, (“A World Fit For Children”). It is also encouraged by Canada’s conviction that actions in this respect must be in conformity with the Convention.



63. **The Committee encourages the State party to ensure that a coherent and comprehensive rights-based national plan of action is adopted, targeting all children, especially the most vulnerable groups including Aboriginal, migrant and refugee children; with a division of responsibilities, clear priorities, a timetable and a preliminary allocation of necessary resources in conformity with the Convention at the federal, provincial, territorial and local levels in cooperation with civil society. It also urges the Government to designate a systematic monitoring mechanism for the implementation of the national plan of action.**

#### **Independent monitoring**

64. The Committee notes that eight Canadian provinces have an Ombudsman for Children but is concerned that not all of them are adequately empowered to exercise their tasks as fully independent national human rights institutions in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134 of 20 December 1993, annex). Furthermore, the Committee regrets that such an institution at the federal level has not been established.

65. **The Committee recommends that the State party establish at the federal level an ombudsman's office responsible for children's rights and ensure appropriate funding for its effective functioning. It recommends that such offices be established in the provinces that have not done so, as well as in the three territories where a high proportion of vulnerable children live. In this respect, the Committee recommends that the State party take fully into account the Paris Principles and the Committee's general comment No. 2 on the role of national human rights institutions.**

#### **Allocation of resources**

66. The Committee welcomes the information provided in the report relating to the Government's contribution to the fulfilment of the rights of the child through allocating resources to a number of initiatives and programmes, notably the National Child Benefit (NCB) system aimed at improving the well-being of Canadian children living at risk by reducing and preventing child poverty. However, the Committee reiterates concerns expressed by the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.31, para. 22) and the Human Rights Committee (CCPR/C/79/Add.105, paras. 18, 20) relating to modalities of implementing NCB in some provinces.

67. **The Committee invites the State party to use its regular evaluation of the impact of the National Child Benefit system and its implementation in the provinces and territories to review the system with a view to eliminating any negative or discriminatory effects it may have on certain groups of children.**

68. **The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations so as to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to marginalized and economically disadvantaged groups, "to the maximum extent of ... available resources". The Committee further encourages the State party to state clearly every year its priorities with respect to child rights issues and to identify the**

**amount and proportion of the budget spent on children, especially on marginalized groups, at the federal, provincial and territorial levels in order to be able to evaluate the impact of the expenditures on children and their effective utilization. The Committee encourages the State party to continue to take measures to prevent children from being disproportionately affected by future economic changes and to continue its support to non-governmental organizations working on the dissemination of the Convention.**

### **Data collection**

69. The Committee values the wealth of statistical data provided in the annex to the report and in the appendices to the written replies to the list of issues and welcomes the intention of the State party to establish a statistics institute for Aboriginal people. Nevertheless, it is of the opinion that the information is not sufficiently developed, disaggregated and well synthesized for all areas covered by the Convention, and that all persons under 18 years are not systematically included in the data collection relevant to children. The Committee would like to recall its previous concern and recommendation relating to information gathering (CRC/C/15/Add.37, para. 20), maintaining that it has not been addressed sufficiently.

**70. The Committee recommends that the State party strengthen and centralize its mechanism to compile and analyse systematically disaggregated data on all children under 18 for all areas covered by the Convention, with special emphasis on the most vulnerable groups (i.e. Aboriginal children, children with disabilities, abused and neglected children, street children, children within the justice system, refugee and asylum-seeking children). The Committee urges the State party to use the indicators developed and the data collected effectively for the formulation and evaluation of legislation, policies and programmes for resource allocation and for the implementation and monitoring of the Convention.**

## **2. General principles**

### **Non-discrimination**

71. The Committee notes positive developments with respect to measures to promote and protect cultural diversity and specific legislative measures regarding discrimination, including the Multiculturalism Act, in particular as it bears upon the residential school system, the Employment Equity Act, and the amendment to the Criminal Code introducing racial discrimination as an aggravating circumstance (see also the 2002 annual report of the Committee on the Elimination of Racial Discrimination (CERD) (A/57/18), paras. 315-343). However, the Committee joins CERD in its concerns, in particular as they relate to children, such as those relating to the Indian Act, to the extent of violence against and deaths in custody of Aboriginals and people of African and Asian descent, to existing patterns of discrimination and expressions of prejudice in the media and to the exclusion from the school system of children of migrants with no status, and remains concerned at the persistence of de facto discrimination against certain groups of children (see also *ibid.*, paras. 332, 333, 335 and 337).

**72. The Committee recommends that the State party continue to strengthen its legislative efforts to fully integrate the right to non-discrimination (article 2 of the Convention) in all relevant legislation concerning children, and that this right be effectively**

**applied in all political, judicial and administrative decisions and in projects, programmes and services that have an impact on all children, in particular children belonging to minority and other vulnerable groups such as children with disabilities and Aboriginal children. The Committee further recommends that the State party continue to carry out comprehensive public education campaigns and undertake all necessary proactive measures to prevent and combat negative societal attitudes and practices. The Committee requests the State party to provide further information in its next report on its efforts to promote cultural diversity, taking into account the general principles of the Convention.**

**73. The Committee, while noting reservations expressed by Canada on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, recommends that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Durban Declaration and Programme of Action and taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

#### **Best interests of the child**

**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.**

### **3. Civil rights and freedoms**

#### **Right to an identity**

**76. The Committee is encouraged by the adoption of the new Citizenship of Canada Act facilitating the acquisition of citizenship for children adopted abroad by Canadian citizens. It is equally encouraged by the establishment of the First Nations Child and Family Service providing culturally sensitive services to Aboriginal children and families within their communities.**

77. **The Committee recommends that the State party take further measures in accordance with article 7 of the Convention, including measures to ensure birth registration and to facilitate applications for citizenship, so as to resolve the situation of stateless children. The Committee also suggests that the State party ratify the Convention relating to the Status of Stateless Persons of 1954.**

#### **4. Family environment and alternative care**

##### **Illicit transfer and non-return**

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.**

##### **Adoption**

80. The Committee is encouraged by the priority accorded by the State party to promoting the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 in Canada and abroad. However, the Committee notes that while adoption falls within the jurisdiction of the provinces and territories, the ratification of the Hague Convention has not been followed up by legal and other appropriate measures in all provinces. The Committee is also concerned that certain provinces do not recognize the right of an adopted child to know, as far as possible, her/his biological parents (art. 7).

81. **The Committee recommends that the State party consider amending its legislation to ensure that information about the date and place of birth of adopted children and their biological parents are preserved and made available to these children. Furthermore, the Committee recommends that the Federal Government ensure the full implementation of The Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 throughout its territory.**

##### **Abuse and neglect**

82. The Committee welcomes the efforts being made by the State party to discourage corporal punishment by promoting research on alternatives to corporal punishment of children, supporting studies on the incidence of abuse, promoting healthy parenting and improving understanding about child abuse and its consequences. However, the Committee is deeply concerned that the State party has not enacted legislation explicitly prohibiting all forms of corporal punishment and has taken no action to remove section 43 of the Criminal Code, which allows corporal punishment.

83. **The Committee recommends that the State party adopt legislation to remove the existing authorization of the use of “reasonable force” in disciplining children and explicitly prohibit all forms of violence against children, however light, within the family, in schools and in other institutions where children may be placed.**

## **5. Basic health and welfare**

### **Health and health services**

84. The Committee is encouraged by the commitment of the Government to strengthening health care for Canadians by, inter alia, increasing the budget and focusing on Aboriginal health programmes. However, the Committee is concerned at the fact, acknowledged by the State party, that the relatively high standard of health is not shared equally by all Canadians. It notes that equal provincial and territorial compliance is a matter of concern, in particular as regards universality and accessibility in rural and northern communities and for children in Aboriginal communities. The Committee is particularly concerned at the disproportionately high prevalence of sudden infant death syndrome and foetal alcohol syndrome disorder among Aboriginal children.

85. **The Committee recommends that the State party undertake measures to ensure that all children enjoy equally the same quality of health services, with special attention to indigenous children and children in rural and remote areas.**

### **Adolescent health**

86. The Committee is encouraged by the average decline in infant mortality rates in the State party, but is deeply concerned at the high mortality rate among the Aboriginal population and the high rate of suicide and substance abuse among youth belonging to this group.

87. **The Committee suggests that the State party continue to give priority to studying possible causes of youth suicide and the characteristics of those who appear to be most at risk, and take steps as soon as practicable to put in place additional support, prevention and intervention programmes, e.g. in the fields of mental health, education and employment, that could reduce the occurrence of this tragic phenomenon.**

### **Social security and childcare services and facilities**

88. The Committee welcomes measures taken by the Government to provide assistance to families through expanded parental leave, increased tax deductions, child benefits and specific programmes for Aboriginal people. The Committee is nevertheless concerned at reports relating to the high cost of childcare, scarcity of places and lack of national standards.

89. **The Committee encourages the State party to undertake a comparative analysis at the provincial and territorial levels with a view to identifying variations in childcare provisions and their impact on children and to devise a coordinated approach to ensuring that quality childcare is available to all children, regardless of their economic status or place of residence.**

**Standard of living**

90. The Committee is encouraged to learn that homelessness was made a research priority by the Canada Mortgage and Housing Corporation, as the sources of data are limited. However, the Committee shares the concerns of the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.31, paras. 24, 46) which noted that the mayors of Canada's 10 largest cities have declared homelessness to be a national disaster and urged the Government to implement a national strategy for the reduction of homelessness and poverty.

91. The Committee reiterates its previous concern relating to the emerging problem of child poverty and shares the concerns expressed by the Committee on the Elimination of Discrimination Against Women (CEDAW) relating to economic and structural changes and deepening poverty among women, which particularly affects single mothers and other vulnerable groups, and the ensuing impact this may have on children.

**92. The Committee recommends that further research be carried out to identify the causes of the spread of homelessness, particularly among children, and any links between homelessness and child abuse, child prostitution, child pornography and trafficking in children. The Committee encourages the State party to further strengthen the support services it provides to homeless children while taking measures to reduce and prevent the occurrence of this phenomenon.**

**93. The Committee recommends that the State party continue to address the factors responsible for the increasing number of children living in poverty and that it develop programmes and policies to ensure that all families have adequate resources and facilities, paying due attention to the situation of single mothers, as suggested by CEDAW (A/52/38/Rev.1, para. 336), and other vulnerable groups.**

**6. Education, leisure and cultural activities**

94. The Committee values the exemplary literacy rates and high level of basic education in the State party and welcomes the numerous initiatives to promote quality education, both in Canada and at the international level. The Committee is in particular encouraged by initiatives to raise the standard of education of Aboriginals living on reserves. It further notes the steps taken to address the concern of the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.31, para. 49) relating to addressing financial obstacles to post-secondary education for low-income students. The Committee nevertheless reiterates the concern of the Committee on the Elimination of Racial Discrimination (A/57/18, para. 337) about allegations that children of migrants with no status are being excluded from school in some provinces. Furthermore, the Committee is concerned about the reduction in education spending, increasing student-teacher ratios, the reduction of the number of school boards, the high dropout rate of Aboriginal children and the availability of instruction in both official languages only "where numbers warrant".

95. The Committee recommends that the State party further improve the quality of education throughout the State party in order to achieve the goals of article 29, paragraph 1, of the Convention and the Committee's general comment No. 1 on the aims of education by, *inter alia*:

(a) Ensuring that free quality primary education that is sensitive to the cultural identity of every child is available and accessible to all children, with particular attention to children in rural communities, Aboriginal children and refugees or asylum-seekers, as well as children from other disadvantaged groups and those who need special attention, including in their own language;

(b) Ensuring that human rights education, including in children's rights, is incorporated into the school curricula in the different languages of instruction, where applicable, and that teachers have the necessary training;

(c) Ratifying the United Nations Educational, Scientific and Cultural Organization Convention against Discrimination in Education of 1960;

(d) Adopting appropriate legislative measures to forbid the use of any form of corporal punishment in schools and encouraging child participation in discussions about disciplinary measures.

## **7. Special protection measures**

### **Refugee children**

96. The Committee welcomes the incorporation of the principle of the best interests of the child in the new Immigration and Refugee Protection Act (2002) and the efforts being made to address the concerns of children in the immigration process, in cooperation with the Office of the United Nations High Commissioner for Refugees and non-governmental organizations. However, the Committee notes that some of the concerns previously expressed have not been adequately addressed, in particular, in cases of family reunification, deportation and deprivation of liberty, priority is not accorded to those in greatest need of help. The Committee is especially concerned at the absence of:

- (a) A national policy on unaccompanied asylum-seeking children;
- (b) Standard procedures for the appointment of legal guardians for these children;
- (c) A definition of "separated child" and a lack of reliable data on asylum-seeking children;
- (d) Adequate training and a consistent approach by the federal authorities in referring vulnerable children to welfare authorities.

97. **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) Adopt and implement a national policy on separated children seeking asylum in Canada;**

**(b) Implement a process for the appointment of guardians, clearly defining the nature and scope of such guardianship;**

**(c) Refrain, as a matter of policy, from detaining unaccompanied minors and clarify the legislative intent of such detention as a measure of “last resort”, ensuring the right to speedily challenge the legality of the detention in compliance with article 37 of the Convention;**

**(d) Develop better policy and operational guidelines covering the return of separated children who are not in need of international protection to their country of origin;**

**(e) Ensure that refugee and asylum-seeking children have access to basic services such as education and health and that there is no discrimination in benefit entitlements for asylum-seeking families that could affect children;**

**(f) Ensure that family reunification is dealt with in an expeditious manner.**

#### **Protection of children affected by armed conflict**

98. The Committee notes that Canada has made a declaration with regard to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict upon ratification, permitting voluntary recruitment into the armed forces at the age of 16 years.

99. **The Committee recommends that the State party, in its report on this Optional Protocol, expected next year, provide information on the measures taken to give priority in the process of voluntary recruitment to those who are the oldest, in light of article 38, paragraph 3, of the Convention, and on its efforts to limit recruitment to persons of 18 years and older (and to review legislation accordingly).**

#### **Economic exploitation**

100. The Committee greatly appreciates the fact that Canada has committed resources to work towards the ending of economic exploitation of children on the international level. However, the Committee regrets the lack of information in the State party report relating to the situation in Canada. Furthermore, it is concerned that Canada has not ratified International Labour Organization Convention No. 138 concerning the Minimum Age for Admission to Employment and is concerned at the involvement of children under 13 years old in economic activity.



101. **The Committee recommends that the State party ratify International Labour Organization Convention No. 138 concerning the Minimum Age for Admission to Employment and take the necessary measures for its effective implementation. The Committee further encourages the State party to conduct nationwide research to fully assess the extent to which children work, in order to take, when necessary, effective measures to prevent the exploitative employment of children in Canada.**

#### **Sexual exploitation and trafficking**

102. The Committee is encouraged by the role Canada has played nationally and internationally in promoting awareness of sexual exploitation and working towards its reduction, including by adopting amendments to the Criminal Code in 1997 (Bill C-27) and the introduction in 2002 of Bill C-15A, facilitating the apprehension and prosecution of persons seeking the services of child victims of sexual exploitation and allowing for the prosecution in Canada of all acts of child sexual exploitation committed by Canadians abroad. The Committee notes, however, concerns relating to the vulnerability of street children and, in particular, Aboriginal children who, in disproportionate numbers, end up in the sex trade as a means of survival. The Committee is also concerned about the increase of foreign children and women trafficked into Canada.

103. **The Committee recommends that the State party further increase the protection and assistance provided to victims of sexual exploitation and trafficking, including prevention measures, social reintegration, access to health care and psychological assistance, in a culturally appropriate and coordinated manner, including by enhancing cooperation with non-governmental organizations and the countries of origin.**

#### **Street children**

104. The Committee regrets the lack of information on street children in the State party's report, although a certain number of children are living in the street. Its concern is accentuated by statistics from major urban centres indicating that children represent a substantial portion of Canada's homeless population, that Aboriginal children are highly overrepresented in this group, and that the causes of this phenomenon include poverty, abusive family situations and neglectful parents.

105. **The Committee recommends that the State party undertake a study to assess the scope and the causes of the phenomenon of homeless children and consider establishing a comprehensive strategy to address their needs, paying particular attention to the most vulnerable groups, with the aim of preventing and reducing this phenomenon in the best interest of these children and with their participation.**

#### **Juvenile justice**

106. The Committee is encouraged by the enactment of new legislation in April 2003. The Committee welcomes crime prevention initiatives and alternatives to judicial procedures. However, the Committee is concerned at the expanded use of adult sentences for children as young as 14; that the number of youths in custody is among the highest in the industrialized world; that keeping juvenile and adult offenders together in detention facilities continues to be

legal; that public access to juvenile records is permitted and that the identity of young offenders can be made public. In addition, the public perceptions about youth crime are said to be inaccurate and based on media stereotypes.

107. **The Committee recommends that the State party continue its efforts to establish a system of juvenile justice that fully integrates into its legislation, policies and practice the provisions and principles of the Convention, in particular articles 3, 37, 40 and 39, and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System. In particular, the Committee urges the State party:**

- (a) To ensure that no person under 18 is tried as an adult, irrespective of the circumstances or the gravity of his/her offence;**
- (b) To ensure that the views of the children concerned are adequately heard and respected in all court cases;**
- (c) To ensure that the privacy of all children in conflict with the law is fully protected in line with article 40, paragraph 2 (b) (vii) of the Convention;**
- (d) To take the necessary measures (e.g. non-custodial alternatives and conditional release) to reduce considerably the number of children in detention and ensure that detention is only used as a measure of last resort and for the shortest possible period of time, and that children are always separated from adults in detention.**

#### **Children belonging to a minority or indigenous group**

108. The Committee welcomes the Statement of Reconciliation made by the Federal Government expressing Canada's profound regret for historic injustices committed against Aboriginal people, in particular within the residential school system. It also notes the priority accorded by the Government to improving the lives of Aboriginal people across Canada and by the numerous initiatives, provided for in the federal budget, that have been embarked upon since the consideration of the initial report. However, the Committee is concerned that Aboriginal children continue to experience many problems, including discrimination in several areas, with much greater frequency and severity than their non-Aboriginal peers.

109. **The Committee urges the Government to pursue its efforts to address the gap in life chances between Aboriginal and non-Aboriginal children. In this regard, it reiterates in particular the observations and recommendations with respect to land and resource allocation made by United Nations human rights treaty bodies, such as the Human Rights Committee (CCPR/C/79/Add.105, para. 8), the Committee on the Elimination of Racial Discrimination (A/57/18, para. 330) and the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.31, para. 18). The Committee equally notes the recommendations of the Royal Commission on Aboriginal Peoples and encourages the State party to ensure appropriate follow-up.**

## **8. Ratification of the Optional Protocols**

110. The Committee welcomes the ratification of the Optional Protocol to the Convention on the Rights of the Child on children in armed conflict and the signature in November 2001 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Committee urges the State party to consider early ratification of the latter.

## **9. Dissemination of documentation**

111. In light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and the written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within all levels of administration of the State party and the general public, including concerned non-governmental organizations.

## **10. Next report**

112. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States' responsibilities to children under the Convention includes ensuring that the United Nations Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by State parties is crucial. The Committee recognizes that some State parties experience difficulties in reporting in a timely and regular manner. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its third and fourth periodic reports by 11 January 2009, due date of the fourth periodic report. The consolidated report should not exceed 120 pages (see CRC/C/118).

## **Concluding observations: New Zealand**

113. The Committee considered the second periodic report of New Zealand (CRC/C/93/Add.4) at its 896th and 897th meetings (see CRC/C/SR.896 and 897), held on 18 September 2003, and adopted at the 918th meeting, held on 3 October 2003 (see CRC/C/SR.918), the following concluding observations.

### **A. Introduction**

114. The Committee welcomes the submission of the State party's comprehensive and well-written periodic report which included a detailed description of the follow-up to the previous recommendations and gave a clearer understanding of the situation of children in the State party. It further notes with appreciation the high-level delegation sent by the State party and welcomes the dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

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

115. The Committee welcomes the State party's ratification of the Worst Forms of Child Labour Convention, 1999 (No. 182) of the ILO in 2001, its ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in 2002, its accession to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption in 1998 and its ratification of the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and On Their Destruction in 1999.

## **C. Principal areas of concern and recommendations**

### **1. General measures of implementation**

#### **Committee's previous recommendations**

116. While acknowledging the attention that the State party has given to the implementation of the recommendations contained in the Committee's previous concluding observations (CRC/C/15/Add.71) adopted following the consideration of the State party's initial report (CRC/C/28/Add.3), the Committee notes with concern that some recommendations have been insufficiently addressed. The Committee is particularly concerned about the recommendations relating to the harmonization of domestic legislation with the Convention, including the age of criminal responsibility and minimum age of employment (para. 23), and the prohibition of corporal punishment and the establishment of mechanisms to ensure the recovery of victims of ill-treatment and abuse (para. 29).

**117. The Committee reiterates those concerns and urges the State party to make sustained efforts to address those recommendations contained in the concluding observations on the initial report that have not been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.**

#### **Reservations**

118. While noting that the State party is considering withdrawing its reservations to the Convention, the Committee is disappointed by the slow pace of this process and that it has not yet resulted in the withdrawal of a reservation. The Committee remains very concerned at the State party's general reservation and the reservations specific to articles 32, paragraph 2 and 37 (c).

**119. In accordance with the Vienna Declaration and Programme of Action of 1993, the Committee recommends that the State party:**

**(a) Expedite the changes in legislation and administrative procedures necessary for the withdrawal of its general reservation and the reservations to articles 32, paragraph 2 and 37 (c);**

**(b) Continue its discussions with the people of Tokelau with a view to extending the application of the Convention to their territory.**

## Legislation

120. Noting that the State party has undertaken a general review of its legislation to ensure its compatibility with the 1993 Human Rights Act (Consistency 2000), the Committee regrets that this did not include a comprehensive review of its legislation affecting children and that domestic legislation does not fully conform to the principles and provisions of the Convention.

**121. The Committee reiterates its recommendation that the State party initiate a comprehensive review of all legislation affecting children and take all necessary measures to harmonize its legislation with the principles and provisions of the Convention.**

## Coordination and national plans of action

122. The Committee welcomes the adoption of New Zealand's Agenda for Children and the Youth Development Strategy in 2002. However, the Committee shares the State party's concern that coordination of policies and services for children is still insufficient.

**123. The Committee recommends that the State party establish a permanent mechanism to coordinate activities by all actors and stakeholders implementing the Convention, the Agenda for Children and the Youth Development Strategy. Sufficient financial and human resources should be allocated to ensure that they are fully implemented and effectively coordinated.**

## Independent monitoring

124. The Committee notes the efforts to strengthen the Office of the Commissioner for Children and welcomes the Office's activities for children, as well as the activities of the National Human Rights Commission. However, the Committee is concerned about the possibility of duplication of activities between the National Human Rights Commission and the Office of the Commissioner for Children, and that the latter does not have sufficient resources to carry out its activities effectively.

**125. In light of its general comment No. 2 on national human rights institutions, the Committee recommends that the State party use the discussion of the Commissioner for Children's Act, which is currently before Parliament, to ensure that the Office of the Commissioner for Children and the National Human Rights Commission are equally independent and that they report to the same political body, and to define the relationship between the two institutions, including a clear division of their respective activities. In addition, the Committee urges the State party to ensure that the Office of the Commissioner for Children receives sufficient human, material and financial resources to carry out its mandate.**

## Resources for children

126. The Committee is concerned that despite the persistence of poverty, the State party has not undertaken a comprehensive study of the impact of its economic reform policies on children, as previously recommended. The Committee is further concerned about the lack of available data on budgetary allocations for children.

127. **The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups, “to the maximum extent of ... available resources”. The Committee further recommends that the State party gather disaggregated data on budget allocations for children and systematically assess the impact of all its economic policy initiatives on children.**

#### **Data collection**

128. The Committee is concerned at the lack of consistency between the nature of the data collected and the principles and provisions of the Convention.

129. **The Committee recommends that the State party develop a system of data collection that covers all areas of the Convention, paying particular attention to disaggregated data on indigenous children, and ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention.**

#### **Dissemination and training**

130. The Committee is concerned that children and the public at large, as well as all groups of professionals working with and for children, are not sufficiently aware of the Convention and the rights-based approach enshrined therein.

131. **The Committee recommends that the State party:**

(a) **Undertake public awareness campaigns, including through the mass media, on children’s rights aimed at the general public and specifically at children;**

(b) **Carry out systematic education and training on the principles and provisions of the Convention for all professionals working with and for children, in particular teachers, judges, parliamentarians, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, health personnel, including psychologists, and social workers.**

## **2. Definition of the child**

132. The Committee notes with concern that the minimum age of criminal responsibility of 10 years is too low, that all persons under 18 in conflict with the law are not afforded special protection and that there is no minimum age of employment.

133. **The Committee recommends that the State party review the age limits set by different legislation affecting children to ensure its conformity with the principles and provisions of the Convention. The Committee also specifically recommends that the State party:**

(a) **Raise the minimum age of criminal responsibility to an internationally acceptable level and ensure that it applies for all criminal offences;**

(b) **Extend the Children, Young Persons and Their Families Act of 1989 to all persons under the age of 18;**

(c) **Set a minimum age or minimum ages of admission to employment.**

### **3. General principles**

#### **Non-discrimination**

134. The Committee is concerned that, as acknowledged by the State party, discrimination persists against vulnerable groups of children such as Maori children, minority children, children with disabilities and non-citizens. The Committee is particularly concerned at the comparatively low indicators for Maori, Pacific Island and Asian children.

135. **The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.**

136. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

#### **Respect for the views of the child**

137. The Committee notes with appreciation the efforts to include children in decision-making processes at the national and local levels, for instance through the Youth Parliament. However, it is concerned that the right of individual children to be heard and have their views taken into account in administrative or judicial proceedings affecting them is not systematically included in legislation and regulations.

138. **The Committee recommends that the State party undertake a review of legislation and regulations affecting children, including proposed legislation such as the Care of Children Bill, to ensure that they appropriately integrate and apply the right of each child to be heard and have his or her views taken into account in accordance with article 12.**

### **4. Civil rights and freedoms**

#### **Violence, including ill-treatment**

139. The Committee shares the State party's concern about the prevalence of child abuse, and notes with regret that services aimed at preventing abuse and providing assistance with recovery do not have sufficient resources and are insufficiently coordinated.

140. **The Committee recommends that the State party:**

- (a) Expand services and programmes aimed at assisting victims of abuse, and ensure that they are provided in a child-sensitive manner which respects the privacy of the victim;**
- (b) Increase programmes and services aimed at the prevention of child abuse in the home, schools and institutions and ensure that there are sufficient numbers of adequately qualified and trained staff to provide these services;**
- (c) Continue to improve the coordination of services for vulnerable families and victims of abuse.**

### **Corporal punishment**

141. The Committee is deeply concerned that despite a review of legislation, the State party has still not amended section 59 of the Crimes Act 1961, which allows parents to use reasonable force to discipline their children. While welcoming the Government's public education campaign to promote positive, non-violent forms of discipline within the home, the Committee emphasizes that the Convention requires the protection of children from all forms of violence, which includes corporal punishment in the family and which should be accompanied by awareness-raising campaigns on the law and on children's right to protection.

142. **The Committee recommends that the State party:**

- (a) Amend legislation to prohibit corporal punishment in the home;**
- (b) Strengthen public education campaigns and activities aimed at promoting positive, non-violent forms of discipline and respect for children's right to human dignity and physical integrity, while raising awareness about the negative consequences of corporal punishment.**

## **5. Family environment and alternative care**

### **Alternative care**

143. The Committee welcomes the State party's initiatives to strengthen the system of child protection and alternative care through, inter alia, the adoption of the Social Work Registration Act (2003) and the establishment of grievance panels in residential institutions. Nevertheless, the Committee remains concerned that the Department of Child, Youth and Family Services does not have adequate financial and human resources to carry out its responsibilities effectively. While welcoming the additional written answers provided by the State party on the issue of police powers of search and seizure, the Committee is also concerned about reports of children in alternative care being subject to an increasing number of searches of their person and their belongings.



144. **The Committee recommends that the State party continue its efforts to strengthen the system of child protection by:**

- (a) Improving the qualifications of social workers and personnel working in the child protection system and enacting measures to retain qualified and specialized staff;**
- (b) Taking effective measures to improve coordination between the Department of Child, Youth and Family Services and organizations delivering services to children;**
- (c) Increasing the financial resources allocated to alternative care, while ensuring that institutional care is used only as a last resort;**
- (d) Strengthening efforts to guarantee that all children placed in care have a periodic review of their treatment and all circumstances relative to their placement, in accordance with article 25 of the Convention.**

### **Adoption**

145. The Committee welcomes the State party's intention to reform its legislation on adoption, although it is concerned that planned amendments do not fully conform to the principles and provisions of the Convention and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

146. **In considering the reform of its legislation on adoption, the Committee recommends that the State party pay particular attention to article 12 and the right of children to express their views and have those views be given due weight in accordance with the age and maturity of the child. In particular, the Committee recommends that the State party:**

- (a) Require that children of a certain age consent to their adoption;**
- (b) Ensure the right of adopted children to access, as far as possible, information about their biological parents;**
- (c) Ensure the right of children, as far as possible, to maintain one of their original first names.**

### **6. Basic health and welfare**

147. The Committee welcomes the adoption of the Child Health Strategy in 1998. However, the Committee is concerned that immunization coverage is not universal and at the relatively high rates of infant mortality and injuries among children. The Committee also notes with concern that child health indicators are generally lower among the Maori population.

148. **The Committee recommends that the State party:**

- (a) Allocate sufficient human and financial resources to implement the Child Health Strategy;**

**(b) Take all necessary measures to ensure universal immunization coverage and develop preventive health care and guidance for parents and families that effectively address the relatively high rates of infant mortality and injuries;**

**(c) Take all necessary measures to address disparities in health indicators between ethnic communities, in particular the Maori population.**

#### **Adolescent health**

149. The Committee shares the State party's concern about the high rates of youth suicide, teenage pregnancies and alcohol abuse among adolescents and the insufficient level of youth mental health services, particularly in rural areas and for Maori children and children in residential institutions.

150. **The Committee recommends that the State party:**

**(a) Take all necessary measures to address youth suicide, especially among Maori youth, inter alia by strengthening the Youth Suicide Prevention Programme;**

**(b) Undertake effective measures to reduce the rate of teenage pregnancies through, inter alia, making health education, including sex education, part of the school curriculum, and strengthening the campaign of information on the use of contraceptives;**

**(c) Undertake effective preventive and other measures to address the rise in alcohol consumption by adolescents and increase the availability and accessibility of counselling and support services, in particular for Maori children;**

**(d) Strengthen mental health and counselling services, ensuring that they are accessible to, and appropriate for, all adolescents, including Maori children and those in rural areas and in residential institutions.**

#### **Children with disabilities**

151. The Committee is concerned that children with disabilities are not fully integrated into all aspects of society and that services, in particular in the education system, are often difficult for families of children with disabilities to access.

**152. The Committee recommends that the State party ensure that adequate human and financial resources are allocated to implement the New Zealand Disability Strategy, in particular those aspects relating to the integration of children with disabilities into mainstream education and other aspects of society.**

#### **Standard of living**

153. The Committee is concerned that a significant proportion of children in the State party live in poverty and that single-parent families headed by women, as well as Maori and Pacific Island families, are disproportionately affected.

154. In accordance with article 27, paragraph 3, of the Convention, the Committee recommends that the State party take appropriate measures to assist parents, in particular single parents, and others responsible for the child to implement the child's right to an adequate standard of living. In this regard, the Committee recommends that the State party ensure that assistance provided to Maori and Pacific Island families respects and supports their traditional extended family structures.

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

155. The Committee welcomes the development of bilingual education for Maori; however, it notes with concern the persistent disparities in enrolment and dropout rates among children of different ethnic groups. The Committee is also concerned that the policy on exclusions, as well as increasing hidden costs of education are limiting access to education, particularly for Maori children, pregnant girls, children with special educational needs, lower-income families, non-citizens and new immigrants.

156. The Committee recommends that the State party:

(a) Ensure that all children in the State party have access to free primary education;

(b) Enforce legislation on compulsory education and prohibit exclusions on arbitrary grounds such as pregnancy, and ensure that students of the age of compulsory education who have legitimately been excluded from a school are enrolled elsewhere;

(c) Take effective measures to address disparities in enrolment and dropout rates between ethnic groups, including by strengthening programmes for bilingual education;

(d) Take all necessary measures, including the provision of quality counselling programmes in schools, to address behavioural problems of students while respecting their right to privacy.

## **8. Special protection measures**

### **Refugee children**

157. The Committee takes note of the services provided by the State party to ensure the integration of and equal opportunities for refugee children; however, it is concerned that activities undertaken in this regard may not be entirely effective in achieving the stated objective of integration.

158. The Committee recommends that the State party continue its efforts to integrate refugee children into society and undertake an evaluation of current programmes, in particular language training, with a view to improving their effectiveness.

**Economic exploitation of children**

159. The Committee is concerned that the protection of persons under 18 in employment does not fully conform to the principles and provisions of the Convention, and it reiterates its concern (see paragraph 20 above) about the lack of a minimum age of admission to employment.

160. **The Committee recommends that the State party expedite the ongoing process of reviewing and strengthening legislation protecting all persons under the age of 18 who are employed, and encourages the State party to ratify ILO Convention No. 138.**

**Juvenile justice**

161. While noting the Youth Offending Strategy and the Task Force on Youth Offenders and the use of family group conferencing, the Committee reiterates its concern (see paragraph 20 above) about the low age of criminal responsibility and that special protection is not accorded to all persons under 18 in conflict with the law. The Committee is further concerned that juvenile offenders, both female and male, are not separated from adult offenders, and in some cases they may even be detained in police cells for several months.

162. **The Committee reiterates its recommendation contained in paragraph 21, and further recommends that the State party:**

(a) **Ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's discussion day on the administration of juvenile justice in 1995 (CRC/C/69);**

(b) **Ensure the availability of sufficient youth facilities so that all juveniles in conflict with the law are held separately from adults in pre- and post-trial detention;**

(c) **Undertake a systematic evaluation of the use of family group conferencing in juvenile justice.**

**9. Optional Protocols**

163. The Committee notes that the State party has signed but not ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

164. **The Committee recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.**

## **10. Dissemination of documents**

165. Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.

## **11. Next report**

166. **In light of the recommendation on reporting periodicity adopted by the Committee and described in the report on its twenty-ninth session (CRC/C/114), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the United Nations Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by States parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its third and fourth reports in one consolidated report by 5 November 2008, i.e. 18 months before the due date for the fourth periodic report. The report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.**

### **Concluding observations: Pakistan**

167. The Committee considered the second periodic report of Pakistan (CRC/C/65/Add.21) at its 900th and 901st meetings (see CRC/C/SR.900 and 901), held on 22 September 2003, and adopted at the 918th meeting, held on 3 October 2003 (see CRC/C/SR.918), the following concluding observations.

#### **A. Introduction**

168. The Committee welcomes the submission of the State party's second periodic report, although submitted late. The Committee also takes note of the submission of the written replies to its list of issues (CRC/C/Q/PAK/2), which allowed for a clearer understanding of the situation of children in the State party. The Committee acknowledges that the presence of a highly qualified, cross-sectoral delegation directly involved with the implementation of the Convention allowed for a better understanding of the rights of the child in the State party.

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

169. The Committee welcomes the withdrawal on 23 July 1997 of the State party's general reservation to the Convention.

170. The Committee expresses its appreciation of the State party's recent ratification of the International Labour Organization Worst Forms of Child Labour Convention, 2001 (No. 182).

171. The Committee welcomes positive developments in the area of human rights, including the formulation of a revised National Plan of Action and of the Code of Ethics for Media on Reporting of Children's Issues, and the adoption in 2002 of the Ordinance for the Prevention and Control of Human Trafficking and the Protection of Breastfeeding and Child Nutrition Ordinance, in 2000 of the Juvenile Justice System Ordinance and in 1995 of the Compulsory Primary Education Act.

### **C. Factors and difficulties impeding the implementation of the Convention**

172. The Committee recognizes the difficulties facing the State party, namely serious economic challenges, catastrophic drought conditions hampering the economy, the armed conflict that is taking place in some regions, the high number of refugees who entered the country from Afghanistan in past years, as well as a high population growth rate, which all seriously impede the full implementation of the Convention.

### **D. Principal subjects of concern, suggestions and recommendations**

#### **1. General measures of implementation**

#### **The Committee's previous recommendations**

173. The Committee regrets that the progress report that the Committee in its previous concluding observations (CRC/C/15/Add.18) requested the State party to submit by the end of 1996 was never submitted. The Committee further regrets that some of the concerns it expressed and the recommendations it made (paras. 22-35) after its consideration of the State party's initial report (CRC/C/3/Add.13) have been insufficiently addressed, in particular those regarding the inclusion of the Convention in the National Plan of Action and the development of training programmes to combat violence against children and child labour. Those concerns and recommendations are reiterated in the present document.

**174. The Committee urges the State party to make every effort to address the previous recommendations that have not yet been implemented and the list of concerns contained in the present concluding observations.**

#### **Legislation**

175. The Committee takes note of the legislative measures that have been undertaken by the State party in order to ensure the implementation of the Convention. Nevertheless, the Committee remains concerned that:

(a) Legislative changes might not be fully implemented and recognized within the State party and that some existing laws may still need to be reviewed;

(b) Laws implementing the Convention on the Rights of the Child are not de facto applied in the Northern Tribal Territories, and therefore children living in these territories do not fully enjoy their rights under the Convention;

(c) The Zina and Haddood Ordinances are in conflict with the principles and provisions of the Convention.

176. **The Committee reiterates its recommendation that the State party scrutinize carefully existing legislative and other measures, both at the federal and provincial levels, with a view to ensuring that the provisions and principles of the Convention are implemented throughout the territory. The Committee recommends that all appropriate measures be taken to ensure that the provisions and principles of the Convention are also recognized and enjoyed by children living in the Northern Tribal Territories, and strongly recommends that the State party review the Zina and Haddood Ordinances to ensure their compatibility with the Convention.**

### **Coordination**

177. The Committee notes the State party's intentions to establish the Pakistan Commission for the Welfare and Protection of the Rights of the Child, which is intended to replace the existing National Commission for Child Welfare and Development, and takes note of the different measures taken by the State party for coordinating the implementation of the Convention. The Committee is, however, of the view that greater coordination is still required among the different bodies of the Government at the federal, provincial and territorial levels responsible for the implementation and monitoring of the Convention.

178. **The Committee recommends that the State party:**

(a) **Take measures to ensure that the Pakistan Commission for the Welfare and Protection of the Rights of the Child is provided with adequate financial and human resources;**

(b) **Strengthen coordination mechanisms between all authorities involved in human rights and children's rights at both national and local levels.**

### **Cooperation with non-governmental organizations**

179. The Committee notes the cooperation between the State party and NGOs, but remains concerned that much of this cooperation is project based and may lack long-term planning and goals.

180. **The Committee recommends that the State party strengthen its cooperation with NGOs, ensuring that such cooperation is planned for the long term.**

### **Independent monitoring structures**

181. The Committee notes the existence of the ombudspersons. Nonetheless, the Committee is concerned at the lack of an independent monitoring structure with a mandate to regularly evaluate progress in the implementation of the Convention and that would also be empowered to receive and address individual complaints of violations of the rights of the child.

182. **The Committee recommends that the State party:**

(a) **Establish an independent and effective monitoring mechanism in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex) and taking into account the Committee's general comment No. 2 on the role of independent human rights institutions, ensuring that it is provided with adequate human and financial resources and easily accessible to children. It should have a mandate to monitor the implementation of the Convention as well as to receive and address complaints from children, and do so in a child-sensitive and expeditious manner;**

(b) **Seek technical assistance in this regard from, among others, the Office of the High Commissioner for Human Rights.**

#### **National Plan of Action**

183. Although the Committee regrets that the 1990 National Plan of Action did not allow for effective implementation of the principles and provisions of the Convention, it welcomes the current efforts to develop in a participatory manner, a National Plan of Action as a follow-up to the General Assembly Special Session on Children in 2002 and to link this plan with existing sectoral plans of action and with the poverty reduction strategy paper.

184. **The Committee recommends that the State party adopt a rights-based approach based on the Convention on the Rights of the Child in the new National Plan of Action and ensure that it is developed through a participatory and decentralized process, including the participation of children.**

185. **The Committee recommends that the State party complete this process as soon as possible and take the necessary measures, including budget allocation, review of legislation, monitoring and evaluation, to fully implement the Plan of Action.**

#### **Resources for children**

186. Despite the commitments made by the State party at the fifty-ninth session of the Commission on Human Rights to invest liberally in the health, education and development of children, the Committee is concerned at the very limited resource allocations for children and at the modest portion of the budget that is allocated for social activities such as health and education. The Committee notes, in light of article 4 of the Convention, that not enough attention has been paid to allocating budgetary resources "to the maximum extent of ... available resources" for the implementation of the Convention.

187. **The Committee recommends that the State party give priority attention to increasing budget allocations for children, ensuring a judicious distribution of the resources between different fields and paying particular attention to enhancing the budget allocations for social activities, in particular health, education and child development.**



**Data collection**

188. The Committee is concerned at the lack of an adequate data collection mechanism in the State party allowing for the systematic and comprehensive collection of disaggregated quantitative and qualitative data for all areas covered by the Convention in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children.

189. **The Committee recommends that the State party:**

(a) **Strengthen its efforts to establish a comprehensive and permanent mechanism to collect data, disaggregated by sex, age, and rural and urban area, incorporating all the areas covered by the Convention and covering all children below the age of 18 years, with emphasis on those who are particularly vulnerable;**

(b) **Develop indicators to effectively monitor and evaluate progress achieved in the implementation of the Convention and assess the impact of policies that affect children;**

(c) **Seek technical assistance from, among other, the Statistics Division of the Department of Economic and Social Affairs of the Secretariat and UNICEF.**

**Training/dissemination of the Convention**

190. The Committee welcomes the translation of the Convention into local languages and the efforts made to raise awareness of the Convention through seminars and workshops, but remains concerned that the level of awareness is rather low.

191. The Committee further welcomes the many activities undertaken with a view to training professionals working with or for children, but is concerned at the lack of a systematic and sustained approach in this regard.

192. **The Committee recommends that the State party:**

(a) **Continue and strengthen its training and sensitization on children's rights for professional groups working with and for children, such as parliamentarians, judges, lawyers, law enforcement and health personnel, teachers, school administrators and others as required;**

(b) **Develop adequately resourced policies and programmes for a systematic and sustained training process;**

(c) **Target the public at large through, inter alia, radio and television.**

**2. Definition of the child**

193. The Committee is concerned about the legislative inconsistency concerning the definition of a child, and in particular, at the difference between the minimum legal age for marriage of boys (18 years) and that of girls (16 years); that the age of criminal responsibility is much too

low (7 years); at the low and variable minimum ages for admission to employment; at the definition of a child contained in the Zina and Haddood Ordinances, as well as about the widespread practice of early marriages.

194. **The Committee recommends that the State party:**

- (a) Align the age of marriage of boys and girls by raising the minimum age of marriage for girls to 18 years;**
- (b) Take all necessary measures to prevent early and/or forced marriages;**
- (c) Establish clear minimum ages for compulsory education;**
- (d) Establish minimum ages for employment in accordance with international standards, especially International Labour Organization Convention No. 138;**
- (e) Raise the minimum age of criminal responsibility to an internationally acceptable level.**

### **3. General principles**

#### **Non-discrimination**

195. While acknowledging the actions taken to address discrimination against girls in education, the Committee is concerned at the persistence of discriminatory social attitudes and discrimination against minority children and against girls, early and forced marriages, low school enrolment and high dropout rates, honour killings, mutilation and violence. Furthermore, the Committee is concerned at the disparities in the enjoyment of rights and the social discrimination experienced by children belonging to the most vulnerable groups, including children with disabilities, children belonging to a religious or other minority group and children living in rural areas.

196. **The Committee recommends that the State party:**

- (a) Make greater efforts to ensure that, in accordance with article 2, all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, particularly girl children, children belonging to a religious or other minority group, children with disabilities and other vulnerable groups of children;**
- (b) Target social services at children belonging to the most vulnerable groups.**

197. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

**Best interests of the child**

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.

**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.**

**Right to life**

200. The Committee takes note of the recognition given to the problem of honour killings by the State party, but is nonetheless very concerned at the widespread and increasing problem of so-called honour killings, affecting children both directly and, through their mothers, indirectly. The Committee is seriously concerned that, despite the efforts of the State party, the police are often reluctant to arrest the perpetrators and that the latter receive lenient or token punishment.

**201. The Committee recommends that the State party take all necessary measures to ensure that there is no discriminatory treatment for crimes of honour and that they are promptly, fairly and thoroughly investigated and prosecuted. In addition, the Committee recommends that the State party undertake a thorough review of the existing legislation and strengthen awareness-raising campaigns in this regard.**

**Respect for the views of the child**

202. The Committee is concerned that the views of the child are not given sufficient priority and that the provisions of article 12 are not fully integrated into the State party's legislation and administrative and judicial decisions, or in policies and programmes relevant to children at both national and local levels.

**203. The Committee recommends that the State party:**

**(a) Promote and facilitate respect for the views of children and ensure their participation in all matters affecting them in all spheres of society, particularly in the family, in school and in local communities, including in traditional communities, in accordance with article 12 of the Convention;**

**(b) Provide educational information to, among others, parents, teachers, government administrative officials, the judiciary, traditional leaders and society at large on children's right to participate and to have their views taken into account;**

**(c) Amend national legislation so that the principle of respect for the views of the child is recognized and respected, inter alia within custody disputes and other legal matters affecting children.**

#### **4. Civil rights and freedoms**

##### **Birth registration**

204. While noting the many efforts made by the State party to promote timely birth registration, the Committee is concerned at the fact that a very significant number of children are not registered at birth, especially children belonging to a religious or other minority group and children living in rural areas, which has negative consequences on the full enjoyment of fundamental rights and freedoms by the children.

**205. The Committee recommends that the State party strengthen and increase its measures to ensure the timely registration of all births, particularly of children belonging to a religious or other minority group and children living in rural areas, in accordance with article 7 of the Convention.**

##### **Torture and other cruel, inhuman or degrading treatment or punishment**

206. Although the State party is undertaking some training of police officers and other professionals working with children to promote respect for children's rights, the Committee is deeply concerned at the numerous reports of torture, serious ill-treatment and sexual abuse of children, including children belonging to religious or other minority groups, by police officers in detention facilities and other State institutions.

**207. The Committee recommends that the State party:**

**(a) Assess the scope, nature and causes of violence against children, in particular sexual violence against girls, with a view to adopting a comprehensive strategy and effective measures and policies and to changing attitudes;**

**(b) Properly investigate cases of violence, through a child-sensitive judicial procedure, notably by giving appropriate weight to children's views in legal proceedings, and apply sanctions against perpetrators, with due regard given to guaranteeing the right to privacy of the child;**

**(c) Add a definition of torture to the Constitution and ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;**

**(d) Undertake public education campaigns to promote a culture of non-violence.**

##### **Corporal punishment**

208. The Committee is deeply concerned that the State party's Penal Code (sect. 89) allows for corporal punishment to be used as a disciplinary measure in schools and at the fact that corporal punishment is widely practised, especially within educational and other institutions and

within the family, many times resulting in serious injuries. The Committee is further concerned that, despite the 1996 Abolition of the Punishment of Whipping Act, whipping is still used as a sentence for Haddood crimes.

209. **The Committee recommends that the State party, as a matter of urgency:**

- (a) Repeal section 89 of the Penal Code of 1860 and explicitly prohibit all forms of corporal punishment;**
- (b) Abolish the sentence of whipping, under any circumstance or law;**
- (c) Undertake well-targeted public awareness campaigns on the negative impact of corporal punishment on children, and provide teachers and parents with training on non-violent forms of discipline as an alternative to corporal punishment.**

## **5. Family environment and alternative care**

### **Parental responsibilities**

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.**

### **Children deprived of a family environment**

212. While welcoming the State party's preference for family forms of alternative care, the Committee remains concerned that the existing institutions for children in need of alternative care are inadequate, both qualitatively and quantitatively, and that record-keeping on children in need of these services is poor. Furthermore, the Committee is concerned at the absence of a mechanism for conducting periodic reviews of placement.

213. **The Committee recommends that the State party:**

- (a) Encourage and monitor the current practice of placement within the extended family, ensuring that the rights of children are met in this context;**
- (b) Establish standards and procedures, guaranteed in legislation, for alternative care, including in the areas of health, education and safety and in accordance with the principles and provisions of the Convention;**

**(c) Ensure that treatment in institutions is periodically reviewed, in light of article 25 under the Convention;**

**(d) Provide appropriate assistance to parents in the performance of their child-rearing responsibilities, as foreseen by article 18, paragraph 2, of the Convention.**

#### **Abuse and neglect**

214. The Committee is deeply concerned at the high prevalence of violence, abuse, including sexual abuse, and neglect of children in the State party, and at the lack of effective measures to combat this problem. For instance, the existing legal provisions do not protect children sufficiently and, as noted by the State party (report, para. 207), the implementation of laws concerning child abuse and neglect is not systematic.

215. **The Committee recommends that the State party:**

**(a) Assess the scope, nature and causes of child abuse and neglect with a view to adopting a comprehensive strategy;**

**(b) Adopt effective measures and policies aimed at changing attitudes, such as counselling for parents and guardians;**

**(c) Thoroughly investigate cases of violence and apply sanctions against perpetrators;**

**(d) Gather data on child abuse and neglect;**

**(e) Provide services for the physical and psychological recovery and social reintegration to victims of sexual abuse and any other child victims of abuse, neglect, ill-treatment, violence or exploitation, and take appropriate measures to prevent the criminalization and stigmatization of victims, including thorough cooperation with NGOs;**

**(f) Seek technical assistance from, among others, UNICEF and the World Health Organization.**

### **6. Basic health and welfare**

#### **Children with disabilities**

216. While being aware of the 49 special education centres and disabled-friendly cities initiatives, the Committee remains concerned at the limited integration of children with disabilities in schools, social events and cultural activities and at the low level of support received by these children and their families.

217. **In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) and of the Committee's recommendations adopted at its day of general discussion on the rights of children with**

**disabilities (CRC/C/69, paras. 310-339), the Committee recommends that the State party continue and strengthen its efforts to integrate children with disabilities into education and recreational programmes currently used by children without disabilities, notably through the improvement of the physical access of children with disabilities to public service buildings, including schools.**

### **Health and health services**

218. The Committee notes the efforts of the State party in the area of basic health and welfare, such as the immunization and control of diarrhoeal diseases programmes and the consequent decreases in polio and the infant mortality rate. The Committee also welcomes the promulgation of the Protection of Breastfeeding and Young Child Nutrition Ordinance (2002). Nonetheless, the Committee is extremely concerned at the very poor health situation of children and the unavailability of health-care services in the State party for them. Particular matters of concern are:

- (a) The very low spending on health in the State party;
- (b) The insufficient focus on preventive health care;
- (c) The still very high infant, under-5 and maternal mortality rates, due partly to weak antenatal and postnatal care and maternal malnutrition;
- (d) The high prevalence of malnutrition among children as well as diarrhoea, acute respiratory tract infections, malaria and iodine deficiency which leads to both physical and mental health problems among children;
- (e) The poor provision of health care, particularly in rural areas, owing to lack of necessary support structures such as education, communication, transport and other facilities, as well as reports of corruption within the framework of projects supported by international organizations;
- (f) The still very low immunization coverage, with an estimated 160,000 deaths due to vaccine-preventable diseases;
- (g) The lack of coordination regarding health care, notably between health-care providers and donor communities concerning the distribution of medical equipment.

219. **The Committee recommends that the State party:**

- (a) Allocate appropriate resources for health and develop and implement comprehensive policies and programmes to improve the health situation of children;**
- (b) Emphasize the role of preventive health care;**

**(c) Continue and strengthen efforts to decrease the infant, under-5 and maternal mortality rates by, inter alia, providing adequate ante- and post-natal care;**

**(d) Expand programmes to alleviate widespread child and maternal malnutrition and its serious consequences on health and psychological development, notably by promoting breastfeeding;**

**(e) Improve access to health care, especially in rural areas, through coordinated and comprehensive health-care strategies, as well as transparent allocation and distribution of donor funds and other forms of international assistance;**

**(f) Improve immunization.**

### **Adolescent health**

220. The Committee notes the efforts made by the State party to reduce fertility and the crude birth rate, but remains concerned that there is no organized system of reproductive health counselling and services, and that there is no family life education for adolescents nor education on the harmful effect of drugs and on sexual abuse.

**221. The Committee recommends that the State party continue to strengthen its efforts to address adolescent health issues and develop a comprehensive policy to provide adolescents in both urban and rural areas with reproductive health counselling and services, including family life education, especially on the effects of early marriage and on family planning, as well as to prevent and combat HIV/AIDS and the harmful effects of drugs. In this respect, the State party is encouraged to seek technical assistance from United Nations agencies such as WHO, UNAIDS, UNICEF and the United Nations Population Fund.**

### **Harmful traditional practices**

222. The Committee reiterates its concern at the existence of harmful traditional practices, including forced and/or early child marriages and dowry-related violence, which pose very serious threats to children, and emphasizes the lack of interventions on the part of the State party to address these issues.

**223. The Committee recommends that the State party, as a matter of urgency, take all necessary measures to eradicate all traditional practices harmful to the physical and psychological well-being of children, which affect the girl child in particular.**

### **Right to an adequate standard of living**

224. The Committee is very concerned at the high number of children living in poverty, the shortage of adequate housing, clean water, adequate sanitation and sewage and the problem of air pollution, all of which have a serious negative impact on the living conditions of children in the State party, causing injuries, sickness and death.



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

(a) Reinforce its efforts to provide support and material assistance to economically disadvantaged families and to guarantee the right of children to an adequate standard of living;

(b) Pay particular attention to the rights and needs of children in its poverty reduction strategy paper and in all programmes intended to improve the standard of living in the country, including access to clean water and unpolluted air;

(c) Strengthen the social security system to broaden its coverage so as to include non-working parents.

## 7. Education, leisure and cultural activities

226. The Committee welcomes the measures taken to increase the attendance of girls at schools and the information that a national “Compulsory Primary Education Ordinance” has been promulgated (March 2002), and also notes the modest improvement in the gross primary enrolment rate. However, the Committee remains deeply concerned that:

(a) The public expenditure on education (as a percentage of the gross domestic product) in the State party is extremely low and has been sinking in recent years;

(b) The considerable amounts of international aid invested in the State party for the purpose of promoting education have not been used in an efficient or adequate way;

(c) School enrolment and literacy rates are very low;

(d) Dropout rates are very high and secondary education enrolment rates have decreased;

(e) Gender and geographical disparities remain very high;

(f) The quality of education is poor;

(g) The code of conduct for teachers does not prohibit corporal punishment, nor does it deal with the problem of violence against children in school.

227. The Committee is very concerned about reports of violence and sexual abuse within madrasas, as well as the narrow content of the education provided within these schools. In this regard, the Committee notes with appreciation the initiatives by the State party to streamline the education given in madrasas so that it is more compatible with regular public education, and to eradicate violence against children.

228. The Committee is further concerned at reports of madrasas being involved in recruiting children, including forcibly, to participate in armed conflicts, especially in Afghanistan and in Jammu and Kashmir.

229. The Committee recommends that the State party:

- (a) Ensure that primary education is free and compulsory for all children;
- (b) Abolish the age limit that prohibits access to primary education after age 12;
- (c) Ensure, as a matter of urgency, that adequate resources are allocated for education, in particular for improving the quality of and access to education;
- (d) Continue and strengthen its efforts to ensure that all children have equal access to educational opportunities, with a view to eliminating the prevailing disparities between girls and boys as well as between urban and rural areas;
- (e) Identify the causes of the high school dropout rate and strengthen the measures taken to address this problem;
- (f) Take measures to improve the quality of education, including non-formal education, inter alia by strengthening the current training of teachers, by ensuring that schools are adequately equipped and by introducing a monitoring system for the attainment of the education targets;
- (g) Allocate resources to hire new teachers in order to improve the teacher/student ratio, especially in primary schools;
- (h) Introduce, strengthen and systemize human rights education, including on the rights of the child, in school curricula, beginning in primary school;
- (i) Take proactive measures to eliminate violence against children in schools, notably by including in the code of conduct for teachers the prohibition of corporal punishment and by limiting the role of school counsellors to those functions that help the pupil and revoking their disciplinary functions.

230. The Committee recommends that the State party:

- (a) Ensure the protection of children from maltreatment within madrasas through the establishment of an adequate monitoring mechanism;
- (b) Continue and strengthen its planned reform of madrasas, with a view to broadening the scope of the education given in madrasas;
- (c) Take effective measures to ensure that children below the age of 18 years are not involved in hostilities and to protect children from forced recruitment.

## **8. Special protection measures**

### **Refugee and internally displaced children**

231. While noting some progress in this field, for instance, the introduction of birth registration in the refugee camps in May 2002, the Committee remains concerned at the very

harsh living conditions in Afghan refugee camps, the scarcity of food and water and the lack of shelter and medical care, which have serious implications for the situation of children living in these camps. The Committee is also concerned at reports of ill-treatment of refugees by the police.

232. **The Committee recommends that the State party:**

- (a) Make all appropriate efforts to improve the living conditions of refugee families and children in refugee camps and elsewhere within the country;**
- (b) Give special attention to unaccompanied refugee children;**
- (c) Ensure that refugee children have access to health care and education and are not discriminated against;**
- (d) Ensure that refugee children receive appropriate protection and in this regard, seek cooperation with relevant United Nations specialized agencies, including the Office of the United Nations High Commissioner for Refugees and UNICEF, as well as with NGOs;**
- (e) Consider ratifying international instruments, including the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.**

**Children in armed conflict, including physical and psychological recovery and social integration**

233. The Committee is concerned that, in spite of legislation prohibiting the involvement of children in hostilities, there are reports of children being recruited, including forcibly, to participate in armed conflicts, especially in Afghanistan as well as in Jammu and Kashmir.

234. **The Committee recommends that the State party:**

- (a) Take effective measures to ensure that children below the age of 18 years are not involved in hostilities and that children below the age of 15 years are not recruited into armed forces;**
- (b) Develop, in collaboration with NGOs and international organizations, a comprehensive system for the reintegration and recovery of children who have participated in hostilities.**

**Economic exploitation, including child labour**

235. The Committee notes the State party's acknowledgement that economic exploitation of children is a very serious concern and the many activities to reduce and eliminate child labour, but remains deeply concerned that:

- (a) The prevalence of child labour is still extremely high, and that the phenomenon is widely accepted in society;**

(b) The minimum age for admission to employment is low and varies between different laws;

(c) Many child labourers, notably children working as domestic servants, are very vulnerable to abuse, including sexual abuse, and completely lack protection.

236. Noting with appreciation the ratification of the ILO Worst Forms of Child Labour Convention, 2001 (No. 182), the Committee remains concerned that the State party has not developed concrete measures for its implementation.

237. **The Committee recommends that the State party:**

(a) **Continue and strengthen its efforts to eradicate child labour, in particular by addressing the root causes of economic exploitation through poverty eradication and access to education;**

(b) **Review its legislation concerning child labour, in particular with regard to the minimum age for employment, with a view to harmonizing it with international standards;**

(c) **Ratify and implement ILO Minimum Age Convention 1973 (No. 138) and ensure the full implementation of ILO Convention No. 182;**

(d) **Develop a comprehensive child labour monitoring system in collaboration with NGOs, community-based organizations and the International Programme for the Elimination of Child Labour of ILO.**

#### **Drug abuse**

238. The Committee is concerned at the high rate of drug abuse among children.

239. **The Committee recommends that the State party:**

(a) **Develop a national drug control plan, or master plan, with the guidance of the United Nations Drug Control Programme;**

(b) **Provide children with accurate and objective information about substance use, including hard drugs and tobacco, and protect children from harmful misinformation;**

(c) **Cooperate in this regard with UNICEF and WHO;**

(d) **Develop rehabilitation services for children who are victims of substance abuse.**

**Sexual exploitation and sexual abuse**

240. In view of the fact that child sexual abuse and sexual exploitation of children are reported to be serious problems in the State party, the Committee is concerned that the State party has not addressed them effectively. The Committee is particularly concerned at:

- (a) The absence of legislation clearly prohibiting child sexual abuse and sexual exploitation and the lack of a clear definition of the term in the State party, as well as the lack of legislation that clearly defines sexual consent;
- (b) The absence of measures to prosecute the perpetrators;
- (c) The absence of statistics and data on the issue of child sexual abuse;
- (d) Traditional attitudes regarding the subject (e.g. concepts like “family honour”), which imply that a majority of abuse cases go unreported;
- (e) Reports that child sexual abuse is prevalent, and increasing, in prisons.

241. **The Committee recommends that the State party:**

- (a) **Review its legislation in order to clearly define sexual abuse, in particular child sexual abuse and child sexual exploitation;**
- (b) **Undertake a study on the prevalence of sexual abuse and exploitation;**
- (c) **Take all necessary measures to prevent and end this practice through a comprehensive strategy, notably by prosecuting perpetrators, and holding public debates and conducting awareness campaigns;**
- (d) **Ensure that victims of sexual abuse and exploitation have access to appropriate recovery and reintegration programmes and services;**
- (e) **Seek assistance from, among others, WHO and UNICEF.**

**Sale, trafficking and abduction**

242. While noting the serious efforts undertaken by the State party to prevent child trafficking, the Committee is deeply concerned at the very high incidence of trafficking in children for the purposes of sexual exploitation, bonded labour and use as camel jockeys.

243. **The Committee recommends that the State party:**

- (a) **Ensure that cases of disappeared children are registered and investigated appropriately;**
- (b) **Continue and strengthen its efforts to combat the problem of child trafficking;**

**(c) Strengthen national and regional strategies and programmes on the prevention and suppression of sexual exploitation and trafficking, and ensure that these strategies take into account the commitments made at the two World Congress against Commercial Sexual Exploitation of Children in 1996 and 2001.**

#### **Street children**

244. The Committee expresses its concern at the increasing number of street children and the vulnerability of these children to violence, torture, sexual abuse and exploitation, the lack of a systematic and comprehensive strategy to address the situation and protect these children, and the very poor registration of missing children by the police.

245. **The Committee recommends that the State party:**

**(a) Ensure that street children are provided with adequate nutrition and shelter as well as with health care and educational opportunities in order to support their full development, and provide them with adequate protection and assistance;**

**(b) Develop a comprehensive strategy to address the increasingly high number of street children, with the aim of reducing and preventing this phenomenon.**

#### **Administration of juvenile justice**

246. The Committee welcomes the promulgation of the Juvenile Justice System Ordinance (2000), but is concerned at its poor implementation and that many of the authorities in charge of its implementation, particularly within provincial governments and tribal areas, are unaware of its existence. The Committee is also deeply concerned at the high number of children in prisons who are detained in poor conditions, often together with adult offenders and thus vulnerable to abuse and ill-treatment. The very low minimum age of criminal responsibility (7 years) is also of concern. Further, the Committee is deeply concerned about reports of juvenile offenders being sentenced to death and executed, which have occurred even after the promulgation of the Ordinance.

247. **The Committee recommends that the State party:**

**(a) Ensure the full and effective implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, and, in the light of the Committee's 1995 discussion day on the administration of juvenile justice (CRC/C/46);**

**(b) Raise the minimum age of criminal responsibility to an internationally acceptable level and ensure that children below the age of 18 years are accorded the protection of juvenile justice provisions and are not treated as adults;**

- (c) **Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time;**
- (d) **Guarantee that all children have the right to appropriate legal assistance and defence;**
- (e) **Set up a system of juvenile courts;**
- (f) **Ensure that children in detention are always separated from adults;**
- (g) **Ensure that children remain in regular contact with their families while in the juvenile justice system;**
- (h) **Take immediate steps to ensure that the prohibition of the death penalty, as stipulated in the Juvenile Justice System Ordinance, is guaranteed for all children below the age of 18 years, in light of articles 37 (a) and 6 of the Convention, and that death sentences imposed before the promulgation of this Ordinance are not carried out;**
- (i) **Seek assistance from, among others, OHCHR, the Centre for International Crime Prevention and UNICEF.**

#### **9. Optional Protocols and amendment to article 43, paragraph 2, of the Convention**

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

249. **The Committee recommends that the State party ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.**

#### **10. Dissemination of documents**

250. In light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. The Committee notes the intention of the State party to translate its report into local languages and suggests that the concluding observations adopted by the Committee also be translated into local languages. Such documents should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.

#### **11. Next report**

251. **The Committee, aware of the delay in the State party's reporting, wishes to underline the importance of a reporting practice which is in full compliance with the rules set out in article 44 of the Convention. The Committee on the Rights of the Child should**

**have the opportunity to examine regularly the progress made in the implementation of the rights of the child. In order for it to be able to do so, regular and timely reporting by State parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its third and fourth reports in one consolidated report by 11 December 2007, the due date for the submission of the fourth report. The consolidated report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.**

### **Concluding observations: Madagascar**

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

#### **A. Introduction**

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

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

254. The Committee notes with appreciation:

- (a) The establishment of an Inter-Ministerial Follow-up and Coordination Committee;
- (b) The adoption of the poverty reduction strategy paper;
- (c) The establishment of the National Human Rights Commission (Decree No. 96-1282 of 18 December 1996);
- (d) The adoption of a National Plan of Action for Education of Girls (Decree No. 95-645 of 10 October 1995);
- (e) The adoption of Act 94-033 of 13 March 1995 establishing general guidelines for the education and training system;
- (f) The adoption of the National Programme for the Improvement of Education (PNAE, phase II - Decree No. 97-1400 of 19 December 1997);
- (g) The production of the Guide to the Protection of Children;
- (h) The adoption of Act No. 96-030 on the special system for non-governmental organizations;



- (i) The enactment of Act 98-024 of 25 January 1999 on the revision of the Criminal Code concerning paedophilia;
- (j) The enactment of Act 2000-021 of 28 November 2000 amending and supplementing certain provisions of the Criminal Code relating to violence against women and to sexual offences;
- (k) The ratification of International Labour Organization Convention (No. 138) on the Minimum Age for Admission to Employment and ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

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

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

### **D. Principal subjects of concern and recommendations**

#### **1. General measures of implementation**

##### **Previous recommendations of the Committee**

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

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

##### **Legislation**

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

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

**(a) Undertake all necessary steps to harmonize existing legislation and customary law with the provisions and principles of the Convention, using the recent review of existing laws, and expedite plans to revise Order No. 62-038 of 19 September 1962 on the protection of children;**

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

#### **National plan of action**

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

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

#### **Coordination**

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

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

#### **Independent monitoring structures**

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

265. **The Committee recommends that the State party:**

(a) **Expedite the activities aiming at the establishment of an institution to effectively monitor and evaluate progress in the implementation of the Convention at the national and local levels, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex) and the Committee's general comment No. 2 on national human rights institutions. In addition, the institution should be empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner and address them effectively;**

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

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

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

#### **Cooperation with civil society**

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

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

#### **Resources for children**

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

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

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

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

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

#### **Data collection**

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

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

#### **Training/dissemination of the Convention**

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

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

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

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

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

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

(e) Seek technical assistance from, among others, OHCHR, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and UNICEF.

## **2. Definition of the child**

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

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

## **3. General principles**

### **Non-discrimination**

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

277. The Committee recommends that the State party:

(a) Make greater efforts to ensure that all children within its jurisdiction enjoy all rights set out in the Convention without discrimination, in accordance with article 2;

(b) Prioritize and target social services to children belonging to the marginalized and most vulnerable groups through a proactive and comprehensive strategy;

(c) Ensure effective law enforcement, notably with regard to unlawful customs, undertake studies and launch comprehensive public information campaigns involving religious leaders to prevent and combat all forms of discrimination, within the framework of international cooperation where needed.

**278. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

#### **Best interests of the child**

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

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

#### **Right to life**

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

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

#### **Respect for the views of the child**

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

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

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

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

#### 4. Civil rights and freedoms

##### Birth registration

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

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

##### Access to information

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

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

##### Ill-treatment

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

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

#### 5. Family environment and alternative care

##### Family support

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

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

#### **Adoption**

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

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

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

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

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

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

#### **Protection from violence, abuse and neglect**

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

297. **The Committee recommends that the State party:**

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



- (b) Take all necessary steps to introduce the legal prohibition of corporal punishment in schools and other institutions and at home, and train teachers in the use of alternative measures of discipline;**
- (c) Properly investigate cases of violence through a child-sensitive judicial procedure, notably by giving appropriate weight to children's views in legal proceedings, and apply sanctions against perpetrators, giving due regard to the need to guarantee the child's right to privacy;**
- (d) Establish an appropriate complaint procedure and inform children about this mechanism;**
- (e) Provide services for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention, and take measures to prevent the criminalization and stigmatization of victims;**
- (f) Take into consideration the recommendations of the Committee adopted on its days of general discussion on children and violence (CRC/C/100, para. 688 and CRC/C/111, paras. 701-745);**
- (g) Seek technical assistance from, among others, UNICEF and WHO.**

## **6. Basic health and welfare**

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

299. **The Committee recommends that the State party:**

- (a) Increase the allocation of adequate human and financial resources and develop and implement comprehensive policies and programmes, in particular strengthening the expanded programme of immunization, the Bamako Initiative, the baby-friendly hospital Initiative and the nutritional programme to improve the health situation of children, particularly in rural areas;**
- (b) Facilitate access to primary health services; reduce the incidence of maternal, child and infant mortality; prevent and combat malnutrition and malaria; enhance hygiene, especially among vulnerable and disadvantaged groups of children; and promote proper breastfeeding practices;**

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

#### **Adolescent health**

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

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

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

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

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

#### **HIV/AIDS**

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

**303. The Committee recommends that the State party:**

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

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

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

#### **Children with disabilities**

304. While noting the adoption of Act No. 97-044 on disabled persons, the Committee is concerned at the negative perception of children with disabilities, reflected in the practice of hiding these children. It is further concerned at the lack of statistical data on children with

disabilities in the State party, and at the limited specialized health care, education and employment possibilities available for them. Finally, the Committee is concerned that there is no national system for early detection and that poor health conditions and poverty are leading to an increase in the number of children with disabilities.

305. **The Committee recommends that the State party:**

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

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

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

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

(e) **Take note of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities (see CRC/C/69);**

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

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

(h) **Establish a national system for early detection;**

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

#### **Standard of living**

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

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

(a) **Strengthen its efforts to provide support and material assistance to economically disadvantaged families and to guarantee the right of children to an adequate standard of living, in particular, access to drinking water, health, housing and hygiene;**

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

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

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

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

309. **The Committee recommends that the State party:**

**(a) Ensure that all children, especially girls, wherever they live, including in the least developed areas, have equal access to educational opportunities;**

**(b) Take all necessary measures to make primary education completely free;**

**(c) Increase resources to help children go on to secondary education;**

**(d) Take the necessary measures to identify the causes of the high rates of repetition and dropout in primary school and provide remedies;**

**(e) Establish bridges between formal and non-formal education;**

**(f) Take the necessary measures to remedy the poor quality of education and the internal efficiency of the management of education;**

**(g) Raise awareness about the importance of early childhood education and develop programmes to increase the enrolment at the pre-school level;**

**(h) Take measures to enable children with disabilities to have access to regular schools and to ensure that these children have access to formal and vocational educational opportunities;**

- (i) Orient education towards the aims mentioned in article 29, paragraph 1, of the Convention and the Committee's general comment No. 1 on the aims of education;**
- (j) Provide teachers with adequate training and encourage more women to become teachers;**
- (k) Encourage the participation of children at all levels of school life;**
- (l) Provide playgrounds at all schools and encourage the participation of children, in particular girls, in leisure and cultural activities;**
- (m) Seek technical assistance from, among others, UNESCO and UNICEF.**

## **8. Special protection measures**

### **Economic exploitation, including child labour**

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

311. **The Committee recommends that the State party:**

- (a) Adopt the draft Labour Code, which increases the minimum age for employment from 14 to 15 years, and take the necessary measures for its effective implementation, including increasing the number of labour inspectors providing them with adequate means;**
- (b) Pay particular attention to the issue of domestic servants;**
- (c) Continue its collaboration with ILO/IPEC.**

### **Sale, trafficking and abduction**

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

313. **The Committee recommends that the State party:**

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

- (b) Undertake research and systematic data gathering;**
- (c) Facilitate the reunification of child victims with their families and provide adequate care, psychosocial support and reintegrative programmes for them;**
- (d) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime of 2000;**
- (e) Continue to seek assistance from ILO/IPEC and UNICEF.**

#### **Street children**

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

315. **The Committee recommends that the State party:**

- (a) Ensure that street children are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development;**
- (b) Ensure that these children are provided with: recovery and rehabilitation services for physical, sexual and substance abuse; protection from police brutality; and services for reconciliation with their families, including through family support;**
- (c) Undertake a study on the causes and scope of the problem of street children and develop a comprehensive strategy, with children's participation, to address the high and increasing numbers of street children, with the aim of preventing and reducing this phenomenon;**
- (d) Closely monitor the families sent to the *villages d'insertion* and undertake an assessment of this initiative.**

#### **Sexual exploitation, including prostitution and pornography**

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

317. **In light of article 34 and other related articles of the Convention, and taking into account the recent studies undertaken by the State party in that regard, the Committee recommends that the State party formulate a national plan of action and implement appropriate policies and programmes to prevent and combat commercial sexual exploitation, including prostitution and pornography. These policies and programmes**

**should include training of the police force, courts and local administrative services, and the establishment of local networks involving all relevant actors to prevent, detect and refer cases of commercial sexual exploitation and to develop programmes for the recovery and rehabilitation of child victims in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children. The Committee also recommends that the State party reinforce its cooperation with UNICEF.**

#### **Administration of juvenile justice**

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

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

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

(a) **Ensure that persons of 16 and 17 years of age are not considered and sentenced as adults and enjoy the full protection of the Convention;**

(b) **Make sure that children below the age of 13 years are not brought before a criminal court and that educational measures permit deprivation of liberty only as a measure of last resort;**

(c) **Undertake all necessary measures to establish juvenile courts and appoint trained juvenile judges in all regions of the State party;**

(d) **Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time, limit by law the length of pre-trial detention and ensure that the lawfulness of this detention is reviewed by a judge without delay and then regularly;**

- (e) Provide children with legal or other assistance at an early stage of judicial proceedings;**
- (f) Provide children with basic services (e.g. schooling);**
- (g) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, notably by establishing special prisons for children with conditions suitable to their age and needs and by ensuring the existence of social services in all detention centres in the country; and in the meantime by guaranteeing separation from adults in all prisons and in pre-trial detention places all over the country;**
- (h) Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prison guards, and establish an independent child-sensitive and accessible system for dealing with complaints from children;**
- (i) Ensure that children remain in regular contact with their families while in the juvenile justice system notably by informing parents when their child is detained;**
- (j) Introduce regular medical examination of children by independent medical staff;**
- (k) Introduce training programmes on relevant international standards for all professionals involved in the system of juvenile justice;**
- (l) Make every effort to establish a programme of recovery and social rehabilitation of juveniles following judicial proceedings;**
- (m) Take into consideration the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238);**
- (n) Request technical assistance in the area of juvenile justice and police training from, among others, the Office of the High Commissioner for Human Rights and UNICEF.**

## **9. Optional Protocols**

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

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

## **10. Dissemination of documentation**

323. Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations



**adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations. The Committee recommends that the State party request international cooperation in this regard.**

## **11. Next report**

324. **The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States' responsibilities to children under the Convention includes ensuring that the United Nations Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by State parties is crucial. The Committee recognizes that some States parties experience difficulties in reporting in a timely and regular manner. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its combined third and fourth periodic reports by 17 April 2008, due date for the submission of the fourth periodic report. Such a report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.**

## **Concluding observations: Brunei Darussalam**

325. The Committee considered the initial report of Brunei Darussalam (CRC/C/61/Add.5), submitted on 20 December 2001, at its 906th and 907th meetings (see CRC/C/SR.906 and 907), held on 25 September 2003, and adopted, at the 918th meeting, held on 3 October 2003, the following concluding observations.

### **A. Introduction**

326. The Committee welcomes the submission of the State party's initial report, which followed the established guidelines, and the written replies to its list of issues (CRC/C/Q/BRN/1) which provided the Committee with the necessary information. The Committee acknowledges that the presence of a highly qualified delegation directly involved with the implementation of the Convention allowed for a better understanding of the rights of the child in the State party.

### **B. Positive aspects**

327. The Committee welcomes, inter alia:

- (a) The enactment of the Children's Order 2000;
- (b) The establishment of the National Children's Council in 2001;
- (c) The excellent health-care system reflected in very good indicators;
- (d) The very high school enrolment rates.

## **C. Principal subjects of concern and recommendations**

### **1. General measures of implementation**

#### **Reservations**

328. The Committee is deeply concerned that the broad and imprecise nature of the State party's general reservation potentially negates many of the provisions and principles of the Convention as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention.

329. **The Committee strongly recommends that the State party expeditiously undertake the re-examination of its reservations with a view to reconsidering and ultimately withdrawing them, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993). In this regard, the Committee considers that the State party should benefit from the recent withdrawal of a similar reservation by another State party. In addition, the Committee recommends that the State party study its reservations to articles 14, 20 and 21 of the Convention with a view to withdrawing them.**

#### **Legislation**

330. The Committee notes the adoption of various legislative measures with respect to children's rights (e.g. the 2000 Children's Order, the Emergency Islamic Family Order, the Islamic Adoption of Children Order and the 2001 Adoption of Children Order), but remains concerned that they do not sufficiently reflect a comprehensive rights-based approach to the implementation of the Convention.

331. **The Committee recommends that the State party:**

**(a) Undertake a comprehensive review of existing legislation from a rights-based perspective, to ensure its conformity with the principles and provisions of the Convention;**

**(b) Ensure the speedy promulgation of legislation relating to child rights and its effective implementation;**

**(c) Ensure that laws are sufficiently clear and precise, are published and are accessible to the public.**

332. The Committee is concerned that the State party has not acceded to any of the main human rights instruments, with the exception of the Convention on the Rights of the Child.

333. **The Committee recommends that the State party take the necessary steps for the ratification of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

## Coordination

334. The Committee notes that the National Children's Council is entrusted with the coordination of the activities of the various bodies with regard to children, while the Social Affairs Services Unit of the Ministry of Culture, Youth and Sports is the coordinating body for the implementation of the Convention. The Committee is therefore concerned that this may lead to duplication and lack of effectiveness in the implementation of the Convention.

**335. The Committee recommends that the State party establish a clear mandate for the National Children's Council enabling it to perform an effective coordination of the activities of government ministries and NGOs for the implementation of the Convention with adequate power, a legal framework and a general secretariat with sufficient human, financial and other resources.**

## Plan of action

336. The Committee welcomes the establishment of a cross-sectoral committee to formulate the national plan of action.

**337. The Committee recommends that the national plan of action cover comprehensively the Convention with due consideration to the outcome document, "A World Fit for Children", of the General Assembly special session on children. The Committee further recommends that there be a monitoring system and indicators to measure the progress achieved.**

## Cooperation with civil society

338. The Committee is concerned that insufficient efforts have been made to involve civil society in the full implementation of the Convention and in the reporting process.

**339. The Committee recommends that the State party involve systematically non-governmental organizations (NGOs) and other civil society groups, including children's associations, throughout all stages of the implementation of the Convention, including the formulation of the national plan of action, policies and programmes, and in the drafting of the next report to the Committee.**

## Independent monitoring structures

340. The Committee notes that two committees within the Ministry of Culture, Youth and Sports, as well as the National Children's Council, are tasked with monitoring the implementation of the Convention. The Committee is therefore concerned that this may lead to duplication and lack of effectiveness in the monitoring of the Convention. In addition, the Committee is concerned that there is no independent monitoring mechanism with a mandate to receive individual complaints from children.

341. **The Committee recommends that the State party:**

(a) **Establish a national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex) and in light of the Committee's general comment No. 2 on national human rights institutions, to enable it to monitor and evaluate progress in the implementation of the Convention at the national and, if appropriate, the local level. In addition, the institution should be empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner, and address them effectively;**

(b) **Review the role of existing institutions in order to avoid any overlap in their functions;**

(c) **Allocate sufficient financial and human resources to the national human rights institutions;**

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

#### **Data collection**

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

343. **The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age, and urban and rural area. This system should cover all children up to the age of 18 years with specific emphasis on those who are particularly vulnerable, including child victims of abuse, neglect, or ill-treatment; children with disabilities; children belonging to ethnic groups; refugee and asylum-seeking children; children in conflict with the law; working children; adopted children; street children; and children living in urban areas. It further encourages the State party to use these indicators and data to formulate policies and programmes for the effective implementation of the Convention.**

#### **Training and dissemination**

344. The Committee is aware of the measures undertaken to promote widespread awareness of the principles and provisions of the Convention and welcomes the translation of the Convention into Malay, but is of the opinion that these measures are not sufficient and need to be strengthened by providing the necessary resources. In this respect, the Committee is concerned at the lack of a systematic plan to introduce training and raise awareness among professional groups working for and with children.

345. **The Committee recommends that the State party:**

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

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

(c) **Seek technical assistance from, among others, OHCHR and the United Nations Educational, Scientific and Cultural Organization (UNESCO).**

## **2. Definition of the child**

346. The Committee is concerned that the minimum age for marriage is 14 years which the Committee considers as being far too low. The Committee is further concerned that even younger children may marry under Islamic law.

347. **The Committee recommends that the State party:**

(a) **Review and, accordingly, take steps to amend its legislation so that the minimum-age requirements are gender neutral and explicit and ensure that they are enforced by law;**

(b) **In particular, increase the minimum age for marriage and make it the same for boys and girls.**

## **3. General principles**

### **Right to non-discrimination**

348. The Committee is concerned that the principle of non-discrimination is not included in the legislation of the State party and that discrimination, contrary to article 2 of the Convention, still persists in the State party. In particular, the Committee is concerned about discrimination against girls and children born out of wedlock under existing personal status law (e.g. in inheritance, custody and guardianship).

349. **The Committee recommends that the State party:**

(a) **Ensure full compatibility between national legislation and practices with the Convention;**

(b) **Take effective measures, including enacting or rescinding legislation where necessary, to prevent and eliminate discrimination on grounds of sex and birth in all fields of civil, economic, political, social and cultural life;**

**(c) Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes in this regard, particularly within the family;**

**(d) Train members of the legal profession, especially the judiciary, to be gender-sensitive. Religious leaders should be mobilized to support such efforts.**

350. The Committee is concerned at the disparities in the enjoyment of all rights covered by the Convention by children practising religions other than Islam and by non-national children. The Committee is further concerned that race is indicated on identity cards, as this may lead to de facto discrimination.

**351. The Committee recommends that the State party take all necessary measures to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2.**

**352. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of the Committee's general comment No. 1 on article 29, paragraph 1, of the Convention on the aims of education.**

#### **Best interests of the child**

353. 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.

**354. 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.**

#### **Respect for the views of the child**

355. While noting, inter alia, the right of the child to choose who she/he wishes to live with in cases of divorce and the presence of student councils in some schools, the Committee remains concerned that traditional attitudes towards children in society and local communities may limit respect for their views, especially within the family and schools.

**356. The Committee recommends that the State party:**

**(a) Continue to promote and facilitate within the family, the school, institutions, the courts and administrative bodies respect for the views of children and their active participation in all matters affecting them, in accordance with article 12 of the Convention;**

(b) **Develop skills-training programmes in community settings for parents, teachers, social workers and local officials so that they can learn how to help children to express their informed views and opinions and to take those views into consideration;**

(c) **Seek assistance from intergovernmental organizations.**

#### **4. Civil rights and freedoms**

##### **Birth registration**

357. The Committee notes with appreciation the work done by the “Flying Doctors Team” to ensure registration of children in remote areas, but remains concerned that certain children, notably abandoned children, may still not be registered at birth.

358. **The Committee recommends that the State party continue its efforts to ensure the registration at birth of all children, notably by carrying out awareness-raising campaigns about birth registration.**

##### **Nationality**

359. The Committee is concerned that under the Brunei Nationality Act (cap. 15), citizenship is not automatically granted to children of Brunei women married to non-nationals, while it is where the father is Brunei.

360. **The Committee recommends that the State party revise the Brunei Nationality Act in order to ensure that children who have a Brunei parent acquire Brunei citizenship in an equal manner, regardless of whether the Bruneian parent is the father or the mother.**

##### **Corporal punishment**

361. The Committee is concerned that corporal punishment is not prohibited at home, in schools or institutions and remains acceptable in the society. The Committee also notes that the new book of discipline for schools does not specifically prohibit corporal punishment nor does it even refer to it as a form of discipline.

362. **The Committee strongly recommends that the State party prohibit corporal punishment at home, in schools and institutions and undertake education campaigns to educate families on alternative forms of discipline.**

#### **5. Family environment and alternative care**

##### **Premarital course**

363. The Committee notes the existence of a premarital course for every couple prior to their marriage.

364. **The Committee recommends that the State party uses this premarital course to include teaching about the principles and provisions of the Convention.**

## **Adoption**

365. The Committee welcomes the enactment of the Islamic Adoption of the Children's Order 2001 and Adoption of Children Order 2001, which both came into force on 26 March 2001 but remains concerned that the State party has not ratified the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

**366. The Committee recommends that the State party ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 in order to complete the protection of adopted children.**

## **Violence, abuse, neglect and maltreatment**

367. The Committee notes the adoption of the Children's Order 2000 and welcomes the special unit of the police established in 1997 to deal with child victims of abuse and violence, but remains concerned that there is insufficient information and awareness in the State party of the ill-treatment and abuse of children within the family and institutions.

**368. The Committee recommends that the State party:**

**(a) Conduct a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address these practices;**

**(b) Take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse of children, in the family and in institutions;**

**(c) Carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment;**

**(d) Establish effective child-sensitive procedures and mechanisms to receive, monitor, and investigate complaints, including intervening where necessary;**

**(e) Investigate and prosecute cases of ill-treatment, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected;**

**(f) Provide care, recovery and reintegration for child victims;**

**(g) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment;**

**(h) Rehabilitate offenders;**

**(i) Seek assistance from, among others, the World Health Organization (WHO).**



## **6. Basic health and welfare**

### **Adolescent health**

369. The Committee is concerned that there is insufficient information available in relation to adolescent health and inadequate access by adolescents to reproductive and mental health counselling services.

370. **The Committee recommends that the State party:**

(a) **Ensure that adolescents have access to, and are provided with, education on reproductive health, mental health and other adolescent health issues, as well as with child-sensitive and confidential counselling services;**

(b) **Strengthen efforts in the area of adolescent health education within the education system;**

(c) **Seek assistance from, among others, WHO.**

### **Children with disabilities**

371. The Committee notes the establishment of the National Advisory and Coordinating Committee for Children with Special Needs and the drafting process of the Emergency (Education) Order 2000, but remains concerned at the insufficient information on children with disabilities.

372. **The Committee recommends that the State party:**

(a) **Conduct a survey to assess the causes and extent of disability among children;**

(b) **Review the existing policies and practice in relation to children with disabilities, taking due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted at its day of general discussion on the issue of "The rights of children with disabilities" (see CRC/C/69);**

(c) **Speed up the process of enacting the Emergency (Education) Order 2000;**

(d) **Involve children with disabilities and their families in developing and reviewing policies relevant to their situation;**

(e) **Undertake greater efforts to make available the necessary professional and financial resources;**

**(f) Undertake greater efforts to promote and expand community-based rehabilitation programmes, including parent support groups, and inclusive education of children with all forms of disability;**

**(g) Seek assistance from, among others, WHO.**

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

373. The Committee notes the very good education indicators, the broad scope of education in schools, encompassing a development-oriented co-curriculum besides the academic curriculum, and the intention to incorporate the Convention into school curricula, but remains concerned that:

- (a) Education is not compulsory;**
- (b) Insufficient services are provided for children with learning difficulties.**

374. **The Committee recommends that the State party:**

- (a) Ensure that primary education is made compulsory by law;**
- (b) Taking into account the Committee's general comment No. 1 on the aims of education, include human rights education, including about children's rights, in the curricula, particularly with respect to the development of and respect for human rights, tolerance and equality of the sexes and religious and ethnic minorities;**
- (c) Further develop services for children with learning difficulties;**
- (d) Seek assistance from UNESCO.**

## **8. Special protection measures**

### **Economic exploitation, including child labour**

375. The Committee acknowledges that the State party is not a member of the International Labour Organization (ILO) and is concerned that the minimum age for employment is not clear.

376. **The Committee recommends that the State party establish a clear minimum age for employment which should be in line with existing international standards such as those enshrined in ILO Conventions No. 138 concerning the Minimum Age for Admission to Employment of 1973 and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour of 1999. In addition, the Committee recommends that the State party consider joining ILO and ratifying the aforementioned Conventions.**

### **Substance abuse**

377. The Committee notes the State party's non-punitive approach to victims of drug abuse, but is concerned that children abusing drugs may be placed in a closed institution for a period of up to three years.

378. **The Committee recommends that the State party develop non-institutional forms of treatment of children who abuse drugs and make the placement of children in an institution a measure of last resort. In addition, the Committee recommends that children living in such institutions be provided with basic services such as health, education and other social services and maintain contact with their family during their stay. Finally, the Committee recommends that the State party set clear standards for existing institutions and ensure periodic review of the placement of children, in light of article 25 of the Convention.**

### **Children in conflict with the law**

379. The Committee is concerned that the minimum age of criminal responsibility is set at 7 years, which is far too low. The Committee is further concerned that there is no juvenile justice system although it is foreseen in law, that children are detained with adults and that whipping is used as a form of punishment for boys.

380. **The Committee recommends that the State party:**

(a) **Ensure that its legislation and practice concerning juvenile justice fully reflect the provisions of the Convention, in particular articles 37, 39 and 40, as well as other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System;**

(b) **Raise the minimum age of criminal responsibility to an age which is internationally acceptable;**

(c) **Ensure that deprivation of liberty is used only as a measure of last resort, for the shortest possible time, and that persons under 18 are not detained with adults;**

(d) **Ensure that children have access to legal aid and independent and effective complaints mechanisms;**

(e) **Develop and implement alternative measures to deprivation of liberty, such as probation, community service or suspended sentences;**

(f) **Train professionals in the area of rehabilitation and social reintegration of children;**

- (g) **Abolish the sentence of whipping for boys;**
- (h) **Seek assistance from, among others, OHCHR.**

## **9. Optional Protocols**

381. **The Committee recommends that the State party ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.**

## **10. Dissemination of documentation**

382. **In light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned NGOs. The Committee recommends that the State party seek international cooperation in this regard.**

## **11. Periodicity of submission of reports**

383. **The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention includes ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some States parties experience difficulties in reporting in a timely and regular manner. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its consolidated second and third periodic report by 25 January 2008, date on which the third periodic report is due. Such a report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.**

## **Concluding observations: Singapore**

384. **The Committee considered the initial report of Singapore (CRC/C/51/Add.8) at its 908th and 909th meetings (see CRC/C/SR.908 and 909), held on 26 September 2003, and adopted, at the 918th meeting, held on 3 October 2003, the following concluding observations.**

### **A. Introduction**

385. **The Committee welcomes the submission of the State party's comprehensive and well-written initial report, as well as the detailed written replies to its list of issues (CRC/C/Q/SIN/1), which gave a clearer understanding of the situation of children in the**

State party. It further notes with appreciation the high-level delegation sent by the State party and welcomes the frank dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

## **B. Positive aspects**

386. The Committee notes with appreciation the high standard of living of children in the State party, and considerable efforts to implement the economic, social and cultural rights of children, in particular through the wide availability of high-quality health and education services and housing.

387. The Committee welcomes the adoption in 2003 of the Compulsory Education Act.

388. The Committee notes with appreciation the State party's development and dissemination of awareness-raising materials, including child-friendly pamphlets and brochures, on the rights of children for both parents and children.

## **C. Principal subjects of concern and recommendations**

### **1. General measures of implementation**

#### **Declarations and reservations**

389. The Committee is concerned about the declarations on articles 12-17, 19 and 39 and reservations to articles 7, 9, 10, 22, 28 and 32 entered by the State party on its accession to the Convention.

**390. In light of the Vienna Declaration and Programme of Action of the 1993 World Conference on Human Rights, the Committee recommends that the State party withdraw its declarations on and reservations to the Convention.**

#### **Legislation**

391. While recognizing that most of the principles and provisions of the Convention are in fact implemented in practice, the Committee remains concerned that domestic legislation does not fully reflect all the principles and provisions of the Convention.

**392. The Committee recommends that the State party undertake a comprehensive review of its legislation and take all necessary measures to ensure its conformity with the principles and provisions of the Convention.**

#### **Coordination**

393. The Committee notes with appreciation the establishment of an Inter-Ministry Committee on the Convention on the Rights of the Child which is responsible for overseeing the implementation of the Convention. However, it is concerned that the Inter-Ministry Committee's mandate does not include coordination of all policies and programmes for children and that no such permanent coordination mechanism exists. The Committee also regrets that the State party has not developed a national plan of action for children.

394. **The Committee recommends that the State party expand the mandate and function of the Inter-Ministry Committee on the Convention to include coordination of all programmes and policies for children, and that it spearhead the development of a national plan of action for children for the full implementation of the Convention and which takes into consideration the outcome document, “A World Fit for Children”, of the General Assembly 2002 special session on children.**

#### **Independent monitoring**

395. The Committee welcomes the efforts of the Government and individual ministries to effectively address complaints, including those from children. However, it is concerned at the absence of an independent mechanism with a mandate regularly to monitor and evaluate progress in the implementation of the Convention and which is empowered to receive and address individual complaints, including from children, regarding all areas covered by the Convention.

396. **The Committee encourages the State party to establish an independent and effective mechanism, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex) and the Committee’s general comment No. 2 on national human rights institutions, which is provided with adequate human and financial resources and easily accessible to children and which monitors the implementation of the Convention, deals with complaints from children in a child-sensitive and expeditious manner, and provides remedies for violations of their rights under the Convention.**

#### **Resources for children**

397. The Committee notes with appreciation the considerable proportion of the national budget devoted to health and education. Yet, it is concerned that resources allocated for social services for children are insufficient to respond to national and local priorities for the protection and promotion of children’s rights and are not commensurate with budgetary allocations of other States at a similar level of economic development.

398. **The Committee recommends the State party pay particular attention to the full implementation of article 4 of the Convention by:**

(a) **Prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups, “to the maximum extent of ... available resources”;**

(b) **Identifying the amount and proportion of the State budget spent on children in the public, private and NGO sectors in order to evaluate the impact of the expenditure and also, in view of the costs, the accessibility, quality and effectiveness of the services provided for children in the various sectors.**

**Data collection**

399. The Committee welcomes the considerable statistical data provided by the State party in its report, as well as the written replies to the list of issues. At the same time, the Committee shares the State party's concern at the lack of global outcome indicators and qualitative data on the implementation of the Convention.

400. **The Committee recommends that the State party establish a centralized mechanism for the collection and analysis of quantitative and qualitative data on children, and strengthen its efforts to develop global outcome indicators for children.**

**Dissemination and training**

401. The Committee is concerned that children and the public at large, as well as all groups of professionals working with and for children, are not sufficiently aware of the Convention and the rights-based approach enshrined therein.

402. **The Committee recommends that the State party:**

(a) **Undertake public awareness campaigns on children's rights aimed at the general public and specifically at children;**

(b) **Carry out systematic education and training on the principles and provisions of the Convention for all professionals working with and for children, in particular teachers, judges, parliamentarians, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, health personnel, including psychologists, and social workers.**

**International cooperation**

403. **While noting the international cooperation undertaken by the State party within the Association of South-East Asian Nations, the Committee encourages the State party to implement the United Nations target of allocating 0.7 per cent of gross domestic product to overseas development assistance.**

**2. Definition of the child**

404. The Committee is concerned that the Children and Young Persons Act is only applicable to persons under the age of 16 and that the minimum age of criminal responsibility (7 years) and the minimum age of employment (12 years) are too low.

405. **The Committee recommends that the State party:**

(a) **Extend the Children and Young Persons Act to cover all persons under the age of 18;**

**(b) Raise the minimum age of criminal responsibility to an internationally acceptable level;**

**(c) Raise the minimum age of employment to 15 years, the age for the end of compulsory schooling.**

### **3. General principles**

#### **Non-discrimination**

406. The Committee is concerned that the principle of non-discrimination is restricted to citizens, that the Constitution does not expressly prohibit discrimination against women or persons with disabilities, and that societal discrimination against girls, children with disabilities and non-residents persists.

**407. The Committee recommends that the State party amend its legislation to prohibit discrimination on the basis of gender or disability and ensure that it is applicable to all persons in the State party. The Committee further recommends that the State party undertake all necessary proactive measures to combat societal discrimination, in particular against girls, children with disabilities and non-residents, through, inter alia, public education and awareness campaigns.**

**408. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29 (1) of the Convention (aims of education).**

#### **Best interests of the child**

409. The Committee is concerned that the principle that the best interests of the child shall be a primary consideration in all actions concerning children (art. 3) is not fully reflected in the State party's legislation, policies and programmes at the national and local levels.

**410. 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, judicial or other decisions are made.**

#### **Respect for the views of the child**

411. The Committee is concerned that traditional attitudes towards children in society limit respect for their views within the family, schools, other institutions and society at large.



412. **The Committee recommends that the State party, in accordance with article 12 of the Convention:**

(a) **Ensure that the Children and Young Persons Act be revised to include the right of children to express their views freely in all matters affecting them, and to take effective measures, including legislation, to promote and facilitate respect for the views of children and their participation in all matters affecting them, by courts, administrative bodies and schools;**

(b) **Provide educational information to, inter alia, parents, educators, government administrative officials, the judiciary and society at large on children's right to have their views taken into account and to participate in matters affecting them;**

(c) **Undertake a regular review of the extent to which children's views are taken into consideration and of the impact this has on policies and programmes, as well as on children themselves.**

#### **4. Civil rights and freedoms**

413. The Committee is concerned that elements of the State party's immigration and citizenship laws do not fully conform to articles 2 and 7 of the Convention. In particular, the Committee is concerned that Singaporean citizenship is not acquired automatically by children of a Singaporean mother and a foreign father born overseas, and that in such cases the mother is obliged to apply for "citizenship by registration".

414. **The Committee recommends that the State party review its citizenship and immigration laws and undertake the necessary reforms to ensure that they respect, as far as possible, the right of the child to nationality and identity, without discrimination.**

#### **Corporal punishment**

415. The Committee notes with concern that corporal punishment is permitted by law in the home, schools and institutions and as a form of punishment for male juvenile offenders.

416. **The Committee recommends that the State party amend its legislation to prohibit corporal punishment in the home, schools, institutions and the juvenile justice system. Furthermore, the Committee recommends that the State party conduct well-targeted public awareness campaigns on the negative impact corporal punishment has on children, and provide training for teachers and personnel working in institutions and youth detention centres on non-violent forms of discipline as an alternative to corporal punishment.**

#### **5. Family environment and alternative care**

##### **Parental responsibilities**

417. The Committee welcomes the State party's efforts to provide counselling and assistance to families and children and to resolve difficulties between parents and children without resorting to the courts and in a manner consistent with the best interests of the child. Nevertheless, it is

concerned that children in such circumstances are not afforded the full protection of the law because parents are able to file complaints that their children are “beyond parental control”, which, according to the law, can lead to the placement of these children in institutions for juvenile delinquents. The Committee also shares the State party’s concern that children are left at home alone.

**418. The Committee recommends that the State party continue its efforts to provide support and counselling for families at risk, and amend its legislation to ensure the full protection of children in difficult circumstances while eliminating the possibility for parents to initiate court proceedings against their children because they are “beyond parental control”. The Committee further recommends that the State party expand measures to support working parents and to prevent children from being left alone at home.**

#### **Abuse and neglect**

419. The Committee welcomes the creation of mechanisms such as the Child Abuse Protection Team and the Family Protection Unit to deal with complaints of abuse and provide assistance to victims and their families. However, the Committee is concerned that underreporting remains a problem and that social workers, teachers and medical personnel are not required by law to report suspected cases of child abuse.

**420. The Committee recommends that the State party strengthen measures to encourage reporting of instances of child maltreatment and abuse, through, inter alia, legislative measures requiring social workers, teachers and medical personnel to report suspected cases of child abuse to the appropriate authorities.**

### **6. Basic health and welfare**

421. The Committee notes with appreciation the excellent level of health indicators for children and the wide availability of high-quality health-care services, as noted in paragraph 3 above. However, it remains concerned that the incidence of exclusive breastfeeding is relatively low and that youth suicide rates are on the rise.

**422. The Committee recommends that the State party:**

**(a) Strengthen its efforts to promote exclusive breastfeeding during the first six months of an infant’s life through, inter alia, the adoption and implementation of the International Code of Marketing of Breast Milk Substitutes, obtaining certification for hospitals as baby-friendly hospitals and extending maternity leave;**

**(b) Strengthen adolescent health services, in particular counselling services and suicide prevention programmes.**

**Children with disabilities**

423. While noting that special education services are widely available in the State party, the Committee is concerned that children with disabilities are not fully integrated into the education system and that there is a lack of quantitative and qualitative data on children with disabilities and their needs.

424. **The Committee recommends that the State party:**

**(a) Extend the Compulsory Education Act (2003) to include special schools and all children with disabilities;**

**(b) Facilitate greater integration and participation of children with disabilities into mainstream education and society at large, inter alia through an improvement in curricula and pedagogical services;**

**(c) Gather qualitative and quantitative data on children with disabilities and their specific needs and use these data to develop appropriate programmes and policies for them.**

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

425. As noted in paragraph 4 above, the Committee welcomes the adoption of the Compulsory Education Act in 2003 and the wide availability of high-quality education services in the State party. However, the Committee is concerned that not all children within the State party's jurisdiction are covered by the Compulsory Education Act or have access to free primary school. The Committee is also concerned that the highly competitive nature of the education system risks hampering the development of the child to his or her fullest potential. Finally, the Committee is concerned about the monitoring of the quality of services provided by student care centres.

426. **The Committee recommends that the State party:**

**(a) Extend the Compulsory Education Act to include all children within the State party, including non-citizens, and monitor the implementation of the Act to ensure that all children attend school;**

**(b) Ensure that all children in the State party have access to free primary education, and ensure that low-income families have access to pre-primary education;**

**(c) Undertake effective measures to reduce school-related stress and the competitiveness of the school system and strengthen efforts to promote the development of children's personality, talents and abilities to their fullest potential, including through the promotion of cultural life and the arts and play and recreational activities in schools;**

**(d) Undertake measures to ensure comprehensive monitoring of the quality of student care centres and any other organizations providing care before and after school;**

**(e) Include human rights education as part of the curriculum.**

## **8. Special protection measures**

### **Juvenile justice**

427. The Committee is concerned that the minimum age of criminal responsibility is too low, that all persons in conflict with the law under 18 are not afforded special protection, and that corporal punishment and solitary confinement are used to discipline juvenile offenders.

428. **The Committee recommends that the State party:**

(a) **Ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's day of general discussion on the administration of juvenile justice, held in 1995;**

(b) **Raise the minimum age of criminal responsibility to an internationally acceptable level;**

(c) **Amend the Children and Young Persons Act to ensure special protection for all offenders up to the age of 18;**

(d) **Prohibit the use of corporal punishment, including whipping and caning, and solitary confinement in all detention institutions for juvenile offenders, including police stations;**

(e) **Seek technical assistance from, among others, the Office of the United Nations High Commissioner for Human Rights in reforming the juvenile justice system, in particular with regard to juvenile detention and rehabilitation services.**

## **9. Optional Protocols**

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

430. **The Committee recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.**

## **10. Dissemination of documents**

431. **Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted**

by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.

## **11. Next report**

432. In light of the recommendation on reporting periodicity adopted by the Committee and described in the report on its twenty-ninth session (CRC/C/114), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its second and third periodic reports in one consolidated report by 3 November 2007, the date on which the third report is due. This consolidated report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.

### **Concluding observations: Bangladesh**

433. The Committee considered the second periodic report of Bangladesh (CRC/C/65/Add.22) at its 912th and 913th meetings (see CRC/C/SR.912 and 913), held on 30 September 2003, and adopted at the 918th meeting (see CRC/C/SR.918), held on 3 October 2003, the following concluding observations.

#### **A. Introduction**

434. The Committee welcomes the submission of the State party's second periodic report and the additional information provided in the written replies to its list of issues (CRC/C/Q/BGD/2), which gave comprehensive and clear information about the implementation of the Convention on the Rights of the Child in Bangladesh. The oral presentations allowed for necessary updates and informed the Committee about initiatives and measures planned. The Committee acknowledges that the presence of a high-level, cross-sectoral delegation directly involved with the implementation of the Convention allowed for a better understanding of the rights of the child in the State party.

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

435. The Committee welcomes the positive developments in the area of human rights such as the formulation of a revised National Plan of Action for Children; the adoption of the National Policy for Safe Water Supply and Sanitation; the 2002 National Plan of Action to combat sexual abuse and exploitation, including trafficking; the 2000 Suppression of Violence against Women and Children Act; the 2002 Acid Control Act; the 2002 Acid Crimes Prevention Act; the 2002 law safeguarding the speedy progress of trials; and the withdrawal of the 2002 Public Safety Act.

436. The Committee recognizes with appreciation that the State party has made clear and visible progress, in some fields to a remarkable extent, in the field of child nutrition, health, education and labour. It also notes that the State party strengthened its cooperation with non-governmental organizations (NGOs).

437. The Committee welcomes the ratification by the State party of the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

438. The Committee also expresses its appreciation to the State party for having ratified ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour of 1999, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984.

### **C. Factors and difficulties impeding the implementation of the Convention**

439. The Committee recognizes that poverty and recurrent natural disasters have impeded the full implementation of the Convention.

### **D. Principal subjects of concern, suggestions and recommendations**

#### **1. General measures of implementation**

#### **The Committee's previous recommendations**

440. The Committee regrets that some of the concerns it expressed and the recommendations it made (CRC/C/15/Add.74) after its consideration of the State party's initial report (CRC/C/3/Add.38), particularly those contained in paragraphs 28-47, regarding the withdrawal of the reservations (para. 28), violence against children (para. 39), the review of legislation (para. 29), data collection (para. 14), birth registration (para. 37), child labour (para. 44) and the juvenile justice system (para. 46) have been insufficiently addressed. Those concerns and recommendations are reiterated in the present document.

**441. The Committee urges the State party to implement the previous recommendations that have not yet been implemented, as well as the recommendations contained in the present concluding observations.**

#### **Reservations**

442. The Committee remains deeply concerned about the reservations to articles 14, paragraphs 1 and 21 of the Convention, which might impede the full implementation of the Convention, but welcomes the information from the delegation that the State party is willing to continue to review those reservations with a view to their withdrawal.

443. **In light of the Vienna Declaration and Programme of Action (1993), the Committee reiterates its previous recommendation that the State party withdraw its reservations to the Convention (art. 14, paras. 1 and 21) and recommends that the State party take into account the experience of other States parties in this regard.**

### **Legislation**

444. The Committee notes with appreciation the legislative measures that have been undertaken by the State party in order to ensure the implementation of the Convention. Nevertheless, the Committee remains concerned that domestic legislation and customary law are not fully compatible with all the principles and provisions of the Convention and that laws implementing the Convention are frequently not applied, particularly in rural areas.

445. **The Committee recommends that the State party take all effective measures to harmonize its domestic legislation fully with the provisions and principles of the Convention, in particular with regard to existing minimum ages of criminal responsibility and of marriage, child labour and harmful traditional practices affecting children.**

### **Coordination**

446. The Committee notes that the Ministry of Women and Child Affairs was given the mandate to coordinate the implementation of the Convention. It welcomes the reactivation of the Inter-ministerial Committee, which includes representatives from civil society and which will coordinate the efforts of the various ministries contributing to the implementation of the Convention. The Committee further welcomes the continued endeavour of the Ministry of Women and Child Affairs to establish within this Ministry a Directorate for Children's Affairs for, inter alia, the promotion and coordination of the implementation of the Convention. However, the Committee remains concerned that policies, and the bodies implementing them, may be insufficiently coordinated.

447. **The Committee recommends that the State party take all necessary measures to improve coordination at the national and local level among the different bodies involved in implementing the Convention by:**

**(a) Providing the Ministry of Women and Child Affairs, including the Directorate of Children's Affairs, with a clear mandate and adequate human and financial resources to carry out its coordination functions;**

**(b) Expediting the establishment of the Directorate for Children's Affairs.**

### **Independent monitoring structures**

448. The Committee welcomes the information from the delegation concerning the intention to establish a National Human Rights Commission and an Ombudsperson; however, it remains concerned at the absence of an independent mechanism with a mandate to monitor regularly and evaluate progress in the implementation of the Convention and which is empowered to receive and address complaints, including from children.

449. **The Committee recommends that the State party:**

(a) **Expedite the process to establish an independent and effective mechanism in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex) and the Committee's general comment No. 2 on the role of independent human rights institutions;**

(b) **Ensure that it is provided with adequate human and financial resources and is easily accessible to children with a mandate:**

(i) **To monitor the implementation of the Convention;**

(ii) **To deal with complaints from children in a child-sensitive and expeditious manner;**

(iii) **To provide remedies for violations of children's rights under the Convention;**

(c) **Consider seeking further technical assistance in this regard from, among others, the United Nations Children's Fund (UNICEF) and the Office of the United Nations High Commissioner for Human Rights (OHCHR).**

#### **National plan of action**

450. The Committee welcomes the State party's commitment to formulate by the end of 2003 a national plan of action based on the Convention, which would be monitored by the National Children Council and by the Ministry for Women and Children Affairs.

451. **The Committee recommends that the State party:**

(a) **Complete its activities for the drafting of a national plan of action by the end of 2003;**

(b) **Involve a broad spectrum of civil society groups, including children, in the formulation and the implementation of the national plan of action;**

(c) **Ensure that the national plan of action includes all rights enshrined in the Convention, and the millennium development goals, as well as the plan of action foreseen in the outcome document, "A World Fit for Children" of the General Assembly special session on children;**

(d) **Provide the National Children Council with the necessary resources for an effective implementation and monitoring of the national plan of action;**

(e) **Create an executive committee within the National Children Council.**



## **Resources for children**

452. The Committee notes that budgetary allocations to the social sector, including education, health, family and social welfare, has increased over the past two years, and that the State party is preparing a Poverty Reduction Strategy Paper (PRSP) which includes children's concerns and rights. However, the Committee remains concerned that resources are insufficient for the full implementation of the provisions of the Convention, in particular those relating to the economic, social and cultural rights of children, in accordance with article 4 of the Convention.

**453. The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to economically and geographically disadvantaged groups, including tribal children, to the maximum extent of available resources (at the national and local levels) and continue and strengthen its efforts to receive additional funding within the framework of international cooperation. In addition, the National Plan of Action for Children should be integrated into its PRSP.**

## **Data collection**

454. The Committee welcomes the annual Multiple Indicator Cluster Survey that allows for the systematic collection of data on a sample of children to analyse their standard of living and to provide national estimates. However, the Committee is concerned at the lack of an adequate data collection mechanism within the State party to allow for the systematic and comprehensive collection of disaggregated quantitative and qualitative data with respect to all areas covered by the Convention and in relation to all groups of children.

**455. The Committee recommends that the State party:**

**(a) Further develop the Multiple Indicator Cluster Survey in order to gain a deeper insight into the situation of children and their families;**

**(b) Strengthen its efforts to establish a comprehensive and permanent mechanism to collect data, disaggregated by sex, age, and rural and urban area, incorporating all the areas covered by the Convention and covering all children below the age of 18 years, with emphasis on those who are particularly vulnerable, such as minority and tribal children;**

**(c) Develop indicators to effectively monitor and evaluate progress achieved in the implementation of the Convention and assess the impact of policies that affect children;**

**(d) Continue and strengthen its collaboration, inter alia, with the United Nations Statistics Division and UNICEF.**

## **Training/dissemination of the Convention**

456. The Committee takes note of the measures undertaken by the State party to disseminate the principles and provisions of the Convention, such as translation of the Convention into the national language, the distribution of the Convention to relevant authorities and media

campaigns. However, the Committee remains concerned that the public awareness of the Convention remains low and that many relevant authorities, for instance within the juvenile justice system, do not receive adequate training on children's rights.

**457. The Committee recommends that the State party strengthen its awareness-raising efforts through, inter alia, systematic education and training on the rights of the child for all professional groups working for and with children, in particular parliamentarians, judges, lawyers, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, social workers, religious leaders, as well as children and their parents. The Committee further recommends that the State party translate the Convention into the languages of tribal peoples.**

## **2. Definition of the child**

458. The Committee is concerned about the various legal minimum ages, which are inconsistent, discriminatory and/or too low. The Committee is also deeply concerned at the fact that the Majority Act 1875, setting the age of majority at 18 years, has no effect "on the capacity of any person in relation to marriage, dowry, divorce and adoption or on the religion and religious customs of any citizen" (CRC/C/65/Add.22, para. 45). The Committee is particularly concerned at the very low age of criminal responsibility (7 years).

**459. The Committee strongly recommends that the State party:**

**(a) Raise the minimum age of criminal responsibility to an internationally acceptable level;**

**(b) Fix a minimum age for admission to employment, in line with internationally accepted standards;**

**(c) Ensure that domestic legislation on minimum ages is respected and implemented throughout the country.**

## **3. General principles**

### **Non-discrimination**

460. The Committee welcomes the measures undertaken by the State party to enhance the situation of girls, especially in relation to education. It remains deeply concerned about persistent discriminatory attitudes towards girls, which are deeply rooted in traditional stereotypes and limit access to resources and services. The Committee is also concerned about discrimination against children with disabilities, street children, child victims of sexual abuse and exploitation, tribal children and other vulnerable groups.

**461. The Committee recommends that the State party take adequate measures to ensure implementation of the principle of non-discrimination in full compliance with article 2 of the Convention, and strengthen its proactive and comprehensive efforts to eliminate**

**discrimination on any grounds and against all vulnerable groups. The Committee also recommends that the State party undertake an education campaign for boys and men on gender issues and sex discrimination.**

462. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking into account the Committee's general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

#### **Best interests of the child**

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.**

#### **Right to life**

465. Despite the information that the death penalty has never been carried out against juvenile offenders in the State party, the Committee remains seriously concerned that capital punishment may be imposed for offences committed by persons from the age of 16 years and over, contrary to article 37 (a) of the Convention.

466. **The Committee strongly recommends that the State party take immediate steps to ensure that the imposition of the death penalty for crimes committed by persons while under 18 is explicitly prohibited by law.**

#### **Respect for the views of the child**

467. The Committee notes that, in practice, children are given a voice in some legal proceedings, subject to the discretion of the judge. However, while the National Plan of Action 1997-2002 emphasizes children's participation, the Committee is concerned that traditional attitudes impede full respect for the views of the child, especially within families, educational institutions and the juvenile justice system.

468. **The Committee recommends that the State party:**

**(a) Promote and facilitate respect for the views of children and their participation in all matters affecting them in all spheres of society, particularly at the local levels and in traditional communities, in accordance with article 12 of the Convention;**

**(b) Provide educational information to, inter alia, parents, teachers, government and local administrative officials, the judiciary, traditional and religious leaders and society at large on children's right to participate and to have their views taken into account;**

**(c) Amend national legislation so that the principle of respect for the views of the child is recognized and respected, inter alia in custody disputes and other legal matters affecting children.**

#### **4. Civil rights and freedoms**

##### **Birth registration**

469. The Committee welcomes the efforts undertaken by the State party regarding the registration of births, but remains concerned at the lack of a functional birth registration system as well as the low public awareness of the obligation to register children after birth.

**470. In light of article 7 of the Convention, the Committee urges the State party to continue and strengthen its efforts to ensure a coordinated system for registration of all children at birth, covering the whole of the country, including through awareness-raising campaigns, as well as to continue its cooperation in this regard with, inter alia, UNICEF and relevant international NGOs.**

##### **Name and nationality**

471. In light of article 7 of the Convention, the Committee is concerned at the apparent discrimination in respect of nationality, and that a child's name and nationality are derived solely from her/his father and not her/his mother.

**472. The Committee recommends that the State party amend its legislation so that citizenship can be passed on to children from either their father or their mother. It also encourages the State party to introduce proactive measures to prevent statelessness.**

##### **Torture and other cruel, inhuman or degrading treatment or punishment**

473. While taking note of the efforts by the State party to raise public awareness of the ill-treatment of children, the Committee is concerned at reports of ill-treatment and violence against children in State institutions such as orphanages and rehabilitation centres, including by law enforcement agents, as well as at the solitary confinement of juvenile and child prisoners. The Committee is also concerned at reports of violence against street children. Furthermore, the Committee expresses its deep concern at the reported inhuman and degrading punishment carried out by order of traditional village councils ("shalishes") as well as at the increasing incidents of acid attacks on women and girls.

474. The Committee strongly recommends that the State party:

(a) Review its legislation (inter alia, Code of Criminal Procedure, 1898) with the aim of prohibiting the use of all forms of physical and mental violence, also within educational and other institutions;

(b) Conduct a study to assess the nature and extent of torture, ill-treatment, neglect and abuse of children, to assess the inhuman and degrading treatment of children attributable to “shalishes”, and effectively to implement policies and programmes as well as to amend and adopt laws to address these issues;

(c) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervening where necessary, and investigate and prosecute cases of torture, neglect and ill-treatment, ensuring that the abused child is not revictimized through legal proceedings and that his or her privacy is protected;

(d) Undertake all necessary measures to prevent and punish police violence;

(e) Take all necessary effective measures to ensure the implementation of the 2002 Acid Control Act and of the 2002 Acid Control Prevention Act;

(f) Provide care, recovery, compensation and reintegration for victims;

(g) Take into consideration the recommendations of the Committee adopted at its day of general discussion on the theme “Violence against children” (CRC/C/100, para. 688 and CRC/C/111, paras. 701-745);

(h) Seek assistance from, inter alia, UNICEF and the World Health Organization (WHO).

#### **Corporal punishment**

475. The Committee expresses its profound concern at the prevalence of corporal punishment in schools, as well as at the fact that corporal punishment is still legal and widely practised within the legal system, in educational and other institutions and in the family.

476. The Committee recommends that the State party, as a matter of urgency, review existing legislation and explicitly prohibit all forms of corporal punishment in the family, schools and institutions, as well as carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment, particularly at the local level and in traditional communities.

## **5. Family environment and alternative care**

### **Children deprived of family environment**

477. The Committee is concerned that the current facilities for alternative care of children deprived of their family environment are insufficient, do not provide enough protection and that large numbers of children do not have access to such facilities.

**478. The Committee recommends that the State party urgently take measures to increase alternative care opportunities for children and, in line with article 25 of the Convention, conduct periodic reviews of the placement of children and ensure that institutionalization is used only as a measure of last resort. The Committee also recommends that the State party take effective measures to prevent abandonment of children, inter alia, by providing adequate support to families.**

### **Adoption**

479. In light of article 21 of the Convention, the Committee is concerned about the lack of a uniform adoption law in the State party.

**480. The Committee recommends that the State party establish uniform legal provisions for domestic as well as intercountry adoption, and reiterates its previous recommendation that the State party consider becoming a party to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.**

### **Abuse, neglect and violence**

481. The Committee is concerned at the high incidence of abuse, including sexual abuse, within the State party, and at the lack of effective measures to combat this phenomenon. The Committee is particularly concerned that existing legislation, notably the Suppression of Violence against Women and Children Act 2000, is rarely implemented and that the prosecution of abuse against women is rare even in very serious cases because of societal attitudes. The Committee is further concerned that the current legislation protects children from abuse only up to the age of 14 years. In addition, the Committee is concerned that child victims of abuse and/or exploitation are placed in “safe custody”, which may result in depriving them of their liberty for as long as 10 years.

**482. The Committee recommends that the State party:**

**(a) Continue and strengthen its efforts to address the issue of child abuse, including through ensuring there is public awareness of the relevant legislation;**

**(b) Assess the scope, nature and causes of child abuse, particularly sexual abuse, with a view to adopting a comprehensive strategy and effective measures and policies and to changing attitudes;**

**(c) Provide adequate protection and assistance to child victims of abuse in their homes, whenever possible, and take appropriate measures to prevent the stigmatization of victims;**

**(d) Ensure that all children below the age of 18 years are specifically protected under domestic legislation against abuse and exploitation;**

**(e) Ensure that the placement of children victims of abuse and exploitation in institutions for reasons of protection and treatment is used only as a measure of last resort and for the shortest possible period of time;**

**(f) Take into consideration the recommendations of the Committee adopted at its days of general discussion on the issue of “Violence against children” (CRC/C/100, para. 688 and CRC/C/111, paras. 701-745).**

## **6. Basic health and welfare**

483. The Committee notes with appreciation the efforts undertaken and the achievements made by the State party to reduce infant and under-5 mortality rates, as well as the eradication of polio and the improved immunization coverage. Nevertheless, the Committee remains deeply concerned:

**(a) That infant and under-5 mortality rates remain high, and that stunting, wasting and severe malnutrition among both children and their mothers are extremely widespread;**

**(b) At the unhygienic practices surrounding childbirth, which results in, among other things, tetanus, and at the lack of prenatal care;**

**(c) At the low level of exclusive breastfeeding, which contributes to malnutrition;**

**(d) At the low level of awareness among the population, particularly in rural areas, of the need to use hygienic, sanitary practices;**

**(e) At the high rate of children dying as a result of accidents, such as drowning, and that little is done by the State party to prevent these deaths;**

**(f) At the lack of infrastructure for access to health facilities, notably in rural areas.**

484. **The Committee recommends that the State party:**

**(a) Ensure that appropriate resources are allocated for the health sector and develop and implement comprehensive policies and programmes for improving the health situation of children;**

**(b) Facilitate greater access to free primary health services throughout the country as well as prevent and combat malnutrition, paying particular attention to pre- and antenatal care for both children and their mothers;**

**(c) Enhance its efforts to promote proper breastfeeding practices;**

**(d) Enhance the efforts to educate the population in hygienic, sanitary behaviour, notably through awareness-raising campaigns and programmes;**

**(e) Explore additional avenues for cooperation and assistance with the aim of improving child health with, inter alia, WHO and UNICEF.**

#### **Environmental pollution**

485. The Committee welcomes the adoption of the National Policy for Safe Water Supply and Sanitation. However, the Committee is concerned, despite the measures taken by the State party, about the extent of water contamination, specifically with arsenic, air pollution and the low availability of sanitation facilities which have serious negative consequences for children's health and development.

486. **The Committee urges the State party:**

**(a) To continue and strengthen its efforts to reduce contamination and pollution of air and water as well as improve sanitation facilities, including by strengthening the implementation of the National Policy for Safe Water Supply and Sanitation;**

**(b) To intensify awareness-raising campaigns and educational programmes in order to inform children and adults about appropriate behaviours protecting them against risks.**

#### **Children with disabilities**

487. The Committee is concerned at the situation of children with disabilities, and societal discrimination against these children, including their exclusion with the exception of the visually impaired, from the educational system.

488. **The Committee recommends that the State party:**

**(a) Undertake studies to determine the causes of, and ways to prevent, disabilities in children;**

**(b) In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on the issue of "The rights of children with disabilities" (CRC/C/69, paras. 310-339), further encourage their integration into the regular educational system and inclusion into society, including by providing special training to teachers and by making schools more accessible to children with disabilities;**

**(c) Undertake an awareness-raising campaign to sensitize the public to the rights and special needs of children with disabilities;**



**(d) Take the necessary measures to provide children with disabilities with appropriate care and services, and ensure that they are registered at birth;**

**(e) Seek technical assistance cooperation for the training of professional staff working with and for children with disabilities from WHO, among others.**

#### **HIV/AIDS**

489. The Committee is concerned at the lack of systematic data collection on the prevalence of HIV/AIDS, making it more difficult to address the issue and to provide victims with care and support. It also notes that national estimates of the prevalence of the pandemic are significantly lower than those presented by UNAIDS and WHO.

490. **The Committee recommends that the State party:**

**(a) Undertake a study to estimate the prevalence of HIV/AIDS within the country;**

**(b) Undertake appropriate measures to prevent HIV/AIDS, taking into account the Committee's general comment No. 3 on HIV/AIDS and the rights of children;**

**(c) Seek further technical assistance from, inter alia, UNICEF and UNAIDS.**

#### **Adolescent health**

491. The Committee is concerned that insufficient attention has been given to adolescent health issues, particularly reproductive health concerns, which is reflected in the large number of teenage and unwanted pregnancies.

492. **The Committee recommends that the State party:**

**(a) Undertake a comprehensive and multidisciplinary study to assess the scope and nature of adolescent health problems, including the negative impact of sexually transmitted infections, and continue to develop adequate policies and programmes;**

**(b) Increase its efforts to promote adolescent health policies;**

**(c) Strengthen the programme of health education in schools;**

**(d) Undertake 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;**

**(e) Seek technical cooperation from, among others, the United Nations Population Fund, UNICEF, and WHO.**

### **Harmful traditional practices**

493. The Committee is deeply concerned at the existence of harmful traditional practices, such as child marriages and dowry-related violence, which are widespread and pose very serious threats, in particular to the girl child.

494. **The Committee recommends that the State party continue and intensify its efforts to eradicate harmful traditional practices, by strengthening awareness-raising programmes and enforcement of the law.**

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

495. The Committee welcomes the progress made by the State party in the field of education, notably with regard to increases in primary and secondary enrolments, the reduction in gender disparities in enrolment and improvement in the literacy rates. The Committee also notes with great appreciation the abolition of tuition fees for primary schools and the establishment of a Tk 500 million stipend programme, of the “food for education” programme, and the pilot project on early childhood education. However, the Committee is concerned that challenges remain in the above-mentioned areas, that free compulsory education ends after grade 5, that the school dropout rate is high and that gender-based discrimination persists within schools. Other concerns include reports of abuse and sexual molestation, especially of girls, inaccessibility to schools, inadequate sanitation and the misuse of allocated resources.

496. The Committee notes with appreciation the efforts made by the State party to monitor the quality of education in the madrasas. However, it is concerned about the narrow content of the education provided within these schools.

497. **The Committee recommends that the State party:**

(a) **Take effective measures to raise the maximum age of compulsory education, and to increase enrolment rates through, inter alia, raising awareness of the importance of education and taking measures to improve the provision and quality of education;**

(b) **Continue to address gender-based discrimination and other difficulties encountered by girls within the educational system and school environment;**

(c) **Monitor and evaluate existing programmes on early childhood education and development, and extend services, especially parenting education and education for caregivers to all regions;**

(d) **Provide appropriate sanitation facilities, especially for females, in all schools;**

(e) **Provide appropriate training for teachers in order to create a more child-friendly school environment;**

(f) **Encourage the participation of children at all levels of school life;**

(g) **Seek assistance from UNICEF, the United Nations Educational, Scientific and Cultural Organization and relevant NGOs.**

498. **The Committee also recommends that the State party continue and strengthen its efforts to streamline the education given in the madrasas to ensure more compatibility with formal public education.**

## **8. Special protection measures**

### **Refugee and internally displaced children**

499. The Committee is very concerned about the difficult conditions under which some refugee children, especially children belonging to the Rohingya population from Myanmar, are living, and that many of these children and their families do not have access to legal procedures that could grant them legal status. Furthermore, the Committee is concerned at the lack of a national refugee policy and that refugee children are not registered at birth.

500. **The Committee recommends that the State party:**

**(a) Adopt a national refugee legislation and accede to the Convention relating to the Status of Refugees of 1951 and its Protocol of 1967;**

**(b) Grant all refugee children and their families immediate access to relevant procedures determining refugee status;**

**(c) In collaboration with and with support from international agencies, undertake effective measures to improve the living conditions of refugee families and children, particularly with regard to educational and health-care services;**

**(d) Provide unaccompanied refugee children with adequate care, education and protection;**

**(e) Register all refugee children born in Bangladesh.**

### **Economic exploitation, including child labour**

501. The Committee notes that, through education, stipend, recovery and social reintegration programmes, progress has been made in reducing the economic exploitation of children, although this has been confined mainly to the formal sector of the economy. However, the Committee remains deeply concerned:

**(a) At the high prevalence of child labour and the fact that the phenomenon is widely accepted in society;**

**(b) At the wide variety of minimum ages for admission to employment in different economic sectors, several of which do not adhere to international standards;**

**(c) That many child labourers, notably children working as domestic workers, are very vulnerable to abuse, including sexual abuse, completely lack protection and are deprived of the possibility to maintain contact with their families.**

502. **The Committee recommends that the State party:**

(a) **Continue and strengthen its efforts to eradicate child labour, including in the informal sector, in particular by addressing its root causes through poverty reduction programmes and strengthening of the children's component in the new PRSP, and facilitation of access to education;**

(b) **Ratify and implement ILO Convention No. 138 concerning the Minimum Age for Admission to Employment;**

(c) **Increase the number of labour inspectors and develop a comprehensive child labour monitoring system in collaboration with NGOs, community-based organizations and ILO/IPEC;**

(d) **Undertake a study of child labour in the agricultural and informal sectors with a view to developing policies and programmes to eradicate this phenomenon.**

**Sexual exploitation, including prostitution**

503. While welcoming the National Plan of Action against sexual abuse and exploitation, the Committee is deeply concerned at the prevalence of sexual exploitation of children and the social stigmatization of the victims of such exploitation, as well as at the lack of social and psychological recovery programmes and the very limited possibilities for victims to be reintegrated into society. The Committee is also concerned about the widespread practice of forcing children into prostitution.

504. **The Committee recommends that the State party:**

(a) **Fully and effectively implement the National Plan of Action against sexual abuse and exploitation, in order to ensure appropriate policies, laws and programmes for the prevention, protection, recovery and reintegration of child victims, in line with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;**

(b) **Ensure that victims of sexual exploitation are never considered as offenders, but rather benefit from programmes for their recovery and reintegration;**

(c) **Investigate, prosecute and sentence perpetrators of sexual offences against children;**

(d) **Develop and monitor a code of conduct for law enforcement officials;**

(e) **Seek assistance from, among others, UNICEF.**

**Sale, trafficking and abduction**

505. The Committee is deeply concerned at the high incidence of trafficking in children for purposes of prostitution, domestic service and to serve as camel jockeys and at the lack of long-term, concentrated efforts on the part of the State party to combat this phenomenon.

506. **The Committee recommends that the State party:**

- (a) Undertake all necessary efforts to prevent and combat domestic and cross-border child trafficking, including through international cooperation;**
- (b) Take all necessary measures for the recovery and reintegration of children victims of trafficking;**
- (c) Investigate, prosecute and sentence perpetrators of trafficking, including through international cooperation;**
- (d) Seek assistance from, among others, UNICEF and the International Organization for Migration.**

#### **Children living and/or working on the streets**

507. The Committee notes the efforts undertaken by the State party to provide children living or working on the streets with access to health services and education. However, the Committee is concerned at the large population of children living or working on the streets and at the extremely difficult conditions under which this very marginalized group is living, and at the lack of sustained efforts to address this phenomenon. The Committee is further concerned at the incidence of violence, including sexual abuse and physical brutality, directed at these children by police officers.

508. **The Committee recommends that the State party:**

- (a) Ensure that children living or working on the streets are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development;**
- (b) Ensure that these children are provided with recovery and reintegration services for physical, sexual and substance abuse; protection from police brutality; and services for reconciliation with families;**
- (c) Undertake a study on the causes and scope of this phenomenon and establish a comprehensive strategy to address the high and increasing numbers of children living or working on the streets with the aim of preventing and reducing this phenomenon.**

#### **Administration of juvenile justice**

509. The Committee acknowledges the efforts made by the State party to improve the juvenile justice system. However, the Committee remains concerned at the limited progress achieved in establishing a functioning juvenile justice system throughout the country. In particular, the Committee is concerned at:

- (a) The minimum age of criminal responsibility (7 years), which remains far too low;**

- (b) The sentencing to life imprisonment of children from the age of 7 years and to the death penalty of children from the age of 16 years;
- (c) The absence of juvenile courts and judges in some parts of the State party;
- (d) The extensive discretionary powers of the police, reportedly resulting in incarceration of street children and child prostitutes;
- (e) The use of caning and whipping as a sentence for juvenile offenders;
- (f) The failure to ensure full respect for the right to a fair trial, including legal assistance for alleged child offenders and the very long periods of pre-trial detention;
- (g) The detention of children with adults and in very poor conditions, without access to basic services.

510. **The Committee recommends that the State party ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the Committee's day of general discussion on the administration of juvenile justice, held in 1995. In particular, the Committee recommends that the State party:**

- (a) Raise the minimum age of criminal responsibility to an internationally acceptable level;**
- (b) Ensure that the imposition of the death penalty, of life imprisonment without possibility of release, and of caning and whipping as sanctions for crimes committed by persons while under 18 is explicitly prohibited by law;**
- (c) Ensure the full implementation of the right to a fair trial, including the right to legal or other appropriate assistance;**
- (d) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including by guaranteeing separation of children from adults in prisons and in pre-trial detention places all over the country;**
- (e) Establish an independent child-sensitive and accessible system for the reception and processing of complaints by children;**
- (f) Request technical assistance in the area of juvenile justice and police training from, inter alia, OHCHR and UNICEF.**

## **Minorities**

511. The Committee is deeply concerned about the poor situation of children of the Chittagong Hill Tracts, and other religious, national and ethnic minorities, tribal groups or similar marginalized groups and the lack of respect for their rights, including the rights to food, to health care, to education and to survival and development, to enjoy their own culture and to be protected from discrimination.

512. **The Committee urges the State party to gather additional information on all minorities or similar marginalized groups of the population, and to elaborate policies and programmes to ensure the implementation of their rights without discrimination, taking into account the Committee's recommendations adopted at its day of general discussion on the theme "The rights of indigenous children".**

### **9. Dissemination of the report**

513. **In light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. The Committee notes with appreciation the intention of the State party to translate and widely disseminate the present concluding observations. Such documents should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned NGOs.**

### **10. Next report**

514. **The Committee, aware of the delay in the State party's reporting, wishes to underline the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. Children have the right that the committee in charge of regularly examining the progress made in the implementation of their rights, does have the opportunity to do so. In this regard, regular and timely reporting by States parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its third and fourth periodic reports in one consolidated report by 1 September 2007, the date on which the fourth report is due. The consolidated report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.**

### **Concluding observations: Georgia**

515. The Committee considered the second periodic report of Georgia (CRC/C/104/Add.1) at its 914th and 915th meetings (see CRC/C/SR.914 and 915), held on 1 October 2003, and adopted, at the 918th meeting, held on 3 October 2003, the following concluding observations.

### **A. Introduction**

516. The Committee welcomes the timely submission of the State party's second periodic report prepared in accordance with its general guidelines regarding the form and contents of periodic reports (CRC/C/58). The Committee welcomes the written replies to its list of issues (CRC/C/Q/GEO/2), which give a clearer understanding of the situation of children in the State party. It further notes with appreciation the high-level delegation sent by the State party and the constructive and open dialogue.

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

517. The Committee welcomes the many legislative and other measures taken by the State party with a view to the implementation of the Convention, such as:

- (a) The amendments to the Civil Code providing children of 14 years or older with a legal standing in court proceedings (June 2003);
- (b) The amendments to the Code of Criminal Procedure providing for significant improvements of the rules applicable to juveniles in conflict with the law (1 January 2004);
- (c) The changes to the Code of Administrative Offences strengthening the protection of children from economic exploitation and drug abuse;
- (d) The changes to the Criminal Code improving the protection of minors from trafficking;
- (e) The approval by the President (August 2003) of the National Plan of Action for Children (2003-2007);
- (f) The ratification (July 2003) of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour of 1999;
- (g) The ratification of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993;
- (h) The ratification of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction of 1997.

### **C. Factors and difficulties impeding the implementation of the Convention**

518. The Committee notes that the State party is prone to natural disasters (last earthquake 2002) and is experiencing serious socio-economic problems due, inter alia, to the transition to a market-oriented economy. Furthermore, the ethnic and political conflicts (regions of Abkhazia and South Ossetia), create serious obstacles for the State party in exercising its jurisdiction with regard to the implementation of the Convention in those regions.



## **D. Principal subjects of concern and recommendations**

### **1. General measures of implementation**

#### **The Committee's previous recommendations**

519. The Committee welcomes the efforts made by the State party to address some of the concerns and recommendations (CRC/C/15/Add.124) it made upon consideration of the State party's initial report (CRC/C/41/Add.4/Rev.1), but regrets that many have not or have insufficiently been addressed, (inter alia those contained in paragraphs 15, 25, 31, 35, 45 and 55). The Committee notes that those concerns and recommendations are reiterated in the present document.

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

#### **Legislation**

521. The Committee welcomes the many legislative changes (see paragraph 3 above) introduced with a view to improving the protection of children's rights, but is concerned at the rather scattered nature of these legislative activities and at the sometimes large gap between the laws and their implementation in practice.

**522. The Committee recommends that the State party continue its efforts to bring domestic law into compliance with the Convention on the Rights of the Child in a more comprehensive and with a stronger rights-based focus. In this regard, the Committee recommends the consideration of drafting and adopting a comprehensive children's rights act. Furthermore, the Committee recommends that the State party take all necessary measures to ensure the effective implementation of all legislation relevant to the Convention.**

#### **National Plan of Action, implementation, coordination and evaluation**

523. The Committee welcomes the Presidential Decree (8 August 2003) requiring all relevant governmental bodies to take into account and implement the Plan of Action for Children when elaborating plans for social and economic development. However, it is concerned that this Plan is not sufficiently oriented to child rights and that the lack of adequate human and financial resources may seriously hamper its implementation.

**524. The Committee recommends that the State party take the necessary measures for a child-rights oriented implementation of the National Plan of Action, provide the necessary human and financial resources, and cooperate closely with international donors and with national and international non-governmental organizations (NGOs) in a participatory process of implementation. It further recommends that the Bureau of Programme Implementation and Monitoring of the State Chancellery be provided with the necessary**

**resources and that there be effective cooperation between this Bureau and the Bureau of Coordination and Monitoring of the Economic Development and Poverty Reduction Programme in order to ensure that children are included in the implementation of the poverty reduction strategy paper.**

#### **Independent monitoring**

525. The Committee welcomes the establishment of a Child's Rights Centre within the Georgian Public Defender's Office with regional representatives in six regions, but is concerned that the organizational structure and the insufficient capacity of this Centre may prevent it from discharging its mandate effectively and regrets it has not expanded to the remaining regions.

**526. The Committee recommends that the State party take the necessary measures for the development of a systematic organization of the activities of the Child's Rights Centre at the national and regional levels, provide it with adequate human and financial resources and expand its activities to all regions of the country.**

#### **Allocation of resources**

527. The Committee is deeply concerned at the very low budget allocation for the implementation of the Convention, noting particularly the constant decrease in public expenditure on health and education which is now at a very low level despite the reasonably high level of economic growth (5.2 per cent in 2002). The Committee reiterates in this regard its concern at the very poor system of tax collection and, although acknowledging the efforts of the State party to address corruption, at the still widespread corruption.

**528. The Committee reiterates its previous recommendation to the State party to significantly improve the effectiveness of its tax collection system and urges the State party to substantially increase the budget allocation and ensure transparency of the use of funds for the implementation of the Convention, in particular in the areas of health and education, and strengthen its efforts to eliminate corruption.**

#### **Data collection**

529. The Committee notes the difficulties the State party encounters in introducing a comprehensive system of data collection, as recommended by the Committee in its previous concluding observations. However, the Committee maintains that such data are crucial for the monitoring and evaluation of progress achieved and the impact assessment of policies with respect to children.

**530. The Committee reiterates its previous recommendations, and urges the State party to intensify its efforts to establish a central registry for data collection and introduce a comprehensive system of data collection incorporating all the areas covered by the Convention. Such a system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable.**

## **Training/dissemination of the Convention**

531. The Committee welcomes the information provided in the State party's report on awareness-raising initiatives supported by the United Nations Children's Fund (UNICEF) and various NGOs, and notes the information included in the written replies to its list of issues relating to the integration of the Convention into the educational system.

**532. The Committee encourages the State party to continue its efforts to provide adequate and systematic training and/or sensitization on children's rights for professional groups working with and for children, in particular law enforcement officials, parliamentarians, judges, lawyers, health personnel, teachers, school administrators and others as required.**

## **2. General principles**

533. The Committee is concerned that the right to non-discrimination (article 2 of the Convention), the principle of the best interests as a primary consideration (art. 3), the right to life, survival and development of the child (art. 6) and the right of the child to express his or her views freely according to age and maturity (art. 12) are not yet fully reflected in the State party's legislation, policies and programmes at the national and local levels.

**534. The Committee recommends that the State party:**

**(a) Appropriately integrate the general principles of the Convention, namely, articles 2, 3, 6 and 12, in all relevant legislation concerning children;**

**(b) Apply these principles in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children;**

**(c) Apply these principles in planning and policy-making at every level, as well as in actions taken by social and health welfare and educational institutions, courts of law and administrative authorities.**

## **Non-discrimination**

535. The Committee is encouraged by the approval in March 2003 of the Plan of Action for Strengthening Protection of Human Rights and Freedoms of Minorities Living in Georgia (2003-2005), but does not have sufficient information to assess the impact which the Plan of Action will have on children and the extent to which issues affecting minorities will be addressed. The Committee also notes that changes were introduced in the Criminal Code to include anti-discrimination provisions addressing in particular racial discrimination, but remains concerned that this piece of legislation does not fully reflect article 2 of the Convention, nor does it include all vulnerable groups, such as children with disabilities.

**536. The Committee reiterates its previous concerns and recommendations (see CRC/C/15/Add.124, para. 25) and recommends that the State party review the existing legislation with a view to bringing it into compliance with article 2 of the Convention and ensuring its effective implementation.**

**537. The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29 (1) of the Convention (aims of education).**

#### **Respect for the views of the child**

538. The Committee welcomes the efforts of the Georgian State Department for Youth Affairs, supported by UNICEF, to revive the Children's Parliament and other activities to raise public awareness of the participatory rights of children and the changes to the Civil Code (see paragraph 3 above) allowing for improved implementation of article 12. However, the Committee is concerned at the lack of efforts to encourage respect for the views of the child within the family and care and other institutions.

**539. The Committee recommends that the State party continue to promote and facilitate, within the family, schools, institutions, as well as in judicial and administrative procedures, respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention. It further encourages the State party to provide educational information to parents, teachers, government administrative officials, the judiciary, children themselves and society at large in this respect.**

### **3. Civil rights and freedoms**

#### **Birth registration**

540. While noting the high level of birth registration, the Committee is concerned at the information that some groups of children, in particular children abandoned at maternity wards, children whose parents cannot afford the registration (related) fee, refugee children and children of internally displaced persons still do have difficulties with proper birth registration.

**541. The Committee recommends that the State party take the necessary measures to facilitate birth registration of children in difficult circumstances and make all birth registration free.**

#### **Freedom of expression**

542. The Committee is concerned at the lack of legal guarantees for the freedom of expression for children below 18 years of age. It is also concerned at the inadequate attention being given to the promotion of and respect for the right of the child to freedom of expression and that prevailing traditional societal attitudes, in the family and in other settings regarding the role of children, appear to make it difficult for children to seek and impart information freely.

**543. The Committee recommends that the State party take all appropriate measures, including amendments to legislation, to promote and guarantee the right of the child to freedom of expression within the family, in the school and other institutions and in society.**

### **Freedom of association and peaceful assembly**

544. The Committee welcomes the information provided in the State party's report on the Children's Parliament, the Children's Forum and the Georgian Children's Federation, as well as on the provisions of the Children's and Youth Associations Act, and notes the resolution of the Children's Parliament recommending representation of children with disabilities and children in institutions among its membership.

**545. The Committee recommends that the State party continue and strengthen its efforts to promote and support these and other activities of children and in particular facilitate and support participation of children with disabilities and children in institutions.**

### **Access to information**

546. The Committee welcomes the steps taken by the State party to enact legislation to protect children from harmful information, such as the changes made in the Law on Advertisement in the context of prevention of pornography.

**547. The Committee recommends that the State party ensure implementation of the new legislation to protect children from harmful information, while promoting the possibility of access for all children to appropriate information.**

### **Torture and other cruel, inhuman or degrading treatment or punishment**

548. The Committee welcomes the Presidential Decree approving a Plan of Action against Torture for 2003-2005 and the related plan to amend the Criminal Code with a view to strengthening the protection from torture and inhuman or degrading treatment or punishment. However, it remains concerned at the information that children are subjected to torture and other forms of violence and abuse in police stations, institutions and schools.

**549. The Committee urges the State party to take all necessary measures for the expeditious and effective implementation of the Plan of Action against Torture, ensuring full protection of children from all forms of violence, proper interrogation, prosecution and sentencing of perpetrators, and the provision of care, recovery and compensation for all child victims.**

## **4. Family environment and alternative care**

### **Children deprived of their family environment**

550. The Committee, while welcoming the State party's activities to reduce institutionalization, shares the concern of the State party about the poor standard of living of children in institutions and the fact that the Government does not allocate sufficient funds for these institutions. The Committee is deeply concerned that many of these children are placed in institutions owing primarily to economic hardship of the families, especially when they are in need of special care. Furthermore, the Committee regrets that information is not provided on issues specifically addressed in its previous concluding observations.

551. **The Committee recommends that the State party:**

**(a) Continue measures to strengthen support for families to enable them to care for their children at home by developing a comprehensive child-centred family policy;**

**(b) Improve social assistance and support to families through advice and education to promote positive child-parent relationships;**

**(c) Strengthen measures, including the development of strategies and awareness-raising activities and support to families, to prevent and reduce the abandonment of children;**

**(d) Consider strategies to address the situation of abandoned children with disabilities and ensure their inclusion primarily in residential schools;**

**(e) Provide adequate resources for the effective implementation of the new law on foster care and undertake measures to regulate kinship fostering in order to ensure that the best interests of the children concerned are taken into account;**

**(f) Strengthen and intensify the programme of de-institutionalization while taking all the necessary measures to improve living conditions in institutions and ensure that children living there for the shortest period possible are provided with adequate health care, education and food;**

**(g) Seek technical assistance from UNICEF.**

#### **Adoption**

552. The Committee welcomes the accession of the State party to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993. However, it remains concerned that adequate monitoring procedures have not been introduced both with respect to domestic and intercountry adoptions. Furthermore, the Committee is concerned at the practice of direct intercountry adoption and the troublesome increase of newborns adopted by foreigners. Finally, it expresses its concern that legislation on adoption is complex.

553. **The Committee encourages the State party:**

**(a) To expedite the revision of legislation on adoption with a view to adopting a comprehensive law on domestic and intercountry adoption and ensure that it is in full compliance with the Convention and other international standards, in particular the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993;**

**(b) To ensure that sufficient human and other resources are made available for the effective implementation and monitoring of the legislation;**

**(c) To ensure that cases of intercountry adoption are dealt with in full accordance with the principles and provisions of the Convention, in particular article 21, and the relevant Hague Convention;**

**(d) To explore ways to encourage national adoptions so that intercountry adoptions can be reduced.**

#### **Periodic review of placement**

554. The Committee regrets that a legislative framework applicable to the periodic review of placement has not yet been developed in Georgia.

**555. The Committee reiterates its previous recommendations and urges the State party to establish a code of standards and to guarantee the right to periodic review of placement, in accordance with article 25 of the Convention, by, inter alia, ensuring the provision of the required human and financial resources.**

#### **Abuse, neglect and violence**

556. The Committee notes the information provided in the written replies to its list of issues on the Plan of Action to Combat Violence against Women 2000-2002 and on the 2000-2003 State programme for the protection, development and social adaptation of minors. However, the Committee regrets that many of its concerns and recommendations expressed during the consideration of the initial report have not been addressed, and is deeply concerned at the high incidence of abuse, neglect and violence within the family and in other settings. The Committee is also concerned at the occurrence of violence (bullying) in schools. The Committee concurs with the concerns expressed by the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, with regard to the occurrence of domestic violence, as they relate to children. The Committee regrets that the State party has not introduced domestic violence as a specific offence in criminal law or criminal procedural legislation and has not considered undertaking studies, or other steps, in this respect.

**557. The Committee recommends that the State party reinforce its efforts to formalize a comprehensive strategy to prevent and combat domestic violence and other forms of violence, including bullying in schools. The State party is encouraged to enact specific domestic violence legislation which brings together criminal and civil provisions, including remedies. In this respect, the State party is encouraged, inter alia, to consult the framework for model legislation on domestic violence (E/CN.4/1996/53/Add.2) which outlines important elements integral to comprehensive legislation on domestic violence. Furthermore, the Committee recommends that measures be taken to provide counselling and support services to all children victims of violence, including those who bully others in school.**

#### **Corporal punishment**

558. The Committee welcomes the fact that the State party considers corporal punishment totally unacceptable and inadmissible. However, the Committee notes that the prohibition of corporal punishment, referred to in the second periodic report of Georgia to the Human Rights Committee (see CCPR/C/GEO/2000/2, paragraph 117), refers only to the educational system and institutional care establishments, and regrets that corporal punishment is not explicitly prohibited in the family.

559. **The Committee encourages the State party expressly to prohibit corporal punishment in the family in legislation and to fully implement the prohibition of the use of violence, including corporal punishment, in schools and institutions, inter alia, by promoting positive, non-violent forms of discipline, especially in families, schools and care institutions in light of article 28 (2) of the Convention.**

## **5. Basic health and welfare**

### **Children with disabilities**

560. The Committee welcomes the programme for the countrywide reform of the system of institutionalizing disabled children and notes the need to set up an intersectoral working group for its implementation. Furthermore, the Committee notes that social assistance for families is limited to those caring for children up to 16 years. The Committee remains concerned that children with disabilities remain outside mainstream education and are marginalized in society.

561. **The Committee encourages the State party to pursue actively its current efforts and continue:**

(a) **To review existing policies and practice in relation to children with disabilities, taking due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted at its day of general discussion on the issue of "The rights of children with disabilities" (see CRC/C/69);**

(b) **To undertake greater efforts to make available the necessary professional (i.e. disability specialists) and financial resources, especially at the local level, and to promote and expand community-based rehabilitation programmes, including parent support groups;**

(c) **To strengthen public awareness campaigns to change negative public attitudes towards children with disabilities;**

(d) **To take the necessary measures to integrate children with disabilities in the mainstream education system and society;**

(e) **To take necessary measures for the education that is relevant for their parenting of children with disabilities.**

### **Health and health services**

562. The Committee welcomes the information contained in the State party's report (para. 181) on the national health-care policy and on the strategic plan to develop health care in Georgia over the period 2000-2009. The Committee is aware of efforts to reduce infant mortality, but remains deeply concerned at the high rate of infant mortality during the reporting period (68/1,000 for 1998 and 51/1,000 for 1999). It is equally concerned that the supply of safe and good-quality drinking water is inadequate.



563. **The Committee reiterates its previous recommendation regarding the allocation of human and financial resources for the implementation of the National Health Policy. In particular, the Committee recommends that the State party:**

(a) **Strengthen its efforts to implement the National Health Policy through adequate and sustainable allocation of resources (both human and financial), including the training of sufficient numbers of health-care professionals, the provision of adequate salaries for health-care workers, and investments in health-care infrastructure, especially in the most disadvantaged areas;**

(b) **Improve the effectiveness of antenatal care and maternal health education with a view to reducing the high incidence of infant mortality;**

(c) **Address the situation regarding the supply of safe drinking water by, inter alia, seeking further support from the World Bank for the Municipal Development Fund of Georgia for the rehabilitation of the network of water supply and sewerage systems;**

(d) **Seek technical assistance from, inter alia, UNICEF.**

#### **Adolescent health**

564. The Committee notes with concern the increasing incidence of sexually transmitted diseases and that existing health services may not be tailored to the needs of adolescents, thus reducing their willingness to access primary health services.

565. **The Committee recommends that the State party increase its efforts to promote adolescent health policies and strengthen the programme of health education in schools. It further recommends 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 child- and youth-sensitive confidential counselling, care and recovery facilities that are accessible without parental consent when this is in the best interests of the child. The State party could consider seeking technical cooperation and advice from UNICEF and the World Health Organization (WHO).**

#### **Social security and childcare services and facilities**

566. The Committee notes that a government commission was set up to facilitate development of programmes to overcome poverty and promote economic growth. However, it also notes the recommendation made by the Committee on Economic, Social and Cultural Rights which encouraged the State party to reform its social security system and accord attention in particular to the most disadvantaged and marginalized groups. In addition, the Committee regrets that social benefits for children with disabilities are discontinued when they reach 16 years.

567. **The Committee encourages the State party to pursue efforts to reform its social security system, as recommended by the Committee on Economic, Social and Cultural Rights as this relates to children. Furthermore, it urges the State party to extend payment benefits to all children with disabilities, including those between 16 and 18 years of age.**

### **Standard of living**

568. The Committee, while noting that the primary responsibility of securing the necessary living conditions for the child lies with the parents, shares the concerns of the Committee on Economic, Social and Cultural Rights about the increasing level of poverty, the poor living conditions of the majority of the population, the high unemployment rate, the low level of salaries and of social security benefits, and the rampant problem of corruption. The Committee is concerned that such a situation adversely affects the physical, mental, spiritual, moral and social development of children. Furthermore, the Committee notes that certain benefits are limited to children and families residing in the capital, Tbilisi.

**569. The Committee encourages the State party to implement fully the Poverty Reduction Programme and to take measures to assist parents and others responsible for children by intensifying efforts to combat poverty with a view to improving the standard of living of children and providing material assistance and support programmes, without discrimination based on place of residence, in accordance with article 27 of the Convention.**

### **6. Education, leisure and cultural activities**

570. The Committee welcomes the cooperation of the Ministry of Education with international organizations and NGOs and is encouraged by the educational reform being implemented and the significant support received, allowing secondary education to be provided free of charge. The Committee is, however, concerned at the decline in public expenditure on education and the existence of a system of informal payments whereby much of the budget of educational institutions is funded by households. It is also concerned at the lack of data on repetitions, expulsions and dropout rates. Furthermore, it is concerned that education is provided to mentally and physically disabled persons only in residential institutions, and that their number has significantly increased from 1997 to 2000, despite the general decline in the population.

**571. The Committee urges the State party, taking into account its general comment No. 1 on the aims of education, pursue its efforts to ensure that all children enjoy the right to education consistent with articles 28 and 29 of the Convention, and that children with disabilities are integrated into the mainstream education in keeping with article 3 of the Convention. It encourages the State party to increase the level of public expenditure on compulsory education and to take measures to put an end to the participation of households in the so-called “school funds”, which may limit the attendance at schools of the most vulnerable children. The State party is further encouraged to collect disaggregated data on students who are expelled, drop out or experience other school-related problems and to provide them with assistance and counselling services.**

### **7. Special protection measures**

#### **Refugee and internally displaced children**

572. The Committee regrets that its recommendations contained in paragraph 55 of its previous concluding observations have not been fully implemented. Furthermore, while noting that there has been no progress in the right of internally displaced persons to return to their homes in safety and dignity, the Committee regrets that the report does not include information

on efforts made to improve the current conditions of the internally displaced persons, as envisaged by the “New Approach”. The Committee is also concerned at the situation of refugee children and lack of sufficient programmes targeting refugee children, in particular the most vulnerable ones.

**573. The Committee reiterates the recommendations made following the consideration of the initial report. Furthermore, it urges the State party to pay particular attention to the situation of internally displaced children and their families, while continuing to support their right to return voluntarily to their homes in safety and dignity. It further recommends that the State party amend the 1998 Law on Refugees and by-laws to fully reflect its commitments under the Convention relating to the Status of Refugees of 1951 and its Protocol of 1967 by offering a clear legal status to prima facie refugees.**

#### **Economic exploitation**

574. The Committee welcomes the State party’s ratification of the ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Furthermore, the Committee welcomes the child labour survey, which gives the State party an opportunity to assess the scope of the problem with a view to addressing it appropriately. The Committee is concerned at the involvement of children in economic activity.

**575. The Committee recommends that the State party, in accordance with article 32 of the Convention, and ILO Conventions No. 138 on the Minimum Age for Admission to Employment and No. 182, which the State party has ratified:**

**(a) Take steps to ensure the implementation of article 32 of the Convention, and ILO Conventions Nos. 138 and 182, taking due account of ILO Minimum Age Recommendation, 1973 (No. 146) and the Worst Forms of Child Labour Recommendation, 1999 (No. 190);**

**(b) Continue its cooperation with the International Programme on the Elimination of Child Labour (IPEC), as well as strengthen its cooperation with and support of NGOs working in this area.**

#### **Sexual exploitation/trafficking**

576. The Committee notes that the human rights treaty bodies which considered the reports of Georgia have consistently expressed concern at the practice of trafficking in persons, in particular women, and at the lack of protection of women, including young children, from, inter alia, sexual exploitation and trafficking.

**577. The Committee recommends that the State party:**

**(a) Undertake measures to reduce and prevent the occurrence of sexual exploitation and trafficking, including by sensitizing professionals and the general public to the problems of sexual abuse of children and trafficking, through education including media campaigns;**

**(b) Increase protection provided to victims of sexual exploitation and trafficking, including prevention, social reintegration, access to health care and psychological assistance in a coordinated manner, including by enhancing cooperation with NGOs, taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;**

**(c) Ensure that a confidential, accessible and child-sensitive mechanism is established to receive and effectively address individual complaints from all children, including those in the 15-18 years age group;**

**(d) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute reported cases of sexual abuse, in a child-sensitive manner;**

**(e) Ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;**

**(f) Seek technical assistance from, inter alia, UNICEF.**

#### **Street children**

578. The Committee shares the concern expressed by the Committee on Economic, Social and Cultural Rights and the findings of the Special Rapporteur on the sale of children, child prostitution and child pornography regarding the high number of street children who are often victims of trafficking networks and various other forms of exploitation, indicating that the number of children living on the streets is increasing and that families are allowing children as young as 7 to make a living on the streets. Furthermore, the Committee is deeply concerned by allegedly widespread police brutality towards street children.

**579. The Committee recommends that the State party:**

**(a) Undertake a study to assess the scope and causes of the phenomenon and consider establishing 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;**

**(b) Make additional efforts to provide protection to children living on the streets and to ensure their access to education and health services;**

**(c) Strengthen the support and assistance to families in this respect;**

**(d) Continue to support NGOs to assist these children.**

#### **Substance abuse**

580. The Committee shares the concern of the State party about the growing phenomenon of substance abuse, but regrets that the State party does not sufficiently address the concerns and recommendations made in its previous concluding observations, including taking administrative,

social and educational measures to protect children from the illicit use of alcohol, narcotic drugs and psychotropic substances and to prevent the use of children in the illicit production and trafficking of such substances.

**581. The Committee reiterates its previous recommendation to the State party in this respect, and encourages the State party to strengthen preventive measures and to support recovery programmes dealing with child victims of alcohol, substance and drug abuse by, inter alia, seeking assistance from UNICEF and WHO.**

#### **Juvenile justice**

582. The Committee welcomes the transfer of the penitentiary system from the Ministry of the Interior to the Ministry of Justice, as well as the ongoing cooperation of the State party with the Council of Europe's Committee for the Prevention of Torture. The Committee is, however, deeply concerned by allegations of ill-treatment of children by the police and the lack of follow-up to the previous recommendations of the Committee relating to juvenile justice.

**583. The Committee reiterates its previous recommendations that the State party:**

**(a) Ensure the full implementation of juvenile justice standards and in particular articles 37, 40 and 39 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), in the light of the day of general discussion on the administration of juvenile justice, held by the Committee in 1995;**

**(b) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible, and develop alternative measures, such as community service and half-way homes to deal with juvenile delinquents in a more effective and appropriate manner;**

**(c) In light of article 39, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system, including adequate education and certification to facilitate their reintegration;**

**(d) Strengthen preventive measures, such as supporting the role of families and communities in order to prevent juvenile delinquency;**

**(e) Request technical assistance in the area of juvenile justice from, among others, the Office of the United Nations High Commissioner for Human Rights and UNICEF.**

#### **Children belonging to minority groups**

584. The Committee welcomes the ratification by the State party of the International Convention on the Elimination of All Forms of Racial Discrimination. However, while the Committee is cognizant of the ethnic and religious diversity and tolerance in Georgia, it remains

concerned at the increasing instances of direct or indirect discrimination and intolerance and the lack of an adequate response, as noted by the Council of Europe's European Commission against Racism and Intolerance (ECRI).

585. **The Committee encourages the State party to take measures to combat racism, xenophobia, discrimination and intolerance by, inter alia, ensuring follow-up to the recommendations of the United Nations treaty bodies and ECRI, in particular as they relate to children. The Committee recognizes the important role of education in this respect and encourages the State party to continue to support education in languages of the minorities as well as education in their mother tongue for the ethnic Georgian population not having access to it.**

## **8. Optional Protocols**

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

## **9. Dissemination of the report, written answers and concluding observations**

587. **In light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring at all levels of administration of the State party and among the general public, including concerned NGOs.**

## **10. Next report**

588. **The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention includes ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee invites the States party to submit its third periodic report by 1 July 2006. The report should not exceed 120 pages (see CRC/C/118).**

## **C. Consideration of reports under the Optional Protocol**

### **Concluding observations: New Zealand**

589. **The Committee considered the initial report of New Zealand (CRC/C/OPAC/NZL/1) at its 897th meeting (see CRC/C/SR.897), held on 18 September 2003, and adopted at the 918th meeting, held on 3 October 2003 (see CRC/C/SR.918), the following concluding observations.**

## **A. Introduction**

590. The Committee welcomes the submission of the State party's comprehensive report, which is the first such report under the Optional Protocol to be submitted to the Committee. While the Committee appreciates the frank and open dialogue held with the delegation, it regrets that the delegation did not include a member of the Ministry of Defence to answer specific questions.

## **B. Positive aspects**

591. The Committee welcomes the State party's international and bilateral technical cooperation activities and financial assistance aimed at preventing the involvement of children in armed conflicts and at assisting the recovery of child victims of armed conflicts and the rehabilitation and recovery of child combatants.

## **C. Principal areas of concern and recommendations**

### **Use in hostilities**

592. The Committee welcomes the amendment to the Defence Act (1990) which prohibits anyone under 18 from being liable for active service. However, it is concerned that the Defence Force Orders for Administration (15 February 2002) refer only to active service outside New Zealand and therefore implicitly allow active service inside New Zealand by soldiers below the age of 18.

**593. The Committee recommends that the State party amend the Defence Force Order to expressly prohibit active service in and outside of New Zealand by soldiers under the age of 18.**

### **Voluntary recruitment**

594. The Committee notes that the Defence Force Orders for Administration set the minimum age of voluntary recruitment at 17 years. However, it is concerned that this age limit has not yet been specified in the Defence Act (1990) and that the Guardianship Act allows for persons under the age of 18 who are married to be recruited into the armed forces.

**595. The Committee recommends that the State party amend the Defence Act and the Guardianship Act to specify a minimum age of voluntary recruitment of 17 years for all persons. The Committee further recommends that the State party consider the possibility of increasing the minimum age for voluntary recruitment to 18 years.**

**596. With regard to incentives for recruitment, and in light of the fact that a significant proportion of new recruits in the armed forces come from the cadet forces, the Committee requests the State party in its next report to include information on the cadet forces, in particular on how the activities of the cadet forces accord with the aims of education as recognized in article 29 of the Convention and in the Committee's general comment No. 1, and on recruitment activities undertaken by the armed forces within the cadet forces.**

### **Assistance for physical and psychological recovery**

597. The Committee requests the State party to provide information in its next report on refugee and migrant children within its jurisdiction who may have been involved in hostilities in their home country and on the assistance provided for their physical and psychological recovery and social reintegration.

### **Training/dissemination of the Optional Protocol**

598. The Committee recommends that the State party undertake systematic education and training on the provisions of the Convention for all relevant professional groups, in particular military personnel. In addition, the Committee recommends that the State party make the provisions of the Optional Protocol widely known to children, through, inter alia, school curricula.

### **Dissemination of documentation**

599. In light of article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the State party consider publishing the report, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.

### **Next report**

600. In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child due, in accordance with article 44 of the Convention, on 5 November 2008.

## **IV. COOPERATION WITH UNITED NATIONS AND OTHER COMPETENT BODIES**

601. Before and during the meeting of the pre-sessional working group and the session itself, the Committee held various meetings with United Nations bodies and specialized agencies, as well as with other competent bodies, in the framework of its ongoing dialogue and interaction with those bodies in the light of article 45 of the Convention.

602. On 15 August 2003, members of the Committee from the Latin American region met with representatives of the Inter-American Children's Institute in Montevideo. Discussions and work focused on ways to enhance future cooperation between both bodies, especially with regard to the Convention's reporting process and follow-up of the recommendations of the Committee. The Committee also established initial working contacts with the Inter-American Development Bank, based in Washington D.C.



603. OHCHR and UNICEF organized between 12 and 13 September 2003 a workshop for five members of the Committee from the Arab region. The Chair, Mr. Jaap Doek, also attended this workshop which aimed at providing the Committee's input in the January 2004 High-Level Meeting on Children, organized by the Arab League in Tunis, and at discussing reservations to the Convention on the Rights of the Child.

604. On 15 September 2003, at its 891st meeting, the Committee met with the newly appointed Commission on Human Rights Special Rapporteur on violence against women, its causes and consequences, Ms. Yakin Ertürk. Both parties exchanged views on recent trends regarding the issue and on ways to cooperate in the future.

605. On 29 September 2003, the Committee met with four representatives of Rights for Disabled Children (RDC), a working group established in the office of Disability Awareness in Action. The delegation of RDC was composed of Ms. Kicki Nordström, Chair of the World Blind Union, Ms. Tara Flod, Ms. Gerison Lansdown and Ms. Sofi Grandberg. RDC was established following a recommendation made by the Committee on the Rights of the Child at its day of general discussion on the theme "The rights of children with disabilities". RDC representatives focused their briefing on recent trends and developments in the field and on the results of their research undertaken in Romania, El Salvador, South Africa and Nepal.

606. On 30 September 2003, the Committee met with two representatives of the International Institute for Child Rights and Development based at the University of Victoria (Canada), Ms. Gerison Lansdown and Mr. Stuart Hart, who presented a project to develop educational programmes on the human rights of children for professionals working with and for children.

## **V. FUTURE DAY OF GENERAL DISCUSSION**

607. At its 907th meeting, held on 25 September 2003, the Committee decided to organize during its thirty-seventh session (September-October 2004) a day of general discussion on the theme "Implementing child rights in early childhood". An outline for the day of general discussion will be adopted by the Committee at its thirty-fifth session (January 2004). The following members will act as focal points for the discussion day: Ms. Chutikul, Mr. Krappman, Ms. Lee, Mr. Liwski, Ms. Sardenberg and Ms. Ouedraogo.

## **VI. DAY OF GENERAL DISCUSSION**

608. On 19 September 2003, the Committee held a day of general discussion on the theme "The rights of indigenous children". The theme was suggested by the Permanent Forum on Indigenous Issues at its first session held in May 2002 (E/2002/43 (Part I)-E/CN.19/2002/3 (Part I)) and by the Child Rights International Research Institute based in New York, United States of America. The Committee decided to adopt this theme for two reasons: first, because article 30 of the Convention on the Rights of the Child is the only provision in an international human rights instrument to specifically recognize indigenous children as rights-holders; and second, in reviewing reports of States parties, it has come to the attention of the Committee that indigenous children often face particular challenges to the enjoyment of their human rights.

609. Based on the discussions held on 19 September 2003 the Committee adopted a list of recommendations. These recommendations make no claim to being exhaustive, but rather pertain specifically to those issues discussed during the discussion day. As described in the outline (contained in CRC/C/124), the Committee chose to limit the discussion to the issues of: (a) non-discrimination, racism and xenophobia, in particular with regard to accessing basic services and the system of law and public order; and (b) the cultural specificity of indigenous children and how it relates to their right to identity and to education.

610. More than 120 participants representing Governments, NGOs, national human rights institutions and specialized agencies, programmes and funds of the United Nations attended the discussion day. A list of participants is contained in annex II to the present report.

### **Summary of discussions**

611. The day of discussion was opened by the Chairperson of the Committee on the Rights of the Child, Mr. J.E. Doek, who stated that the purpose of the discussion day was to increase visibility and awareness of the rights of indigenous children and to encourage States parties and organizations working for indigenous children to apply a more rights-based approach. The Chairperson also conveyed a message of support for the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, who drew the attention of participants to the lack of data on the situation of indigenous children.

612. The plenary session was opened by the Acting High Commissioner for Human Rights, Mr. Bertrand Ramcharan. He recounted how the United Nations has dealt with the rights of indigenous people in the past, and noted that the discussion day was part of a continuing process of understanding the situation of indigenous communities and listening to their concerns.

613. Mr. Ramcharan remarked that article 27 of the International Covenant on Civil and Political Rights (ICCPR) is in fact the basis of article 30 of the Convention on the Rights of the Child, which states that “In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language”. However, in article 30 of the Convention on the Rights of the Child, the drafters added a specific reference to indigenous children which does not exist in article 27 of ICCPR.

614. While noting that article 27 of ICCPR does not imply a collective right to self-determination, Mr. Ramcharan pointed out that the Human Rights Committee in its general comment No. 23 of 1994 considered that the enjoyment of culture “may consist in a way of life which is closely associated with territory and use of its resources. This may particularly be true of members of indigenous communities constituting a minority”.

615. The Acting High Commissioner’s speech was followed by interventions from two indigenous youth representatives, Mr. Adam Kuleit Ole Mwarabu from Tanzania and Mr. Rafael Chela from Ecuador. One of the key issues raised by Mr. Mwarabu was the relationship between the right to education and the recognition of indigenous communities’ cultural specificity. He observed that in his community many parents were afraid to send their children to school because they would be assimilated and lose their culture. The root cause of

this dilemma was that the indigenous parents and community leaders were not involved in the development of formal education, therefore the system did not respond to their needs. The need for indigenous participation in the design and implementation of programmes was also evident in the health sector and economic development programmes.

616. The same issue was also highlighted by Mr. Chela. Greater participation was an important means of ensuring that the needs and concerns of indigenous communities could be properly taken into account, in particular in the fields of education, health and social services. However, an additional impediment to the promotion and protection of the rights of indigenous children was the lack of data on the implementation of their rights under the Convention. Thus, Mr. Chela encouraged measures to collect data on indigenous children with a view to addressing discrimination in the enjoyment of their rights.

617. The opening session was closed by Mr. Wilton Littlechild, a member of the Permanent Forum on Indigenous Issues, who outlined the Permanent Forum's recommendations to the Committee on the Rights of the Child and other United Nations bodies working with children. The Permanent Forum recognized the unique role of the Committee in monitoring the implementation of indigenous children's rights by reviewing the reports of States parties under the Convention. Accordingly, the Permanent Forum recommended that in its dialogue with States parties with indigenous communities, the Committee pay particular attention to the situation of indigenous families, the right to food and water and protection of indigenous children involved in armed conflict.

618. Following the opening session, participants split up into two working groups to discuss and formulate recommendations on the two sub-themes referred to above.

619. Discussions in the first working group addressed a wide variety of concerns, including overrepresentation of indigenous children in alternative care and juvenile justice systems; increased vulnerability of indigenous children to abuse, trafficking and exploitation; and the importance of cultural sensitivity when providing services, such as health, education and social services, to indigenous children. The working group called for more efforts by States parties and United Nations bodies to collect data on indigenous children, and, where necessary, to develop more specific indicators. In this way, more targeted interventions could be designed in order to address discrimination against indigenous children in all fields. Although there was overall agreement that discrimination is persistent, there was also consensus that positive experiences and successes should be further highlighted.

620. In order to ensure equal access to basic services, the working group also suggested that States parties, NGOs and specialized agencies and programmes of the United Nations should work to improve the cultural sensitivity and appropriateness of existing services for children (social services, health, education, juvenile justice, alternative care). Indigenous communities should participate not only in the design of services and development programmes, but should also be included among the managers and staff providing such services.

621. The second working group, which focused on cultural specificity, began its discussions with the idea that being equal does not mean being identical. Therefore, participants stressed the need for indigenous children to maintain their own identity, including culture and language. This starts with their right to be called a name of their own group or community. More

generally, it was said that indigenous children shall be guaranteed their right to enjoy their own culture in their daily life. Forced assimilation leads to lack of self-esteem among indigenous children, which partly explains the high rate of suicide and drug and alcohol abuse among this population.

622. In that regard, education was considered to be a particularly important element for indigenous children's enjoyment of their rights. Participants underlined the need to change and/or adapt curricula in order to teach all children about indigenous culture. In addition, bilingual education is a very important element to be taken into consideration, as well as the hiring and training of an increased number of teachers from indigenous populations. In order to implement such measures, the working group recommended increasing financial and human resources for education, including early childhood education. It was felt that the strength of indigenous communities could be used to achieve major progress in these areas.

623. The recommendations of the two working groups were then presented to the closing plenary session. In summarizing the work of the discussion day, Ms. Ida Nicolaisen of the Permanent Forum noted that, although there had been considerable discussion of the challenges facing indigenous children, the existing strengths of indigenous communities had also been highlighted.

### **Recommendations**

624. At the end of the session, on 3 October 2003, the Committee on the Rights of the Child, using the suggestions which arose during the discussion day, adopted the following recommendations:

*The Committee on the Rights of the Child,*

*Recalling* that articles 30, 17 (d) and 29.1 (c) and (d) of the Convention on the Rights of the Child are the only provisions of an international human rights instrument that explicitly recognize indigenous children as rights-holders,

*In light of* the recommendations of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people pertaining to children, contained in his annual and mission reports to the Commission on Human Rights,

*Following* the request of the Permanent Forum on Indigenous Issues to the Committee on the Rights of the Child to hold a day of general discussion on the rights of indigenous children in order to promote greater awareness of the rights of indigenous children (E/2002/43 (Part I)-E/CN.19/2002/3 (Part I)), and in light of the Permanent Forum's recommendations on the rights of indigenous children, adopted during its first two sessions in 2002 and 2003,

*In view of* the International Decade of the World's Indigenous People 1994-2004,

*Taking into account* the International Labour Organization's Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries,

*Recognizing* the ongoing work of the open-ended intersessional working group on the draft United Nations declaration on the rights of indigenous peoples and of the Working Group on Indigenous Populations regarding issues such as self-determination, land rights and other collective rights,

*Noting* that, although indigenous children are disproportionately affected by specific challenges, such as institutionalization, urbanization, drug and alcohol abuse, trafficking, armed conflict, sexual exploitation and child labour, they are not sufficiently taken into consideration in the development and implementation of policies and programmes for children,

## I. GENERAL

1. *Strongly recalls* the obligations of States parties under articles 2 and 30 of the Convention on the Rights of the Child to promote and protect the human rights of all indigenous children;
2. *Reaffirms its commitment* to promote and protect the human rights of indigenous children by addressing more systematically the situation of indigenous children under all relevant provisions and principles of the Convention when periodically reviewing State party reports;
3. *Calls on* States parties, specialized agencies, funds and programmes of the United Nations, the World Bank and regional development banks, and civil society to adopt a broader rights-based approach to indigenous children based on the Convention and other relevant international standards such as International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, and encourages the use of community-based interventions in order to ensure the greatest possible sensitivity to the cultural specificity of the affected community. Particular attention should also be paid to the variety of situations and conditions in which children live;
4. *Acknowledges* that, as stated in the Human Rights Committee's general comment No. 23 (1994) on the rights of minorities and in International Labour Organization Convention No. 169, the enjoyment of the rights under article 30 of the Convention on the Rights of the Child, in particular the right to enjoy one's culture, may consist in a way of life which is closely associated with territory and use of its resources. This may particularly be true of members of indigenous communities constituting a minority;

## II. INFORMATION, DATA AND STATISTICS

5. *Requests* States parties, specialized agencies, funds and programmes of the United Nations, in particular the United Nations Children's Fund and the International Labour Organization, the World Bank and regional development banks, and civil society including indigenous groups, to provide the Committee with specific information on laws, policies and programmes for the implementation of indigenous children's rights when the Committee reviews the implementation of the Convention at country level;

6. *Recommends* that States parties strengthen mechanisms for the collection of data on children so as to identify existing gaps and barriers to the enjoyment of human rights by indigenous children, and with a view to developing legislation, policies and programmes to address such gaps and barriers;

7. *Encourages* greater research, including the development of common indicators, into the situation of indigenous children in rural and urban areas by United Nations human rights mechanisms, specialized agencies, programmes and funds, international organizations, civil society and academic institutions. In this regard, the Committee requests all interested parties to consider initiating a global study on the rights of indigenous children;

### III. PARTICIPATION

8. In the light of article 12, as well as articles 13 to 17, of the Convention, *recommends* that States parties work closely with indigenous peoples and organizations to seek consensus on development strategies, policies and projects aimed at implementing children's rights, set up adequate institutional mechanisms involving all relevant actors and provide sufficient funding to facilitate the participation of children in the design, implementation and evaluation of these programmes and policies;

### IV. NON-DISCRIMINATION

9. *Calls on* States parties to implement fully article 2 of the Convention and take effective measures, including through legislation, to ensure that indigenous children enjoy all of their rights equally and without discrimination, including equal access to culturally appropriate services including health, education, social services, housing, potable water and sanitation;

10. *Recommends* that States parties, international organizations and civil society strengthen efforts to educate and train relevant professionals working with and for indigenous children on the Convention and the rights of indigenous peoples;

11. *Also recommends* that States parties, with the full participation of indigenous communities and children, develop public awareness campaigns, including through the mass media, to combat negative attitudes towards, and misperceptions about, indigenous peoples;

12. *Requests* States parties, when updating the Committee on measures and programmes undertaken to follow up on the Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance of 2001, to provide specific and detailed information on the situation of indigenous children;

### V. LAW AND PUBLIC ORDER, INCLUDING JUVENILE JUSTICE

13. To the extent compatible with articles 37, 39 and 40 of the Convention and other relevant United Nations standards and rules, the Committee suggests that States parties respect the methods customarily practised by indigenous peoples for dealing with criminal offences committed by children when it is in the best interests of the child;

14. *Requests* the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to pay particular attention to juvenile justice issues in his report on indigenous people and the administration of justice to be submitted to the Commission on Human Rights at its sixtieth session in 2004;

## VI. RIGHT TO IDENTITY

15. *Calls on* States parties to ensure the full implementation of articles 7 and 8 of the Convention for all indigenous children, by, inter alia:

(a) Ensuring the existence of a free, effective and universally accessible birth registration system;

(b) Allowing indigenous parents to give their children a name of their own choosing, and respecting the right of the child to preserve his or her identity;

(c) Taking all necessary measures to prevent indigenous children from being or becoming stateless;

16. *Recommends* that States parties take all necessary measures to ensure that indigenous children enjoy their own culture and can use their own language. In this regard, States parties should pay particular attention to article 17 (d) of the Convention which calls on States parties to encourage the mass media to have particular regard to the linguistic needs of the child who is indigenous;

## VII. FAMILY ENVIRONMENT

17. *Recommends* that States parties take effective measures to safeguard the integrity of indigenous families and assist them in their child-rearing responsibilities, in accordance with articles 3, 5, 18, 20, 25 and 27.3 of the Convention. For the purpose of designing such policies, the Committee recommends that States parties collect data on the family situation of indigenous children, including children in foster care and adoption processes. The Committee further recommends that maintaining the integrity of indigenous families and communities be a consideration in development programmes, social services, health and education programmes affecting indigenous children. The Committee reminds States parties that, where it is in the best interest of the child to be separated from his or her family environment, and no other placement is possible in the community at large, institutionalization should only be used as a last resort and be subject to a periodic review. In accordance with article 20.3 of the Convention, due regard shall be paid to ensuring continuity in the child's upbringing and to his or her religious, cultural, ethnic and linguistic background;

## VIII. HEALTH

18. *Recommends* that States parties take all necessary measures to implement the right to health of indigenous children, in view of the comparatively low indicators regarding child mortality, immunization and nutrition that affect this group of children. Special attention should also be paid to adolescents regarding drug abuse, alcohol consumption, mental health and

sex education. The Committee also recommends that States parties develop and implement policies and programmes to ensure equal access for indigenous children to culturally appropriate health services;

## IX. EDUCATION

19. *Recommends* that States parties ensure access for indigenous children to appropriate and high-quality education while taking complementary measures to eradicate child labour, including through the provision of informal education where appropriate. In this regard, the Committee recommends that States parties, with the active participation of indigenous communities and children:

- (a) Review and revise school curricula and textbooks to develop respect among all children for indigenous cultural identity, history, language and values, in accordance with the Committee's general comment No. 1 (2001) on the aims of education;
- (b) Implement indigenous children's right to be taught to read and write in their own indigenous language, or in the language most commonly used by the group to which they belong, as well as in the national language(s) of the country in which they live;
- (c) Undertake measures to effectively address the comparatively higher dropout rates among indigenous youth, and ensure that indigenous children are adequately prepared for higher education, vocational training and their further economic, social and cultural aspirations;
- (d) Take effective measures to increase the number of teachers from indigenous communities or who speak indigenous languages, provide them with appropriate training and ensure that they are not discriminated against in relation to other teachers;
- (e) Allocate sufficient financial, material and human resources to implement these programmes and policies effectively;

## X. INTERNATIONAL COOPERATION AND FOLLOW-UP

20. *Encourages* greater cooperation between human rights treaty bodies and United Nations mechanisms on indigenous issues;

21. *Requests* thematic and country-specific mandate-holders of the Commission on Human Rights to pay special attention to the situation of indigenous children in their respective fields;

22. *Recommends* that the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people dedicate one of his annual reports to the Commission on Human Rights to the rights of indigenous children. The preparation of such a report should include a survey of the implementation of the recommendations arising from the Committee's day of general discussion by all States parties to the Convention;



23. *Encourages* United Nations agencies and multilateral and bilateral donors to develop and support rights-based programmes for and with indigenous children in all regions;

24. *Recognizing* the strengths of indigenous communities to address many of the aforementioned issues, calls on the Permanent Forum on Indigenous Issues and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to coordinate the elaboration of a set of best practices for the promotion and protection of the rights of indigenous children in consultation with relevant non-governmental organizations, indigenous experts and indigenous children.

## **VII. WORKING METHODS**

625. At the session's opening meeting (890th), held on 15 September 2003, the Committee amended its provisional rules of procedure (CRC/C/4) by changing the number "10" in rule 11 to "18" in order to reflect the increase in the membership of the Committee (amendment to article 43 (2) of the Convention that entered into force on 18 November 2002). At the same meeting, the Committee also agreed that the amended provisional rules of procedure would also apply to the consideration of reports submitted under the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

626. At its 917th meeting, held on 2 October 2003, the Committee discussed its working methods in relation to the consideration of initial reports submitted under the two Optional Protocols to the Convention.

## **VIII. GENERAL COMMENTS**

627. At its 911th meeting, held on 29 September 2003, the Committee considered the draft general comment on "The general measures of implementation for the Convention on the Rights of the Child". The general comment was adopted by the Committee at its thirty-fourth session on 3 October 2003.

## **IX. PROVISIONAL AGENDA FOR THE THIRTY-FIFTH SESSION**

628. The following is the draft provisional agenda for the thirty-fifth session of the Committee:

1. Adoption of the agenda.
2. Organizational matters.
3. Submission of reports by States parties.
4. Consideration of reports of States parties.
5. Cooperation with other United Nations bodies, specialized agencies and other competent bodies.

6. Methods of work of the Committee.
7. General comments.
8. Biennial report to the General Assembly.
9. Future meetings.
10. Other matters.

## **X. ADOPTION OF THE REPORT**

629. At its 918th meeting, held on 3 October 2003, the Committee considered the draft report on its thirty-fourth session. The report was adopted unanimously by the Committee.

## ANNEXES

### Annex I

#### MEMBERSHIP OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

<u>Name of member</u>	<u>Country of nationality</u>
Mr. Ibrahim Abdul Aziz AL-SHEDDI*	Saudi Arabia
Ms. Ghalia Mohd Bin Hamad AL-THANI*	Qatar
Ms. Joyce ALUOCH*	Kenya
Ms. Saisuree CHUTIKUL*	Thailand
Mr. Luigi CITARELLA*	Italy
Mr. Jacob Egbert DOEK**	Netherlands
Mr. Kamel FILALI**	Algeria
Ms. Moushira KHATTAB**	Egypt
Mr. Hatem KOTRANE**	Tunisia
Mr. Lothar Friedrich KRAPPMANN**	Germany
Ms. Yanghee LEE*	Republic of Korea
Mr. Norberto LIWSKI**	Argentina
Ms. Rosa Maria ORTIZ**	Paraguay
Ms. Awa N'Deye OUEDRAOGO**	Burkina Faso
Ms. Marilia SARDENBERG*	Brazil
Ms. Lucy SMITH*	Norway
Ms. Marjorie TAYLOR**	Jamaica
Ms. Nevena VUCKOVIC-SAHOVIC*	Serbia and Montenegro

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\* Term expires on 28 February 2005.

\*\* Term expires on 28 February 2007.

## **Annex II**

### **DAY OF GENERAL DISCUSSION: “THE RIGHTS OF INDIGENOUS CHILDREN”**

#### **List of submissions received (original language(s) only, available on [www.crin.org](http://www.crin.org))**

1. The United Nations Permanent Forum on Indigenous Issues.
2. International Labour Office (ILO).
3. International Institute for Child Rights and Development, University of Victoria, Canada. Submitted by Philip Cook.
4. World Vision.
5. Isolated Communities and Ignored Claims: Tribal Children’s Right to Education in India. Submitted by Archana Mehendale.
6. Child Programme. Universidad Autónoma Metropolitana - Mexico. The rights in the cultural diversity.
7. Government of Norway.
8. The rights of indigenous children. Cultural Specificity in the Canadian Educational Curriculum. Submitted by Lora Kihorany and Karineh Madessian.
9. Religious Society of Friends (Quakers) in Australia Incorporated. Indigenous Concerns of the Committee.
10. The Bernard van Leer Foundation. Indigenous children and early childhood development programmes: A matter of access and content.
11. Government of Mexico.
12. UNICEF. Implementing the right to education for indigenous children.
13. CORE Centre for Organisation Research and Education (Indigenous People’s Centre for Policy and Human Rights in India’s North East).
14. Child Rights. International Research Institute. Submitted by Cynthia Price Cohen.
15. Government of Bolivia.
16. Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission of Australia. Identity and Culture.
17. Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission of Australia. Non-discrimination and equality.

18. Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission of Australia. Law and public order, including juvenile justice.
19. The child of Bangladesh. Submitted by Suman Barua.
20. Human Rights Watch. Discrimination against Bedouin Children in Israel's Schools.
21. Analysis and Challenges for the Rights of the Indigenous Children in Argentina. Mapuche - Rio Negro Province. Wichis, tobas, pilagás - Formosa Province. Submitted by Norberto Liwski (member of the Committee on the Rights of the Child).
22. Violation of rights to children and young people pertaining to indigenous populations in Colombia. Defense Association of the International Children. DNI Colombia. [Spanish text version]
23. Centre for Human Evolution Studies and Ius Primi Viri, International Association. Subject: Principle for universal human rights education. Submitted by Michele Trimarchi and Luciana Luisa Papeschi.
24. First Nations Child and Family Caring Society of Canada. Subject: Non-discrimination and diversity.
25. Formosa: a province in development which negates social identity and diversity. Submitted by Luis María Zapiola.
26. The protection of the rights of the child - legislation, judicial actions and policies. Submitted by Jose Martín Gallardo.

### **Annex III**

#### **PROGRAMME BUDGET IMPLICATIONS OF THE RECOMMENDATION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD ON ITS WORKING METHODS**

1. The Committee on the Rights of the Child is established under article 43 of the Convention on the Rights of the Child and is mandated to monitor implementation of the Convention and its two optional protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict through the review of reports which are to be submitted on a periodic basis by States parties. There are currently 192 parties to the Convention, 62 parties to the optional protocol on the sale of children and 59 parties to the optional protocol on the involvement of children in armed conflict. The Committee on the Rights of the Child consists of 18 members. Currently, it holds three annual sessions of three weeks' duration each at Geneva. A pre-sessional working group also meets at Geneva for one week approximately two or three months in advance of each session. Resource requirements relating to the Committee are included in the proposed programme budget for the 2004-2005 biennium.

The Committee currently considers the reports of 9 States parties each session or 27 States parties annually. The reports of 47 States parties have been submitted and are awaiting review, while the initial reports of 13 States parties and the second periodic reports of 100 States parties have not been submitted in accordance with the requirements of the Convention, and are accordingly overdue. From January 2004, States will begin submitting reports required under the Convention's Optional Protocols.

Concerned at the significant number of reports of States parties awaiting consideration and that the information contained therein will become obsolete, and as a measure to encourage States parties to submit their reports in a timely manner, the Committee requests the General Assembly to:

Approve the Committee's decision to meet in two parallel chambers for an initial period of two years, as of October 2004 for its thirty-seventh pre-sessional working group and as of January 2005 for its thirty-eighth session. Such functioning of a two-chamber system would take place initially for a two-year period until the Committee's forty-third session (fall 2006) and would then be evaluated for possible renewal.

2. The total estimated cost to cover the staff cost requirements and conference service facilities would amount to US\$ 4,122,181: US\$ 651,960 in 2004 and US\$ 3,470,221 in 2005.

3. No provision has been made under the Proposed Programme Budget 2004-2005 to cover these activities and not anticipated to be covered from available resources.

<u>Note for the Budget Officer:</u>	<u>2004</u>	<u>2005</u>
Conference services	413,360	3,231,621
1 Staff on P-3 level	121,800	121,800
1 G-S staff	116,800	116,800
Total	<b>651,960</b>	<b>3,470,221</b>

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