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Fortieth session
12 to 30 September 2005

REPORT ON THE FORTIETH SESSION

(Geneva, 12 to 30 September 2005)

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I. ORGANIZATIONAL AND OTHER MATTERS

A. States parties to the Convention

1. As at 30 September 2005, the closing date of the fortieth 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 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 its article 49. An updated list of States that have signed, ratified or acceded to the Convention is available on: www.ohchr.org or untreaty.un.org.

2. As at the same date, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict had been ratified or acceded to by 101 States parties and signed by 121 States. The Optional Protocol entered into force on 12 February 2002. Also 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 101 States parties and signed by 114 States. It entered into force on 18 January 2002. The two Optional Protocols to the Convention were adopted by the General Assembly in resolution 54/263 of 25 May 2000 and opened for signature and ratification or accession in New York on 5 June 2000. An updated list of States that have signed, ratified or acceded to the Convention is available on: www.ohchr.org or untreaty.un.org.

3. The texts of the declarations, reservations or objections made by States parties with respect to the Convention are available on the website of the United Nations Treaty Collection database: untreaty.un.org.

4. At its fifty-ninth session, the General Assembly approved the request of the Committee to work simultaneously in two chambers during 2006 (starting with the pre-sessional working group meeting of October 2005) as an exceptional and temporary measure to decrease the existing backlog of reports.

B. Opening and duration of the session

5. The Committee on the Rights of the Child held its fortieth session at the United Nations Office at Geneva from 12 to 30 September 2005. The Committee held 28 meetings (1053rd to 1080th). An account of the Committee's deliberations at its fortieth session is contained in the relevant summary records (CRC/C/SR.1053-1059; 1062-1065; 1068-1069; 1072-1073; 1076-1077 and 1080).

C. Membership and attendance

6. Seventeen members of the Committee attended the fortieth session, Ms. Alison Anderson could not attend the session. A list of the members, together with an indication of the duration of their terms of office, is provided in annex I to the present report. The following members were not able to attend the session in its entirety: Ms. Joyce Alluoch (absent from 19 to 30 September); Mr. Hatem Kotrane (absent from 26 to 30 September); Ms. Yanghee Lee (absent from 12 to 15 September); Mr. Norberto Liwski (absent on 27 September);

Ms. Rosa Maria Ortiz (absent on 23 September); Mr. Brent Parfitt (absent on 22 and 23 September); Ms. Lucy Smith (absent on 16, 20 and 30 September) and Mr. Jean Zermatten (absent on 26 September).

7. 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); International Labour Organization (ILO); United Nations Educational, Scientific and Cultural Organization (UNESCO); World Health Organization (WHO); and the Joint United Nations Programme on HIV/AIDS (UNAIDS).

8. Representatives of the following non-governmental organizations were also in attendance during the review of State party reports:

General consultative status

Franciscans International; International Council of Women; International Movement ATD Fourth World.

Special consultative status

Amnesty International; Association for the Prevention of Torture; Coalition against Trafficking in Women; Defence for Children International; Friends World Committee for Consultation (Quakers); Human Rights Watch; International Commission of Jurists; International Confederation of Social Workers; International Federation of Human Rights Leagues; International Federation Terre des Hommes; International Service for Human Rights; International Social Service; Lutheran World Federation; World Federation of Methodist and Uniting Church Women; World Organization against Torture.

Others

NGO Group for the Convention on the Rights of the Child; Global Initiative to End All Corporal Punishment of Children; International Baby Food Action Network; Geneva for Human Rights.

9. In addition, a significant number of non-governmental organizations and United Nations bodies and others were represented during the Committee's day of general discussion on 16 September 2005. A full list of these can be found in Annex II to this report.

D. Agenda

10. Also at the 1053rd meeting, on 12 September 2005 the Committee adopted the following agenda on the basis of the provisional agenda (CRC/C/151):

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. Day of general discussion.
8. General comments.
9. Future meetings.
10. Other matters.

E. Pre-sessional working group

11. In accordance with a decision of the Committee at its first session, a pre-sessional working group met in Geneva from 6 to 10 June 2005. All the members except Ms. Ghalia Al-Thani, Ms. Alison Anderson, Ms. Yanghee Lee and Ms. Joyce Aluoch participated in the working group. Representatives of OHCHR, UNICEF, UNHCR and UNAIDS 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.

12. 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.

13. Mr. Doek chaired the pre-sessional working group. The group held eight meetings, at which it examined lists of issues put before it by members of the Committee relating to the second periodic reports of five countries (Trinidad and Tobago, Algeria, Uganda, China and Saudi Arabia), the combined second and third periodic report of Australia and the third periodic reports of three countries (Finland, Denmark and the Russian Federation). The lists of issues were transmitted to the permanent missions of the States concerned with a note requesting written answers, if possible, before 5 August 2005.

F. Organization of work

14. The Committee considered the organization of its work at its 1053rd meeting, held on 12 September 2005. The Committee had before it the draft programme of work for the fortieth session and the report of the Committee on its thirty-eighth session (CRC/C/146).

G. Future regular meetings

15. The Committee noted that its forty-first session would take place from 9 to 27 January 2006 and that the pre-sessional working group for the forty-second session would meet from 30 January to 3 February 2006.

II. REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

A. Submission of reports

16. The Committee had before it the following documents:

(a) Note by the Secretary-General on the States parties to the Convention and the status of submission of reports (CRC/C/152);

(b) 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).

17. The Committee was informed that between its thirty-ninth and fortieth sessions the Secretary-General had received the initial reports of Kiribati (CRC/C/KIR/1) and the Republic of Congo (CRC/C/COG/1), the second periodic reports of Ireland (CRC/C/IRL/2), Suriname (CRC/C/SUR/2), Mali (CRC/C/MLI/2) and Kenya (CRC/C/KEN/2) and the third periodic report of Jordan (CRC/C/JOR/3).

18. The Committee was informed that the initial report of the Czech Republic (CRC/C/OPAC/CZE/1) had been received under the Optional Protocol on the involvement of children in armed conflict since the end of its thirty-ninth session.

19. It was also informed that the following initial reports had been received under the Optional Protocol on the sale of children, child prostitution and child pornography: Denmark (CRC/C/OPSC/DNK/1), Turkey (CRC/C/OPSA/TUR/1) and Syria (CRC/C/OPSC/SYR/1).

20. As at 30 September 2005, the Committee had received 185 initial, 98 second periodic and 16 third periodic reports. A total of 263 reports under the Convention (181 initial, 73 second periodic and 6 third periodic reports) have been considered by the Committee, 2 initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography and 4 initial reports under the Optional Protocol on the involvement of children in armed conflict have also been considered by the Committee.

21. At its fortieth session, the Committee examined second periodic reports submitted by three States parties, one combined second and third report and two third periodic reports under article 44 of the Convention. It also considered the initial reports of one State party under the Optional Protocol on the sale of children, child prostitution and child pornography and two initial reports under the Optional Protocol on the involvement of children in armed conflict. It devoted 16 of its 28 meetings to the consideration of reports. The following 11 reports, were scheduled to be examined by the Committee at its fortieth session: Trinidad and Tobago (CRC/C/83/Add.12); Australia (CRC/C/129/Add.4); Algeria (CRC/C/93/Add.7); Uganda (CRC/C/65/Add.33); China (CRC/C/83/Add.9) including SAR Hong Kong

(CRC/C/83/Add.9 (I)) and SAR Macau (CRC/C/83/Add.9 (II)) and (CRC/C/OPSA/CHN/1) and (CRC/C/OPSA/CHN/1 (Part I)); Finland (CRC/C/129/Add.5) and (CRC/C/OPAC/FIN/1); Denmark (CRC/C/129/Add.3) and (CRC/C/OPAC/DNK/1) and the Russian Federation (CRC/C/125/Add.5).

22. 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.

23. By note verbale dated 11 July 2005 the Permanent Mission of the Kingdom of Saudi Arabia to the United Nations requested the postponement of the consideration of the second periodic report by the Committee, scheduled for 23 September 2005. This request was granted by the Committee.

24. By letter dated 12 September 2005, the Ministry of the Attorney-General's Office of the Republic of Trinidad and Tobago requested the postponement of the consideration of its second periodic report by the Committee, scheduled for 12 September 2005. This request was granted by the Committee.

25. 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

Concluding observations: Australia

26. The Committee considered the combined second and third periodic reports of Australia (CRC/C/129/Add.4) at its 1054th and 1055th meetings (see CRC/C/SR.1054 and 1055), held on 13 September 2005, and adopted, at its 1080th meeting (CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

27. The Committee welcomes the submission of the State party's combined second and third periodic reports, as well as the timely responses to the list of issues, which allowed the Committee to have a better understanding of the situation of children in the State party. The Committee further appreciates the constructive and open dialogue with a cross-sectoral and high-level delegation.

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

28. The Committee notes with appreciation:

(a) The establishment of the Department of Family and Community Service and the Stronger Families and Communities Strategy initiative;

(b) The establishment of “Families Australia”, a national body seeking to improve coordination between the federal, state and territory Governments in policies, programmes and services affecting families, young people and children;

(c) The National Plan of Action against the Sexual Exploitation of Children, “Tomorrow’s Children” of 2000;

(d) The National Plan of Action to Eradicate Trafficking in Persons of October 2003;

(e) The launching of a new National Framework for the protection of human rights in Australia on 23 December 2004.

29. The Committee also wishes to welcome the ratification of:

(a) The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, on 25 August 1998;

(b) The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children, on 29 April 2003;

(c) The Rome Statute of the International Criminal Court, on 1 July 2002.

C. Main subjects of concern and recommendations

1. General measures of implementation

Committee’s previous recommendations

30. The Committee notes with satisfaction that most of its concerns expressed and recommendations (CRC/C/15/Add.79) made upon the consideration of the State party’s initial report (CRC/C/8/Add.31) in 1997 have been addressed. However, it notes that some concerns and recommendations have been insufficiently or partly addressed regarding, inter alia, the special problems still faced by indigenous children, corporal punishment, the spread of homelessness among young people, children in immigration detention, juvenile justice and the disproportionately high percentage of indigenous children in the juvenile justice system.

31. The Committee urges the State party to take all necessary measures to give more effective follow-up to the recommendations contained in the concluding observations of the initial report that have not yet been implemented and to provide concrete and effective follow-up to the recommendations contained in the present concluding observations on the second and third periodic reports.

Reservations

32. The Committee is of the opinion that the State party’s reservation to article 37 (c) is unnecessary since there appears to be no contradiction between the logic behind it and the provisions of article 37 (c) of the Convention. In fact, the concerns expressed by the State party in its reservation are well taken care of by article 37 (c), which provides that every child

deprived of liberty shall be separated from adults “unless it is considered in the best interests of the child not to do so” and that the child “shall have the right to maintain contact with his or her family”.

33. The Committee, in light of the 1993 Vienna Declaration and Programme of Action, recommends that the State party continue and strengthen its efforts towards a full withdrawal of its reservation.

Legislation and implementation

34. The Committee appreciates the careful scrutiny by the State party of existing and new laws in order to ensure their compliance with the Convention. However, it remains concerned that, while the Convention may be considered and taken into account in order to assist courts to resolve uncertainties or ambiguities in the law, it cannot be used by the judiciary to override inconsistent provisions of domestic law.

35. The Committee recommends that the State party strengthen its efforts to bring its domestic laws and practice into conformity with the principles and provisions of the Convention, and to ensure that effective remedies will be always available in case of violation of the rights of the child.

National Plan of Action

36. The Committee notes that the Department of Family and Community Service has constituted a task force in charge of developing a “National Agenda for Early Childhood” by the end of 2005, as well as the recently revised “National Action Plan”, but it remains concerned that there is no comprehensive policy at national level for children specifically addressing human rights issues that may impact on them.

37. The Committee encourages the State party to complete the development of the National Agenda for Early Childhood, taking into account the Committee’s general comment No. 7 (2005) on implementing child rights in early childhood, and to provide the necessary budget for its full implementation. At the same time, the Committee recommends that the State party develop and implement effectively a National Plan of Action for children, taking into account the Declaration and the Plan of Action contained in the document “A world fit for children” adopted by the General Assembly at its special session on children in May 2002. This plan should have specific goals, strategies and guaranteed resources, which would allow for an appropriate implementation of the Convention in all states and territories.

Coordination

38. The Committee notes that state and territory Governments have increased coordination of policies and monitoring mechanisms for children. It is concerned, however, that the position of Minister for Children and Youth Affairs established in 2002 was downgraded to Parliamentary Secretary for Children and Youth Affairs (under the Minister for Family and Community Services) in late 2004.

39. **The Committee recommends that the State party assign adequate powers as well as human and financial support to the Parliamentary Secretary for Children and Youth Affairs so that it would be able to develop, coordinate and monitor law and policy for children throughout the country.**

Independent monitoring

40. The Committee welcomes the establishment of the post of Commissioner for Children in the States of New South Wales, Queensland and Tasmania, as well as the existence, at Federal level, of the Human Rights and Equality Opportunity Commission (HREOC). While acknowledging the very valuable work of HREOC in the area of children's rights, the Committee is concerned that there is no commissioner within HREOC devoted specifically to child rights and that substantial cuts in its funding over the past 10 years have severely affected its workforce and its ability to handle effectively individual complaints, public inquiries and policy work.

41. **The Committee recommends that the State party ensure that HREOC can undertake independent and effective monitoring of the implementation of children's rights, in accordance with the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions, by providing it with adequate human and financial resources to do so. In addition, the State party could create specialized sections within the offices of the various state and territory ombudsman to deal with issues relating to children.**

Resources for children

42. The Committee notes that despite the increase in budgetary allocations in many areas of childcare and well-being, indigenous children and other vulnerable groups continue to need considerable improvement in their standard of living, health and education.

43. **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 disadvantaged groups, such as indigenous children, "to the maximum extent of ... available resources".**

Data collection

44. While welcoming the information that the Australian Bureau of Statistics is currently reviewing the available information on children and youth in order to improve the scope and quality of data, the Committee notes that there are gaps in the collection of data, especially in the area of special protection and vulnerable groups.

45. **The Committee recommends that the State party strengthen its existing mechanism of data collection in order to ensure that data are collected on all areas of the Convention in a way that allows for disaggregation, inter alia by those groups of children who are in need of special protection.**

Training/dissemination of the Convention

46. The Committee notes with appreciation the efforts made by the State to promote awareness of the Convention, including through an online Government strategy and the establishment of the National Committee on Human Rights Education.

47. **The Committee recommends that the State party continue its efforts to disseminate the principles and provisions of the Convention and to raise public awareness, in particular among children themselves and parents, about the Convention.**

48. **The Committee also recommends that the State party strengthen its efforts to provide adequate and systematic training and/or sensitization on children's rights among professional groups working with and for children, in particular law enforcement officials, as well as parliamentarians, judges, lawyers, health personnel, teachers, school administrators and others, as required.**

2. General principles

Non-discrimination

49. While the Committee notes the initiatives taken against racial, ethnic and religious discrimination, it is particularly concerned at the existing discriminatory disparities affecting Aboriginal and Torres Strait Islander children, especially in terms of provision of and accessibility to basic services. Furthermore, the Committee is concerned that discriminatory attitudes and stigmatization continue to exist, especially towards certain groups of children such as asylum-seeking children and children belonging to ethnic and/or national minorities, including Arabs and Muslims. In this respect, the Committee is also concerned at the possible side effects that the enforcement of the anti-terrorism legislation may have on certain groups of children.

50. **In accordance with article 2 of the Convention, the Committee recommends that the State party regularly evaluate existing disparities in the enjoyment by children of their rights and on the basis of that evaluation undertake the necessary steps to prevent and combat discriminatory disparities. It also recommends that the State party strengthen its administrative and judicial measures within a set time period in order to prevent and eliminate de facto discrimination and discriminatory attitudes towards especially vulnerable groups of children and ensure that, in enforcing its anti-terrorism legislation, the rights enshrined in the Convention are fully respected.**

51. **The Committee also 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 Durban Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, also taking into account general comment No. 1 (2001) on article 29, paragraph 1, of the Convention on the aims of education.**

Best interests of the child

52. The Committee is concerned that this principle, while laid down in many laws and policies, is not always reflected in the implementation phase of legislation and policies, e.g. in the area of alternative care.

53. The Committee recommends that the State party strengthen its efforts to ensure effective implementation of the general principle of the best interests of the child as enshrined in article 3 of the Convention in all legal provisions as well as in judicial and administrative decisions and in projects, programmes and services that have an impact on children.

Respect for the views of the child

54. The Committee notes the efforts of the State party to implement fully article 12 of the Convention, but is concerned that the views of the child are not always sufficiently taken into account in judicial and administrative proceedings affecting the child. Furthermore, while the Committee notes the existence of the National Youth Roundtable, it expresses concern that participation by children in the Roundtable is limited in practice (the average age of participants in 2004 was 20) and that it does not always balance geographically.

55. The Committee recommends that the right of the child to express his/her views in all matters affecting him/her be expressly provided in the Family Law reform. Furthermore, the Committee recommends that a Roundtable specifically for children, be established and that the participants be selected in accordance with the principle of equitable geographic distribution.

3. Civil rights and freedoms

Preservation of identity

56. The Committee notes the national inquiry carried out in 1997 by HREOC into the separation of Aboriginal and Torres Strait Island children (“Bringing Them Home”), which acknowledged the past policies whereby indigenous persons were deprived of their identity, name, culture, language and family. In this respect, the Committee welcomes the activities undertaken by the State party to assist family reunification and improve access to records to help indigenous persons trace their families.

57. The Committee encourages the State party to continue and strengthen as much as possible its activities for the full implementation of the recommendations of the 1997 HREOC report, “Bringing Them Home”, and to ensure full respect for the rights of Aboriginal and Torres Strait Islander children to their identity, name, culture, language and family relationships.

Access to appropriate information

58. While the Committee welcomes the State party’s measures in this respect, including the Telecommunications Offences and Other Measures Act 2004, which includes new offences targeting the use of the Internet to access, transmit and make available child pornography and

material relating to child abuse, as well as the Criminal Code Amendment (Suicide Related Material Offences) Act 2005, it still expresses concern about the exposure of children to violence, racism and pornography, especially through the Internet.

59. The Committee recommends that the State party continue and strengthen its efforts to protect children effectively from being exposed to violence, racism and pornography through mobile technology, video movies, games and other technologies, including the Internet. The Committee further suggests that the State party develop programmes and strategies to use mobile technology, media advertisements and the Internet to raise awareness among both children and parents on information and material injurious to the well-being of children. The State party is also encouraged to develop agreements with journalists and media with a view to protecting children from exposure to harmful information in the media and improving the quality of information addressed to them.

Corporal punishment

60. The Committee notes with concern that corporal punishment in the home is lawful throughout Australia under the label “reasonable chastisement” and other similar provisions in states’ legislation. Furthermore, the Committee is concerned that while corporal punishment has been prohibited in government schools and some private ones in most states and territories, it is still lawful in many private education institutions and in both government and private schools in South Australia and the Northern Territory.

61. The Committee recommends that the State party:

(a) Take appropriate measures to prohibit corporal punishment at home and in public and private schools, detention centres and all alternative care settings in all states and territories;

(b) Strengthen awareness-raising and education campaigns, with the involvement of children, in order to promote positive, non-violent forms of discipline and respect for children’s rights, while raising awareness about the negative consequences of corporal punishment.

4. Family environment and alternative care

Alternative care for children without parental care

62. The Committee notes with concern the considerable increase in the number of children in out-of-home care in recent years as well as the over-representation of indigenous children in out-of-home care. Furthermore, the Committee is concerned about:

- (a) The lack of stability and security of children placed in alternative care;
- (b) The difficulties for children in maintaining contact with their families;
- (c) The inadequate medical care, e.g. physical, dental and mental health services.

63. **The Committee recommends that the State party take measures to strengthen the current programmes of family support, e.g. by targeting the most vulnerable families, in order to reduce the number of children placed in out-of-home care. It further recommends that the State party:**

(a) **Strengthen its support for foster care, e.g. by improving equal access to adequate medical care by children in foster care;**

(b) **Strengthen supervision of foster care and establish regular review of this kind of placement with a view to reuniting the child with his/her natural family;**

(c) **Promote and facilitate the maintenance of contact of the child in foster care with his/her natural family.**

64. **The Committee also recommends that the State party maximize its efforts, within a set time period, to reduce the significant number of indigenous children placed in out-of-home care, inter alia by strengthening its support for indigenous families. It further recommends that the State party fully implement the Indigenous Child Placement Principle and intensify its cooperation with indigenous community leaders and communities to find suitable solutions for indigenous children in need of alternative care within indigenous families.**

Children of imprisoned parents

65. While the Committee notes the efforts undertaken to tackle this issue, including the Prisoners and their Families programme, it is concerned at the information that a considerable number of children have one parent in prison, and that indigenous children are significantly over-represented in this group.

66. **The Committee recommends that the State party continue and strengthen its measures to provide these children with adequate support, including counselling, and to facilitate contacts with their parents in prison, whenever this is not contrary to the child's best interest.**

Violence, abuse, neglect and maltreatment

67. While the Committee notes with appreciation the State party's activities and measures addressing this problem, including two programmes seeking to reduce family violence in indigenous communities, it shares the State party's concern that child abuse remains a major problem for Australian society, affecting children's physical and mental health as well as their educational and employment opportunities. The Committee is further concerned at the exposure of children to a high level of domestic violence.

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

(a) **Continue to take measures to prevent and combat child abuse and violence against children and strengthen measures to encourage reporting of instances of child abuse;**

- (b) Adequately investigate and prosecute reported cases of abuse and violence;**
- (c) Ensure that all victims of violence have access to counselling and assistance with recovery and social reintegration;**
- (d) Provide adequate protection to child victims of abuse;**
- (e) Strengthen measures to address the root causes of violence within the family, paying special attention to the marginalized and disadvantaged groups.**

69. **In the context of the Secretary-General's study on the question of violence against children and the related questionnaire sent to Governments, the Committee acknowledges with appreciation the State party's written replies to this questionnaire and its participation in the Regional Consultation for East Asia and the Pacific held in Thailand from 14 to 16 June 2005. The Committee recommends that the State party use the outcome of the regional consultation as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual and mental violence, and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.**

5. Basic health and welfare

Children with disabilities

70. While the Committee notes the State party's initiatives addressing the rights of children with disabilities, it is concerned about the paucity of information on disabled children, especially when it comes to data on disabled indigenous children, alternative care for children with disabilities and children with disabilities living in remote or rural areas. The Committee also notes that a governmental working group is addressing the issue of sterilization of children with so-called "decision-making" disabilities.

71. **In the light of the United Nations 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 "Children with disabilities" (see CRC/C/69), the Committee encourages the State party to actively pursue its current efforts and:**

- (a) To adopt a consistent national approach to the collection of data on children with disabilities;**
- (b) To ensure that children with disabilities have equal opportunities to participate fully in all spheres of life and to strengthen public awareness campaigns to change negative public attitudes;**
- (c) 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 parental support groups;**

(d) To implement the Disability Standards for Education and give adequate support to the Literacy, Numeracy and Special Learning Needs Programme, a key targeted programme aimed at improving the literacy, numeracy and other learning outcomes of students who are educationally disadvantaged, including students with disabilities;

(e) To prohibit the sterilization of children, with or without disabilities, and promote and implement other measures of prevention of unwanted pregnancies, e.g. injection of contraceptives, when appropriate.

Health and access to health-care services

72. The Committee notes the State party's efforts with regard to the prevention of overweight and obesity, the promotion of breastfeeding, and the prevention and control of injury. However, the Committee remains concerned at malnutrition and undernutrition of indigenous children compared with overnutrition, overweight and obesity at the national level. Furthermore, despite recent studies suggesting that indigenous infant mortality has declined in the past years, the Committee remains concerned at the disparity in health status between indigenous and non-indigenous children and at the unequal access to health care of children living in rural and remote areas.

73. The Committee recommends that the State party undertake all necessary measures to ensure that all children enjoy the same access to and quality of health services, with special attention to children belonging to vulnerable groups, especially indigenous children and children living in remote areas. In addition, the Committee recommends that the State party take adequate measures, within a set time period, to overcome the disparity in the nutritional status between indigenous and non-indigenous children.

74. The Committee is also concerned at the information that attention deficit hyperactivity disorder (ADHD) and attention deficit disorder (ADD) are being misdiagnosed and therefore psychostimulant drugs overprescribed, despite the growing evidence of the harmful effects of these drugs.

75. The Committee recommends that further research be undertaken on the diagnosis and treatment of ADHD and ADD, including the possible negative effects of psychostimulants on the physical and psychological well-being of children, and that other forms of management and treatment be used as much as possible to address these behavioural disorders.

Adolescent health

76. The Committee welcomes the various efforts of the State party to reduce suicide among youth in recent years, but it remains concerned that the youth suicide rate is still high, especially among indigenous children and homeless adolescents, and that mental health problems and substance abuse are increasing.

77. The Committee, in light of its general comment No. 4 (2003) on adolescent health, encourages the State party to continue and strengthen its efforts aimed at suicide prevention among youth, focusing in particular on mental health services, including prevention and management of substance abuse.

HIV/AIDS

78. The Committee notes the efforts undertaken by the State party to combat the threat that HIV/AIDS represents for children, including the newly established ministerial advisory committee on AIDS, sexual health and hepatitis, but it is concerned at recent reports showing that the number of indigenous persons diagnosed with AIDS has more than doubled in the past four years.

79. The Committee recommends that the State party continue to look closely into the issue of HIV/AIDS and, in particular:

(a) To continue its efforts to prevent the spread of HIV/AIDS, taking into account the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights;

(b) To strengthen its efforts by establishing campaigns and programmes to raise awareness about HIV/AIDS among adolescents, particularly those belonging to vulnerable groups, as well as the population at large, so as to reduce discrimination against children infected and affected by HIV/AIDS;

(c) To urgently address the marked increase in AIDS diagnosed among indigenous peoples, including through culturally sensitive safe sex campaigns tailored for indigenous communities.

Standard of living

80. The Committee notes with appreciation the Federal Government's considerable expenditures on indigenous housing and infrastructure and the good initiative, the "Community Housing and Infrastructure Programme", but reiterates its concern at the still inadequate standard of living of indigenous children and children living in rural and remote areas.

81. The Committee also notes that the State party has not defined an official poverty line and is concerned that the impact of poor living conditions on the well-being and development of children is not adequately considered.

82. In light of article 27 of the Convention, the Committee recommends that the State party increase its efforts to provide affordable housing options and take all possible measures to raise the standard of living of indigenous children and children living in rural and remote areas.

83. The Committee further recommends that the State party address and systematically investigate the consequences of economic hardship on children, with a view to developing measures aimed at reducing its negative impact on children's healthy development.

6. Education, leisure and cultural activities

84. While the Committee acknowledges the State party's efforts in this field, including the Jobs Education and Training Child Care Programme, it continues to be concerned at the serious difficulties that indigenous children and children living in remote areas face with regard to education, and in particular their lower level of achievement and high dropout rate.

85. The Committee welcomes the measure taken to combat bullying in schools, such as the National Safe School Framework and the "Bullying. No Way!" website, but it shares the State party's concern regarding the impact that this pervasive practice has on the affected children, especially on their psychological health, educational achievements and social development.

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

(a) Take all necessary measures to ensure that articles 28 and 29 of the Convention are fully implemented, in particular with regard to children belonging to the most vulnerable groups (i.e. indigenous children, homeless children, children living in remote areas, children with disabilities, etc.);

(b) Continue to take appropriate measures to combat the phenomenon of bullying in schools, including by carrying out periodic surveys among students, staff and parents to learn more about the peer relations being fostered by the school;

(c) Ensure that public education policy and school curricula reflect in all their aspects the principle of full participation and equality, include children with disabilities in the mainstream school system to the extent possible and provide them with the necessary assistance.

7. Special protection measures

Children in immigration detention

87. The Committee is encouraged by the recent changes to the Migration Act 1958 that came into effect on 29 July 2005, accepting the principle of the detention of children only as a measure of last resort, and welcomes the information that all families with children were moved from immigration detention facilities to community detention arrangements. However, the Committee remains concerned that children who are unlawfully in Australian territory are still automatically placed in administrative detention - of whatever form - until their situation is assessed. In particular, the Committee is seriously concerned that:

(a) Administrative detention is not always used as a measure of last resort and does not last for the shortest appropriate period of time;

(b) Conditions of immigration detention have been very poor, with harmful consequences on children's mental and physical health and overall development;

(c) There is no regular system of independent monitoring of detention conditions.

88. The Committee is further concerned that children who are granted a temporary protection visa (those arriving in the country without any travel document) do not have the right to family reunification and have limited access to social security, health services and education.

89. **The Committee recommends that the State party implement the recommendations contained in the HREOC report “A Last Resort?”, and bring its immigration and asylum laws fully into conformity with the Convention and other relevant international standards, taking into account the Committee’s general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin. In particular, the State party should:**

(a) Ensure that children are not automatically detained in the context of immigration and that detention is only used as a measure of last resort and for the shortest appropriate period of time;

(b) Seek an assessment by a court or an independent tribunal within 48 hours of the detention of a child in the context of immigration of whether there is a real need to detain that child;

(c) Improve considerably the conditions of children in immigration detention when such detention is considered necessary and in the best interests of the child, and bring them into line with international standards;

(d) Guarantee periodic review of the detention of children detained in the context of immigration;

(e) Consider permitting family reunification in cases where children or their family members are holders of temporary protection or temporary humanitarian visas;

(f) Consider creating speedily an independent guardianship/support institution for unaccompanied immigrant children;

(g) Consider becoming a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Homeless children

90. While the Committee welcomes the information that the State party is seriously considering the issue of youth homelessness, including by means of the National Homelessness Strategy and the “Reconnect” programme, it wishes to express concern at the situation of homeless children, who are also more likely to be affected by educational and relational problems and are more exposed to substance abuse and sexual exploitation.

91. **The Committee recommends that the State party intensify its efforts to address the urgent needs and rights of homeless children, especially with regard to their housing, health and education. Furthermore, the State party should provide homeless children with adequate recovery and social reintegration services for physical, sexual and substance abuse and to promote reunification with their families, when feasible.**

Sexual exploitation and trafficking

92. While the Committee welcomes some positive developments in the context of prevention of trafficking and forced prostitution, such as the adoption of the National Plan of Action to Eradicate Trafficking in Persons of October 2003 and the changes to the Criminal Code in 2005 whereby, inter alia, trafficking in persons and child pornography have been criminalized, the Committee is concerned that Australia continues to be a destination country for trafficked women and girls in the sex industry.

93. **In light of article 34 and other related articles of the Convention, the Committee recommends that the State party strengthen its efforts towards effective implementation of its plan to combat sexual exploitation and trafficking in persons and conduct a comprehensive study to assess the nature and magnitude of the problem, especially with respect to children.**

94. **The State party is also encouraged to become a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, to which Australia is a party.**

Substance abuse

95. The Committee is concerned about substance abuse, especially among the indigenous communities, as well as about the high-risk practice of petrol sniffing, notably among the communities living in remote areas of Central Australia.

96. **The Committee encourages the State party to continuously monitor the issue of substance abuse, with a special focus on raising awareness among indigenous children and children living in remote areas. The State party is also encouraged to develop free and easily accessible drug abuse treatment and social reintegration services for children who are drug and substance abusers.**

Administration of juvenile justice

97. While the Committee notes the measures taken by the State party in the field of juvenile justice, such as the options for juvenile diversion available in many states and territories and the strategies to reduce the incarceration rates for indigenous Australians, it shares the State party's concern that the percentage of indigenous children in conflict with the law is disproportionately high.

98. Furthermore, the Committee is concerned that:

- (a) The age of criminal responsibility, set at 10 years, is too low, although there is a presumption against criminal responsibility until the age of 14 (common law *doli incapax*);
- (b) Children with mental illness and/or intellectual disabilities are over-represented in the juvenile justice system;

(c) In Queensland, children aged 17 in conflict with the law may be tried as adults in particular cases;

(d) Mandatory sentencing legislation (so-called “three strikes laws”) still exists in the Criminal Code of Western Australia for persons under 18;

(e) Local legislation in some states and territories allows police to remove children and young people who are congregating.

99. The Committee recommends that the State party bring the system of juvenile justice fully into line with the Convention, in particular articles 37, 40 and 39, with 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 with the recommendations of the Committee made at its day of general discussion on juvenile justice (see CRC/C/46, paras. 203-238). In this regard, the Committee recommends in particular that the State party:

(a) Consider raising the minimum age of criminal responsibility to an internationally acceptable level;

(b) Take all necessary measures to ensure that persons under 18 who are in conflict with the law are only deprived of liberty as a last resort and detained separately from adults, unless it is considered in the children’s best interest not to do so;

(c) Urgently remedy the over-representation of indigenous children in the criminal justice system;

(d) Deal with children with mental illnesses and/or intellectual deficiencies who are in conflict with the law without resorting to judicial proceedings;

(e) Improve conditions of detention of children and bring them into line with international standards;

(f) Take measures with a view to abrogating mandatory sentencing in the criminal law system of Western Australia;

(g) Remove children who are 17 years old from the adult justice system in Queensland;

(h) Address the problems that may be related to the gathering of young people in certain places without necessarily resorting to policing and/or criminalization, and consider reviewing legislation in this respect.

Children belonging to indigenous groups

100. Despite the numerous measures taken by the State party's authorities, including the Indigenous Child Care Support Programme, the Committee remains concerned about the overall situation of indigenous Australians, especially with regard to their health, education, housing, employment and standard of living.

101. The Committee notes that the Aboriginal and Torres Strait Islander Commission (ATSIC), a key policy adviser to the Government and its agencies on indigenous affairs, had been abolished and replaced by a ministerial task force.

102. The Committee recommends that the State party strengthen its efforts to continue developing and implementing - in consultation with the indigenous communities - policies and programmes aimed at ensuring equal access for indigenous children to culturally appropriate services, including social and health services and education. The Committee further recommends that an evaluation of the new arrangements for the administration of indigenous affairs take place soon in order to assess whether the abolition of ATSIC has been in the best interests of indigenous children.

8. Optional Protocols to the Convention on the Rights of the Child

103. The Committee welcomes the assurances given by the State party during the dialogue that the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography is imminent and that steps have been taken to ratify the Optional Protocol on the involvement of children in armed conflict.

104. The Committee recommends that the State party become a party to both the Optional Protocols to the Convention on the Rights of the Child at the earliest possible time.

9. Follow-up and dissemination

Follow-up

105. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, inter alia by transmitting them to the members of the Council of Ministers, the Parliament, and to state and territory Governments and Parliaments for appropriate consideration and further action.

Dissemination

106. The Committee further recommends that the combined second and third periodic reports and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups and children in order to generate debate on and awareness of the Convention, its implementation and monitoring.

10. Next report

107. **The Committee invites the State party to submit its fourth periodic report, which should not exceed 120 pages (see CRC/C/148), by 15 January 2008.**

Concluding observations: Algeria

108. The Committee considered the second periodic report of Algeria (CRC/C/93/Add.7) at its 1056th and 1057th meetings (see CRC/C/SR.1056 and 1057), held on 14 September 2005, and adopted, at the 1080th meeting (CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

109. The Committee welcomes the second periodic report submitted by the State party, as well as the written replies to its list of issues (CRC/C/Q/DZA/2), which gave a clearer understanding of the situation of children in the State party. It further notes with appreciation the constructive efforts made by the inter-ministerial delegation to provide additional information in the course of the dialogue.

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

110. The Committee welcomes the adoption of laws aimed at protecting and promoting the rights of the child such as:

(a) The revised provisions (Act No. 05-04 of 6 February 2005) of the Act on the system of penal institutions and the social reinsertion of detainees (*Code de l'organisation pénitentiaire et de la réinsertion sociale des détenus*), which improve the status of children within the juvenile justice system;

(b) The revised provisions (Ordinance No. 05-01 of 27 February 2005) of the Code of Algerian Nationality (*Code de la nationalité algérienne*), which allow, among other things, Algerian woman married to a foreigner to transmit Algerian nationality to her children; and

(c) The revised provisions (Ordinance No. 05-02 of 27 February 2005) of the Family Code (*Code de la famille*), which stipulate issues related to marriage and family life, including child custody.

111. The Committee also welcomes the ratification of or accession to:

(a) The Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization (ILO), on 9 February 2001;

(b) The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (1997), on 9 October 2001;

(c) The African Charter on the Rights and Welfare of the Child (1990), on 8 July 2003;

(d) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000), 9 March 2004; and

(e) The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990), on 21 April 2005.

112. In addition, the Committee notes with appreciation the establishment of new institutions aimed at protecting and promoting the rights of the child, such as:

(a) The Office of the Head of Government's Deputy Minister for the Family and the Status of Women to protect and advance the rights of children, in 2002; and

(b) The National Commission to Combat Child Labour, in 2003.

C. Factors and difficulties impeding the implementation of the Convention

113. The Committee acknowledges that the State party has experienced an exceptional cycle of political violence, including terrorism, which has claimed the lives of over 100,000 Algerians, including children, since 1992. This violence has had severe consequences on the overall development of human rights in the State party and traumatized many children, both physically and mentally.

114. In addition, the Committee acknowledges that natural catastrophes, such as the floods in 2001 and the earthquake in 2003, have given rise to a growing number of economic and social difficulties. The Committee also acknowledges the political and economic challenges faced by the State party in recent years, including the transition of the State party to a market economy.

D. Principal subjects of concern and recommendations

1. General measures of implementation

Committee's previous recommendations

115. The Committee notes with satisfaction that several of its concerns expressed and recommendations (CRC/C/15/Add.76) made upon the consideration of the State party's initial report (CRC/C/28/Add.4) have been addressed through legislative measures and policies. However, some of its concerns and recommendations regarding, inter alia, the State party's interpretative declarations; the unclear legal framework in the field of children's rights; non-discrimination, ill-treatment and abuse of children within the family; employment of minors in the private and agricultural sectors; and the status of nomadic and refugee children have not been sufficiently addressed.

116. **The Committee urges the State party to make every effort to address the 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.**

Interpretative declarations

117. The Committee regrets that no review of the State party's interpretative declarations made on articles 13, 14, paragraphs 1 and 2, 16 and 17, of the Convention has been undertaken since the consideration of the State party's initial report.

118. The Committee reiterates its previous recommendation that the State party should review its interpretative declarations with a view to withdrawing them, in accordance with the 1993 Vienna Declaration and Plan of Action of the World Conference on Human Rights.

Legislation

119. The Committee notes the various legislative measures undertaken by the State party and referred to in its response (CRC/C/RESP/91) to the list of issues, and welcomes in particular the bill on child protection (*Code de protection de l'enfant*) which aims, inter alia, to establish a mechanism for protecting children against all forms of violence, ill-treatment, abuse and negligence. It also takes note of the drafting and compilation of legislation on the organization and promotion of social action, which will provide for protection and social integration of vulnerable groups, including children in difficult circumstances.

120. The Committee recommends that the State party continue to strengthen its legislative efforts by undertaking a comprehensive review of its domestic legislation so as to ensure that it conforms fully with the principles and provisions of the Convention. It further recommends that the State party expedite the adoption of the bill on child protection and the other ongoing processes of legal reform.

National Plan of Action and coordination

121. The Committee expresses its concern at the lack of a comprehensive national plan of action for the implementation of the Convention. Notwithstanding the establishment of the Solidarity Committee and the Inter-Ministerial Committee for the Protection and Development of the Child, the Committee is concerned that implementation of the Convention at the local and regional levels remains insufficient owing to the absence of a coordinating mechanism.

122. The Committee recommends that the State party strengthen coordination among the various governmental bodies and mechanisms involved in the implementation of the rights of the child, at both national and local levels, with a view to developing and adopting a comprehensive national plan of action for the implementation of the Convention, incorporating the objectives and goals of the document "A world fit for children" adopted by the General Assembly at its special session on children in 2002. In this regard, the Committee encourages the State party to seek technical assistance from the United Nations Children's Fund (UNICEF) and to involve civil society in the preparation and implementation of such a national plan of action.

Independent monitoring

123. While taking note of the establishment of the *Commission consultative des droits de l'homme* by presidential decree in March 2001, the Committee regrets the absence of an independent and child-sensitive monitoring structure with a mandate that includes the power to receive and address individual complaints of alleged violations of the rights of the child.

124. **With reference to the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child, the Committee recommends that the State party establish an independent and effective national body with an explicit mandate to monitor and evaluate the progress achieved in the implementation of the Convention on the Rights of the Child. Such a body should also have a mandate to receive, investigate and address complaints from children in a child-sensitive and expeditious manner. It also recommends that this monitoring body be provided with adequate human and financial resources to perform its tasks. The Committee encourages the State party to seek technical assistance from, among others, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and UNICEF.**

Allocation of resources

125. The Committee takes note of the State party's efforts to increase national expenditure on health care, education, support programmes for families and child protection but it is concerned that the allocated resources remain inadequate, in particular for the most vulnerable children.

126. **The Committee recommends that the State party strengthen its efforts to significantly increase the proportion of the budget allocated for the realization of children's rights to the "maximum extent ... of available resources", giving special attention to children belonging to disadvantaged groups.**

Data collection

127. Despite some improvements in the system of data collection, the Committee remains concerned about inadequate mechanisms to collect, analyse and disaggregate statistical data on children and adolescents. In particular, it regrets the lack of data on children living in extreme poverty, children separated from their parents, child victims of sexual exploitation, children in the juvenile justice system and Amazigh children.

128. **The Committee recommends that the State party strengthen its mechanisms for data collection and develop indicators consistent with the Convention in order to ensure that data are collected on all areas covered by the Convention and that they are disaggregated, inter alia, by age for all persons under 18 years, gender, urban and rural area, and by those groups of children who are in need of special protection. It further encourages the State party to use these indicators and data to formulate policies and programmes for the effective implementation of the Convention.**

Cooperation with non-governmental organizations

129. The Committee welcomes the growing number of civil society associations in the country and notes with appreciation that efforts are being made by the State party to establish relationships between the Government and civil society and to increase mutual cooperation. However, the Committee regrets that these efforts have not yet led to the systematic involvement of non-governmental organizations and other sectors of civil society in the State party's implementation of the Convention.

130. The Committee emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention, including with respect to civil rights and freedoms, and encourages closer cooperation with non-governmental organizations. In particular, the Committee recommends that the State party involve non-governmental organizations, especially rights-based ones, and other sectors of civil society working with and for children more systematically throughout all stages of the implementation of the Convention. The Committee encourages the State party to seek the collaboration of all Algerian child rights associations.

Dissemination and training

131. The Committee welcomes the measures undertaken by the State party to disseminate the Convention, such as the organization of thematic meetings, the publication of a guide to the rights of the child in 1999 in collaboration with UNICEF and the collection of writings on the protection of children's rights published by the Ecole supérieure de la magistrature in 2005. However, the Committee remains concerned that awareness of the Convention remains low among children and their parents and that many professionals working with and for children do not receive adequate training on children's rights.

132. The Committee recommends that the State party strengthen its awareness-raising efforts through, inter alia, involvement of the media and systematic education and training on the rights of the child for all professional groups working with and for 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 and religious leaders, as well as children and their parents. The Committee further recommends that the State party translate the Convention into the Amazigh language, Tamazight. In addition, the Committee recommends that the State party seek technical assistance from, among others, UNICEF, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and OHCHR.

2. General principles

Non-discrimination

133. While noting that the Algerian Constitution and domestic laws are based on the principle of non-discrimination, the Committee expresses its concern at the lack of concrete implementation measures, policies and programmes to promote equality and tolerance in society. The Committee is concerned at the persistent de facto discrimination faced by girls, children

with disabilities, children living in poverty, children born out of wedlock, children in conflict with the law, street children, children living in rural areas and Western Saharan refugee children.

134. **The Committee recommends that the State party make greater efforts to ensure that all children within its jurisdiction enjoy all the rights enshrined in the Convention without discrimination, in accordance with article 2, by effectively implementing the existing laws that guarantee the principle of non-discrimination. The Committee recommends that the State party adopt a proactive and comprehensive strategy to eliminate de facto discrimination on any grounds and against all vulnerable groups of children, and prioritize social and health services and equal opportunities to education for children belonging to the most vulnerable groups.**

135. **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 Durban Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and taking account of Committee's general comment No. 1 (2001) on the aims of education.**

Best interests of the child

136. As regards the general principle of the best interests of the child under article 3 of the Convention, the Committee is concerned that this principle is not given adequate attention in national legislation and policies and that this principle is not a primary consideration in decision-making regarding children, for example custody decisions. The Committee also notes with concern that awareness of its significance is low among the population.

137. **The Committee recalls its previous recommendation in this regard made upon the consideration of the State party's initial report and recommends that the State party take measures to raise awareness of the meaning and practical application of the principle of the best interests of the child and to ensure that article 3 of the Convention is duly reflected in its legislation and administrative measures. The Committee recommends that the State party review its legislation critically to ensure that the main thrust of the Convention, namely that children are subjects of their own rights, is adequately reflected in domestic legislation and that the best interests of the child is a primary consideration in all decision-making regarding children, including custody decisions.**

Right to life

138. The Committee welcomes the process of national reconciliation, but it is deeply concerned that violent actions still take place in the State party and that children continue to be victims of this violence. The Committee notes with particular concern the vulnerable position of girls in the internal hostilities.

139. **In light of article 6 and other relevant provisions of the Convention, the Committee urges the State party to make every effort to reinforce protection of the right to life of all children within the State party, through policies, programmes and services that target and guarantee protection of this right.**

Respect for the views of the child

140. While noting that articles 36 and 38 of the Algerian Constitution provide for freedom of opinion and expression, as well as for freedom of intellectual, artistic and scientific creation, the Committee is concerned that respect for the views of the child remains limited owing to traditional societal attitudes towards children within the family, schools and the community at large. The Committee notes with particular concern that the public exercise of freedom of opinion and expression by a child requires the authorization of his/her guardian.

141. **In light of article 12 of the Convention, the Committee recommends that the State party promote and facilitate, within the family, schools, other institutions and courts, respect for the views of children and their participation in all matters affecting them. It recommends that the State party develop skills-training programmes in community settings for teachers, social workers and local officials to enable them to assist children to express their informed views and opinions and to take those views into consideration. It also encourages the State party to undertake a regular review of the extent to which children's views are taken into consideration and of their impact on policy-making, court decisions and programme implementation. The Committee recommends that the State party seek assistance from UNICEF, among others.**

3. Civil rights and freedoms

Birth registration

142. The Committee emphasizes that the birth registration system should be equally accessible to all parents in the whole territory of the State party, and in this respect it reiterates its concern about the deficiencies in the system of birth registration for children belonging to nomadic minorities and having a pastoral lifestyle.

143. **In light of article 7 of the Convention, the Committee recommends that the State party implement an efficient birth registration system, at all stages free of charge and fully covering its territory including introducing mobile birth registration units and undertaking awareness-raising campaigns to reach the most remote areas of its territory. The Committee requests the State party to improve access to the birth registration system for children belonging to nomadic minorities. Meanwhile, children whose births have not been registered and who are without official documentation should be allowed to access basic services, such as health and education, while waiting to be properly registered.**

Freedom of religion

144. With reference to the findings of the Special Rapporteur on freedom of religion or belief during his visit to Algeria in 2002 (see E/CN.4/2003/66/Add.1) and the interpretative declaration of the State party to article 14 of the Convention, the Committee is concerned that the right of the child to freedom of thought, conscience and religion is not fully respected and protected.

145. **In the light of article 14 of the Convention, the Committee recommends that the State party respect the right of the child to freedom of thought, conscience and religion by taking effective measures to prevent and eliminate all forms of discrimination on the grounds of religion or belief and by promoting religious tolerance and dialogue in society. The Committee recommends that the State party ensure that children can obtain a dispensation from compulsory religious education.**

Torture or other cruel, inhuman or degrading treatment or punishment

146. The Committee notes that the Algerian Constitution and, for example, the Penal Code prohibit torture. Nevertheless, the Committee is deeply concerned about a number of cases of torture or inhuman and degrading treatment of children reported in recent reports of the Special Rapporteur on the question of torture.

147. **The Committee urges the State party to review its legislation in order to ensure that children are fully protected against torture and ill-treatment in society. The Committee recommends that the State party investigate and prosecute all cases of torture and ill-treatment of children, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected. The State party should ensure that child victims are provided with appropriate services for care, recovery and social reintegration. The Committee recommends that the State party continue its efforts in training professionals working with and for children, including law enforcement officials, social workers, judges and health personnel, in the identification, reporting and management of cases of torture and other inhuman or degrading treatment or punishment.**

Corporal punishment

148. The Committee notes with concern that corporal punishment is lawful in the home and that, according to a survey in 1999, it is widely accepted in society as a form of discipline. The Committee also notes with concern the lack of an explicit prohibition of corporal punishment in alternative care settings. Notwithstanding the fact that corporal punishment is prohibited in schools, the Committee remains concerned that it is still used as a disciplinary measure.

149. **The Committee urges the State party to adopt legislation explicitly prohibiting corporal punishment in the home, in public and private alternative care, in schools and in all other settings, and to conduct public education and awareness-raising campaigns promoting children's right to protection from all forms of violence as well as alternative, participatory, non-violent forms of discipline. In addition, the Committee recommends that the State party improve the effectiveness of the monitoring system in order to ensure that abuse of power by teachers or other professionals working with and for children does not take place in schools or other institutions.**

4. Family environment and alternative care

Parental responsibilities

150. In light of article 18 of the Convention, the Committee recalls the principle that both parents have common responsibilities for the upbringing and development of the child, and the

State party should provide appropriate assistance to parents in this respect. The Committee is concerned that parental responsibilities are not assigned equally, under law, to fathers and mothers, i.e. only the father exercises full legal power over the child. It further notes with concern that children born out of wedlock are not entitled to equal rights, such as to be recognized as a “legitimate” child of the father.

151. The Committee recommends that the State party consider revising the Family Code to ensure that men and women have equal parental responsibilities, regardless of their marital status, and to abolish the discriminatory classification of children as “illegitimate”.

Institutional and alternative care

152. While noting the alternative care that exists for children deprived of family environment such as *kafalah* and various forms of residential care, the Committee is concerned at the lack of information about the informal forms of alternative care for children without parental care. The Committee notes the information that *kafalah* abroad is becoming more popular, but regrets the lack of information about the regulations for this form of alternative care.

153. The Committee recommends that the State party continue to support and promote *kafalah* as a means of alternative care with a view to reducing the need to resort to residential care for children separated from their parents. It emphasizes that the *kafalah* system should never compromise the rights of the child, including non-discrimination, and their effective implementation. The Committee further recommends that the State party adequately monitor informal forms of alternative care, collect data allowing disaggregation on this practice, and take measures to ensure that the rights of children are fully respected.

154. The Committee also recommends that the State party provide detailed information about the growing practice of *kafalah* abroad and ensure that it only takes place when it is in the best interests of the child and with full respect for the rights of the child.

Illicit transfer and non-return of children abroad

155. The Committee is deeply concerned at the difficulty in implementing judicial decisions regarding custody and visitation rights for Algerian children with one parent living outside Algeria. It further expresses its concern that child abduction is particularly prevalent among children of mixed marriages.

156. The Committee recommends that the State party undertake all necessary efforts to prevent and combat illicit transfer and non-return of children and to ensure proper and expeditious implementation of judicial decisions made with regard to custody and visiting rights. It further recommends that the State party strengthen dialogue and consultation with relevant countries, notably those with which the State party has signed an agreement, regarding custody or visitation rights, and ratify the Hague Convention on Civil Aspects of International Child Abduction of 1980.

Violence, abuse, ill-treatment and neglect

157. While noting with appreciation the formulation of a national strategy against child abuse, the Committee deeply regrets that insufficient measures are being taken to address the serious problem of child abuse and ill-treatment in the State party. The Committee is concerned about the lack of reporting of and coordination between medical and social services and legal authorities in child abuse cases. In addition, the Committee notes with concern that professionals working with and for children are inadequately trained to identify, report and manage child abuse and ill-treatment cases. The Committee also notes with concern that owing to prevailing cultural practices and traditional norms, so-called intra-familial problems such as child abuse, ill-treatment and domestic violence are considered as strictly private family matters and only very rarely reported to authorities.

158. **In light of article 19, other relevant provisions of the Convention and the recommendations of the Committee adopted on its days of general discussion on children and violence (CRC/C/100, para. 866 and CRC/C/111, paras. 701-745), the Committee urges the State party:**

(a) To take effective legislative measures to prohibit all forms of physical, sexual and mental violence against children, including sexual abuse in the family;

(b) To conduct a study to assess the nature and extent of ill-treatment and abuse of children, develop indicators and design policies and programmes to address it;

(c) To develop and implement an effective system for the identification and reporting of child abuse and ill-treatment cases;

(d) To train parents and professionals working with and for children, such as teachers, law enforcement officials, health professionals, social workers and judges, in identifying, reporting and managing child abuse and ill-treatment cases;

(e) To establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervention where necessary, and to prosecute cases of ill-treatment, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected;

(f) To ensure that all child victims of violence and abuse have access to adequate care, counselling and assistance with recovery and reintegration;

(g) To introduce awareness-raising campaigns, with the active involvement of children themselves, in order to prevent all forms of violence against children and to combat child abuse, including sexual abuse, with a view to changing public attitudes and prevailing cultural practices in this respect;

(h) Seek assistance from, among others, UNICEF and the World Health Organization (WHO).

159. **In the context of the Secretary-General's study on the question of violence against children and the related questionnaire sent to Governments, the Committee acknowledges with appreciation the written replies of the State party to this questionnaire and its participation in the Regional Consultation for the Middle East and North Africa held in Egypt from 27 to 29 June 2005. The Committee recommends that the State party use the outcome of this regional consultation as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual or mental violence and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.**

5. Basic health and welfare

Children with disabilities

160. Notwithstanding the provision prohibiting discrimination against children with disabilities and the State party's continuous efforts to support these children through targeted State welfare measures, including direct and indirect assistance, the Committee is concerned about persisting de facto discrimination. It notes with concern that equal opportunities for children with disabilities are jeopardized, for example, by their limited access to public buildings, government services and public transportation, and that social stigma, fears and misconceptions surrounding disabilities remain strong in society leading to the marginalization and alienation of these children.

161. **In light of the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee on its day of general discussion on the rights of children with disabilities (see CRC/C/69), the Committee recommends that the State party take all necessary measures:**

(a) To prevent and prohibit all forms of discrimination against children with disabilities and ensure that they have equal opportunities for full participation in all spheres of life by implementing the relevant domestic laws and including disability-related aspects in all relevant policy-making and national planning;

(b) To collect adequate statistical data on children with disabilities and use disaggregated data in developing policies and programmes to promote equal opportunities for them in society, paying particular attention to children with disabilities living in the most remote areas of the country;

(c) To provide children with disabilities with access to adequate social and health services, quality education, the physical environment, information and communication;

(d) To raise awareness about children with disabilities, including their rights, special needs and potential, in order to change negative attitudes, mistaken beliefs and prejudices against children with disabilities by initiating and supporting public information campaigns; and

(e) **To ensure that professionals working with and for children with disabilities, such as medical, paramedical and related personnel, teachers and social workers, are adequately trained.**

162. **Furthermore, the Committee encourages the State party to pay particular attention to the rights and status of children with disabilities in the context of the African Decade of Persons with Disabilities 1999-2009.**

Health and health services

163. The Committee commends the State party for providing free medical care for all citizens. While welcoming the adoption, in April 2005, of the *Programme national de périnatalité 2005-2008* with the aim of reducing newborn and maternal mortality rates by 50 per cent, the Committee expresses its grave concern at the high rates of infant and maternal mortality. In addition, the Committee expresses its concern about the decreasing use of exclusive breastfeeding and the low number of baby-friendly hospitals promoting breastfeeding, persisting malnutrition among children, particularly in the rural areas, and the disparities, which are often extreme, between rural and urban areas regarding access to health services.

164. **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 so as to implement the Convention fully, in particular articles 4, 6 and 24;**

(b) **Adopt necessary legislative, administrative and budgetary measures in order to implement fully *Programme national de périnatalité 2005-2008* in order to reduce newborn and maternal mortality by 50 per cent. It furthermore recommends the implementation of measures to guarantee access to quality pre- and post-natal health services and facilities, including training of midwives and traditional birth attendants, paying particular attention to the rural areas of the country;**

(c) **Encourage exclusive breastfeeding for six months after birth, with the addition of an appropriate infant diet thereafter, and take measures to improve the nutritional status of children through education and the promotion of healthy feeding practices;**

(d) **Facilitate greater and equal access to quality primary health services by mothers and children in all areas of the country in order to end the disparities in health-care provision between the different areas; and**

(e) **Continue to cooperate and seek technical assistance in this matter from inter alia, WHO and UNICEF.**

Adolescent health

165. While noting the State party's efforts to address adolescent health issues, in collaboration with international agencies such as the United Nations Population Fund (UNFPA), WHO, the

Joint United Nations Programme on HIV/AIDS (UNAIDS) and UNICEF, the Committee is concerned about the limited access by teenagers to reproductive health education and services, as well as inadequate sex education at schools. In this light, the Committee welcomes all new measures targeted at young people, such as the establishment of a “youth-friendly” centre as a pilot project in the capital. The Committee notes with appreciation that the State party has finalized its National Strategic Plan on AIDS 2003-2006 and that HIV incidence remains low in the State party. As regards the aftermath of the long period of political violence in Algeria, the Committee notes with appreciation the State party’s efforts to respond to the needs of traumatized children, for example by implementing a National Programme of Mental Health. Despite these steps taken, the Committee is concerned at the increasing rate of suicides among adolescents.

166. Taking into account its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee recommends that the State party strengthen its efforts to promote adolescent health, including sex and reproductive health education in schools, and to provide adolescents with youth-sensitive and confidential counselling and health-care services. In addition, it recommends that further efforts, both financial and human, be undertaken for the prevention and care of adolescents’ mental health problems.

Standard of living

167. The Committee notes that some progress has been made in improving social indicators and that measures have been taken by the State party to reduce the impact of poverty on the population and to achieve sustainable economic growth, for example by implementing a National Plan of Rural and Agricultural Development and a National Plan for Economic Development. Notwithstanding the existence of programmes such as the Highly Labour-intensive Public Works programme, the Standard Solidarity Allowance and the community development programme to combat poverty and different forms of marginalization and social exclusion, the Committee remains concerned about the low standard of living of children, especially in the rural areas.

168. In light of article 27 of the Convention, the Committee recommends that the State party:

(a) Take effective measures to raise the standard of living among its population, particularly rural populations living in poverty, inter alia by implementing the aforementioned national plans and community participation programmes, including with the participation of children;

(b) Consider preparing a poverty reduction strategy with special emphasis on vulnerable children and their families; and

(c) Strengthen its efforts to provide support and material assistance to disadvantaged children and their families.

6. Education, leisure and cultural activities

Education, including vocational training and guidance

169. The Committee welcomes the fact that all children aged 6 to 16 years, including non-national children, are entitled to compulsory and free education without any discrimination. While noting with appreciation the generally increasing literacy rates among youth, the Committee is concerned that the literacy rate of girls does not keep pace with the increasing literacy of boys.

170. The Committee takes note of the early childhood care and education provided by preparatory schools (*écoles préparatoires*), kindergartens (*jardins d'enfants*) and nursery schools (*classes enfantines*). While noting that the gross enrolment ratio in pre-primary education has increased, the Committee is concerned that only a minority of children participate in pre-primary education, particularly in the rural areas.

171. While commending the State party for its efforts to increase enrolment in primary education, the Committee is concerned about the disparities in the enrolment rate between *wilayas* and the high repetition rates. The Committee notes with appreciation the increasing rate of enrolment in secondary education. Furthermore, the Committee takes note of the State party's efforts to promote technical and vocational education, for example by trying to reach children over 15 years of age who do not meet educational requirements at the secondary level. However, the Committee regrets the lack of information on non-formal educational services and vocational training available to educationally deprived children outside the formal sector.

172. The Committee notes with appreciation the State party's efforts to address gender disparities in education, inter alia through implementing a literacy programme for women and girls (*Projet d'alphabétisation de la femme et de la jeune fille, 1990-2002*) and eliminating boarding school fees for girls. Nevertheless, the Committee remains concerned about the findings of an inter-*wilaya* analysis which reveals persisting gender disparities in the gross enrolment ratio for girls.

173. With regard to access to quality education by nomadic children having a pastoral lifestyle, the Committee refers to its previous recommendation made upon the consideration of the State party's initial report and regrets that the State party's second periodic report lacks information about this issue. The Committee is deeply concerned that the State party is not able to meet the educational needs of nomadic children.

174. **The Committee recommends that the State party allocate adequate financial, human and technical resources in order to:**

(a) **Increase budgetary allocations, governmental subsidies and assistance programmes for children from low-income families in order to secure their equal access to education of all levels;**

(b) Complete the ongoing reform of the educational system, including revision of the curricula and learning methods in order to increase the quality of education and of the teaching materials; the State party is requested to provide updated information about this reform in its next periodic report to the Committee;

(c) Provide access to early childhood education for every child, including poor families and families living in rural areas, and raise awareness among parents about the benefits of preschool and early-learning opportunities;

(d) Adopt urgently effective measures to decrease the repetition rate in primary education;

(e) Take effective measures to address gender disparities in education, for example by expanding literacy programmes for women and girls and developing and adopting a gender-specific education strategy, including scholarship programmes for girls living in rural areas;

(f) Provide more facilities for need-based vocational training and non-formal learning, including for children who have not completed primary or secondary education;

(g) Provide nomadic children with access to quality education through flexible models of education such as mobile schools and distance learning programmes; and

(h) Cooperate with, among others, UNESCO, UNICEF and non-governmental organizations to improve the education sector.

Aims of education

175. The Committee is deeply concerned about the findings of the Special Rapporteur on freedom of religion or belief during his visit to Algeria in 2002 (see E/CN.4/2003/66/Add.1), in particular that teachers were said to have taught very young children how to stone an adulterous woman, that curricula were said to have conveyed a distorted notion of Algerian history and a degrading image of women, and that pupils were encouraged to spurn other religions, which were presented merely as those of colonial settlers. At the same time, concerns were expressed that children could not speak out freely in class and ask questions about Islam for fear of being labelled as troublemakers.

176. **In light of the Committee's general comment No. 1 (2001) on the aims of education and the recommendations of the Special Rapporteur on freedom of religion or belief, the Committee recommends that the State party review school curricula with a view to instilling in pupils and students tolerance and respect for others. The Committee urges the State party to give priority to building the capacity of teachers and to raise their awareness and responsibility in this regard. In addition, the Committee recommends that the promotion of religious tolerance and dialogue between different religions and beliefs be included in the reform of the educational system.**

7. Special protection measures

Children in armed conflict

177. The Committee notes with deep concern that internal hostilities in which civilians, including children, are killed persist in the State party and that many children are not able to fully enjoy their right to life, survival and development owing to the hostilities and their effects. The Committee regrets that the State party has neither signed nor ratified the Optional Protocol to the Convention on the involvement of children in armed conflict. While noting with appreciation that the minimum age of compulsory recruitment is 19 years, the Committee notes with concern that the minimum age of voluntary recruitment, both in regular armed forces and in unregulated paramilitary forces, is unclear. The alleged cases of persons under 18 years of age being used by Government-allied paramilitary forces and armed political groups are cause for serious concern.

178. **In light of articles 38, 39 and other relevant articles of the Convention, the Committee urges the State party to ensure that all children who have been directly or indirectly involved in armed conflict are protected and to provide children involved in and traumatized by armed conflict with adequate assistance and counselling for their rehabilitation, physical and psychological recovery and social reintegration, in cooperation with national and international non-governmental organizations and United Nations bodies such as UNICEF.**

Refugee children

179. The Committee is deeply concerned about the difficult situation and living conditions of Western Saharan refugee children living in refugee camps in the State party. As regards food and water distribution and other basic services, the Committee notes with concern that these refugee children are completely dependent upon aid agencies and that despite the continuous efforts of the Office of the United Nations High Commissioner for Refugees (UNHCR), the World Food Programme (WFP) and other agencies, there have been difficulties in providing them with adequate assistance. The Committee welcomes the joint programme of family visits between refugees in camps in Algeria and the refugees' communities of origin in Western Sahara launched by the State party, the Government of Morocco and the Frente POLISARIO and conducted by UNHCR and the United Nations Mission for the Referendum in Western Sahara.

180. **In light of article 22 and other relevant provisions of the Convention, the Committee recommends that the State party take all feasible measures to ensure full protection and care, as well as access to health and social services and to education, of Western Saharan refugee children living in refugee camps in Algeria, and in this respect continue its cooperation with, among others, UNHCR and WFP.**

Economic exploitation

181. While appreciating the various positive measures taken, the Committee is concerned that the minimum age for admission to employment (16 years) and the prohibition of hazardous work (Act No. 90-11 of 21 April 1990) do not apply for children working in the informal sector (for example, agriculture and domestic service).

182. **In accordance with article 32 of the Convention, the Committee recommends that the State party:**

(a) Continue to take effective measures to prohibit the economic exploitation of children, in particular in the informal sector where the phenomenon is more prevalent, inter alia by designing special programmes aimed at combating child labour;

(b) Strengthen the labour inspectorate to monitor the extent of child labour, including unregulated work, through the provision of adequate human and financial resources and training; and

(c) Seek technical assistance from ILO and UNICEF.

Street children

183. The Committee takes note of the findings of a study conducted in 2001 that children become street children because of socio-economic problems such as poor housing, unemployment and poverty, and family problems such as domestic violence and abuse, and is concerned that these root causes of the phenomenon of street children are not sufficiently addressed. In addition, the Committee is concerned about street children's limited access to adequate nutrition, clothing, housing, social and health services and education and their vulnerability to economic and sexual exploitation.

184. **The Committee recommends that the State party take effective measures in order to:**

(a) Develop and implement a comprehensive strategy, with the active participation of street children themselves, non-governmental organizations and other relevant professionals, to address the root causes of the phenomenon of street children, with the aim of reducing and preventing it;

(b) Promote and facilitate the reunification of street children with their families, when that is in the best interests of the child;

(c) Ensure that street children are reached by trained street counsellors; provided with adequate nutrition, clothing and shelter as well as with social and health services and educational opportunities, including vocational and life-skills training, in order to support their full development; and provided with adequate protection, assistance, and recovery and social reintegration services; and

(d) Collaborate with and support non-governmental organizations working with and for street children and continue cooperation with UNICEF.

Sexual exploitation and trafficking

185. The Committee expresses its deep concern at the information that child prostitution is increasing and that not only girls, but also boys who work as vendors, couriers or domestic servants, are particularly vulnerable to sexual exploitation. The Committee also notes with concern reports of trafficking in children and that Algeria is becoming a place of transit for

trafficking between Africa and Western Europe. It deeply regrets the absence of a specific legal framework to protect children from trafficking and the insufficient measures to prevent and eliminate this phenomenon. The lack of statistical data on trafficking and the absence of adequate recovery and reintegration services for child victims are cause for serious concern.

186. In light of articles 34, 35 and other related articles of the Convention, the Committee recommends that measures be taken, on an urgent basis:

(a) To provide a specific legal framework to prevent and protect children from trafficking for sexual and other exploitative purposes and define “trafficking” as a special criminal offence under domestic law in line with the definition in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(b) To collect data on trafficking and sexual exploitation of children and ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects;

(c) To ensure that all cases of sexual exploitation and trafficking are investigated and that perpetrators are charged, convicted and punished in accordance with due process of law;

(d) To ensure that victims of sexual exploitation and trafficking are not criminalized and that they are provided with adequate recovery and social reintegration services and programmes;

(e) To seek to establish bilateral and multilateral agreements and cooperation programmes with countries of origin and transit to prevent the sale and trafficking of children;

(f) To raise public awareness about the risks of child trafficking and train professionals working with and for children, as well as the general public, to counter trafficking in children;

(g) To allocate adequate human and financial resources to this field, 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; and

(h) To seek cooperation with, among others, the International Organization for Migration and non-governmental organizations.

Administration of juvenile justice

187. The Committee welcomes the partnership between UNICEF and *Institut national de la magistrature* with the objective of integrating practice and understanding of child rights and international standards for juvenile justice in the Algerian legal system. The Committee appreciates the State party's efforts to improve the administration of juvenile justice, for example by establishing special procedures for persons under 18 years of age, including the special

juvenile divisions of the courts. However, the Committee notes with deep concern that a child as young as 13 years old can be sentenced to prison from 10 to 20 years. Furthermore, the lack of specialized juvenile judges and systematic training of professionals, the limited capacity and the poor condition of the detention facilities for juveniles, the limited access to the complaint mechanisms while in detention and to recovery and social reintegration services upon release give rise to concern.

188. The Committee recommends that the State party continue and strengthen its efforts to ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention 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) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, taking into account the recommendations adopted by the Committee on its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238).

189. The Committee particularly recommends that the State party:

(a) Develop and implement a comprehensive system of alternative measures such as community service orders and interventions of restorative justice in order to ensure that deprivation of liberty is used only as a measure of last resort;

(b) Take the necessary measures, for example suspended sentencing and early release, to ensure that deprivation of liberty is limited to the shortest time possible;

(c) Change the existing provisions regarding imprisonment of children between the ages of 13 and 18 years and reduce the current maximum periods of imprisonment in order to ensure that deprivation of liberty is for the shortest time possible;

(d) Continue to strengthen the quality and availability of specialized juvenile courts and judges, police officers and prosecutors, inter alia through systematic training of professionals;

(e) Ensure that persons under 18 years of age have access to legal aid and independent and effective complaints mechanisms; and

(f) Seek technical assistance and other cooperation from, inter alia, the United Nations Office on Drugs and Crime, OHCHR and UNICEF.

Children belonging to minorities

190. The Committee regrets the lack of information in the report about the compliance of the State party with its obligations concerning the rights guaranteed under article 30 of the Convention with regard to children belonging to minorities. The Committee notes that according to the Algerian Constitution, the fundamental components of Algerian identity are “*Islam, Arabité and Amazighité*”. However, it is concerned that the existing domestic laws and policies do not adequately preserve and promote the Amazigh identity of children, including their right to use their own language.

191. In light of article 30 of the Convention, the Committee recommends that the State party continue and strengthen its efforts to protect and promote the identity and the rights of the Amazigh children, including by allocating adequate human and financial resources for the teaching of the Amazigh language, Tamazight, in schools. Furthermore, the Committee recommends that the State party provide more detailed information in its next periodic report on the implementation of article 30 of the Convention on children belonging to minorities.

8. Optional Protocols to the Convention on the Rights of the Child

192. 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.

9. Follow-up and dissemination

Follow-up

193. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia by transmitting them to the members of the Cabinet of Ministers, the National People's Assembly and the Council of the Nation (the Parliament), and to the provincial (*wilaya*)- and municipal (*baladia*)-level administration, when applicable, for appropriate consideration and further action.

Dissemination

194. The Committee further recommends that the second periodic report and the written replies submitted by the State party, and the related recommendations (concluding observations) adopted by the Committee be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.

10. Next report

195. 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 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 third and fourth periodic reports in one consolidated report by 15 May 2010, the due date for the

submission of the fourth report. The report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.

Concluding observations: Uganda

196. The Committee considered the second periodic report of Uganda (CRC/C/65/Add.33) at its 1058th and 1059th meetings (see CRC/C/SR.1058 and 1059), held on 15 September 2005, and adopted, at the 1080th meeting (CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

197. The Committee welcomes the submission of the second periodic report as well as the detailed written replies to its list of issues (CRC/C/Q/UGA/2). It commends their self-critical and analytical nature, which gave a clear understanding of the situation of children in the State party.

198. The Committee is encouraged by the frank and constructive dialogue it had with the State party's high-level and multisectoral delegation 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

199. The Committee welcomes a number of positive developments in the reporting period, inter alia:

(a) The adoption of the Children Act in 2000 (previously the Children Statute), which is in compliance with the Convention on the Rights of the Child;

(b) The adoption of the Uganda People's Defense Force (UPDF) Act, which sets at 18 years the minimum age for the recruitment of persons into the Armed Forces; and

(c) The National Strategic Programme Plan of Interventions for Orphans and Other Vulnerable Children (2005/06-2009/10).

200. The Committee notes with appreciation the near completion of the establishment of the field presence of the Office of the High Commissioner for Human Rights aimed at strengthening the capacity of the State party to respond to its human rights needs, particularly in northern Uganda.

201. The Committee also welcomes the ratification of the following international human rights instruments:

(a) The Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in January 2002 and on the involvement of children in armed conflict, in June 2002;

(b) ILO Conventions No. 138 concerning Minimum Age for Admission to Employment, in March 2003 and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, in June 2001;

(c) The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and Their Destruction, in 1999;

(d) The Rome Statute of the International Criminal Court, in 2002;

(e) The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court of Human and Peoples' Rights, in 2001; and

(f) The Convention on the Protection of The Rights of All Migrant Workers and Members of Their Families, in July 2003.

C. Factors and difficulties impeding the implementation of the Convention

202. The Committee notes that the long-standing conflict in northern Uganda has negatively affected the implementation of the rights guaranteed in the Convention.

D. Principal areas of concern and recommendations

1. General measures of implementation

General observation

203. The Committee recognizes the current efforts towards pursuing a peaceful resolution of the conflict in northern Uganda. However, it notes the extremely negative impact of the conflict on the children of Uganda as a result of, inter alia, the abduction of children for use as child soldiers and also their displacement.

204. The Committee urges the State party to continue to strengthen and expedite its efforts to end the long-standing conflict, including by seeking assistance from the United Nations, and to strengthen the provision of necessary humanitarian assistance and security to children in camps for internally displaced persons (IDPs).

The Committee's previous recommendations

205. The Committee notes with satisfaction that some concerns and recommendations (see CRC/C/15/Add.80) made upon the consideration of the State party's initial report have been addressed through legislative measures and policies. However, recommendations regarding, inter alia, resources allocation, birth registration, child labour, child soldiers, refugee children and juvenile justice have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present document.

206. The Committee urges the State party to take all necessary measures to address those recommendations contained in the concluding observations on the initial report that have not yet been implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations on the second periodic report.

Legislation

207. The Committee takes note that some progress has been made by the State party in the effort to bring domestic laws into compliance with the Convention, e.g. in the area of juvenile justice, but remains concerned at the lack of a systematic and comprehensive legislative review.

208. The Committee recommends that the State party strengthen its efforts to bring domestic laws into full compliance with the Convention. In this regard, the State party should provide the Law Reform Commission with concrete directions and with the necessary resources to perform its task. The Committee further recommends that the State party take the necessary measures to ensure that laws and regulations in the area of children's rights are effectively implemented.

Coordination

209. The Committee notes that the restructuring of the National Council for Children (NCC) has been included in the White Paper on Constitutional Amendment, with the intention of replacing NCC with the Ugandan National Children Authority (UNCA). However, the Committee is concerned at the delay in this restructuring process, which may hamper the efforts to implement the rights enshrined in the Convention in a well-coordinated manner.

210. The Committee recommends that the State party expedite the process of restructuring NCC in order to ensure full implementation of the Convention. In this regard, the Committee refers the State party to its general comment No. 5 (2003) on general measures of implementation for the Convention on the Rights of the Child. The Committee further recommends that the State party provide NCC and, as soon as it is established, UNCA with adequate human and financial resources to execute its mandate, including the effective coordination of the activities at the national and district levels for the implementation of the Convention.

National Plan of Action

211. The Committee welcomes the information that significant progress has been made to achieve the goals of the Uganda National Programme of Action for Children (UNPAC). However, the Committee is concerned at the lack of a systematic review and update of UNPAC with the view to incorporating the goals of the outcome document entitled "A world fit for children" of the General Assembly special session on children (2002). It is further concerned that insufficient allocation of resources has resulted in a lack of sustainable results and that problems related to HIV/AIDS and prolonged armed conflict have negatively affected the implementation of UNPAC.

212. The Committee recommends that the State party develop a new UNPAC for the implementation of the Convention, taking into account the goals set out in "A world fit for children", and provide the necessary resources for its full implementation.

Independent monitoring

213. While noting the remarkable work carried out by the Uganda Human Rights Commission in the field of monitoring human rights violations, the Committee expresses its concern at the lack of a specific department dealing with children's rights. It is further concerned that the institution lacks adequate human resources and budgetary allocations.

214. The Committee recommends that the State party establish within the Uganda Human Rights Commission a separate department or mechanism with the necessary expertise to independently monitor the implementation of the Convention on the Rights of the Child. It should also be provided with the necessary human and financial resources to receive and investigate complaints from or on behalf of children on violations of their rights. In this regard, the Committee draws the attention of the State party to its general comment No. 2 (2002) on national human rights institutions.

Resources for children

215. The Committee notes the relatively high rate of economic growth in the State party and that considerable debt relief has been provided via the Heavily Indebted Poor Country Initiative, but it is concerned that the resources allocated for children are very limited and insufficient to respond to national and local priorities for the protection and promotion of children's rights.

216. In light of article 4 of the Convention, the Committee urges the State party to prioritize and increase budgetary allocations for children at both national and local levels, e.g. for the work of the District Probation and Welfare Office, to ensure at all levels the implementation of the rights of the child, and in particular to pay attention to the protection of the rights of children belonging to vulnerable groups, including children with disabilities, children affected by and/or infected with HIV/AIDS, children living in poverty and those in remote areas.

Data collection

217. While noting that in the last few years the State party has made remarkable progress in its data collection system, including the creation of a semi-autonomous organization charged by the Uganda Bureau of Statistics with developing statistics in the country, the Committee is nevertheless concerned at the lack of a comprehensive data collection system that gathers data from the village and sub-county levels and forwards them to the district level for consolidation and analysis.

218. The Committee encourages the State party to continue to strengthen its system of collecting disaggregated data as a basis for assessing progress achieved in the realization of children's rights and to help design policies to implement the Convention. The Committee also recommends that the State party seek technical assistance from, inter alia, UNICEF.

Dissemination, training and awareness-raising

219. The Committee notes with appreciation the efforts made by the State party in disseminating the Convention through, inter alia, the development and distribution of child rights advocacy materials. Nevertheless, it is of the opinion that additional progress needs to be made with regard to raising awareness of the Convention and the Children Act among children and adults, especially in rural areas.

220. The Committee recommends that the State party strengthen its efforts to ensure that the provisions of the Convention are widely known and understood by adults and children. It also recommends the reinforcement of adequate and systematic training of all professional groups working for and with children, in particular law enforcement officials, teachers, including teachers in rural and remote areas, health personnel, social workers and personnel of childcare institutions. In this regard, the Committee recommends that human rights education be included in the official curriculum at all levels of education.

Cooperation with civil society

221. While appreciating the fact that NGOs have been involved in the preparation of the State party's report, the Committee is of the opinion that civil society, and in particular the role of NGOs, should be further strengthened in the promotion and implementation of the Convention on the Rights of the Child.

222. The Committee recommends that the State party further encourage the active, positive and systematic involvement of civil society, including NGOs, in the promotion of children's rights, including, inter alia, their participation in the follow-up to the concluding observations of the Committee. It further recommends that the State party provide the Uganda Children's Rights NGO Network with as much support as possible.

2. Definition of the child

Age of marriage

223. The Committee is concerned that the different marriage laws do not conform to the definition of a child as contained in the Constitution, the Children's Act and the Convention.

224. The Committee recommends that the State party fully enforce the age of marriage set out in the law for all forms of marriage and for both boys and girls. It also recommends that the State party expedite its reform of the marriage laws undertaken by the Uganda Law Reform Commission. It further recommends that the State party undertake sensitization campaigns, especially among local traditional leaders, on the negative impact that early and forced marriage has, particularly on girls.

3. General principles

Non-discrimination

225. The Committee notes that the Ugandan Constitution prohibits discrimination on grounds of sex, race, colour, ethnic origin, tribe, creed, religion, social or economic standing, or political

opinion. It also welcomes the information provided by the delegation that the Equal Opportunity Commission will be established within a year. However, the Committee is concerned at the fact that discrimination against certain groups of children still exists in practice, particularly with regard to girls, children with disabilities, children living in poverty, refugee children, children affected by and/or infected with HIV/AIDS, former child soldiers and Batwa children.

226. The Committee urges the State party to take adequate measures, including expediting the establishment of the Equal Opportunity Commission, to ensure the practical application of the constitutional and legal provisions guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.

227. 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, taking into account general comment No. 1 (2001) on the aims of education.

Right to life, survival and development

228. The Committee notes with deep concern that child sacrifice takes place in the districts of Mukono and Kayunga, a serious violation of the most fundamental rights of the child.

229. The Committee recommends that the State party:

(a) Adopt appropriate legislative measures specifically prohibiting the practice of child sacrifice at the local level;

(b) Continue to ensure that people who sacrifice children are reported to the authorities and prosecuted; and

(c) Conduct awareness-raising campaigns through local Governments on negative cultural practices, especially in the districts concerned.

Respect for the views of the child

230. While noting with appreciation the efforts made by the State party to implement the principle of respect for the views of the child, such as the child forum, the Committee remains concerned that traditional societal attitudes appear to limit children in freely expressing their views in schools, the courts, or within the family.

231. The Committee recommends that the State party strengthen its efforts to ensure that children's views are given due consideration in the family, the schools, the courts and relevant administrative and other settings, in accordance with article 12 of the Convention.

4. Civil rights and freedoms

Birth registration

232. The Committee notes with appreciation that the delegation underscored the importance of birth registration, but it is deeply concerned at the fact that a very large number of children are neither registered at birth nor at a later stage.

233. In the light of article 7 of the Convention, the Committee urges the State party to strengthen and further develop measures to ensure that all children born within the national territory are registered by, inter alia, making birth registration easy and free and by introducing mobile units, especially in rural and remote areas and IDP camps. The Committee further urges the State party to proceed with the registration of those children who have thus far not been registered.

Corporal punishment

234. While taking note that corporal punishment has been prohibited in schools by a circular of the Ministry of Education, and in the penal system under the Children's Act, the Committee remains concerned that corporal punishment is still traditionally accepted and widely practised in the family and in other settings.

235. The Committee recommends that the State party explicitly prohibit by law all forms of corporal punishment in all settings, including in the family, the schools and alternative childcare, and implement those laws effectively. It also recommends that the State party conduct awareness-raising campaigns to ensure that alternative forms of discipline are used, in a manner consistent with the child's human dignity and in conformity with the Convention, especially article 28, paragraph 2.

5. Family environment and alternative care

Children without parental care

236. The Committee is deeply concerned about the impact the high rate of HIV/AIDS has for children who have lost one or both parents and the need to provide them with adequate alternative care. In addition, poverty, preventable diseases, conflict in the country and other problems deprive children of parental care and/or a family environment.

237. The Committee recommends that the State party strengthen and effectively implement its National Strategic Plan of Interventions for Orphans and Other Vulnerable Children for the years 2005/06-2009/10. In particular, the Committee recommends that the State party put more focus, inter alia, on:

(a) Effective support programmes for children in vulnerable families, such as those affected by HIV/AIDS, single-parent families and families suffering from poverty;

(b) Effective support to extended families which care for children of parents who have died of AIDS and for child-headed families; and

(c) The promotion of and support for family-type forms of alternative care for children deprived of parental care, in order to reduce the resort to residential care.

Child abuse and neglect

238. The Committee notes the information, including in the State party's written replies to the list of issues, of the reported cases of child abuse and neglect in four major regions. It is further concerned at the lack of a comprehensive policy for the prevention and combat of child abuse and neglect in the family.

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

- (a) Take the necessary measures to prevent child abuse and neglect;**
- (b) In addition to existing procedures, establish effective mechanisms to receive, monitor and investigate complaints;**
- (c) Carry out preventive public education campaigns about the negative consequences of the ill-treatment of children.**

240. **In the context of the Secretary-General's in-depth study on the question of violence against children and the related questionnaire to Governments, the Committee acknowledges with appreciation the written replies of the State party to this questionnaire and its participation in the Regional Consultation for Eastern and Southern Africa, held in South Africa from 18 to 20 July 2005. The Committee recommends that the State party use the outcome of this regional consultation as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual or mental violence, and for generating momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.**

6. Basic health and welfare

Children with disabilities

241. Notwithstanding the State party's continuous efforts to support children with disabilities through targeted State welfare measures, including direct and indirect assistance, the Committee is concerned about the persisting de facto discrimination. It notes with concern that equal opportunities for children with disabilities are jeopardized, e.g. by their limited access to public buildings, government services and public transportation, and that social stigma, fears and misconceptions surrounding disabilities remain strong in society leading to the marginalization and alienation of these children. It is further concerned that children are doubly disadvantaged if they live in rural and remote areas.

242. **In light of the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee on its day of general discussion on the rights of children with disabilities (see CRC/C/69), the Committee recommends that the State party take all necessary measures:**

(a) To prevent and prohibit all forms of discrimination against children with disabilities and ensure that they have equal opportunities to participate fully in all spheres of life, by implementing the domestic laws and including disability aspects in all relevant policy-making and national planning;

(b) To collect adequate disaggregated statistical data on children with disabilities and use such data in developing policies and programmes to promote their equal opportunities in society, paying particular attention to children living in the most remote areas of the country;

(c) To provide children with disabilities with access to adequate social and health services, to quality education and to the physical environment, information and communication;

(d) To raise awareness about children with disabilities, including their rights, special needs and potential, in order to change prevailing negative attitudes, misbeliefs and prejudices against children with disabilities by initiating and supporting public information campaigns; and

(e) To ensure that professionals working with and for children with disabilities, such as medical, paramedical and related personnel, teachers and social workers, are adequately trained.

243. Furthermore, the Committee encourages the State party to pay particular attention to the rights and status of children with disabilities in the context of the African Decade of Persons with Disabilities 1999-2009.

Health and health services

244. Notwithstanding the various measures undertaken by the State party to develop primary health care and lower infant and child mortality, the Committee remains deeply concerned at the state of health of children in the State party, which, as stated in the report (para. 132), is among the lowest in sub-Saharan Africa. In particular, the Committee is deeply concerned that infant, under-five and maternal mortality rates remain very high. It is also concerned at the decrease in vaccination uptake, the prevalence of malaria and the high incidence of malnutrition, undernutrition and stunting among children. The Committee is also concerned that the current plans, policies and programmes initiated to improve the health situation are challenged, in particular by a lack of human and financial resources. The Committee is further concerned at the availability of health-care services whose quality varies dramatically between the different areas of the State party.

245. The Committee recommends that the State party take all necessary measures to strengthen its programmes for improving health care by, inter alia, supporting these programmes with adequate resources and paying particular and urgent attention to mortality rates, vaccination uptakes, nutrition status, and the management of communicable diseases and malaria.

HIV/AIDS

246. The Committee, while noting the ABC strategy, is concerned that despite the reduction in the HIV/AIDS infection rate, children and women of child-bearing age remain highly vulnerable to contracting HIV/AIDS and that not all have access to anti-retroviral drugs, testing and counselling.

247. **With reference to the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights, the Committee recommends, in particular, that the State party:**

(a) **Strengthen its efforts to combat HIV/AIDS, including through awareness-raising campaigns, and to prevent discrimination against children infected with and affected by HIV/AIDS;**

(b) **Ensure the full and effective implementation of a comprehensive policy to prevent HIV/AIDS that includes all preventive measures, and the complementarity of the different approaches for different age groups;**

(c) **Ensure access to child-sensitive and confidential counselling, without the need for parental consent, when such counselling is required by a child;**

(d) **Continue to strengthen its efforts to prevent mother-to-child transmission of HIV;**

(e) **Seek international assistance from, among others, UNAIDS and UNICEF, to that effect.**

Adolescent health

248. The Committee is concerned that insufficient attention has been paid 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 relatively high percentage of early marriages and early pregnancies, which can have a negative impact on their health.

249. **The Committee recommends that the State party, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child:**

(a) **Undertake a comprehensive study to assess the nature and extent of adolescent health problems and, with the participation of adolescents, use it as a basis to formulate adolescent health policies and programmes with a particular focus on the prevention of early pregnancies and sexually transmitted infections (STIs), especially through reproductive health education; and**

(b) **Strengthen adolescent-sensitive mental health counselling services and make them known and accessible to adolescents.**

Harmful traditional practices

250. The Committee notes with appreciation the efforts undertaken by the State party to address the practice of female genital mutilation (FGM), including a number of programmes in cooperation with UNFPA. However, it remains concerned that FGM is not specifically prohibited by law and is still widely practised in the State party. Concern is also expressed about the persistence of other harmful traditional practices, including early marriage.

251. The Committee recommends that the State party adopt legislative measures to prohibit FGM and conduct awareness-raising campaigns to combat and eradicate this and other traditional practices harmful to the health, survival and development of children, especially girls. The Committee recommends that the State party introduce sensitization programmes for practitioners and the general public to encourage change in traditional attitudes and discourage harmful practices, engaging with the extended family and the traditional and religious leaders. It further recommends that the State party provide retraining, where appropriate, for practitioners and support them in their efforts to find alternative sources of income.

Standard of living

252. The Committee takes note of the adoption of a strategic framework for national development (VISION 2005) and the Poverty Eradication Action Plan 1997-2017. However, the Committee remains deeply concerned about the widespread poverty in the State party, particularly in northern Uganda, and the increasingly large numbers of children who do not enjoy the right to an adequate standard of living, including access to food, clean drinking water, adequate housing and latrines.

253. The Committee recommends that, in accordance with article 27 of the Convention, the State party reinforce its efforts to provide support and material assistance, with a particular focus on the most marginalized and disadvantaged families, and to guarantee the right of children to an adequate standard of living. In this connection, the Committee recommends that the State party pay particular attention to the rights and needs of children when implementing, inter alia, its Poverty Eradication Action Plan.

7. Education, leisure and cultural activities

254. The Committee acknowledges the remarkable improvements in the field of education following the recommendations made by the Committee, including the recruitment of teachers, the construction of classrooms and the provision of desks. The Committee also notes that the State party is developing an early childhood education policy. However, the Committee is concerned at the still unsatisfactory level of enrolment in the higher grades, due mainly to the large number of dropouts, the low transition rate to secondary school, the insufficient number of trained teachers and the poor quality of education.

255. **The Committee recommends that the State party, taking into account its general comment No. 1 (2001) on the aims of education:**

(a) Increase public expenditure on education, in particular pre-primary, primary and secondary education;

(b) Increase enrolment in primary and secondary education, reducing socio-economic, ethnic and regional disparities in access to and full enjoyment of the right to education;

(c) Undertake additional efforts to ensure access to informal education to vulnerable groups, including street children, orphans, children with disabilities, child domestic workers and children in conflict areas and camps, inter alia by eliminating the indirect costs of school education;

(d) Strengthen vocational training, including for children who have left school before completion; and

(e) Provide detailed information on the implementation of the early childhood education policy in its next periodic report.

8. Special protection measures

Refugee children

256. The Committee notes with appreciation the approach taken by the State party in hosting more than 200,000 refugees and in paying full respect to the principle of non-refoulement, as codified in the 1951 Convention relating to the Status of Refugees. The Committee also notes the new draft refugee bill, which incorporates fundamental human rights principles. It further notes the policy of “universal primary education”, which secures access to education for refugee children. However, the Committee is concerned at the poor living conditions, high drop-out rates among girls from fourth grade onwards, inadequate sanitary materials for girls attending schools and lack of reproductive health education.

257. **The Committee recommends that the State party enhance its efforts to conclude the legislative process in order to enact the new refugee bill, and subsequently take all measures to guarantee its full implementation, in line with international human rights and refugee law and taking into account the Committee’s general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin.**

Internally displaced children

258. The Committee is concerned at the very poor living conditions in the camps for internally displaced children, their very limited access to adequate health care and education and the very high risk, particularly for girls, of being sexually abused and exploited.

259. The Committee urges the State party to enhance the security in IDP camps and take all necessary measures to protect children, especially girls, against sexual exploitation and to investigate cases of abuse fully, and prosecute and sentence the perpetrators of these crimes.

Children in armed conflict and child abduction

260. The Committee notes with appreciation that the new Uganda People's Defence Forces Act sets 18 years as the minimum age for recruitment of persons into the UPDF and that regulations for recruitment are very strict, with the goal of preventing the enlistment of children. However, the Committee is concerned about the possible gaps within the recruitment process due, inter alia, to lack of birth registration. It is also very concerned at reports that children are being recruited by the Local Defence Units (LDUs) and that the rigorous procedure established for the UPDF may not be applied strictly.

261. The Committee urges the State party to take all possible measures to prevent the recruitment of children into the UPDF and the LDUs, and in this regard to enforce its legislation strictly. It also encourages the State party to seek international assistance to reinforce its support for the work of the Human Rights Desk within the Ministry of Defence to screen potential recruits more systematically, particularly for the UPDF 105 Battalion and the LDUs.

262. The Committee remains deeply concerned at the continued abduction by the Lord's Resistance Army (LRA) of children to be used as child soldiers, sex slaves, and to carry goods and weapons. It is further concerned at the inhuman and degrading treatment of the abducted children.

263. The Committee urges the State party to do everything possible to prevent the abduction of children by the LRA and to rescue those who are still being held. The Committee also urges the State party to continue to strengthen its efforts, in close cooperation with national and international NGOs and United Nations bodies such as UNICEF, to demobilize child soldiers, to provide them with adequate (short-term) shelter and to support their recovery, reunification with their families and reintegration in their communities. It further recommends that the State party pay special attention to the needs of girls, who have often been the victims of sexual abuse, and place particular emphasis on access to education that is tailored to their ages.

264. The Committee is alarmed by the phenomenon of "night commuters", or children who leave their homes and the camps at night in search of greater security and safety from abduction.

265. The Committee urges the State party to address the phenomenon of night commuters and take all necessary measures to protect children, to the maximum extent possible, against the risk of abduction by the LRA and other armed forces. In addition, the Committee recommends that the State party strengthen its support to the night commuters' shelters.

Street children

266. The Committee is deeply concerned at the increasing number of street children, especially in Kampala and other major urban centres, who are victims of, inter alia, drug abuse, sexual exploitation, harassment and victimization by members of the police force. It is gravely concerned at the fact that society considers such children as dangerous people and a burden for the society.

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

(a) **Undertake a systematic assessment of this phenomenon in order to get an accurate picture of its root causes and magnitude;**

(b) **Develop and implement with the active involvement of street children themselves a comprehensive policy which, inter alia, should address the root causes, in order to prevent and reduce this phenomenon, and which should provide street children with the necessary protection, adequate health-care services, education and other social services;**

(c) **Support family reunification programmes, when it is in the best interests of the child.**

Economic exploitation, including child labour

268. The Committee is deeply concerned at the fact that according to the information provided in the written replies half of the 2.7 million working children are aged 10-14 years and one third are under the age of 10, and that the State party has not taken comprehensive measures to prevent and combat this large-scale economic exploitation of children.

269. **The Committee urges the State party to develop and implement, with the support of the ILO, UNICEF, and national and international NGOs, a comprehensive programme to prevent and combat child labour, in full compliance with ILO Conventions No. 138 and No. 182 which the State party has ratified.**

Sexual exploitation

270. The Committee is concerned that according to some recent studies a considerable number of children are victims of sexual exploitation. Furthermore, the Committee is deeply concerned at the very high incidence of defilement of girls, constituting more than half of the cases of child abuse. In addition, it notes that the law on sexual abuse is biased against the boy child.

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

(a) **Take appropriate legislative measures, including adoption of the long-standing bill on sexual offence, and develop an effective and comprehensive policy addressing the sexual exploitation of children, including the factors that place children at risk of such exploitation;**

(b) Undertake awareness-raising educational measures to prevent and eliminate the defilement of girls;

(c) Avoid criminalizing child victims of sexual exploitation;

(d) Implement appropriate policies and programmes for the prevention, recovery and social reintegration 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.

Drug abuse

272. The Committee notes the information provided by the delegation that drug abuse is an increasing problem in the State party.

273. The Committee recommends that the State party take measures to prevent and end drug abuse among children and to support recovery programmes for child victims of drug abuse. The Committee further recommends that the State party seek technical cooperation from, inter alia, WHO and UNICEF.

Juvenile justice

274. While recognizing the efforts made in this domain, including through the adoption of legislation, 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 the lack of magistrates, remand homes for children in conflict with the law and the conditions in such institutions.

275. The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as 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. In particular the Committee recommends that the State party:

(a) Continue to increase the availability and quality of specialized juvenile courts and judges, police officers and prosecutors, inter alia through systematic training of professionals;

(b) Provide adequate financial, human and technical resources to the juvenile courts at sub-county level;

(c) Strengthen the role of local authorities, especially with regard to minor offences;

(d) Provide children with legal assistance at an early stage of legal proceedings;

- (e) **Improve training programmes on relevant international standards for all professionals involved with the system of juvenile justice;**
- (f) **Enhance the recruitment and training of probation and social welfare officers and facilitate the fulfilment of their key role, as provided for in the Children's Act;**
- (g) **Seek technical assistance and other cooperation from, inter alia, the United Nations Office on Drugs and Crime (UNODC), OHCHR and UNICEF.**

Children belonging to a minority or indigenous group

276. The Committee is concerned at the situation of children belonging to minorities, including Batwa children, in particular with regard to their limited access to basic social services, including health care and education, and the violation of their rights to survival and development, to enjoy their own culture and to be protected from discrimination.

277. **In light of the recommendations adopted at its day of general discussion on the rights of indigenous children (CRC/C/133, para. 624), the Committee recommends that the State party:**

- (a) **Undertake a study to assess the situation and the needs of Batwa children and to elaborate a plan of action, involving leaders of the Batwa community, to protect the rights of those children and ensure access to their social services; and**
- (b) **Adopt adequate means and measures to ensure that Batwa communities, including children, are provided with information regarding birth registration procedures, access to health-care facilities and education.**

9. Optional Protocols to the Convention on the Rights of the Child

278. **The Committee recommends that the State party submit its reports under the Optional Protocols to the Convention on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict by 2006.**

10. Follow-up and dissemination

Follow-up

279. **The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, inter alia by transmitting them to the members of the Council of Ministers or the Cabinet or a similar body, the Parliament, and to provincial or local Governments and Parliaments, when applicable, for appropriate consideration and further action.**

Dissemination

280. **The Committee further recommends that the second periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available in the languages of the country,**

including (but not exclusively) through the Internet to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.

11. Next report

281. The Committee invites the State party to submit its next periodic report before the due date established under the Convention for the fifth periodic report, i.e. 15 September 2012. This report should combine the third, fourth and fifth periodic reports. However, owing to the large number of reports received by the Committee every year and the consequent significant delay between the date of submission of a State party's report and its consideration by the Committee, the Committee invites the State party to submit a consolidated third, fourth and fifth report 18 months before its due date, that is by 15 March 2011.

Concluding observations: China (including Hong Kong and Macau Special Administrative Regions)

282. The Committee considered the second periodic of China (CRC/C/83/Add.9, Parts I and II), submitted on 27 June 2003, at its 1062nd to 1065th meetings (see CRC/C/SR.1062-1065), held on 19 and 20 September 2005, and adopted, at the 1080th meeting (CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

283. The Committee welcomes the submission of the State party's comprehensive and informative periodic report which consisted of three parts covering the mainland and Hong Kong and Macau Special Administrative Regions (SARs), as well as the detailed written replies to its list of issues (CRC/C/Q/CHN/2 and Parts I and II), which gave a clearer understanding of the situation of children in the State party. It further notes with appreciation the large high-level, multisectoral delegation from the mainland, Hong Kong and Macau Special Administrative Regions.

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

284. The Committee notes with appreciation the impressive achievements made in reducing poverty, which enabled it to attain some of the key Millennium Development Goals ahead of schedule.

285. The Committee welcomes the ratification of the International Covenant on Economic, Social and Cultural Rights in 2001.

286. The Committee welcomes the State party's ratification of the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption (No. 33) on 16 September 2005.

C. Principal subjects of concern and recommendations

1. General measures of implementation

Committee's previous recommendations

287. The Committee notes with appreciation that various concerns and recommendations (see CRC/C/15/Add.56 and CRC/C/15/Add.63 with respect to Hong Kong) made upon the consideration of the State party's initial reports (CRC/C/11/Add.7 and CRC/C/11/Add.9 with regard to Hong Kong as a Dependent Territory of the United Kingdom) have been addressed through legislative measures and policies. However, some of the concerns it expressed and the recommendations made have not been sufficiently addressed. For instance:

(a) With respect to the mainland, the Committee is concerned that there has been limited progress related to recommendations concerning the establishment of a national human rights institution (CRC/C/15/Add.56, para. 26) and non-discrimination (*ibid.*, paras. 34 and 35);

(b) With respect to the Hong Kong SAR, the Committee takes note of the State party's explanation that the Committee's previous recommendations on coordination and assessment (CRC/C/15/Add.63, para. 20) were not considered practical. Nevertheless, the Committee remains of the opinion that national legislation and policy must take a holistic and comprehensive approach to the implementation of the Convention, which requires that priority be given to children's issues, that such policy be actively coordinated and that assessments be made regarding the potential impact of policy decisions on children.

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

Reservations and declarations

289. The Committee welcomes the withdrawal of the State party's reservation to article 22 as applied to the Hong Kong SAR. However, it regrets the fact that reservations remain with regard to article 6 and are applied to the entire State party, and that for the Hong Kong and Macau SARs reservations with respect to articles 32 and 37 (c) remain in force.

290. The Committee recommends that the State party review and withdraw all reservations to the Convention for all areas under its jurisdiction.

Legislation

291. While welcoming the significant progress made with respect to legislative reform in mainland China, the Committee is concerned that not all laws applicable to children fully conform to the Convention.

292. The Committee recommends that with respect to the mainland, the State party continue to review legislation to ensure that it conforms fully with the principles and provisions of the Convention, as highlighted in paragraphs 33, 40, 45, 48, 53, 82, 93 and 94

of the present concluding observations, and paragraphs 11 and 13 of the Committee's concluding observations on the initial report under the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography (CRC/OPSA/CO/2).

Coordination and National Plan of Action

293. The Committee notes with appreciation the elaboration of a second National Plan of Action, the National Children's Development Programme (2001-2010), for the mainland, and also takes note of the growing number of committees and working groups at the State, regional and provincial levels to monitor and implement child rights. However, it is concerned that coordination is fragmented and that the Programme is not implemented uniformly across all regions and localities on the mainland and that coordination of implementation at local and regional levels is sometimes insufficient.

294. As noted above in paragraph 6 (b), the Committee is concerned at the lack of a comprehensive plan of action for the implementation of the Convention in the Hong Kong SAR and that the coordination of existing programmes and policies is rather sectoral and fragmented. The Committee notes the information provided by the delegates from the Macau SAR that a comprehensive plan of action is under discussion.

295. The Committee recommends that on the mainland, the State party further strengthen coordination between the bodies and institutions working on the implementation of the National Children's Development Programme (2001-2010) at all levels in order to ensure uniform implementation in all regions and provinces.

296. The Committee reiterates its previous recommendation that in the Hong Kong SAR, the State party should improve coordination of its activities on the implementation of the Convention by developing and implementing a plan of action for the Hong Kong SAR. The Committee recommends that in the Macau SAR, the State party expedite its discussions in this regard and elaborate and implement a comprehensive plan of action for the Macau SAR.

Independent monitoring

297. The Committee notes the information that various ministries on the mainland may receive complaints from the public, but it is concerned at the lack of an independent national human rights institution with a clear mandate to monitor the implementation of the Convention. It similarly regrets the absence of an independent national human rights institution with a specific mandate for child rights on the mainland and the Hong Kong and Macau SARs.

298. The Committee recommends that the State party establish, on the mainland and the Hong Kong and Macau SARs, national human rights institutions with a clear mandate to monitor children's rights and implement the Convention at national, regional 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) annexed to General Assembly resolution 48/134 of 20 December 1993. Drawing the State party's attention to the Committee's general comment No. 2 (2002) on the role of independent

national human rights institutions, the Committee notes that such institutions should have a mandate to receive, investigate and address complaints from the public, including individual children, and be provided with adequate financial, human and material resources. In the case of the Hong Kong SAR, such an institution could be a specialized branch of the existing Ombudsman's Office.

Allocation of resources

299. The Committee commends the State party for the significant increases in budgetary resources allocated, on the mainland, to compulsory education, maternal and child health care, social relief and to anti-trafficking programmes in recent years, but remains concerned that some crucial areas, such as education, continue to be underfunded. While it notes the significant resources allocated to the development of poorer regions, it remains concerned that those resources do not adequately target the most vulnerable groups.

300. The Committee is concerned that in the Hong Kong SAR insufficient resources are allocated to reduce poverty and that income disparities are increasing within the population. It is concerned that social welfare schemes, which were reduced as a result of the economic hardship of the 1997 Asian financial crisis, have not been readjusted as the economy has regained its momentum.

301. The Committee recommends that on the mainland, the State party ensure that its budgetary allocations to key areas for children, in particular health and education, keep pace with increases in government revenue. It further recommends that the State party develop an adequate monitoring system to ensure that budgetary allocations effectively reach the most vulnerable groups and reduce regional disparities, in particular between rural and urban areas and eastern and western provinces.

302. The Committee recommends that in the Hong Kong SAR, budgetary allocations be targeted towards reducing income disparities, including through increased funding for social safety nets. It also recommends that an adequate monitoring system be established to ensure that budgetary allocations benefit the most vulnerable populations.

Data collection

303. The Committee welcomes the State party's efforts to improve its collection of statistical data in all parts of the State party, and notes with appreciation the information provided by the delegation that a new mechanism for the collection of disaggregated data will soon be established on the mainland. However, the Committee remains concerned about the limited public accessibility to reliable and comprehensive statistical data on the mainland on all areas covered by the Convention.

304. The Committee recommends that the State party further strengthen its efforts to collect reliable and comprehensive statistical data on all areas covered by the Convention and ensure that such data are systematically made available to the public in a timely manner in all parts of the State party. It further recommends that the State party explore

the possibility of developing central databanks for statistics on children for the mainland and the SARs, so as to ensure that statistical data are used for the development, implementation and monitoring of appropriate policies and programmes for children.

Dissemination of the Convention

305. The Committee notes that the Convention has been translated into the main minority languages used in the State party. However, it is concerned that professionals working with and for children, as well as children and parents themselves, have limited awareness and understanding of the Convention in the Hong Kong SAR and on the mainland.

306. **The Committee recommends that the State party, in all areas under its jurisdiction:**

(a) Further strengthen its efforts to disseminate the Convention in all languages, and also through the use of child-friendly materials and school curricula;

(b) Expand its programmes to sensitize parents and children about the Convention; and

(c) Increase its efforts to provide adequate and systematic training on children's rights for professional groups working with and for children.

Cooperation with civil society

307. The Committee notes the information that non-governmental organizations are becoming increasingly active in mainland China, but it is concerned that the space in which they may operate and the scope of their activities remain very limited.

308. The Committee recommends that in mainland China, the State party facilitate and encourage the independence and expansion of activities by non-governmental organizations, in particular those working for the promotion and protection of child rights, inter alia by ensuring their free and active involvement in the implementation of the Convention, including in the preparation of reports and the implementation of the Committee's concluding observations and recommendations.

2. General principles

Right to life

309. The Committee notes with satisfaction the legal measures enacted to prohibit selective abortions and infanticide in mainland China. Nevertheless it remains concerned that selective abortions and infanticide as well as the abandonment of children, in particular girls and children with disabilities, continue as negative consequences of existing family planning policies and societal attitudes.

310. The Committee urges the State party to continue and strengthen its efforts to guarantee the right to life, survival and development of all children in its territory. It recommends that the State party strengthen its implementation of existing laws against

selective abortions and infanticide and take all necessary measures to eliminate any negative consequences arising from family planning policies, including abandonment and non-registration of children and unbalanced sex ratios at birth.

Non-discrimination

311. While noting efforts by the State party to address the Committee's previous concerns related to discrimination, it remains concerned about discrimination against certain groups on the mainland, such as girls; children infected with or affected by HIV/AIDS; children with disabilities; ethnic and religious minorities, such as Tibetan, Uighur and Hui children; and internal migrant children.

312. The Committee is concerned about the persistence of discrimination against refugee, asylum-seeking and undocumented migrant children in the Hong Kong SAR, and the lack of legislation specifically prohibiting discrimination on the basis of race or sexual orientation. The Committee regrets the lack of available information on the practical implementation of article 2 of the Convention in the Macau SAR.

313. The Committee recommends that on the mainland the State party strengthen efforts to eliminate discrimination against girls; children infected with or affected by HIV/AIDS; children with disabilities; Tibetan, Uighur and Hui children and children belonging to other ethnic and religious minorities; internal migrant children and other vulnerable groups by:

(a) Ensuring that these children have equal access to basic services, including health, education and other social services, and that services used by these children are allocated sufficient financial and human resources;

(b) Enhancing monitoring of programmes and services implemented by local authorities with a view to identifying and eliminating disparities.

314. The Committee recommends that in the Hong Kong SAR the State party expedite its efforts to draft and adopt legislation prohibiting discrimination on the basis of race or sexual orientation. The Committee requests that in its next periodic report specific information be included on the practical implementation of article 2 in the Macau SAR.

315. 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 Committee's general comment No. 1 (2001) on the aims of education.

Best interests of the child

316. The Committee is concerned about the limited information provided by the State party for all areas under its jurisdiction on how the principle of the best interests of the child is used as a primary consideration in all actions concerning children.

317. **The Committee urges the State party to include in its next periodic report more detailed information on the implementation of article 3 and on how it ensures that the best interests of the child is a primary consideration in all actions concerning children.**

Respect for the views of the child

318. The Committee notes with concern that in mainland China children are not able to file complaints in court or be consulted directly by the courts without parental consent, except in the case of children 16 years or older who earn their own livelihood. It regrets the limited amount of information provided on the representation of students in schools and how their views are taken into account.

319. The Committee notes with appreciation the efforts made by the State party in the Hong Kong SAR to support organizations representing children, such as the Children's Council Working Committee. However, it remains concerned that children's views are not sought systematically on all policies and programmes affecting them. The Committee regrets the lack of information on how the views of the child are taken into account in all settings in the Macau SAR.

320. **In the light of article 12 of the Convention, the Committee recommends that the State party strengthen its efforts on the mainland and in the Hong Kong and Macau SARs to ensure that children have the right to express their views freely on all matters affecting them and to have those views given due weight in policy-making, administrative proceedings, schools and the home. It encourages the State party to provide more detailed information on this issue, with respect to all areas under its jurisdiction, in the next periodic report.**

321. **Furthermore, the Committee recommends that on the mainland the State party review legislation affecting children with a view to ensuring that they are given the opportunity to be heard in any judicial and administrative proceeding affecting them, and that due weight is given to their views in accordance with the age and maturity of the child.**

322. **The Committee recommends that in the Hong Kong SAR, the State party systematically ensure that children's organizations participate actively in developing policies or programmes affecting them, such as the current education reform. It further encourages the State party to consider establishing a standing body to represent children's views in the political process.**

3. Civil rights and freedoms

Birth registration

323. The Committee notes with appreciation the significant efforts made by the State party to address the Committee's previous concerns regarding the non-registration of children at birth. However, it continues to be concerned that, in part because of existing family planning policies, all children are not systematically registered immediately after birth in mainland China, and that this disproportionately affects girls, children with disabilities and children born in some rural areas.

324. **The Committee recommends that the State party continue to strengthen its efforts to ensure that all children, in particular girls and children with disabilities, are registered immediately after birth and to provide flexible measures to allow older children who have not been registered to do so throughout mainland China, with a particular emphasis on rural areas. It further suggests that the State party consider revising the Hukou system of registration in order to reinforce such initiatives.**

Freedom of religion

325. While noting the adoption of the Regional Ethnic Autonomy Act in 2001, which guarantees freedom of religion for ethnic minorities in mainland China, the Committee is concerned about reports that children, in particular Tibetan Buddhist, Uighur and Hui children, have been restricted in studying and practising their religion, and some cases have been detained for participating in religious activities. It is also concerned at reports that children of families practising their religion, notably the Falun Gong, are subject to harassment, threats and other negative actions, including re-education through labour. The Committee notes the information provided about the Gedhun Choekyi Nyima, but remains concerned that it has not yet been possible to have this information confirmed by an independent expert.

326. **The Committee recommends that the State party take all necessary measures to ensure the full implementation of the Regional Ethnic Autonomy Act. In particular, the Committee recommends that the State party:**

(a) **Enact legislation explicitly guaranteeing freedom of religion for those under 18 that is not tied to a limited number of recognized faiths, and which respects the rights and duties of parents to give guidance to their children in the exercise of their rights in this regard in a manner consistent with the evolving capacities of the child;**

(b) **Repeal any ban instituted by local authorities on children of any age from participating in Tibetan religious festivals or receiving religious education;**

(c) **Repeal any ban instituted by local authorities on children of any age from attending mosques or receiving religious education throughout the mainland;**

(d) **Take all necessary measures to ensure that children may choose whether to participate in classes on religion or atheism;**

(e) **Allow an independent expert to visit and confirm the well-being of Gedhun Choekyi Nyima while respecting his right to privacy, and that of his parents.**

Corporal punishment

327. The Committee is concerned that in mainland China the existing regulations banning corporal punishment in schools are unevenly implemented. It is also concerned that corporal punishment in the home is not banned and continues to be socially acceptable.

328. The Committee is concerned that corporal punishment within the family is not prohibited by law and continues to be practised in the home in the Hong Kong and Macau SARs.

329. **The Committee urges the State party, in all areas under its jurisdiction:**

(a) **To explicitly prohibit by law corporal punishment in the family, schools, institutions and all other settings, including penal institutions;**

(b) **To expand public education and awareness-raising campaigns, with the involvement of children, on alternative non-violent forms of discipline in order to change public attitudes about corporal punishment.**

4. Family environment and alternative care

Children deprived of family environment

330. The Committee welcomes efforts made by the State party, in particular the adoption of the Standards for Social Welfare Institutions for Children in 2001, for the mainland. However, it remains concerned at the significant number of children abandoned on the mainland and the large number of children living in institutions. It regrets the lack of precise statistical data on the number of children entering and leaving such institutions.

331. The Committee is deeply concerned that existing quotas for persons entering the Hong Kong and Macau SARs from the mainland and regulations regarding the right of abode in the SARs contribute to the separation of children from their parents and hinder family reunification.

332. **The Committee recommends that in mainland China, the State party:**

(a) **Continue its efforts to improve alternative care for children deprived of a family by replicating and expanding successful models such as foster care and domestic adoption throughout the mainland;**

(b) **Develop effective strategies to prevent the abandonment of children, which include early identification of families and children at risk and the possibility for social workers to intervene and help families directly;**

(c) **Ensure that children, if transferred to an institution, are integrated into small groups and individually cared for in a family-like environment;**

(d) **Ensure that all forms of alternative care meet quality standards in conformity with the Convention by establishing an effective monitoring mechanism which includes a periodic review of each placement in accordance with article 25 and a complaints mechanism accessible to children, and by ensuring that all institutions, programmes and services have properly trained and accredited staff;**

(e) **Ensure that all deaths of children in alternative care are properly documented and investigated, and that appropriate follow-up actions are taken when necessary.**

Adoption

333. As noted in paragraph 5 above, the Committee notes with appreciation the ratification of the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (No. 33). However, the Committee regrets the inadequate information available on the number of international adoptions and the number of agencies facilitating such adoptions on the mainland. It is further concerned about the lack of explicit guarantees that children without birth certificates maintain their right to an identity throughout the adoption process.

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

(a) Extend the application of the 1993 Hague Convention to the Hong Kong and Macau SARs as soon as possible;

(b) Ensure that the legal provisions of the 1993 Hague Convention are incorporated into domestic legislation on the mainland and in the Hong Kong and Macau SARs;

(c) Further strengthen the monitoring of agencies facilitating international adoptions, in particular with regard to possible trafficking of children and the use of fees and donations paid by adopting parents;

(d) Enact legislative and administrative measures to ensure that all children without birth certificates are guaranteed their right to an identity throughout the adoption process;

(e) Inform government officials and other professionals working with children without parental care that adoptions, in particular international adoptions, are an exceptional alternative care option and that the principles of non-discrimination and the best interests of the child must be taken into account when making such decisions.

Abuse and neglect, maltreatment, violence

335. The Committee is concerned about the limited information available with regard to abuse, neglect and maltreatment of children in mainland China as well as the limited number of programmes available to combat violence and provide assistance to victims.

336. While noting efforts made to increase the number of social workers in the Hong Kong SAR, the Committee is concerned that policies and programmes to assist child victims of violence are not fully effective.

337. **The Committee recommends that efforts to combat abuse, neglect, violence and maltreatment be strengthened in all parts of the State party, including through mandatory reporting requirements for staff working with children, such as doctors, teachers and social workers, and the establishment of specific helplines accessible and available to children.**

338. **With respect to the mainland, the Committee recommends that the State party conduct further research into different forms of violence against children in the home, schools and institutions and use the findings:**

(a) To strengthen existing legislation on protection of children from all forms of violence;

(b) To develop strategies and interventions to prevent and combat violence, including through school-based education programmes aimed at raising awareness and skills among children to address different forms of violence;

(c) To develop programmes to ensure that all child victims of violence receive appropriate assistance relating to care and recovery.

339. **With respect to the Hong Kong SAR, the Committee recommends that the State party:**

(a) Define in a more explicit manner the forms of sexual abuse and increase education and training for professionals working with and for children on the identification, handling and prevention of all forms of abuse;

(b) Strengthen coordination and follow-up of individual cases of abuse, neglect and maltreatment and ensure that all victims of any form of abuse, and their families, have access to social services and assistance;

(c) Ensure that investigations are handled without discrimination on the basis of whether the alleged perpetrators are within or outside the family.

340. **In the context of the Secretary-General's in-depth study on the question of violence against children and the related questionnaire to Governments, the Committee acknowledges with appreciation the written replies of the State party and the participation of representatives from mainland China and the Hong Kong SAR in the Regional Consultation for East Asia and the Pacific held in Thailand from 14 to 16 June 2005. It further appreciates the organization of national-level consultations in Beijing on 16 and 17 May 2005. The Committee recommends that the State party use the outcome of this regional consultation as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual or mental violence, and for generating momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.**

5. Basic health and welfare

Children with disabilities

341. **With respect to mainland China, the Committee is concerned about:**

(a) The lack of specific disaggregated data on children with disabilities;

(b) The narrow definition of disability;

(c) The significant discrepancy in the number of children with disabilities in urban and rural areas;

(d) The exception made to the one-child policy whereby families who have a child with disabilities are allowed to have a second child, which promotes de facto discrimination against children with disabilities.

342. The Committee recommends that the State party take into account the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee on its day of general discussion on the rights of children with disabilities (see CRC/C/69) to ensure the implementation of all the principles and provisions of the Convention for children with disabilities within its jurisdiction. It further recommends that in mainland China, the State party:

(a) **Strengthen its system of data collection to ensure the availability of precise data on children with disabilities, disaggregated by sex, age, rural or urban area, living arrangements and type of disability;**

(b) **Establish a definition that adheres to internationally accepted standards;**

(c) **Take all necessary measures to eliminate de facto discrimination against children with disabilities, in particular the abandonment of such children.**

Health and health services

343. While noting the marked improvement in health-care indicators, the Committee reiterates its previous concern with regard to existing disparities on the mainland between rural and urban areas, eastern and western provinces, and Han and ethnic minorities relating to infant and child mortality, nutrition, and other child health indicators. It is also concerned at the persistence of malnutrition as well as the emergence of child obesity and inadequate breastfeeding policies throughout the State party.

344. The Committee recommends that the State party take all necessary measures to provide universal access to maternal and child health services for all children in its jurisdiction, including non-registered children. It further urges the State party to develop policies and programmes to adequately address the problems of malnutrition and obesity in children and to promote breastfeeding through strengthening the implementation of the International Code of Marketing of Breastmilk Substitutes in all parts of the State party, including the China Code for Marketing of Breast Milk Substitutes, and through the promotion of baby friendly hospitals in the Hong Kong SAR.

Adolescent health

345. The Committee is concerned at the lack of information on adolescent health services available in mainland China and the Macau SAR, as well as the high incidence of teenage pregnancies and abortions in the Hong Kong SAR.

346. **The Committee recommends that in all areas under its jurisdiction, the State party pay close attention to adolescent health and the provision of appropriate adolescent health services, taking into account its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, and strengthen its efforts to promote adolescent health, including by providing sexual and reproductive health education in schools, and to introduce school health services, including youth-sensitive and confidential counselling and care.**

Mental health

347. The Committee appreciates the measures taken by the State party in the Hong Kong SAR to address the high number of suicides among the youth. It remains concerned about the lack of data and information on mental health services available for children on the mainland and the Macau SAR, and on tobacco, alcohol and drug abuse.

348. **The Committee recommends that in all areas under its jurisdiction, the State party expand preventive and therapeutic mental health services for adolescents and develop programmes to decrease tobacco smoking, alcohol consumption and drug abuse among adolescents, in particular through the development of campaigns specifically designed for adolescents on health-behavioural choices and life skills. It further recommends that in the Hong Kong SAR, the State party continue to strengthen its efforts to prevent suicide among the youth.**

HIV/AIDS

349. The Committee welcomes the development of policies and programmes for children infected with and affected by HIV/AIDS in mainland China. Yet, the Committee is concerned that the implementation of these policies and programmes is insufficient.

350. **The Committee recommends that the State party strengthen its implementation of policies and programmes for children infected with and affected by HIV/AIDS on the mainland by:**

- (a) **Increasing the financial resources allocated to these programmes;**
- (b) **Strengthening cooperation with local authorities to ensure that they are adequately trained and equipped to implement programmes and policies in conformity with the best interest principle of the Convention (art. 3);**
- (c) **Strengthening public information campaigns to raise awareness about the disease and eliminate discrimination against children with HIV/AIDS, as mentioned in paragraph 32 of these concluding observations.**

351. **In the light of the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights, the Committee recommends that the State party strengthen its efforts to prevent the spread of HIV/AIDS both on the mainland and in the SARs and continue to raise awareness about HIV/AIDS among adolescents, particularly among those belonging to vulnerable groups.**

Standard of living

352. The Committee commends the State party for impressive economic achievements in mainland China and increased resource allocations for people living in poverty in recent years, including through the provision of scholarships to disadvantaged children. However, it is concerned that poverty, in particular with regard to certain regions and specific populations, such as the migrant or “floating” population, as well as growing disparities remain serious concerns.

353. Similarly, despite the economic achievements of the Hong Kong SAR, the Committee remains concerned at the existence of child poverty among vulnerable populations such as the unemployed, immigrants and single-parent families and at the lack of an established poverty line, which hinders the formulation of appropriate policies to combat poverty.

354. The Committee recommends that in mainland China, the State party continue to strengthen its efforts to achieve balanced economic development, including through adjustments in budgetary allocations mentioned in paragraph 20 of this document, and through the consolidation of the database on child poverty. It further urges the State party to expand benefits such as scholarships for disadvantaged children, including those from vulnerable populations such as the “floating” population and from poor regions in western China.

355. The Committee recommends that in the Hong Kong SAR, the State party establish a poverty line and develop appropriate policies to combat child poverty that address widening income disparities while expanding access to social welfare benefits to all vulnerable populations, including new immigrants.

6. Education, leisure and cultural activities

Education, including vocational training and guidance

356. While noting efforts made by the State party in mainland China, the Committee is concerned about remaining disparities in access to and availability of education, which negatively affect girls, children with learning difficulties, ethnic minority children, children living in rural areas and western provinces, and migrant children. The Committee is also specifically concerned about the existence of miscellaneous fees for compulsory education, high student-teacher ratios, high dropout rates in middle and secondary school and the quality of education throughout the mainland.

357. In the Hong Kong SAR, the Committee is concerned about dropout rates in secondary schools, the competitive nature of the school system and bullying in schools. The Committee regrets the limited amount of information available on these issues in the Macau SAR.

358. The Committee recommends that in mainland China, the State party:

(a) Eliminate all miscellaneous and other “hidden” fees for primary education in order to ensure that it is truly free;

(b) Increase the allocation of resources to education in step with increases in GDP, as directed by the Education Law, and target those resources towards ensuring that

all children, in particular girls, children with learning difficulties, and ethnic minority and migrant children, complete nine years of compulsory education and have equal access to early childhood education and development programmes;

(c) Promote the development of flexible learning systems so that children who have dropped out of school, in particular because of poverty or migration, are able to complete compulsory education and earn appropriate accreditation through non-formal channels, and also ensure the availability and accessibility of suitable technical and vocational education and training;

(d) Ensure that all teaching and learning materials for the primary and secondary level are also available in ethnic minority languages and with culturally sensitive content;

(e) Further strengthen efforts to improve the quality of education, including through teacher training and the improvement of teacher-student ratios;

(f) Strengthen the implementation of its policy of “all-round development”, in particular through the development of a curriculum promoting children’s active learning capacities and which also includes a focus on a child’s right to play and leisure;

(g) Seek technical assistance in this regard from, inter alia, UNICEF and relevant national agencies.

359. In the Hong Kong SAR, the Committee recommends that the State party:

(a) Develop programmes aimed at addressing the dropout rates in secondary education;

(b) Further strengthen existing programmes aimed at addressing violence in schools, including with the participation of students themselves;

(c) Enhance the quality of education in a manner that seeks to reduce the competitiveness of the education system and promotes active learning capacities and the right of a child to play and leisure.

360. In the Macau SAR, the Committee encourages the State party to expedite its plans to expand free compulsory education to 12 years’ duration. The Committee requests further information on the quality of education and programmes aimed at reducing violence in schools in the next periodic report.

7. Special protection measures

Refugee and migrant children

361. The Committee notes the efforts made by the State party to allow the approximately 300,000 Indochinese refugees to settle permanently in mainland China. However, it is concerned that the children born in China of these former refugees are not granted Chinese citizenship. It is further concerned that children entering mainland China

from the Democratic People's Republic of Korea are categorically considered as economic migrants and returned to the Democratic People's Republic of Korea without consideration of whether there are risks of irreparable harm to the child upon return.

362. With regard to the Hong Kong SAR, the Committee notes that refugee children and undocumented migrant children are not guaranteed access to education.

363. **The Committee recommends that the State party extend all human rights guarantees in its Constitution and in the Convention to all children within its jurisdiction on both the mainland and the SARs, including refugees, asylum-seekers and other undocumented migrants. In particular, the Committee recommends that the State party:**

(a) **Amend legislation to allow children born in China of former Indochinese refugees in mainland China to obtain Chinese citizenship;**

(b) **Ensure that no unaccompanied child, including those from the Democratic People's Republic of Korea, is returned to a country where there are substantial grounds for believing that there is a real risk of irreparable harm to the child, for instance through disproportionate punishment for violating immigration laws, in accordance with the Committee's general comment No. 6 (2005) on unaccompanied minors;**

(c) **Amend legislation and regulations to ensure that all refugee, asylum-seeking or undocumented migrant children in the Hong Kong SAR are able to attend school without undue delay.**

Economic exploitation

364. The Committee welcomes the ratification of ILO Conventions Nos. 138 and 182 in 1998 and 2002, respectively. However, it is concerned about the absence of specific data on child labour on the mainland, while reports indicate that it is widespread. It is also concerned about the lack of legislation and specific administrative regulations defining and protecting children from exploitation in hazardous work. The Committee is further concerned about the widespread practice of re-education through labour.

365. **The Committee recommends that the State party further strengthen its implementation of ILO Conventions Nos. 138 and 182, in particular by:**

(a) **Gathering specific disaggregated data on child labour and using them to develop, in cooperation with working children, effective measures to prevent and eliminate all forms of child labour;**

(b) **Developing detailed regulations on the forms of hazardous and dangerous work in which all persons under 18 should not be engaged, in consultation with the affected children;**

(c) **Ensuring that re-education through labour does not result in children working in violation of the principles and provisions of ILO Conventions Nos. 138 and 182.**

Street children

366. While noting with appreciation the efforts of the State party in mainland China, the Committee is concerned at the significant numbers of children living and working in the streets.

367. **The Committee recommends that in mainland China, the State party strengthen its efforts related to street children, in particular by:**

(a) **Undertaking further research into the situation of children living and working in the streets, and using such research to develop appropriate programmes and policies to reduce the number of street children and provide them with appropriate assistance;**

(b) **Prioritizing family - and community-based interventions aimed at reintegrating these children successfully into their families;**

(c) **Increasing the resources provided to local authorities providing services to street children and their families.**

Sexual exploitation and trafficking

368. With respect to mainland China and the Macau SAR, the Committee notes with appreciation the submission of the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography, and refers the State party to the relevant recommendations contained in its concluding observations thereon (CRC/C/OPSA/CO/2). The Committee regrets that the application of the Optional Protocol has not yet been extended to the Hong Kong SAR. While welcoming the amendments to the Crimes Ordinance aimed at strengthening the protection of children from pornography, it is concerned at the absence of any data on or reported cases of child prostitution in the Hong Kong SAR.

369. **In order to prevent and combat trafficking in children for sexual and other exploitative purposes, the Committee recommends that the State party in the Hong Kong SAR:**

(a) **Further develop and enhance systems of early prevention of sexual exploitation and trafficking;**

(b) **Further strengthen its efforts to identify and investigate trafficking cases, to improve understanding of the issues of trafficking and ensure that perpetrators are prosecuted;**

(c) **Develop and adopt a comprehensive policy to prevent and combat sexual exploitation and trafficking in children, including the root causes and factors that place children at risk of such exploitation;**

(d) **Provide adequate programmes of assistance and reintegration for sexually exploited and/or trafficked children 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;**

(e) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000).

Administration of juvenile justice

370. The Committee welcomes the State party's abolition of the death penalty in mainland China for persons who have committed an offence when under the age of 18. However, it is concerned that life imprisonment continues to be possible for those under 18, even if that sentence is not often applied. While noting efforts to reform laws relating to juvenile justice, such as the Law on the Protection of Minors, the Committee remains concerned that existing legislation, regulations and administrative procedures do not adequately set out the detailed obligations of the authorities and the judiciary for the protection of children in conflict with the law at all stages.

371. While noting that the State party has raised the minimum age of criminal responsibility in the Hong Kong SAR, the Committee remains concerned that the age of 10 years is too low. The Committee is further concerned that children between the ages of 16 and 18 are not consistently accorded special protection when coming into conflict with the law.

372. The Committee shares the concerns of the delegates from the Macau SAR about the lack of restorative justice for children in conflict with the law and welcomes the information they provided about plans to reform the juvenile justice system.

373. In light of the recommendations adopted by the Committee on its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238), the Committee recommends that in all areas under its jurisdiction, the State party ensure that juvenile justice standards are fully implemented, in particular articles 37, 40 and 39 of the Convention 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. It further recommends that in all jurisdictions the State party provide training on relevant international standards to those responsible for administering juvenile justice.

374. **Within mainland China, the Committee further recommends that the State party:**

(a) Abolish life sentences for persons who have committed offences when under the age of 18;

(b) Amend legislation so as to ensure that all children deprived of their liberty, including in work study schools, have the right to prompt access to legal and other appropriate assistance and the right to challenge the legality of their deprivation of liberty before a court or other competent, independent and impartial authority in a timely manner;

(c) **Ensure that deprivation of liberty is always used as a last resort, and strengthen and expand possibilities for alternative sentences such as mediation, probation, community service or suspended sentences;**

(d) **Ensure that both sentenced and released persons under 18 are provided with educational opportunities, including vocational and life-skills training, and recovery and social reintegration services, in order to support their full development;**

(e) **Seek technical cooperation and assistance from, inter alia, OHCHR, the United Nations Office on Drugs and Crime Prevention (UNODC) and UNICEF.**

375. Within the Hong Kong SAR, the Committee further recommends that the State party:

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

(b) **Abolish life sentences for persons who committed offences when they were under the age of 18;**

(c) **Ensure that all children under the age of 18 are consistently accorded special protection when coming into conflict with the law, and that their cases are heard in specialized juvenile courts by appropriately trained magistrates;**

(d) **Ensure that deprivation of liberty is always used as a last resort, and strengthen and expand possibilities for alternative sentences, such as mediation, probation, community service or suspended sentences.**

376. In the Macau SAR, the Committee recommends that the State party expedite its plans for reform of the juvenile justice system and ensure that such reforms include:

(a) **Measures to ensure that detention is used only as a last resort and expanded the possibilities for alternative sentences such as probation, community service or suspended sentences;**

(b) **Possibilities for restorative justice, such as family group conferencing;**

(c) **An expansion of services to assist juvenile offenders with social reintegration in an environment which fosters the health, self-respect and dignity of the child.**

8. Optional Protocols to the Convention on the Rights of the Child

377. The Committee recommends that the State party extend the application of the Optional Protocol on the sale of children, child prostitution and child pornography to the Hong Kong SAR. It further recommends that the State party ratify the Optional Protocol on the involvement of children in armed conflict, which it signed on 15 March 2001, and extend its application to the Hong Kong and Macau SARs.

9. Follow-up and dissemination

Follow-up

378. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, *inter alia* by transmitting them to the members of the National People's Congress and the State Council on the mainland, the Executive and Legislative Councils in the Hong Kong SAR and the Executive Council and Legislative Assembly in the Macau SAR, and to relevant provincial or local authorities, when applicable, for appropriate consideration and further action.

Dissemination

379. The Committee further recommends that the second periodic report and the written replies submitted by the State party and the related recommendations (concluding observations) adopted by the Committee be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.

10. Next report

380. 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 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 third and fourth periodic reports in one consolidated report by 31 March 2009, the due date for the submission of the fourth report. The report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.

Concluding observations: China (including the Macau Special Administrative Region)

381. The Committee considered the initial report of China, including the Macau Special Administrative Region (CRC/C/OPSA/CHN/1 and Part II), submitted on 11 May 2005, at its 1062nd to 1065th meetings (see CRC/C/SR.1062-1065), held on 19 and 20 September 2005, and adopted, at its 1080th meeting (CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

382. The Committee welcomes the submission of the State party's initial report covering the implementation of the Optional Protocol on the mainland and in the Macau Special Administrative Region (SAR). The Committee appreciates the frank and open dialogue held with the delegation.

B. Positive aspects

383. The Committee notes with appreciation the efforts made by the State party to submit its initial report in a timely manner so that it could be considered together with its second periodic report. Nevertheless, the Committee regrets that the application of the Optional Protocol has not been extended to the Hong Kong SAR.

C. Principal areas of concern and recommendations

1. General measures of implementation

Coordination and evaluation of the implementation of the Optional Protocol

384. The Committee welcomes the heightened efforts of the State party to combat trafficking and sexual exploitation in mainland China and the information provided by the delegation that coordination between the mainland and the SARs is increasing, in particular with respect to the reunification of victims with their families. Nevertheless, it is concerned that on the mainland the issue is addressed primarily by the Ministry of Public Security with limited coordination with other ministries and insufficient attention paid to the socioeconomic aspects of human trafficking.

385. The Committee recommends that in mainland China the State party consider establishing a central coordinating body which includes relevant line ministries, affected children and youth, and non-governmental organizations, in particular those able to address the socioeconomic aspects of trafficking and sexual exploitation. The Committee also urges the State party to further coordinate activities between the mainland and the SARs with regard to assistance to victims and prevention and prosecution of offences.

National plans of action

386. While noting with appreciation the State party's signature of the Memorandum of Understanding against Human Trafficking in the Mekong Subregion in October of 2004, the Committee is concerned at the absence of a plan of action to combat trafficking and sexual exploitation applicable either to the mainland or the Macau SAR.

387. The Committee recommends that the State party elaborate and implement a plan of action applicable respectively to the mainland and the Macau SAR based on the Stockholm and Agenda for Action, the Yokohama Global Commitment and the provisions of the Optional Protocol.

Data collection

388. The Committee regrets the limited statistical data on sexual exploitation and cross-border trafficking included in the State party's report, both with regard to mainland China and the Macau SAR. It is further concerned that the data refer almost exclusively to the number of women and children rescued rather than those abducted, and that data often refer to different time periods, which hampers accurate assessment and monitoring of the situation regarding the sale of children, child prostitution and child pornography.

389. The Committee recommends that the State party strengthen its efforts to collect disaggregated data on the victims of trafficking, sale of children, child prostitution and child pornography, including data on the number of boys and girls affected, broken down by SAR, the mainland, the provinces and regions within the mainland, and, where applicable, neighbouring countries.

2. Prohibition of the sale of children, child pornography and child prostitution

Existing criminal or penal laws and regulations

390. While noting that the trafficking and sale of children are criminalized on the mainland through the 1997 Penal Code, the Committee is concerned that the Penal Code does not include all purposes and forms of sale of children included in article 3 (1) of the Optional Protocol.

391. The Committee recommends that the State party amend the 1997 Penal Code to prohibit the trafficking and sale of children for all purposes listed in article 3 (1) of the Optional Protocol, with special attention to sale and trafficking for the purpose of adoption.

3. Penal/criminal procedure

Extradition

392. The Committee is concerned that the requirement of double criminality, either for extradition or domestic prosecution of crimes allegedly committed abroad, hampers the prosecution of the offences outlined in articles 1, 2 and 3 of the Optional Protocol.

393. The Committee recommends that the State party amend its legislation in order to abolish the requirement of double criminality for extradition and/or prosecution within the mainland of offences committed abroad.

4. Protection of the rights of child victims

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

394. The Committee is concerned at the limited information provided about services to assist child victims with regard to reintegration and recovery on the mainland. It is also concerned about the absence of assistance programmes specifically designed for child victims of trafficking and sexual exploitation in the Macau SAR.

395. **The Committee recommends that the State party expand the services provided to child victims of trafficking and sexual exploitation on the mainland and the Macau SAR to assist their recovery and reintegration, and ensure that they are specifically designed to address the needs of such victims.**

5. Prevention of the sale of children, child prostitution and child pornography

Measures adopted to prevent offences referred to in the Optional Protocol

396. While the Committee notes the measures taken in mainland China to punish offences related to the sale of children, child prostitution and child pornography, the Committee is concerned that insufficient attention is paid to prevention of such offences. The Committee also takes note of the information provided by the delegates from the Macau SAR that efforts at prevention are being increased as gaming activities expand within the territory.

397. **The Committee recommends that the State party pay increased attention to the prevention of the sale of children, child prostitution and child pornography, inter alia through measures to address the socioeconomic causes, public-awareness campaigns, and education for parents and children on preventing and reducing the risks of trafficking and sexual exploitation. The Committee also urges the State party to further enhance its efforts related to prevention in the Macau SAR and to provide additional information on these efforts in the next periodic report.**

6. International assistance and cooperation

398. The Committee notes with appreciation the increased regional cooperation between the State party and neighbouring countries, such as Viet Nam. However, it is concerned about reports of increased cross-border trafficking of girls, both from and to the State party, apparently for the purposes of sexual exploitation and prostitution.

399. **The Committee recommends that on the mainland, the State party:**

(a) **Conduct further research about the scale and nature of cross-border trafficking for the sale of children, child prostitution, child pornography and sex tourism, in collaboration with international or regional organizations and agencies and neighbouring countries; and**

(b) **Expand its international cooperation through further multilateral, regional and bilateral arrangements for the prevention, detection and investigation of acts involving the sale of children, child prostitution, child pornography and child sex tourism and the prosecution and punishment of those responsible.**

7. Follow-up and dissemination

Follow-up

400. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, *inter alia* by transmitting them to the members of the State Council and the National People's Congress on the mainland and the Executive Council and Legislative Assembly in the Macau SAR, and to provincial and local authorities, when applicable, for appropriate consideration and further action.

Dissemination

401. The Committee recommends that the initial periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available, including (but not exclusively) through the Internet to the public at large, civil society organizations, youth groups, professional groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

8. Next report

402. In accordance with article 12, paragraph 2 of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next (combined third and fourth) periodic report under the Convention on the Rights of the Child due, in accordance with article 44 of the Convention, on 31 March 2009.

Concluding observations: Finland

403. The Committee considered the third periodic report of Finland (CRC/C/129/Add.5) at its 1068th and 1069th meetings (see CRC/C/SR.1068 and 1069), held on 22 September 2005, and adopted, at its 1080th meeting (see CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

404. The Committee welcomes the submission of the State party's third periodic report, as well as the written replies to the list of issues (CRC/C/Q/FIN/3), which enabled the Committee to have a clear understanding of the situation of children in Finland. The Committee appreciated the presence of a cross-sectoral delegation which provided additional information.

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

405. The Committee notes with appreciation:

- (a) The adoption of Guidelines for Interviewing Minors in March 2002;
- (b) The establishment of the post of Ombudsman for Children as of September 2005;

(c) The adoption of the National Plan of Action “Finland Fit for Children” in 2005;

(d) The completion of the Plan of Action against Trafficking in Human Beings on 31 March 2005.

406. The Committee also welcomes the ratification of:

(a) The Optional Protocol to the Convention on the Rights of the Child on children in armed conflict on 10 May 2002;

(b) ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, on 17 January 2000;

(c) The Rome Statute of the International Criminal Court, on 29 December 2000.

C. Main subjects of concern and recommendations

1. General measures of implementation

Committee’s previous recommendations

407. The Committee notes with satisfaction that various concerns and recommendations (see CRC/C/15/Add.132) made upon the consideration of the State party’s second periodic report (CRC/C/70/Add.3) have been addressed through legislative, administrative and other measures. However, it regrets that some of its concerns and recommendations have been insufficiently or only partly addressed regarding, inter alia, coordinated policy relating to children, violence against children, including sexual abuse, and children belonging to ethnic minorities.

408. The Committee urges the State party to take all necessary measures to address those recommendations contained in the concluding observations of the second periodic report that have not yet been implemented and to address the list of concerns contained in the present concluding observations on the third periodic report.

Coordination/National Plan of Action

409. The Committee takes note of several programmes that strive to achieve fuller implementation of children’s rights and welcomes the comprehensive National Plan of Action “A Finland Fit for Children”, based on the final document “A world fit for children” adopted by the General Assembly at its special session on children in May 2002, but is concerned that these plans are not well coordinated.

410. The Committee recommends that the State party:

(a) **Ensure that the National Plan of Action is clearly oriented towards the rights of the child as enshrined in the Convention;**

(b) **Provide an adequate budget for its implementation;**

(c) Place all other action plans and programmes under the coordination of the National Plan of Action in order to overcome a fragmented approach to the implementation of child rights;

(d) Give the new Ombudsman for Children a mandate to monitor the National Plan of Action and evaluate the progress made.

Independent monitoring

411. The Committee welcomes the establishment of the post of Ombudsman for Children as of September 2005 and the fact that - in support of the Ombudsman's work - an advisory committee representing a wide range of expertise, in which NGOs will be represented, has been set up. However, the Committee also notes that the Ombudsman's mandate is focused mainly on promotional work on the Convention and advisory services, and that it does not deal with individual cases, the investigation of which will remain under the competence of the Parliamentary Ombudsman.

412. **The Committee recommends that:**

(a) The mandate of the Ombudsman for Children be expanded, in line with general comment No. 2 (2002) on the role of independent human rights institutions, to include the ability to receive and investigate complaints from children;

(b) The State party support with sufficient human and financial resources the Office of the Ombudsman for Children in order to enable it effectively to monitor the implementation of the Convention throughout the country;

(c) The annual report of the Ombudsman for Children be presented to, and discussed by, Parliament, together with information about measures the Government intends to take to implement its recommendations.

Resources for children

413. The Committee shares the State party's concerns that, owing to the fact that local authorities have extensive powers of self-governance and autonomy, changes are needed to ensure the equality of resources for children and the availability of services throughout the country.

414. The Committee recommends that the State party undertake a study to assess and analyse the resources provided for children and continue to take, where necessary, effective measures to ensure equal access to and availability of services for all children, irrespective of the municipality in which they live.

Data collection

415. The Committee notes with concern that the compilation of statistics on children lacks coordination and regularity, in particular with regard to the most vulnerable groups of children such as disabled children, asylum-seeking children, children in conflict with the law and children belonging to minority groups, among others.

416. The Committee recommends that the State party continue its efforts to develop a system for the comprehensive collection of data on children, in particular children belonging to the most vulnerable groups, in order to allow detailed analysis of their living conditions and the implementation of their rights.

Training/dissemination of the Convention

417. The Committee notes that the dissemination of information concerning the Convention remains largely the responsibility of the civil society and is concerned that the Convention is not readily available in languages used by minorities and immigrants. Furthermore, the Committee is concerned that training on the Convention for professionals working with and for children remains insufficient.

418. The Committee encourages the State party to further disseminate the Convention, including through school curricula, with special attention to its dissemination among vulnerable groups such as immigrants and indigenous, ethnic or linguistic minorities, and to continue its efforts to provide adequate and systematic training and/or sensitization on children's rights of professional groups working with and for children.

2. General principles

Non-discrimination

419. While welcoming the entry into force of the Non-Discrimination Act in February 2005, the Committee is concerned that discriminatory and xenophobic attitudes as well as de facto discrimination in daily life remain with respect to immigrants and other minority groups, especially Roma, and are increasing among young people.

420. In accordance with article 2 of the Convention, the Committee recommends that the State party continue and strengthen its efforts to prevent and eliminate all forms of discrimination against children, including Roma and foreign children, and pay special attention to the education of young people with respect to discriminatory attitudes.

421. The Committee also 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, also taking into account general comment No. 1 (1999) on article 29, paragraph 1, of the Convention (aims of education).

Best interests of the child

422. While the Committee notes that the principle of the best interests of the child is often taken into account in legislation, including, for instance, through an explicit recognition of the special situation of children in section 6 of the new Aliens Act, it is concerned that this principle is not adequately respected and implemented in practice in all domains of policy affecting children.

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

Respect for the views of the child

424. The Committee notes the information on the rules for hearing children in legal procedures, for example in custody or child protection measures, but it is concerned at the fact that only children aged 15 and older have the right to be heard directly by the judge/court. Below that age, it is left to the discretion of the judge whether to hear the child directly. When this is not done and the views of children are submitted to the court via a third party, sometimes this is done without the child being heard by that third party.

425. **The Committee recommends that the State party take legislative and other measures to ensure that article 12 of the Convention is fully implemented, in particular that the child has the right to express his/her views directly to the judge when decisions in judicial and/or administrative proceedings affecting the child have to be taken.**

3. Civil rights and freedoms

Access to appropriate information

426. While the Committee welcomes the State party's efforts in this respect, including the Act on the Exercise of Freedom of Expression in Mass Media (460/2003), it expresses concern about the exposure of children to violence, racism and pornography, especially through the Internet.

427. **The Committee recommends that the State party strengthen its measures to effectively protect children from being exposed to violence, racism and pornography through mobile technology, video movies and games and other technologies, including the Internet. The Committee further suggests that the State party develop programmes and strategies to use mobile technology, media advertisements and the Internet as means of raising awareness among both children and parents about information and material injurious to the well-being of children. The State party is encouraged to develop agreements and projects with journalists and the media with a view to protecting children from being exposed to harmful information in the media and improving the quality of information addressed to them.**

4. Family environment and alternative care

Parental responsibilities

428. The Committee notes the very long duration of custodial disputes in Finland, which may have a negative impact on children.

429. **The Committee recommends that disputes over the custody of children be resolved within an appropriate time and that support services by trained professionals be included in the activities in support of divorced families.**

Alternative care

430. The Committee notes that children are often placed in alternative care without their views being adequately taken into account, and it is concerned that the authorities do not always adequately support the maintenance of fundamental parent-child links. Furthermore, while noting the new Development Programme on Child Welfare, the Committee reiterates its previous concern at the increasing number of children placed in alternative care.

431. The Committee recommends that the State party address the root causes of the increase in the number of children placed in alternative care, including through adequate support to parents. The State party should also ensure that children, if they are raised in institutions, live in small groups and are individually cared for.

432. The Committee also recommends that the State party sufficiently take into account children's views in any decision regarding their placement in alternative care. Furthermore, it recommends that the parent-child relationship not be negatively affected by placement in alternative care.

Violence, abuse and neglect

433. While the Committee commends the 1997-2002 campaign to prevent violence, as well as its second phase foreseen for the years 2004-2007, it shares the concern of the Parliamentary Ombudsman of Finland that violence against children and sexual abuse within families is one of the most serious obstacles to the full implementation of child rights in Finland.

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

(a) Strengthen awareness-raising and education campaigns with the involvement of children in order to prevent and combat all forms of child abuse;

(b) Increase its support to and collaboration with the toll-free national helpline "Child and Youth Phone";

(c) Strengthen measures to encourage reporting of instances of child abuse, including by giving opportunities to this end to children in alternative care, and to prosecute the perpetrators of these acts;

(d) Continue to provide care, full physical and psychological recovery and reintegration for child victims of violence.

435. In the context of the Secretary-General's ongoing in-depth study on the question of violence against children and the related questionnaire sent to the Government, the Committee acknowledges with appreciation the State party's written replies to this questionnaire and its participation in the Regional Consultation for Europe and Central Asia held in Slovenia from 5 to 7 July 2005. The Committee recommends that the State party use the outcome of the regional consultation as a tool for taking action, in

partnership with the civil society, to ensure that every child is protected from all forms of physical, sexual or mental violence, and for generating momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.

5. Basic health and welfare

Health and access to health-care services

436. The Committee expresses concern at the increase in alcohol consumption among children and at the increasing number of overweight and obese children.

437. The Committee, in light of its general comment No. 4 (2003) on adolescent health, recommends that the State party strengthen measures to address the issue of child and adolescent health, especially alcohol consumption among children, and work further on its health programmes, which should target, inter alia, promotion of a healthy lifestyle among adolescents.

438. While acknowledging the State party's efforts in this regard, the Committee is still concerned at the high suicide rate among adolescents.

439. The Committee recommends that the State party intensify its measures to prevent suicide among adolescents and strengthen its mental health-care services.

440. The Committee is also concerned at the information that Attention Deficit Hyperactivity Disorder (ADHD) and Attention Deficit Disorder (ADD) are being misdiagnosed and that psycho-stimulant drugs are therefore being overprescribed, despite the growing evidence of the harmful effects of these drugs.

441. The Committee recommends that further research be undertaken on the diagnosis and treatment of ADHD and ADD, including the possible negative effects of psycho-stimulants on the physical and psychological well-being of children, and that other forms of management and treatment be used as much as possible to address these behavioural disorders.

Standard of living

442. While welcoming the National Action Plan against Poverty and Social Exclusion 2003-2005, the Committee is concerned at the growing number of families with children living in poverty and that financial assistance and support has not always kept pace with economic growth.

443. The Committee recommends that the State party effectively implement its National Action Plan against Poverty and Social Exclusion and strengthen its support for families living in economic hardship in order to ensure that poverty is reduced and children are protected against the negative impact of economic hardship on their development by providing financial and non-financial assistance.

6. Education, leisure and cultural activities

444. While noting the State party's efforts in this regard, the Committee expresses concern at the high drop-out rate from school among Roma children and at their difficulties in accessing education, which negatively impact their development and future access to employment. In addition, the Committee also notes with concern the lack of teachers and pre-school teaching material in the Roma language.

445. The Committee recommends that the State party take all necessary measures to ensure that articles 28 and 29 of the Convention are fully implemented for all children throughout the country, including children belonging to the most vulnerable groups such as Roma children.

446. The Committee welcomes the integration of human rights education into the National Curriculum for primary and secondary schools, but is concerned that not all children may receive human rights education, including on the rights of the child, because the inclusion of this subject still depends ultimately on the teacher's decision.

447. The Committee recommends that the State party examine the extent to which human rights education is available in schools and ensure that all children are not only taught human rights, but are also involved in projects where human rights standards and values are implemented in practice, whether at home, in school, or within the community.

448. The Committee welcomes the measures taken by the State party to tackle violence and bullying in schools, including the requirement that every school has to develop an action plan against bullying and violence, but is concerned that these behaviours are still quite common, especially towards children with disabilities and children with disabled parents.

449. The Committee recommends that the State party continue to take appropriate measures to combat the phenomenon of bullying and violence in schools with the full involvement of children, including by carrying out periodic surveys among students, staff and parents about the quality of peer relations being fostered by the school. There should be special focus on bullying and violence towards children with disabilities and children with disabled parents.

7. Special protection measures

Children asylum-seekers

450. The Committee notes that an amendment to the Act on the Integration of Immigrants and Reception of Asylum-Seekers incorporating Council Directive 2003/9/EC was adopted in June 2005 to improve the legal status of asylum-seeking children and to ensure that more attention is paid to their needs. However, the Committee is concerned that the so-called "accelerated procedure", which applies to certain categories of asylum applications under the existing Aliens Act may have a negative impact on children.

451. While the Committee welcomes the considerable reduction in the time required for processing the applications of unaccompanied children, it is still concerned that the time needed for family reunification remains too long.

452. **The Committee recommends that the State party ensure that the so-called “accelerated procedure” respects the due process and legal safeguards for asylum-seekers.**

453. **The Committee also recommends that the State party deal with applications for the purpose of family reunification in a positive, humane and expeditious manner, in conformity with article 10 of the Convention.**

Sexual exploitation and trafficking

454. While welcoming the recent amendments to the Penal Code introducing the crime of trafficking into Finnish legislation, as well as the National Plan of Action Combating the Commercial Sexual Exploitation of Children of 2000 and the National Plan of Action against Trafficking in Human Beings of 2005, the Committee is concerned at the information that persons, including children, continue to be trafficked to and through the country.

455. **In light of article 34 and other related articles of the Convention, the Committee recommends that the State party further strengthen its efforts to identify, prevent and combat trafficking in children for sexual and other exploitative purposes. Furthermore the Committee recommends that the State party:**

(a) **Consider becoming a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention on Transnational Organized Crime;**

(b) **Consider becoming a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

Administration of juvenile justice

456. The Committee is concerned that:

(a) Children may be sentenced to “unconditional imprisonment” in particularly serious circumstances;

(b) The State party has maintained its reservation to article 10, paragraphs 2 (b) and 3, of the International Covenant on Civil and Political Rights, which can hamper the full implementation of article 37 (c) of the Convention.

457. **The Committee recommends that the State party bring the system of juvenile justice fully into line with the Convention, in particular articles 37, 40 and 39, and with 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 the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238). In this regard, the Committee recommends in particular that the State party:**

(a) Continue to take all necessary measures to ensure that persons below 18 are only deprived of liberty as a last resort and for the shortest period of time, and when in custody are separated from adults;

(b) Consider withdrawing its reservation to article 10, paragraphs 2 (b) and 3, of the International Covenant on Civil and Political Rights in order to ensure full implementation of the Convention.

Children belonging to minority groups

458. The Committee expresses concern at the continuing disparities between Finnish and Roma children, which seriously affect the full enjoyment by Roma children of their rights, in particular to housing and education.

459. The Committee recommends that the State party continue to take measures towards social inclusion and combat marginalization and stigmatization of Roma children. Furthermore, additional measures are needed to ensure the full enjoyment of the rights enshrined in the Convention by Roma children, in particular concerning access to education and an adequate standard of living.

8. Optional Protocol to the Convention on the Rights of the Child

460. The Committee welcomes the assurances given by the State party during the dialogue about the forthcoming ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

461. The Committee recommends that the State party become a party to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography at the earliest possible time.

9. Follow-up and dissemination

Follow-up

462. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia by transmitting them to the members of Government, the Parliament, and to municipal governments and parliaments, when applicable, for appropriate consideration and further action.

Dissemination

463. The Committee further recommends that the third periodic report and written replies submitted by the State party and the related recommendations (concluding observations) adopted by the Committee be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

10. Next report

464. **The Committee appreciates the State party's regular and timely reporting and invites the State party to submit its fourth periodic report, which should not exceed 120 pages (see CRC/C/118), by 19 July 2008.**

Concluding observations: Finland

465. The Committee considered the initial report of Finland (CRC/C/OPAC/FIN/1) at its 1069th meeting (see CRC/C/SR.1069), held on 22 September 2005, and adopted at its 1080th meeting (see CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

466. The Committee welcomes the submission of the State party's report, which gives detailed information on the implementation of the Optional Protocol.

B. Positive aspects

467. The Committee welcomes the fact that recruitment of persons below the age of 18 into the Armed Forces, including on a voluntary basis, is prohibited under Act 364/2000 amending the Conscription Act. It is further noted with appreciation that the same Act makes the use of persons under 18 in hostilities a possible war crime punishable under the Penal Code.

C. Principal areas of concern and recommendations

Assistance for physical and psychological recovery

468. The Committee notes that the State party is a country of destination of asylum-seeking and migrant children coming from war-torn countries who may have been victims of traumatic experiences.

469. **The Committee invites the State party to provide information in its next periodic report on refugee and migrant children within its jurisdiction who may have been involved in hostilities in their country of origin and on the assistance provided, if any, for their physical and psychological recovery and social reintegration. Furthermore, the State party is also invited to provide additional information on technical cooperation and financial assistance projects aimed at preventing the involvement of children in armed conflicts as well as assisting the recovery of child victims of armed conflict.**

Training/dissemination of the Optional Protocol

470. **The Committee recommends that the State party continue to develop ongoing and systematic education and training in all relevant languages on the provisions of the Optional Protocol for all relevant professional groups, in particular military personnel, and make them widely known to the public at large and, in particular, to children and parents in all relevant languages, through, inter alia, school curricula.**

Dissemination of documentation

471. **In light of article 2, paragraph 2, of the Optional Protocol, the Committee recommends that the initial report submitted by the State party and the concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate on and awareness of the Optional Protocol, its implementation and monitoring.**

Next report

472. **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 (fourth) periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 19 July 2008.**

Concluding observations: Denmark

473. The Committee considered the third periodic report of Denmark (CRC/C/129/Add.3) at its 1072nd to 1073rd meetings (see CRC/C/SR.1072 and 1073), held on 26 September 2005, and adopted, at its 1080th meeting (CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

474. The Committee welcomes the timely submission of the State party's third periodic report, which complied with the guidelines for the preparation of periodic reports, and the written replies to its list of issues (CRC/C/Q/DNK/3), which allowed for a better understanding of the situation of children in Denmark. The Committee expresses its appreciation to the State party for including information concerning the situation of children in Greenland. However, it regrets that the report did not include sufficient information on the Faroe Islands.

475. The Committee notes with appreciation the frank and constructive dialogue with the delegation of the State party, which included experts from the relevant ministries. It also expresses appreciation for the inclusion of a representative from Greenland in the delegation.

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

476. The Committee welcomes a number of positive developments in the reporting period, including:

- (a) The overall progress in implementing the Convention on the Rights of the Child;
- (b) The continued commitment to official development assistance, including in the promotion and protection of the rights of the child;
- (c) The revision to the Aliens Act and Integration Act which provides for legal representation for unaccompanied asylum-seeking children;

(d) The amendment to the Administration of Justice Act on the conduct of criminal proceedings regarding the sexual abuse of children;

(e) The establishment of a Youth Forum which advises the Government on youth-related issues.

477. The Committee also welcomes the ratification of:

(a) The Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, in September 2002 and August 2003, respectively;

(b) The Rome Statute of the International Criminal Court in June 2001; and

(c) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in September 2003.

C. Principal subjects of concern, suggestions and recommendations

1. General measures of implementation

Committee's previous recommendations

478. The Committee notes with appreciation that various concerns and recommendations (see CRC/C/15/Add.151) expressed after its consideration of the State party's second periodic report (CRC/C/70/Add.6) have been addressed through legislative, administrative and other measures. However, the Committee notes that some of the concerns and recommendations have not been sufficiently addressed, inter alia those related to the incorporation of the Convention into domestic law, the dissemination of the Convention, adolescent health and the juvenile justice system.

479. The Committee urges the State party to make every effort to address the previous recommendations that have been only partly implemented and the list of recommendations contained in the present concluding observations.

Reservations

480. The Committee welcomes the information provided by the delegation that the State party will undertake legal reforms, which may make it possible to restrict the scope of the reservation to article 40.

481. The Committee, in light of the Vienna Declaration and Programme of Action, recommends that the State party continue its efforts towards full withdrawal of the reservation to article 40.

Legislation and implementation

482. The Committee takes note of the State party's explanation in the report and in the written replies to the list of issues of why the Convention has not been formally incorporated into the domestic laws, and the statement of the delegation that the State party is striving for full implementation of the Convention. It further notes that the State party has incorporated other regional instruments into domestic law, including the European Convention on Human Rights.

483. The Committee recommends that the State party continue and strengthen its efforts to ensure that its domestic laws and regulations comply fully with the Convention. It further recommends that the Convention should prevail whenever domestic law provisions are in conflict with the rights enshrined in the Convention.

Coordination

484. The Committee welcomes the establishment of the Ministry of Family and Consumer Affairs charged with the task of coordinating the implementation of the Convention, and notes the role of the ad hoc inter-ministerial committees for thematic coordination and the fact that municipalities have to develop coherent child policies in the course of 2006. However, the Committee is concerned that it is still unclear how comprehensive coordination at the national level and between the national and local levels will be established.

485. The Committee recommends that the State party strengthen the capacity of the Ministry of Family and Consumer Affairs to effectively coordinate all policies of the State party to ensure comprehensive and effective implementation of the Convention throughout the country.

National plan of action

486. The Committee, while noting the various sectoral plans of action, is concerned that a comprehensive national plan of action is still lacking.

487. The Committee recommends that the State party develop and implement a national plan of action which encompasses the various sectoral action plans, addresses the possible divergences between these plans by putting them in a comprehensive national framework which covers all areas of the Convention, and takes into account the outcome document of the 2002 General Assembly special session on children, "A world fit for children".

Data collection

488. The Committee notes with appreciation the amount of data provided, inter alia in the written replies to the list of issues, but shares the State party's concern that there are still gaps in these data. It is further concerned at the lack of statistical data on the implementation of the Convention in Greenland and in the Faroe Islands.

489. The Committee recommends that the State party continue and strengthen its efforts to collect the data necessary to obtain a full picture of the implementation of the

Convention. It further recommends that the State party take the necessary measures to provide in the next periodic report detailed data on the implementation of the Convention in Greenland and the Faroe Islands.

Resources for children

490. While welcoming the information available on the allocation of resources dedicated to the implementation of the Convention, the Committee is concerned at the very limited information on Greenland.

491. **The Committee recommends that the State party continue and strengthen the provision of specific information in terms of figures and percentage of the national budget regarding the implementation of the Convention, particularly in Greenland and the Faroe Islands, in order to allow for a proper assessment of the degree to which the State party is meeting its obligation under article 4 of the Convention.**

Independent monitoring mechanism

492. The Committee notes the information that the National Council for Children has a monitoring role and that a discussion is currently taking place in the State party about its role and functions. However, the Committee is concerned at the fact that financial resources for this Council have been reduced.

493. **In light of general comment No. 2 (2002) on national human rights institutions, the Committee recommends that the State party nominate an independent body, such as the Office of the Ombudsman or the National Council for Children, or establish a separate organ to monitor the implementation of the Convention. Such a body should be empowered to deal with individual complaints and should be provided with the necessary human and financial resources.**

Training/dissemination of the Convention

494. While taking note of the efforts made by the State party and that the dissemination of the Convention is a continuous process and has high priority in the work of the National Council for Children, the Committee remains concerned at the lack of systematic and consistent education on the Convention in schools.

495. **The Committee encourages the State party:**

(a) **To incorporate the Convention and other relevant human rights treaties in the curricula and strengthen the education thereon in both primary and secondary schools;**

(b) **To develop systematic and ongoing training programmes on human rights, including children's rights, for all persons working for and with children, e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, teachers, social workers and health personnel, and especially for children themselves.**

2. General principles

Non-discrimination

496. The Committee welcomes the adoption of the Act on Ethnic Equality in May 2003, which includes a prohibition against direct and indirect discrimination based on race or ethnic origin and a prohibition on harassment and instructions to discriminate. However, the Committee reiterates its previous concern (see CRC/C/15/Add.151) regarding de facto discrimination against and xenophobia and racist attitudes towards children of ethnic minorities, refugee and asylum-seeking children and children belonging to migrant families. In this regard, the Committee joins its voice to the concerns raised by the Committee on Economic, Social and Cultural Rights (see E/C.12/1/Add.102) and the Committee on the Elimination of Racial Discrimination.

497. **In light of article 2 of the Convention, the Committee recommends that the State party intensify its efforts to prevent and eliminate all forms of de facto discrimination against all children.**

498. **The Committee welcomes the information that a plan of action to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance is being prepared. The Committee requests that information on the content and implementation of the plan be included in the next periodic report.**

Respect for the views of the child

499. The Committee welcomes the increased consideration given to the views of children in administrative decision-making process, including children under the age of 12 years.

500. **In light of article 12 of the Convention, the Committee recommends that the State party:**

(a) **Ensure that all adults who work with children are trained to ensure that children capable of expressing their views are provided with adequate opportunities to do so and that their views are effectively taken into account;**

(b) **Ensure that all municipalities meet the requirements for active participation by children and young people and regularly review the extent to which children's views are taken into consideration, including their impact on relevant policies and programmes.**

3. Civil rights and freedoms

Access to appropriate information

501. While welcoming the initiatives undertaken by the Media Council to study children's use of the Internet and develop a set of "rules of the road" for such use, the Committee is nevertheless concerned about the amount of unsuitable and illegal material that can be found on the Internet.

502. **The Committee encourages the State party to ensure that children are protected from information and material harmful to their well-being, in conformity to article 17 (e) of the Convention.**

4. Family environment and alternative care

Family reunification

503. The Committee remains concerned at the legislative reform that reduces the age limit of a child eligible for family reunification from 18 to 15 years.

504. **The Committee recommends that the State party take all measures to ensure that family reunification procedures fully comply with article 1 of the Convention.**

Alternative care

505. The Committee notes with concern the increasing number of children placed in out-of-home care. It is particularly concerned that:

- (a) A thorough assessment of the need for out-of-home placement does not always take place;
- (b) A significant number of young children (0-7 years) have experienced three or more placements;
- (c) Children of ethnic minorities are over-represented in alternative care facilities;
- (d) Contact between the child and her/his parents is very limited.

506. **The Committee recommends that the State party strengthen its efforts to support children and their parents in order to avoid as much as possible placement in out-of-home care. In particular, the Committee recommends that the State party:**

- (a) **Ensure that any placement of children follows a full assessment of the need of such placement;**
- (b) **Ensure that in all cases the objectives and the means to achieve them are part of a plan of action drawn up before the child is placed and that the plan is developed with the active participation of the child;**
- (c) **Take all necessary measures to ensure continuity for the child in out-of-home care;**
- (d) **Take all necessary measures to recruit foster families and institution staff of non-Danish ethnic origin; and**
- (e) **Actively promote and support regular contact between the child and his or her parents whenever such contact is not contrary to the best interest of the child.**

Abuse and neglect, maltreatment, violence

507. The Committee welcomes the various initiatives, including the adoption in 2004 of a plan of action by the Ministry of Social Affairs to combat child abuse. However, it remains concerned at the high level of child abuse and neglect and other forms of domestic violence.

508. **The Committee recommends that the State party continue and strengthen its efforts to provide adequate assistance to children who are victims of child abuse, including through:**

- (a) **Early detection and treatment of cases involving child abuse;**
- (b) **Public awareness-raising and education campaigns with the involvement of children to prevent and combat all forms of child abuse;**
- (c) **Specific parenting programmes for families at risk of abusing children;**
- (d) **Ensuring that all victims of violence have access to counselling and assistance with recovery and reintegration;**
- (e) **Providing adequate protection to child victims of abuse in their homes; and**
- (f) **Increasing its support to and collaboration with the national helpline “Borne Telephone”.**

509. **In the context of the Secretary-General’s in-depth study on the question of violence against children and the related questionnaire to Governments, the Committee acknowledges with appreciation the written replies of the State party to this questionnaire and its participation in the Regional Consultation for Europe and Central Asia held in Slovenia from 5 to 7 July 2005. The Committee recommends that the State party use the outcome of this regional consultation as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual or mental violence, and for generating momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.**

5. Basic health and welfare

Children with disabilities

510. The Committee is concerned at the fact that some municipalities may not have policies for children with disabilities in childcare and that the best interest of the child is not always respected.

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

- (a) **Ensure that the needs of children with disabilities are fully taken into account in the policies of all municipalities;**

(b) Ensure that equal access to services is provided to children with disabilities, taking into consideration the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96); and

(c) Provide equal educational opportunities for children with disabilities, including by providing the necessary support and ensuring that teachers are trained to educate children with disabilities within the regular schools.

Health and health services

512. The Committee welcomes the adoption of the health programme “Healthy throughout life”, which includes, among others, health promotion programmes at schools and day-care centres and initiatives to prevent asthma, allergies and problems relating to general well-being. However, the Committee is concerned about the growing problem of overweight among Danish children resulting from little physical activity combined with a poor diet. The Committee is also concerned at the high infant mortality and high incidence of malnutrition in Greenland.

513. The Committee recommends that the State party continue and strengthen its efforts to manage overweight and obesity among children and pay close attention to child and adolescent health, taking into account the Committee’s general comment No. 4 (2003) on adolescent health and development in the context of the Convention. In particular, the State party is urged to strengthen its efforts to prevent and combat obesity and to reduce and prevent malnutrition in Greenland. The Committee recommends that the State party continue to refine its policies on prenatal care in remote and rural areas to address the issue of high infant mortality.

Mental health services

514. While acknowledging the measures taken to strengthen the mental health-care services, the Committee is concerned at the remaining challenges, such as the fact that a considerable number of children and young people are placed in adult psychiatric centres. The Committee is deeply concerned at the high rate of suicide in Greenland, particularly among adolescents.

515. The Committee encourages the State party to continue and strengthen the development of mental health care so as to ensure that adequate treatment/care is provided to all children and young people in order to avoid their placement in adult psychiatric centres. It further recommends that the State party strengthen its measure to prevent suicide among adolescents, particularly in Greenland.

516. The Committee is concerned at the information that attention deficit hyperactivity disorder (ADHD) and attention deficient disorder (ADD) are being misdiagnosed, and therefore psychostimulant drugs overprescribed, despite the growing evidence of the harmful effects of these drugs.

517. The Committee recommends that further research be undertaken on the diagnosis and treatment of ADHD and ADD, including the possible negative effects on the psychological well-being of children, and that other forms of management and treatment be used as much as possible to address these behavioural disorders.

Adequate standard of living

518. The Committee notes that the State party has developed an action plan for the prevention of poverty and social exclusion and that this plan includes a section on children and youth. However, the Committee is concerned that the needs of children from socially disadvantaged families and children of ethnic minorities may not be fully reflected in the plan.

519. The Committee recommends that the State party ensure that the needs of all children are met, and that it take all necessary measures to ensure that children, in particular those from socially disadvantaged families and of non-Danish ethnic origin, do not live in poverty.

6. Education, leisure and cultural activities

520. The Committee welcomes various measures undertaken by the State party, including the Working Group on Improved Integration and the campaign “All young people are needed”, which aim to ensure that all young people, irrespective of their ethnic background, enjoy equal opportunities in the Danish education system.

521. The Committee recommends that the State party:

(a) Take the necessary measures to ensure that all children have access to primary and secondary education; and

(b) Strengthen efforts to bridge the racial disparity in education, giving special attention to promoting the education of ethnic minorities.

522. While welcoming the numerous measures taken to combat bullying at school, including the Educational Environment Act, the Committee remains concerned at the persistence of this phenomenon in schools and the insufficient involvement/inclusion of children and young people.

523. The Committee recommends that the State party strengthen the measures taken to combat bullying and ensure that children participate in the initiatives aimed at reducing bullying.

7. Special protection measures

Refugee and asylum-seeking children

524. While noting the revision of the Aliens Consolidation Act and the Integration Act to improve the legal status of asylum-seeking children and ensure that more attention is paid to their needs, the Committee remains concerned about the conditions in reception centres. It is particularly concerned at the limited capacity to provide adequate psychological support as well as recreational opportunities. The Committee is also concerned that a number of unaccompanied asylum-seeking children disappear from reception centres.

525. **The Committee recommends that the State party take all necessary measures to improve the conditions in reception centres and ensure that qualified guardians are assigned to all unaccompanied asylum-seeking children. It further recommends that the State party conduct a study on unaccompanied children who disappear from reception centres, and the outcome of the study should guide the State party in respecting the rights of these children. The Committee draws the attention of the State party to its general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin.**

Drug and alcohol abuse

526. The Committee notes with concern the large number of children who consume drugs and alcohol in the State party.

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

(a) Provide children and parents with accurate and objective information about the harmful consequences of drug and alcohol abuse;

(b) Ensure that children who use drugs and abuse alcohol are treated as victims and not as criminals; and

(c) Develop recovery and reintegration services for child victims of drug and alcohol abuse.

Sexual exploitation

528. The Committee welcomes the information provided in the written replies to the list of issues that the Office of the National Commissioner of Police has established a special IT Investigation Unit which provides for the investigation of criminal offences committed through the Internet, particularly cases concerning child pornography. However, the Committee is deeply concerned about the production of images representing sexual abuse and the increase in pornography involving children. It is further concerned at the images of “child erotica” on the Internet and that children are encouraged and manipulated to provide sexual services.

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

(a) Strengthen its efforts to prevent commercial sexual exploitation of children, including through the development of a national plan of action on commercial sexual exploitation of children, as agreed at the World Congresses against Commercial Sexual Exploitation of Children held in 1996 and 2001;

(b) Adopt adequate measures to combat child pornography, including by criminalizing the distribution of erotic images involving children;

(c) Strengthen measures aimed at the recovery and reintegration of victims; and

(d) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute cases of sexual exploitation in a child-sensitive manner.

Administration of juvenile justice

530. The Committee welcomes the recent (2004) changes in the Administration of Juvenile Act, inserting into the Act clear, exhaustive rules for measures that may be taken against children under 15 in conflict with the law. However, the Committee is concerned at the practice of solitary confinement and imprisonment in youth institutions of persons below 18 with serious behavioural problems.

531. **The Committee recommends that the State party ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as 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. In particular, the Committee recommends that the State party:**

(a) Review as a matter of priority the current practice of solitary confinement, limit the use of this measure to very exceptional cases, reduce the period for which it is allowed and seek its eventual abolition;

(b) Take measures to abolish the practice of imprisoning or confining in institutions persons under 18 who display difficult behaviour; and

(c) Fully implement the rules for children under 15 in conflict with the law and ensure that they are not deprived of their liberty without due process, in accordance to article 40 of the Convention.

8. Follow-up and dissemination

Follow-up

532. **The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, inter alia by transmitting them to the members of the Council of Ministers or the Cabinet or a similar body, the national Parliament, and to provincial or local governments and parliaments, when applicable, for appropriate consideration and further action.**

Dissemination

533. **The Committee further recommends that the second periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.**

9. Next report

534. **The Committee appreciates the State party's regular and timely reporting, and invites the State party to submit its fourth periodic report, which should not exceed 120 pages (see CRC/C/118), by 17 August 2008. The Committee expects the next periodic report to include information from Greenland and the Faroe Islands.**

Concluding observations: Denmark

535. The Committee considered the initial report of Denmark (CRC/C/OPAC/DNK/1) at its 1073rd meeting (see CRC/C/SR.1073), held on 26 September 2005, and adopted, at the 1080th meeting (CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

536. The Committee welcomes the submission of the State party's report, which was submitted on time. Nevertheless, the Committee is concerned that the State party has not followed the reporting guidelines nor annexed relevant legislation.

B. Positive aspects

537. The Committee notes with satisfaction that the minimum age of compulsory recruitment has been raised, owing to a decision taken during the negotiations on the Optional Protocol that Denmark should work more actively towards a general minimum age of 18 years for compulsory and voluntary recruitment to the Armed Forces.

C. Principal areas of concern and recommendations

Assistance for physical and psychological recovery

538. **The Committee requests that the State party 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 the assistance provided for their physical and psychological recovery and their social reintegration.**

Training/dissemination of the Optional Protocol

539. **The Committee recommends that the State party continue to develop ongoing and systematic education and training on the provisions of the Optional Protocol 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.**

Technical cooperation and financial assistance

540. **The Committee requests the State party to provide information in its next report on cooperation in the implementation of the Optional Protocol, including through technical cooperation and financial assistance, as provided for in article 7 of the Optional Protocol.**

Dissemination of documentation

541. **In light of article 2, paragraph 2, of the Optional Protocol, the Committee recommends that the initial report and additional information submitted by the State party and these concluding observations be made widely available to the public at large 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

542. **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 fourth periodic report under the Convention on the Rights of the Child, due on 17 August 2008.**

Concluding observations: Russian Federation

543. The Committee considered the third periodic report of the Russian Federation (CRC/C/125/Add.5) at its 1076th and 1077th meetings (see CRC/C/SR.1076 and 1077), held on 28 September 2005, and adopted, at its 1080th meeting (CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

544. The Committee welcomes the submission of the State party's third periodic report, which follows the guidelines for reporting and includes information on follow-up given to the Committee's previous recommendations (CRC/C/15/Add.110). The Committee also welcomes the State party's written replies to its list of issues (CRC/C/Q/RUS/3), which allowed for a better understanding of the situation of children in the Russian Federation, and notes with appreciation the informative and constructive dialogue with the delegation of the State party.

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

545. The Committee welcomes the following legislative developments:

(a) The adoption in December 2001 of a new Labour Code which, inter alia, increased the protection of minors against harmful working conditions;

(b) The amendments made to the Criminal Procedure Code in July 2002 providing for a more humane approach in the procedure for trials of child offenders that focuses on the child's rights and provides guarantees that they will be respected, and which have resulted in a reduction in the number of minors brought before the criminal justice system and the number of minors sentenced to deprivation of liberty;

(c) The adoption in December 2003 of a federal law "On the introduction of changes and amendments to the Criminal Code of the Russian Federation", which defines torture;

(d) The recent introduction of norms prohibiting the trafficking of human beings in the Criminal Code of the State party;

(e) The amendments made to the Criminal Code (by Federal Law No. 162) which increases the degree of responsibility for using children in the production of pornography. This law also increased the penalties for the exploitation of minors in prostitution-related activities and increased the age of the consent from 14 to 16 years.

546. The Committee welcomes the introduction in the school curricula of the subject “Citizenship”, which also includes education on human rights.

547. The Committee welcomes the ratification in December 2003 of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

548. The Committee also welcomes the numerous specific measures and targeted programmes for the implementation of the Convention on the Rights of the Child.

C. Principal subjects of concern, suggestions and recommendations

1. General measures of implementation

Committee’s previous recommendations

549. The Committee regrets that some of the concerns it expressed and the recommendations it made (see CRC/C/15/Add.110) after its consideration of the State party’s second periodic report (CRC/C/65/Add.5) have not been sufficiently addressed, inter alia those concerning dissemination of information on the Convention, non-discrimination, protection from torture and corporal punishment, ill-treatment, neglect and abuse, review of placement of children, children with disabilities, children and armed conflict and their recovery, street children, sexual exploitation and abuse, and administration of juvenile justice.

550. The Committee urges the State party to make every effort to address the previous recommendations that have been only partly implemented or not implemented at all, and the list of recommendations contained in the present concluding observations.

Legislation and implementation

551. While the Committee notes that laws have been adopted and amended with a view to ensuring better implementation of the Convention in the State party, it is concerned about the negative impact Federal Law No. 122 could have on the enjoyment of the rights of children in the State party. The Committee welcomes the efforts of the State party to establish national minimum standards for the availability of and access to social services and benefits, but remains concerned at the lack of specific information on the effective implementation of these standards.

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

(a) **Undertake a comprehensive analysis of the consequences of the decentralization process and its impact on the provision of social services, evaluating roles and capacities at the different levels; and**

(b) **Ensure that the minimal standards for the enjoyment of the rights of children are fully and effectively implemented in the context of the decentralization foreseen by Federal Law No. 122 in order to prevent disparities in the enjoyment and protection of children's rights.**

Coordination

553. While the Committee notes that the Government has improved the coordination mechanisms relating to child rights through the creation of the Governmental Interdepartmental Commission on coordination of implementation of the Convention on the Rights of the Child, it notes with concern that this body was abolished in March 2004 and that recent decentralization under Federal Law No. 122 was not accompanied by the adoption of the necessary coordination instruments.

554. **The Committee recommends that the State party strengthen its efforts to improve the coherence and coordination of efforts on behalf of children and young people so as to ensure adequate cooperation among central and local authorities as well as cooperation with children, young people, parents and non-governmental organizations. It also recommends that a coordinating entity for the implementation of the Convention on the Rights of the Child be re-established for this purpose, which should be provided with the mandate and necessary human and financial resources to be able to ensure effective coordination between the federal and regional levels.**

Independent monitoring structures

555. The Committee welcomes the establishment of the Federal Commission for Human Rights as well as 18 out of 38 regional Offices of Ombudsmen for Children's Rights. However, it notes with concern that a Federal Office of the Ombudsman for Children's Rights has yet to be established.

556. **The Committee recommends that the State party continue its efforts to establish regional Offices of Ombudsmen for Children's Rights in all regions and ensure that they are provided with sufficient funds and personnel to enable them to function effectively. It also recommends that the State party give further consideration to the establishment of a Federal Office of the Ombudsman for Children's Rights. In this regard, the State party should take into account general comment No. 2 (2002) on the role of independent human rights institutions.**

National plan of action/coordination

557. The Committee notes with concern that since 2000 the State party has not had an overall national plan of action. It nevertheless welcomes the information that a national strategy, entitled "Basic directions for improving the situation of children in the Russian Federation",

calling for the inclusion of national principles for the implementation of the Convention in various sectoral plans of action, has been established. It is concerned, however, about the integrated and coordinated implementation of this strategy via the various sectoral plans of action.

558. The Committee recommends that the State party ensure that the new national strategy and the related action plans cover all areas of the Convention and take into account the outcome document of the 2002 General Assembly special session on children, “A world fit for children”. The Committee also recommends that the State party ensure comprehensive and effective coordination of the implementation of the national strategy and the related plans of action at the federal and regional levels, inter alia with a view to preventing unjustifiable disparities. The Committee further recommends that the State party ensure that sufficient human and financial resources are allocated for the timely and effective implementation of the national strategy and that it promotes and facilitates the active involvement of children and youth, parents, NGOs and other interested and relevant bodies. It also recommends that indicators and benchmarks be developed for monitoring and evaluating the strategy.

Data collection

559. While taking note of the efforts made by the State party in the area of data collection, the Committee remains concerned at the lack of an adequate data collection mechanism allowing for the systematic and comprehensive collection of disaggregated quantitative and qualitative data on 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 conducted with respect to children.

560. The Committee recommends that the State party strengthen its efforts to establish a comprehensive and permanent mechanism within the national statistical system to collect data, disaggregated by gender, 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: children with disabilities, children in conflict with the law, refugees and trafficked children. The State party should also develop indicators to monitor and evaluate effectively progress achieved in the implementation of the Convention and assess the impact of policies that affect children.

Resources for children

561. The Committee is concerned that with the introduction of Federal Law No. 122 the range of services available to children may vary considerably between regions of the State party. It is also concerned that insufficient resources will be allocated for child-related programmes and policies at the regional level. The Committee is also seriously concerned that widespread corruption, inter alia in the health and education sectors as well as in adoption procedures, is affecting children in full enjoyment of their rights.

562. The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention and ensure a balanced distribution of resources throughout the country in order to prevent unjustifiable disparities in the

availability of and access to social and other services for children. It should also prioritize 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 and, where needed, within the framework of international cooperation”. The State party should seriously address and take all necessary measures to prevent corruption.

Training/dissemination of the Convention

563. The Committee is concerned that despite measures taken by the State party in this area, awareness of the Convention among children and youth remains low and that not all professionals who work with and for children receive adequate training in children’s rights.

564. **The Committee recommends that the State party establish a comprehensive policy with a view to strengthening its efforts to ensure that the provisions and principles of the Convention are widely known and understood by adults and children alike (for example, using radio and television). It also recommends that adequate and systematic training of all professional groups working for and with children, in particular law enforcement officials, teachers, health personnel, psychologists, social workers and personnel in childcare institutions, be strengthened.**

2. General principles

Non-discrimination

565. The Committee is concerned at reports of incidents of discrimination against children belonging to different religious and ethnic minorities. It is also concerned that children belonging to minorities, and in particular Roma children, are more likely to be restricted in the full enjoyment of their rights, in particular with regard to health and education services. The Committee is also concerned at the discrimination faced by children and families without residence permits.

566. **The Committee recommends that the State party take all necessary measures to prevent and combat all forms of discrimination, inter alia via national and regional awareness campaigns and effective interventions in all incidents of discrimination, while paying special attention to the most vulnerable groups such as children belonging to religious and ethnic minorities, Roma children and children of parents without a residence permit.**

567. **The Committee also 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, also taking into account general comment No. 1 (2001) on the aims of education.**

Best interests of the child

568. While the Committee notes that the majority of laws and programmes in the State party refer to the principle of the best interests of the child, it is concerned that this principle is limited in practice owing to the lack of adequate financial resources and training courses as well as societal attitudes.

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

Right to life

570. The Committee reiterates its previous concern about the incidence of infanticide in the State party, the number which has not declined.

571. The Committee urges the State party to undertake a study on the causes of infanticide in the State party and carry out all necessary preventive measures.

Respect for the views of the child

572. The Committee welcomes the efforts made by the State party to promote respect for the views of the child, but it remains concerned that article 12 of the Convention is not adequately applied in families, schools and other institutions and not fully taken into account in practice in judicial and administrative decisions and in the development and implementation of laws, policies and programmes.

573. The Committee recommends that further efforts be made to ensure the implementation of the principle of respect for the views of the child. In this connection, particular emphasis should be placed on the right of every child, including children who are members of vulnerable and minority groups, to participate in the family, at school, in other institutions and bodies and in society at large. This right should also be incorporated in all laws, judicial and administrative decisions, policies and programmes relating to children. The State party should also ensure that adults who work with children and young people show them respect and are trained to ensure that children are effectively able to express their views and that their views are taken into account. The State party should also provide a toll-free, three-digit telephone service available 24 hours a day, to receive calls relating to the needs of children.

3. Civil rights and freedoms**Torture and other cruel, inhuman or degrading treatment or punishment**

574. The Committee is concerned that persons under 18 allegedly continue to be subjected to torture and cruel treatment, in many cases when in police custody or during the pretrial stage of legal proceedings. Access to legal counsel and/or medical services and to their families also

seems to be limited for young persons in police custody. The Committee is also concerned that the procedures for complaining about these abuses may not be child sensitive, do not allow children to file complaints without the consent of their parent/legal representative, and have not proven to be efficient.

575. The Committee recommends that the State party:

(a) Take all necessary measures to prevent acts of torture or inhuman or degrading treatment or punishment, in particular through training of the police forces;

(b) Take measures to investigate, prosecute and punish those who commit acts of torture or inhuman or degrading treatment or punishment against children and young persons;

(c) Establish programmes for the recovery and social reintegration of the victims;

(d) Strengthen the mechanisms for children to file complaints and enable children to do so without requiring the authorization of their parent/legal representative.

576. The Committee is also concerned about the use of torture and other cruel, inhuman or degrading treatment or punishment in boarding and other educational institutions in the State party.

577. The Committee urges the State party to ensure that educators and other professionals working in institutions are informed of the prohibition on subjecting children to acts of torture and other cruel, inhuman or degrading treatment or punishment.

Corporal punishment

578. The Committee is concerned that corporal punishment is not prohibited in the family and in alternative care settings. It is also concerned that corporal punishment of children remains socially acceptable in the State party and is still practised in families and in places where it has been formally prohibited, such as schools.

579. The Committee urges the State party:

(a) To explicitly prohibit by law all forms of corporal punishment in the family and in alternative care settings;

(b) To prevent and combat the practice of corporal punishment of children in the family, in schools and other institutions by effectively implementing legislation;

(c) To conduct awareness-raising and public education campaigns against corporal punishment and promote non-violent, participatory forms of discipline.

4. Family environment and alternative care

Children deprived of their family environment

580. The Committee is concerned at the increasing number of children in institutional care and that efforts to implement a national policy on deinstitutionalization have not been successful. The Committee is also concerned that not enough effort is being made to promote alternative family care arrangements.

581. **In light of article 20 of the Convention, the Committee recommends that the State party:**

(a) **Adopt a comprehensive strategy and take immediate preventive measures to avoid the separation of children from their family environment and to reduce the number of children living in institutions, inter alia by providing assistance and support services to parents and legal guardians in the performance of their child-rearing responsibilities, including through education, counselling and community-based programmes for parents;**

(b) **Ensure that the placement of children in alternative care is always assessed by a competent, multidisciplinary set of authorities and that the placement is for the shortest period of time and subject to judicial review, and that it is reviewed in accordance with article 25 of the Convention;**

(c) **Take measures to create an environment that would allow for fuller development of the child and the protection of children against all forms of abuse. Contacts with the family while the child is institutionalized should also be further encouraged, when this is not contrary to the best interests of the child;**

(d) **Strengthen its efforts to develop a traditional foster care system and other family-based alternative care, by paying particular attention to the rights recognized in the Convention, including the principle of the best interests of the child, and strengthen the measures aimed at building the capacities of guardianship and trusteeship agencies;**

(e) **Ensure that children participate in the evaluation of alternative care programmes and that complaint mechanisms are created that allow children to submit their complaints.**

Adoption

582. The Committee notes with concern that the right of an adopted child to know his or her original identity is not protected in the State party.

583. **The Committee encourages the State party to protect the right of the adopted child to know his or her original identity, establishing appropriate legal procedures for this purpose, including recommended age and professional support measures.**

584. The Committee takes note that in 2000 the State party signed the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (No. 33). The Committee equally notes that the federal authorities do not exercise sufficient control of foreign

adoption agencies with respect to documentation required for adoption, undue payments, and allowing prospective adoptive parents to select the child they will adopt. The Committee notes with concern that in 2003 the number of intercountry adoptions exceeded the number of domestic adoptions for the first time.

585. The Committee recommends that the State party ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. In the meantime, it recommends that the State party reach agreements with the authorities of receiving countries so as to ensure the suitability of adoptive parents and post-adoption follow-up. The Committee also recommends that the State party establish a system for the accreditation and control of foreign adoption agencies and develop and implement measures to promote domestic adoption.

Periodic review of placement

586. The Committee is concerned about the inadequacy of periodic review of placements of children in institutions and foster homes. It is also concerned that independent inspection mechanisms are not yet in place in children's institutions.

587. The Committee recommends that the State party ensure adequate supervision of the situation of children placed in foster homes or institutions. It should also develop, in coordination with civil society, mechanisms for independent public inspections of children's institutions.

Abuse and neglect, maltreatment, violence

588. The Committee is concerned at reports that a large number of children in institutions are subjected to abuse by their educators. The Committee is also concerned that abused children who are exposed to violence within the family and in institutions do not always receive sufficient care and assistance and that not enough is being done with regard to prevention (and preventive interventions) and awareness-raising in this area.

589. The Committee recommends that the State party continue to strengthen its efforts to provide adequate assistance to children who are exposed to violence within the family and in institutions, including by:

- (a) Undertaking a study to assess the extent of violence in institutions and taking measures to punish those responsible for these acts;**
- (b) Ensuring that all victims of violence have access to counselling and assistance with recovery and reintegration;**
- (c) Establishing procedures for reporting and effective investigation of complaints from children of cases of physical and emotional abuse;**
- (d) Strengthening the legal framework for preventive interventions;**
- (e) Providing adequate protection to child victims of abuse in their homes; and**

(f) Conducting public education campaigns about the negative consequences of ill-treatment and preventive programmes, including family development programmes, promoting positive, non-violent forms of discipline.

590. **In the context of the Secretary-General's in-depth study on the question of violence against children and the related questionnaire to Governments, the Committee acknowledges with appreciation the written replies of the State party to this questionnaire and its participation in the Regional Consultation for Europe and Central Asia held in Slovenia from 5 to 7 July 2005. The Committee recommends that the State party use the outcome of this regional consultation as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual or mental violence, and for generating momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.**

5. Basic health and welfare

Children with disabilities

591. **The Committee notes with concern that insufficient efforts are being made to include children with disabilities in the mainstream system of education as they are more often than not sent to corrective "auxiliary schools" and "correcting classes". It is also concerned at the significant overrepresentation of children with disabilities in boarding schools.**

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

- (a) To address the issue of discrimination against children with disabilities;**
- (b) To ensure that children with disabilities have equal access to services, taking into consideration the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96);**
- (c) To review the placement of children with disabilities in boarding schools with a view to limiting such placements only to those cases where they are in the best interests of the child;**
- (d) To provide equal educational opportunities for children with disabilities, including by abolishing the practice of "corrective" and "auxiliary schools", by providing the necessary support and by ensuring that teachers are trained to educate children with disabilities in regular schools.**

Basic health and welfare

593. **The Committee notes the information on the numerous programmes and measures taken to improve children's health, but remains concerned at the standard of health in the State party. However, and notwithstanding the decline in the incidence of tuberculosis, it remains concerned that the number of tuberculosis cases remains high. It also remains concerned about the number of iodine deficiency disorders and the low incidence of breastfeeding in the State party.**

594. The Committee is also concerned that the services and programmes established under the reformed system are not fully in compliance with article 24 of the Convention, in particular with regard to the development of primary health care.

595. **The Committee encourages the State party:**

- (a) **To enhance preventive interventions in primary health care;**
- (b) **To increase public expenditure on health;**
- (c) **To pass the law on universal salt iodization and ensure its full implementation;**
- (d) **To continue efforts to reduce morbidity due to tuberculosis;**
- (e) **To consider creating a national breastfeeding committee, training medical professionals and improving breastfeeding practices.**

Adolescent health

596. While acknowledging measures and new legislation to address the high levels of alcohol and tobacco consumption, the Committee is concerned at the level of tobacco and alcohol consumption among adolescents and notes that there is insufficient promotion of good health practices in the State party, with little targeting of nutrition, smoking, alcohol, fitness and personal hygiene.

597. The Committee is also concerned at the insufficient information concerning adolescent health, in particular with regard to reproductive health. The Committee is also concerned that contraceptives are not within the financial reach of all, thus limiting their use in the State party, and that there is a high incidence of teenage pregnancies and abortions.

598. **The Committee recommends that the State party pay close attention to adolescent health, taking into account general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child; and strengthen its efforts to promote adolescent health, including by providing sexual and reproductive health education in schools and introducing school health services, including youth-sensitive and confidential counselling and care. In order to decrease tobacco smoking and alcohol consumption among adolescents, the Committee recommends that the State party initiate campaigns designed especially for adolescents on healthy behavioural choices.**

599. The Committee reiterates its concern at the high suicide rate among adolescents in the State party and that no significant effort has been made to prevent suicide among adolescents.

600. **The Committee urges the State party to strengthen the health service's resources and improve mental health services, and to take all necessary measures to prevent suicide.**

HIV/AIDS

601. The Committee is seriously concerned about the HIV/AIDS epidemic in the State party and that high-risk behaviour among young people (i.e. injecting drug use and risky sexual behaviour) may further increase the number of persons with HIV/AIDS in the future. The Committee is also concerned that little attention is being given to preventive measures.

602. The Committee is also concerned at the increase of mother-to-child transmission of HIV in the State party. It also expresses its concern that children of HIV-infected mothers are persistently discriminated against, whether they are infected with HIV or not, and that they are often abandoned by their mothers and hospitalized for extended periods.

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

(a) Increase its efforts to prevent the spread of HIV/AIDS, taking into account the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights;

(b) Strengthen measures to prevent mother-to-child transmission;

(c) Guarantee antiretroviral treatment to newborns whose mothers are infected with HIV as well as post-natal monitoring of HIV-positive mothers;

(d) Pay particular attention to children infected by HIV or who have become orphans due to the death of their parents from AIDS, by providing adequate medical, psychological and material support that fully respects the principle of non-discrimination;

(e) Undertake a study on the practice in the State party of segregating children of HIV-positive mothers in hospital wards or separate orphanages and of HIV-positive children being refused access to regular orphanages, medical care and educational facilities;

(f) Provide adequate support to HIV-positive mothers to prevent them from abandoning their newborns and allowing them to care for their children;

(g) Launch campaigns and programmes to raise awareness about HIV/AIDS among adolescents, particularly those belonging to vulnerable groups as well as the population at large, so as to reduce discrimination against and stigmatization of children infected with and/or affected by HIV/AIDS; and

(h) Seek technical assistance from, inter alia, UNAIDS, WHO and UNICEF.

6. Social security and childcare services and facilities/standard of living

Adequate standard of living

604. The Committee notes with concern the large number of children living in households with low incomes, and the information provided in the written replies that budgetary allocations

for citizens with children have decreased significantly. The Committee is concerned that poor living conditions seriously limit children's enjoyment of their rights in the family, in schools, and in peer and cultural activities.

605. The Committee recommends that the State party take all necessary measures to provide support and material assistance to economically disadvantaged families, including targeted programmes with regard to the most vulnerable groups of families, in order to guarantee the right of all children to an adequate standard of living.

7. Education, leisure and cultural activities

Education, including vocational training and guidance

606. Despite some recent encouraging developments, such as measures to decrease the number of children dropping out of school, the Committee remains concerned that different charges for primary school continue to be levied despite the legal guarantee of free primary education. It is also concerned that Federal Law No. 122 no longer guarantees financial and material support for preschool children and that it cancelled some incentives for teachers working at rural schools. Although the Committee commends the State party for the decrease in the number of adult illiterates and the decrease in the proportion of women illiterates, it is concerned about the number of adolescent illiterates and the increase in the proportion of girls among them. The Committee is also concerned about the lack of transparency in the vocational training system.

607. The Committee recommends that the State party:

- (a) Take the necessary measures to ensure that all children have access to primary and secondary education;**
- (b) Take all appropriate measures to ensure that primary education is free, taking into account all direct and indirect costs, such as textbooks, renovations and security arrangements;**
- (c) Strengthen efforts to bridge the racial disparity in education, giving special attention to promoting education of minority-language people;**
- (d) Strengthen efforts at teacher training (before and during their service), and address the issue of teachers' salaries and working conditions (in particular in light of Federal Law No. 122);**
- (e) Expand and better organize the system of vocational training;**
- (f) Fully implement measures to eliminate youth illiteracy, inter alia by providing informal educational opportunities.**

8. Special protection measures

Refugee and internally displaced children

608. While the Committee welcomes the access to education provided to refugee children and asylum-seekers in the Moscow region, it is concerned that the remaining regions do not offer such access. It is also concerned that unaccompanied minors do not have access to the national refugee status determination procedure because they lack a guardian. The Committee is also concerned that the issuance of birth certificates to children born to refugees and asylum-seekers is often made contingent upon being registered.

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

(a) Take the necessary legislative and administrative measures to ensure that refugee, asylum-seeking and internally displaced children enjoy access to education in all parts of the Russian Federation;

(b) Ensure that unaccompanied and separated minors have access to the national refugee status determination procedure and subsequent assistance by establishing specific and clear procedures;

(c) Assign clear administrative responsibilities to a specific State authority for the appointment of a legal guardian for unaccompanied or separated children;

(d) Introduce specific administrative regulations or directives providing for automatic birth registration of, and issuance of birth certificates to, children born to refugees and asylum-seekers residing in the Russian Federation, and take the necessary measures to ensure that birth certificates are issued to all internally displaced persons in Chechnya for their children born in Ingushetia.

Children affected by conflict

610. The Committee remains concerned that children living in Chechnya and the Northern Caucasus (and in particular internally displaced children) remain very deeply affected by the conflict, in particular with regard to their rights to education and health. The Committee is also concerned about reported cases of arrests and disappearances by security agents of young persons suspected of being associated with insurgency groups. The Committee is concerned that there has been limited identification and marking of mined areas, or efforts to clear mines, notwithstanding the recent ratification by the State party of Protocol II, as amended, to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.

611. **The Committee recommends that the State party strengthen the measures taken to protect children from the consequences of the conflict in Chechnya and in the Northern Caucasus, in compliance with article 38, paragraph 1, of the Convention on the Rights of the Child, in particular with regard to their rights to health and education. It also urges the State party to take measures to ensure that abuses committed by the security forces**

against the personal security of children cease. The Committee further recommends that the State party further its efforts to clear mines and ratify the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

612. The Committee is also concerned at the regulation “On enrolling underage citizens of the Russian Federation as wards of military units and providing them with essential allowances”, which permits boys between the ages of 14 and 16 to be voluntarily recruited and attached to military units.

613. The Committee urges the State party to review the regulation “On enrolling underage citizens of the Russian Federation as wards of military units and providing them with essential allowances” to ensure that it complies fully with the Convention on the Rights of the Child, in order to prevent the recruitment of children who have not completed their regular education for military units.

Child labour

614. The Committee welcomes the ratification by the State party of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, with a view to extending special protection to children. However, it also notes reports that children in the State party work in the streets, within the family, or elsewhere in exploitative situations or to such an extent that regular school attendance is impeded.

615. The Committee recommends that the State party, in accordance with article 32 of the Convention and ILO Conventions No. 138 concerning 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 the ILO Minimum Age Recommendation, 1973 (No. 146) and the Worst Forms of Child Labour Recommendation, 1999 (No. 190);

(b) Strengthen efforts to establish control mechanisms to monitor the extent of child labour, including unregulated work, address its causes with a view to enhancing prevention and, where children are legally employed, ensure that their work is not exploitative and is in accordance with international standards;

(c) Seek cooperation from ILO International Programme for the Elimination of Child Labour in this regard.

Street children

616. The Committee expresses its concern at the increasing number of street children and their vulnerability to all forms of abuse and exploitation, as well as the fact that these children do not have access to public health and education services. The lack of a systematic and comprehensive strategy to address the situation and protect these children is also of concern to the Committee.

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

(a) **Undertake a comprehensive national survey of the number, composition and characteristics of children living and working in the streets in order to design and implement comprehensive strategies and policies to prevent and combat all forms of abuse and exploitation;**

(b) **Promote and facilitate the reunification of street children with their parents and other relatives or provide alternative care, taking into account the children's own views; the State party should ensure that local Governments are given sufficient resources to provide these services;**

(c) **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 these children with adequate protection and assistance;**

(d) **Raise awareness about children living in the streets in order to change negative public attitudes about them; and**

(e) **Collaborate with non-governmental organizations working with street children in the State party and with children themselves, and seek technical assistance from, among others, UNICEF.**

Drug abuse

618. The Committee welcomes the various measures taken to prevent and combat drug abuse among children, resulting in a decrease in drug addiction, but remains concerned at the still high number of children who consume drugs in the State party. It is also concerned that children are involved in drug trafficking.

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

(a) **Provide children with accurate and objective information about the harmful consequences of drug abuse and take measures to prevent their involvement in drug trafficking;**

(b) **Ensure that children who use drugs are not treated as criminals but as victims, and are provided with proper assistance and counselling;**

(c) **Undertake a study to carefully analyse the causes and consequences of this phenomenon and use the outcome of the study to increase its efforts to prevent the use of drugs;**

(d) **Develop recovery and reintegration services for child victims of drug abuse.**

Sexual exploitation and sexual abuse

620. The Committee is concerned about the large number of children and young people being sexually exploited in the State party. It is concerned that teenage prostitution is an acute problem in the State party. It is also concerned that children aged 14 to 18 years old are not legally protected from involvement in prostitution and pornography.

621. In light of articles 34 and other related articles of the Convention, the Committee recommends that the State party:

(a) Strengthen measures to prevent and combat sexual exploitation and abuse of children;

(b) Ensure that reports of cases of sexual exploitation and sexual abuse be investigated (taking due account of the rights of victims) and that perpetrators are prosecuted and punished appropriately;

(c) Ensure that children's testimonies are recorded in an appropriate way and that the persons conducting the hearing have the necessary specialist qualifications;

(d) Take measures to ensure that children aged 14 to 18 are legally protected from involvement in prostitution and pornography; and

(e) Conduct a comprehensive study to assess the causes, nature and extent of abuse of children with a view to developing strategies to tackle sexual exploitation, trafficking and the use of children in pornography.

Sale, trafficking and abduction

622. While welcoming the recent introduction in the Criminal Code of norms prohibiting the trafficking of human beings, the Committee is concerned that not enough is being done to implement these provisions effectively. The Committee also expresses its concern that protection measures for victims of trafficking of human beings are not fully in place and that reported acts of complicity between traffickers and State officials are not being fully investigated and sanctioned.

623. The Committee encourages the State party to increase its efforts to ensure effective institutional coordination in the full implementation of the new provisions relating to trafficking of human beings. It should ensure that victims of trafficking are protected and that their status and rights are further defined. It also encourages the State party to focus more of its programmatic activities on prevention work, as well as to investigate reported acts of complicity between traffickers and State officials.

624. The Committee takes note that the State party has signed, although not yet ratified, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

625. **The Committee encourages the State party to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Council of Europe Convention on Action against Trafficking in Human Beings.**

Administration of juvenile justice

626. The Committee is concerned that the State party, notwithstanding several legislative attempts, has not yet established specific federal procedures and courts for juvenile offenders to be dealt with separately under the justice system.

627. The Committee is also concerned at:

(a) The inadequate research, studies and evaluation mechanisms on prevention activities or on the adequacy of existing measures;

(b) The stigmatization of children in conflict with the law;

(c) The lack of alternative measures of detention and forms of reintegration for children in conflict with the law;

(d) The lack of appropriate places for persons under 18 who have been deprived of their liberty, who are often detained together with adults;

(e) The poor material conditions of detention of persons under 18 deprived of their liberty;

(f) The inadequate access to education for persons under 18 in detention;

(g) The inadequacy of measures to monitor the situation of minors in conflict with the law but who have not been sentenced to deprivation of liberty and who do not benefit from adequate curative and educational measures.

628. **The Committee recommends that the State party ensure that juvenile justice standards are fully implemented, 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. In this regard, the Committee encourages the State party, as a matter of priority:**

(a) **To ensure that children under the age of criminal responsibility are not treated as criminals;**

(b) **To expedite its work on reform of the system of juvenile justice to allow for those under 18 to be tried by a specific juvenile justice system and not by the ordinary justice system;**

- (c) To develop an effective system of alternative sentencing for persons under 18 in conflict with the law, such as community service or restorative justice, with a view to ensuring that deprivation of liberty is used as a measure of last resort;**
- (d) To guarantee that all children have the right to appropriate legal assistance and defence;**
- (e) To apply the provisions of the Criminal Procedure Code regarding pretrial detention;**
- (f) To take the necessary measures to make the deprivation of liberty as short as appropriate, inter alia by using suspended sentences and conditional release;**
- (g) To ensure that persons under 18 are separated from adults in detention;**
- (h) To ensure that persons under 18 remain in regular contact with their families while in the juvenile justice system;**
- (i) To provide ongoing training for judges and law enforcement officials;**
- (j) To ensure that persons under 18 in detention benefit from education and reintegration programmes,**
- (k) To develop and implement standards and monitoring mechanisms for living conditions in juvenile detention centres which also include visits by independent bodies;**
- (l) To provide all sentenced children with access to counselling and other social assistance measures, if necessary;**
- (m) To seek assistance from relevant United Nations bodies and agencies, inter alia, UNDP, UNODC and UNICEF.**

9. Optional Protocols to the Convention

629. The Committee welcomes the State party's signature and planned ratification of the Optional Protocol to the Convention on the involvement of children in armed conflict and notes that the State party is considering signing the Optional Protocol on the sale of children, child prostitution and child pornography. The Committee urges the State party to pursue and complete its plans in this respect and to ratify the two Optional Protocols to the Convention.

10. Follow-up and dissemination

Follow-up

630. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, inter alia by transmitting them to the members of the Council of Ministers or the Cabinet or a similar body, the Federal Assembly and to provincial or local Governments and Parliaments, when applicable, for appropriate consideration and further action.

Dissemination

631. The Committee further recommends that the third periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

11. Next report

632. The Committee invites the State party to submit its next periodic report before the due date established under the Convention for the fifth periodic report, i.e. 14 September 2012. This report should combine the fourth and fifth periodic reports. However, owing to the large number of reports received by the Committee every year and the consequent significant delay between the date of submission of a State party's report and its consideration by the Committee, the Committee invites the State party to submit a consolidated fourth and fifth report 18 months before its due date, that is on 14 March 2011.

III. COOPERATION WITH UNITED NATIONS AND OTHER COMPETENT BODIES

633. During the pre-sessional working group and the session, the Committee held various meetings with United Nations bodies and specialized agencies, as well as other competent bodies, in the framework of its ongoing dialogue and interaction with these bodies in the light of article 45 of the Convention. The Committee met with:

- The Special Rapporteur of the Commission on Human Rights on the promotion and protection of human rights while countering terrorism, Mr. Martin Scheinin, to learn more about this new mandate and to share information;
- The Federation Ibero-Americana de Ombudsman to discuss modalities of enhancing future cooperation related to common work related to the implementation of the rights of the child;
- The Bernard Van Leer Foundation to discuss the general comment on Implementing Child Rights in Early Childhood and the joint publication of a book following the discussion day;
- The Joint Coordinator of the Global Initiative to End All Corporal Punishment of Children, Mr. Peter Newell, to discuss the possibility of preparing a general comment of the Committee on corporal punishment.

IV. WORKING METHODS

634. At its 1078th and 1079th meetings, held on 29 September 2005, the Committee discussed issues related to the reform of the treaty bodies, modalities relating to its country visits and workshops on follow-up to the implementation of its concluding observations.

V. GENERAL COMMENTS

635. At its 1080th meeting, held on 30 September 2005, the Committee adopted its general comment No. 7 on Implementing Child Rights in Early Childhood. The Committee also discussed progress regarding its draft general comments.

VI. DAY OF GENERAL DISCUSSION

636. In accordance with rule 75 of its provisional rules of procedure, the Committee held a day of general discussion on 16 September on “Children without parental care”.

637. The participants were divided in two working groups to discuss the following:

Working Group 1: States’ role in preventing and regulating separation

(a) Practical measures which are or could be used by States to support parents in their parenting role and to prevent the institutionalization of children, including discouraging unnecessary separation of children from their parents.

(b) Efficacy of different measures in preventing separation and measures which may be inappropriate; that is, not in a child’s best interests nor in line with the provisions of the Convention.

(c) Legal and other mechanisms facilitating family reunification, both in situations of migration as well as when separation has occurred due to armed conflict or refugee situations.

(d) Most appropriate criteria and processes to be used in making decisions about removal, including temporary and permanent removal, and children’s own participation or contribution to these decisions.

Chairperson/Facilitator: Mr. Hatem KOTRANE
Member of the Committee on the Rights of
the Child

Rapporteur: Ms. Ghalia Mohd Bin Hamad AL-THANI
Member of the Committee on the Rights of
the Child

Working Group 2: Meeting the challenges of out-of-home care provision

(a) Conditions/safeguards to ensure that an institutional placement decision complies with the rights of the child, including a child’s right to grow up in a safe, stable and trustworthy relationship versus the issue of institutionalization as a measure of last resort, indicators to assess the conditions of institutions and the impact of institutionalization on children.

(b) Systems, monitoring mechanisms, including child-sensitive complaint procedures, and minimum standards to ensure that residential care, when used appropriately, will be a positive/constructive experience for the children involved.

(c) Institutionalisation/de-institutionalization of children at a policy level, a role of the State in regulating the provision of care in such situations, and identification of good practices, including those designed with children, to be applied to children living in institutions.

(d) Most appropriate ways to support informal foster care, including kinship care, and monitoring of the well-being and safety of children in these forms of care.

Chairperson/Facilitator: Ms. Joyce ALLUOCH
Vice-chairperson of the Committee on the Rights of the Child

Rapporteur: Mr. Jean ZERMATTEN
Member of the Committee on the Rights of the Child

638. Following the discussions and based on the written and oral contributions made to the day of discussion on children without parental care, the Committee adopted the following report and recommendations at its 1080th meeting on 30 September:

Report and recommendations¹

Background

639. In accordance with rule 75 of its provisional rules of procedures, the Committee on the Rights of the Child has decided to devote periodically one day of general discussion to a specific article of the Convention or to a child rights theme.

640. At its 37th session (13 September-1 October 2004), the Committee decided to devote its next day of general discussion on “children without parental care”. The discussion took place on Friday, 16 September 2005, during the 40th session of the Committee at the United Nations Office in Geneva.

641. In an outline prepared to guide the general discussion (for the full text of the outline, see CRC/C/146, Annex II), the Committee pointed out that the aim of the day of general discussion would be to improve implementation of the Convention on this topic and identify practical solutions and steps for ensuring that the rights of children living without parental care are respected.

642. The Committee identified three main areas to be considered during the day of general discussion:

- What types of legal frameworks are most likely to ensure that the rights of the child are safeguarded before, during and after separation from parents?
- What family support and alternative care policies can be recommended to help prevent and reduce separation and ensure the most appropriate use of alternative substitute care?

- What opportunities exist for increasing the participation of children in measures to keep them in safety with their family, and in other decisions about their care, including those pertaining to removal, alternative care placements, and reunification?

643. As the theme of the 2005 day of general discussion had a wide scope, participants to this meeting were divided into two working groups based on the two following areas in order to focus discussions:

- Working Group 1: States' Role in Preventing and Regulating Separation;
- Working Group 2: Meeting the Challenges of Out-of-Home Care Provision.

States' role in preventing and regulating separation

Importance of the family environment

644. The Committee emphasizes that the family, as the fundamental group of society, is the natural environment for the survival, protection and development of the child and it acknowledges that there are several ethical and cultural values linked to the family. When considering the family environment, the Convention reflects different family structures arising from various cultural patterns and emerging familial relationships. In this regard, the Convention refers to various forms of families, such as the extended family, and is applicable in a variety of families such as the nuclear family, re-constructed family, joint family, single-parent family, common-law family and adoptive family. Socialization and acquisition of values are developed within the family and human relations within the family context are the most important links for the child's life in future.

645. Acting on the basic premises that children do not develop properly outside of a nurturing "family" environment and that parents need a decent chance to raise their children, the Committee recommends that States parties develop, adopt and implement, in collaboration with the civil society, i.e. with non-governmental organizations, communities, families and children, a comprehensive national policy on families and children which supports and strengthens families. The national policy should not only focus on the State subsidies and material assistance to families in need but to provide families with support in the form of so-called service plans, including access to social and health services, child-sensitive family counselling services, education and adequate housing. The Committee recommends that the families and the family associations are integrated into the development of the national family policies and service plans.

646. The Committee recalls the principles and provisions of the Convention which require States parties to render appropriate assistance to parents, legal guardians and extended families in the performance of their child-rearing responsibilities, inter alia, by providing parenting education. It emphasizes the importance to allocate resources for parenting skills rather than resort to separation. The Committee also reminds families and family associations of their very important educative role for other families. It is often easier to address the question of parenting at the peer-to-peer level within communities. The Committee encourages all stakeholders to seek innovative ways and methods to improve parenting skills, including introducing parenting skills training into the school curricula.

647. The Committee recommends that the States parties take all necessary measures to ensure that parents, both mothers and fathers equally, are able to meet their parental responsibilities. The Committee underlines the importance of identifying different kinds of needs within families. For example, the needs of the migrant families might differ considerably from the needs of the local families. All families face challenges and it is important to be conscious that foster families face similar problems as the biological families, including marital problems, domestic violence, negligence, sexual abuse, substance abuse, etc.

648. As regards different family structures, the Committee wishes to pay attention to the concept of the extended family and, particularly, to the possible role of the grandparents in the child-rearing responsibilities which is very rarely acknowledged in domestic laws and practices. The Committee encourages the States parties to take a more active approach to this issue by adopting appropriate measures to support the role of the grandparents in child-rearing.

Prevention

649. In the light of the discussions, the Committee wants to emphasize that all necessary measures should be taken to prevent the separation of the child from her/his family of origin. In that regard the Committee refers to the previous paragraphs on the importance of the family environment and the need to provide the parents with the support they need in the performance of their parental responsibilities.

650. The Committee recommends that States parties develop and implement a comprehensive policy for the prevention of the placement in alternative care which is based on a multidisciplinary approach, includes appropriate legislation and a complimentary service system. The Committee further recommends that all prevention policies should be based on the principle of the best interests of the child. It also highlights the need for an in-depth review of the professional attitudes involved and the rights-based training of professionals. The Committee encourages the States parties and local authorities to take practical steps with a view to preventing separation, for example, by introducing methods of mediating family problems, such as family group conferencing. Such methods may involve the extended family and community. It further recommends that a set of international standards on the protection and alternative care of children without parental care take into account the need for early identification of children at risk and that the standards redefine also other services related to prevention.

Legislation and policies

651. The Committee highlights States parties' responsibility to protect the child and her/his parents and to provide the parents with appropriate assistance. In order to put this responsibility into practice, States parties must enact domestic laws and adopt policies in this regard involving both public and private sectors in child protection. Institutionalization of children should never take place due to the lack of State laws or policies. The Committee notes with great appreciation that an increasing number of States parties are reviewing their policies of institutionalization of children and introduced various alternative care measures and programmes in order to offer improved protection of the rights of children without parental care and it encourages other States parties to undertake similar reviews.

652. The Committee recommends that domestic family and child protection legislation and policies should be developed and adopted in close consultation with those groups whom it affects the most, i.e. with children and their parents. However, if domestic laws are solely based on protection, it is only a partial solution.

653. Finally, the Committee emphasizes the principle of social responsibility. It is not only the responsibility of the State to protect children but it is every adult's responsibility.

Challenges of the out of home care and the State responsibility

Separation and alternative care

654. The Committee notes that in many States parties the number of children separated from their parents and placed in alternative care is increasing and at a high level. It is concerned that these placements are not always a measure of last resort and therefore not in the best interests of the child. The Committee recommends that the States parties ensure that the placement of children in alternative care (foster care, residential care, other forms of alternative care) is based on a carefully conducted assessment of the needs and best interest of the child by a competent and multidisciplinary group of experts and that a short- and long-term plan, including the goals of the placement and the measures to achieve these, is available at the time of the placement and is regularly adapted to the development of the child.

655. The Committee emphasizes and recommends that the States parties ensure that the decision to place the child in alternative care is taken by a competent authority and that it is based on the law and subject to judicial review to avoid arbitrary and discretionary placements. The States parties should also ensure that the placement is regularly reviewed in accordance with article 25 of the Convention.

656. In addition, the Committee encourages the development of adoption, *kafalah* and traditional foster care systems, such as family-based alternative care (e.g. extended family, grandparents) community-based care, paying particular attention to the rights recognized in the Convention, including the principle of the best interests of the child.

657. Last but not least, the Committee encourages States parties and other stakeholders to take appropriate measures to ensure that children in alternative care, particularly placed in residential care, are not stigmatized during or after this child protection measure.

Poverty

658. The Committee is deeply concerned about the fact that children living in poverty are over-represented among the children separated from their parents both in the developed and developing countries. It acknowledges that separation from parents is in many cases involuntary due to social and economic strains. It also notes with concern that tough social and economic conditions may lead to the abandonment of the child and a high number of street children. Poverty can create a vicious circle. Parents living in poverty do not necessarily dare to approach authorities and ask for help because they are afraid of losing their children. Without external

assistance and support the situation may end up separating children from their parents. In addition the Committee notes that the socially and/or economically disadvantaged families are rarely involved in the policy-making processes and lack opportunities to affect the policy-makers.

659. In accordance with article 27 of the Convention, the Committee urges States parties to ensure that poverty as such should not lead to the separation decision and to the out-of-home placement. It recommends that States parties take all necessary measures to raise the standard of living among families living in poverty, inter alia, through implementing poverty reduction strategies and community development, including the participation of children. The Committee requests States parties to increase efforts to provide material assistance and support to economically and/or socially disadvantaged children and their families. Moreover, States parties should ensure that children living in poverty are provided with access to social and health services, education and adequate housing.

A new paradigm

660. Based on the written contributions submitted to the Committee and the discussions during the day of general discussion on children without parental care, the Committee notes that an institution in the traditional sense has a relatively negative connotation. This raises a question whether a new paradigm is needed. Has the traditional institution lived out its useful life? In addition, the question was raised whether the dogmatic implementation of the principle that placement in an institution must be the last resort may result in stigmatization of children in, or about to be placed in, such institutions. Such practice may harm the development of the child in need of alternative care and leave the institution in which the child is ultimately placed with an impossible mission. A careful and multidisciplinary assessment of the needs of the child in need of care and protection must inform the decision on whether out-of-home care is in the best interests of the child and on which form it should take. The Committee recommends that special attention is given to this question in the development of the standards suggested in part IV of this document.

661. The Committee acknowledges that it is challenging to change the deep-rooted ideology behind the institution model but it encourages States parties to take realistic steps with a view to changing traditional institutions, for instance, by establishing smaller specialized units within the institutions, increasing the number of professionals working with and for children and providing these professionals with systematic training.

Best interests of the child

662. As regards the drafting of international standards on the protection and alternative care of children without parental care, the Committee emphasizes the principle of the best interests of the child. It is of the view that the standards to be drafted should be based on this leading basic principle and that the standards should aim at better ensuring the best interests of the child. These standards must not be a checklist or a mechanical function, but a practical tool which requires interaction with all parties involved. Last but not least, the standards should not exclude “humane aspects” which can serve as innovative and inspirational tools.

Respect for the views of the child

663. The Committee is concerned at the fact that children are not often heard in the separation and placement processes. It is also concerned that decision-making processes do not attach enough weight to children as partners even though these decisions have a far-reaching impact on the child's life and future. It also emphasizes the need to take into account the views of biological parents.

664. In the light of article 12 of the Convention, the Committee recommends that all stakeholders continue and strengthen their efforts to take into consideration the views of the child and facilitate their participation in all matters affecting them within the evaluation, separation and placement process, in the out-of-home care and during the transition process. It recommends that children should be heard throughout the protection measure process, before making the decision, while it is implemented and also after its implementation. For this purpose, the Committee recommends an establishment of a special mechanism which values children as partners. The family group conferencing is one model to ensure that the child's view is considered. It also recommends that States parties undertake a regular review of the extent to which children's views are taken into consideration and of their impact on policy-making and court decisions and on programme implementation.

Priority to a family-type alternative care

665. The Committee is concerned that the institutionalization of children is used systematically. The Committee acknowledges that there has been a general agreement that the family environment provides the best possibilities for the harmonious development of the child, but between the family of origin and the placement in institution, options have to be found. These options could include the traditional placement in the family or in the extended family, open centres, the placement for day or night, emergency placement, temporary stay solutions, etc. Many of these options already exist. The Committee wishes to refer to many countries where the cultural values cherish the solidarity within the family or in the community and it encourages States parties to examine these inspiring examples and possibilities with a view to providing children with the individual care solutions.

666. The Committee recalls its recommendation made following its day of general discussion on State violence against children in 2000, that States parties develop the use of alternative measures in order to avoid long-term placement of children in institutions that do not provide the type of setting children need, not only for survival, but also for development, including psychological, mental, spiritual, moral, and social development, in a manner compatible with human dignity and to prepare the child for individual life in a free society, in accordance with article 6.2 of the Convention.

Focus on the individual child

667. In the context of children separated from their parents, the Committee wishes to emphasize the principle of individualization. Every child is unique and the separation from parents and the placement into out-of-home care should always be looked at case by case. There is no one solution which fits all situations. The individualization of solutions means more tailored solutions based on the actual situation of the child, including her/his personal, family

and social situation. This provides better opportunities for the assessment of the child's long-term development and it respects the principle of the best interests of the child, e.g. what are the actual needs of the child, how to keep a close relationship with the biological family.

668. However, there are few obstacles standing in the way of this ideal path towards individualization of solutions, such as the lack of time, including no time to carry out assessment of the actual situation, the lack of personnel, places in families, temporary and emergency measures and reception homes. Time should always be a key consideration in the decision-making process for a child. The extent of the problem and the high number of children in need of out-of-home care and the need for an early intervention seem to be a challenging equation to be solved. In addition, there are several new challenges, such as the HIV/AIDS pandemic and severe natural disasters like tsunami in South and South-East Asia in 2004. Response to these kinds of challenges requires more financial, human, material and technical resources. However, the Committee notes with concern that one important obstacle is often our pattern of thought, among other things, the lack of creativity, the lack of will to change old habits and customs and gaps in the training or in the knowledge of existing resources.

669. The Committee recommends that all decisions regarding the separation from parents and the placement into out-of-home care as well as the periodic review of the placement should always be based on the principle of individualization of solutions. Furthermore, the Committee recommends that a set of international standards on the protection and alternative care of children without parental care should emphasize this principle and take into account the obstacles and challenges which impede the provision of out-of-home care to children.

Especially vulnerable children

670. The Committee wishes to draw attention to several groups of children in need of special support measures, such as children with disabilities, children associated with drug abuse, street children, refugee children or asylum-seeking children and children infected with or affected by HIV/AIDS. These children are often placed in big institutions due to their social and health status without evaluating the actual situation case by case. Certain categories of children often fall outside the attention of the State, such as children of migrant workers.

671. The Committee calls for all States parties and other stakeholders to seek individual solutions when considering and implementing alternative care measures for children and their families in need of special support. The Committee recommends that States parties take effective measures to prevent separation from parents by providing parents and parents-to-be with adequate support and counselling, e.g. by establishing maternity centres which provide mothers with better resources for the future and prevent the institutionalization of their children.

672. The Committee notes with concern that girls without parental care are more vulnerable to sexual exploitation, child marriage and lack of access to education. It also notes that there is often a gender imbalance in institutions. Both girls and boys need role models of both sexes. The Committee recommends that the States parties and other stakeholders ensure that a gender perspective is included in all approaches as girls without parental care are more vulnerable to violations of their rights.

Community-based approach

673. Children feel better in their own environment and this should be taken into consideration when they are placed into out-of-home care. The basic premise is that children should be kept in their own distinctive communities. For instance, indigenous communities often have a very close family system and the child protection system should take into consideration both indigenous culture, values and the child's right to indigenous identity. The importance of the local level and local authorities should not be neglected in providing basic protection for children. The Committee recommends that States parties encourage local authorities to organize themselves and to provide basic protection for the community members and to provide these local authorities with adequate human and financial resources. In order to keep children in their own communities, it is crucial to provide them with basic services, such as access to social and health services, education and those services which promote the right to survival and development.

674. The Committee encourages establishing so-called community protection networks which support families at an early stage. Local multidisciplinary teams working with the most vulnerable families are more likely to reach the family and to find individual solutions based on the actual situation of the family. The Committee encourages States parties to seek alternative measures within the community for the institutionalization of children. The Committee recommends that the family should be looked at as a whole and be considered as a group, including the extended family. In addition it recommends that the alternative care measures should pay more attention to the cultural values of communities.

Transition period

675. The Committee recommends that States parties and other stakeholders facilitate and enhance the child's transition from institutional care to independent living, e.g. by providing a child with an external contact person, promoting contacts with the biological parents, teaching children how to live on their own and manage their own households, providing overlapping halfway houses during a transition period, etc.

Training and awareness-raising

676. The Committee is concerned that the education and training of professionals working with and for children, including teachers, health personnel, social workers, personnel in the residential care settings, judges, magistrates, lawyers, law enforcement officials, civil servants, parliamentarians and local leaders, is often neglected. It notes with deep concern that in many cases the professionals are unable to identify the violations of the rights of the child within the family or in the institutions and to intervene in time due to the lack of or inadequate level of training.

677. The Committee recommends that States parties invest in systematic training, education and research in the field of the protection and alternative care of children without parental care from a rights-based and gender-sensitive perspective. States parties are encouraged to undertake systematic education and training of children and their parents, as well as all professionals

working for and with children. The Committee further recommends that States parties conduct awareness-raising campaign on the rights of the child and parental responsibilities for the public at large. It encourages States parties and other stakeholders to seek and develop creative and child-friendly methods to promote the principles and provisions of the Convention.

678. Furthermore, the Committee recommends that the States parties provide professionals working with and for children with adequate support services, including psychological support. Professionals witness difficult family situations and severe violations of the rights of the child, including violence, abuse, ill-treatment and negligence, in their daily work. They can be heavily stressed when facing children who are to be separated from their parents. The Committee reminds States parties that it is also important to recognize the needs of the professionals. The Committee recommends that the States parties take effective measures to support professionals and para-professionals working with and for children.

Investigation and documentation

679. As regards children separated from their parents and placed in out-of-home care, the Committee notes with concern that many children lack adequate documentation and background information. Sometimes it is impossible to trace the child's past and the actual behind the separation decision. The lack of investigation and sufficient documentation impedes the continuous planning and the regular review of the placement.

680. Therefore, the Committee recommends that all children residing in out-of-home care, including the foster families, public and private residential institutions and care providers, religious care institutions, etc., and the children to be placed in such care are provided with adequate social background investigation and written detailed documentation which follows the child through the out-of-home care period. These multidisciplinary files need to be regularly updated and complemented during the child's development.

The lack of data and statistics

681. The Committee notes with concern the lack of data and statistics on the number of children without parental care. In particular it notes that there is a lack of data regarding children who are in informal care, e.g. cared for by relatives, or who are entirely without care, such as children living on the street.

682. The Committee recommends that States parties strengthen their mechanisms for data collection and develop indicators consistent with the Convention in order to ensure that data is collected on all children in alternative care, including informal care. It further encourages the States parties to use these indicators and data to formulate policies and programmes regarding alternative care.

Evaluation and monitoring

683. The Committee recommends that States parties establish an effective evaluation mechanism for alternative care, including informal forms of alternative care. It is essential to develop, standardize and control the quality of alternative care and related programmes and services. The Committee recommends that evaluation should involve direct consultation with

children. Control and evaluation should also be linked to the prevention of separation. One example of controlled preventive measures is the establishment of a national register on “safe houses” for parents and children seeking help and assistance.

684. In addition, the Committee recommends that the States parties establish an independent and effective monitoring mechanism for children without parental care. Such a body should have a mandate to receive, investigate and address complaints from children and do so in a child-sensitive and expeditious manner.

Implementation

685. Notwithstanding the apparent need for a set of international standards on the protection and alternative care of children without parental care, the Committee emphasizes the need to focus on existing international and regional instruments, such as conventions, protocols, declarations and guidelines, with a view to effectively implementing these provisions and to monitor the progress in the implementation.

Concluding recommendations

686. Based on the input and written contributions submitted to and discussions that took place during the day of general discussion on children without parental care on 16 September 2005, the Committee on the Rights of the Child adopts the following concluding recommendations.

687. While welcoming the efforts made by regional and inter-agency bodies to define principles and standards of care for children without parental care, notably the Recommendation of the Council of Europe’s Committee of Ministers to Member States on Children’s Rights in Residential Institutions, and the Inter-Agency Guiding Principles on Unaccompanied and Separated Children, the Committee notes with concern that a significant number of children are currently orphaned or otherwise separated from their parents due to a large variety of reasons, including conflict, violence, poverty, HIV/AIDS and social breakdown, and that it is certain that this number will grow. It recognizes that, notwithstanding the existence of the Convention on the Rights of the Child and certain other international instruments,² precise guidance available to States working to meet their obligations with respect to suitable alternative care remains partial and limited. Notwithstanding the positive steps taken by many States parties in the field of domestic laws and policies, the Committee is concerned at the insufficient number of implementation measures, which tend to form a gap between laws, policies and practice.

688. The Committee on the Rights of the Child recommends that the international community, including States parties, United Nations agencies and bodies as well as relevant regional organizations, international and national non-governmental organizations, academic institutions and international professional organizations, organize an expert meeting to prepare a set of international standards for the protection and alternative care of children without parental care for the United Nations General Assembly to consider and adopt in 2006.

689. **These standards and guidelines would be addressed not only to Governments but to civil society at large, professionals working with and for children, voluntary organizations, international bodies and organizations, and the private sector to the extent that they are directly or indirectly involved with organizing, providing or monitoring out-of-home care for children. The Committee recommends that these standards show flexibility for cultural aspects by responding to the challenges faced by both developed and less developed countries. As regards the effective implementation of these standards, the Committee emphasizes the practical nature and the need to have an effective monitoring mechanism. It further recommends that the standards should have a multi-track approach, i.e. to regulate the separation and placement into out-of-home care, to standardize the out-of-home care and the transition from the out-of-home care back to the family or into society and at the same time to seek measures how to prevent placement and institutionalization. In this regard, the Committee underlines the need to hold consultations with children and their parents throughout the process.**

VII. FUTURE DAY OF GENERAL DISCUSSION

690. At its 1080th meeting, held on 30 September 2005, the Committee decided to dedicate its 2006 day of general discussion to “The Right of the Child to be Heard”.

VIII. DRAFT PROVISIONAL AGENDA FOR THE FORTY-FIRST SESSION

691. The following is the draft provisional agenda for the forty-first 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.
- 7 bis. Biennial report to the General Assembly.
8. Future meetings.
9. Other matters.

IX. ADOPTION OF THE REPORT

692. At its 1080th meeting, held on 30th September 2005, the Committee considered the draft report on its fortieth session (CRC/C/153). The report was adopted unanimously by the Committee.

Notes

¹ These recommendations are based on the input to and discussions that took place during the day of general discussion on children without parental care on 16 September 2005 and do not pretend to be exhaustive.

² Relevant instruments include the 1986 Declaration of Social and Legal Principles relating to the Protection and Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally, and the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children. In the context of children orphaned or otherwise separated from their parents due to situations of conflict, the 1949 Geneva Conventions and their 1977 Additional Protocols as well as institutions specialized in the tracing of persons are of particular significance.

Annex I

MEMBERSHIP OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

<u>Name of member</u>	<u>Country of nationality</u>
Ms. Ghalia Mohd Bin Hamad AL-THANI**	Qatar
Ms. Joyce ALUOCH**	Kenya
Ms. Alison ANDERSON*	Jamaica
Mr. Jakob Egbert DOEK*	Netherlands
Mr. Kamel FILALI*	Algeria
Ms. Moushira KHATTAB*	Egypt
Mr. Hatem KOTRANE*	Tunisia
Mr. Lothar Friedrich KRAPPMAN*	Germany
Ms. Yanghee LEE**	Republic of Korea
Mr. Norberto LIWSKI*	Argentina
Ms. Rosa Maria ORTIZ*	Paraguay
Ms. Awa N'Deye OUEDRAOGO*	Burkina Faso
Mr. David Brent PARFITT**	Canada
Mr. Awich POLLAR**	Uganda
Mr. Kamal SIDDIQUI**	Bangladesh
Ms. Lucy SMITH**	Norway
Ms. Nevena VUCKOVIC-SAHOVIC**	Serbia and Montenegro
Mr. Jean ZERMATTEN**	Switzerland

* Term expires on 28 February 2007.

** Term expires on 28 February 2009.

Annex II

REPRESENTATIVES OF THE STATES PARTIES, ORGANIZATIONS AND BODIES REGISTERED FOR PARTICIPATION IN THE DAY OF GENERAL DISCUSSION ON CHILDREN WITHOUT PARENTAL CARE

Representatives of States parties to the Convention

Albania, Argentina, Austria, Chile, Costa Rica, Czech Republic, Estonia, Germany, Jordan, Panama, Philippines, Qatar, Republic of Congo, Sri Lanka and Sweden.

United Nations bodies and agencies and other intergovernmental organizations

United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees, United Nations Mission in Sierra Leone (UNAMSIL), Military Observers Section (MILOBS), Secretariat of the United Nations Secretary-General's Study on Violence against Children, Council of Europe, Hague Conference on Private International Law and European Commission Food Security Programme.

Ombudsmen and Commissioners for Children

Ms. Teresa Devlin, Northern Ireland Commissioner for Children and Young People (NICCY), Mr. Peter Hosking, Children's Commissioner for Wales, Mr. Pawel Jaros, Ombudsman for Children (Poland), Ms. Emily Logan, Children's Ombudsman (Ireland), Ms. Maire McCormack, Scotland's Commissioner for Children and Young People, Mr. Jens Olander, Office of the Children's Ombudsman (Sweden), Ms. Laura Paton, Scotland's Commissioner for Children and Young People and Ms. Claire Phillips, Office of the Children's Commissioner (UK).

Non-governmental organizations, other organizations, institutions, academia and individuals

Adoptionscentrum Sweden, African-European Young People Initiatives, Alliance International des Femmes, The Amigos Group, Anglicare Victoria, Arigatou Foundation, Association "Comunitá Papa Giovanni XXIII", Association Enfant Droit, Association François-Xavier Bagnoud, Association Tunisienne des Droits de l'Enfant, Baha'i International Community, Bernard van Leer Foundation, Bethany Community Support, Centre on Housing Rights and Evictions (COHRE), Child Rights Information Network (CRIN), Children's Law Centre, Children on the Edge, Christian Children's Fund, Civic Aid International Organisation, CLAP-Committee for Legal Aid to Poor, CRY - Child Relief and You, Defence for Children International Nederland, EveryChild, Flemish Children's Rights Coalition, Focus on Adoption, Friends Committee for Consultation (Quakers), Fundación Emmanuel, Garante Regionale per l'Infanzia e l'Adolescenza, German League for the Child, German National Coalition for the CRC, Global Initiative to End All Corporal Punishment of Children, Gruppo di Lavoro per la CRC, Hope and Homes for Children (HHC), Include Youth, India Alliance for Child Rights (IACR), Integrated Family Service Organization, International Advocates for Children, International Catholic Child Bureau, International Federation of Educative Communities (FICE) Austria, International Federation Terre des Hommes, International Foster Care Organisation, International Social Service/General Secretariat, International Social Services

Ireland, Joint Council on International Children's Services, Kildonan Child and Family Service, Kilmany UnitingCare, Lebanese Association of SOS Children's Villages, MacKillop Family Services, Movement for Protection of the African Child, National Council for Childhood and Motherhood (NCCM), NGO Group for the CRC, Physicians for Human Rights, Plan - Norway, Pro juventute, Quality 4 Children, Refugee Educational Sponsorship Programs Enhancing Communities Together (RESPECT) - International Education and Resource Network (iEARN), Save the Children Geneva, Save the Children Norway, Save the Children Sweden, Save the Children UK, Scottish Institute for Residential Child Care, Social Services Inspectorate (Ireland), SOS Children's Villages, SOS Children's Villages of India, SOS-Kinderdorf International, SOS-Kinderdorpen, Street Kids Rehabilitation Association, Sudanese Human Rights Watch, Social Welfare Organization Marghuz (SWOM), United Aid for Azerbaijan, Village Development Society, Who Cares?, VIS-Volontariato Internazionale per lo Sviluppo, Women's World Summit Foundation (WWSF), World Movement of Mothers, World Vision International, Youth Substance Abuse Service, Mr. Bruce Abramson, Ms. Marina Adjukovic, Faculty of Law, University of Zagreb, Ms. Evangelia Bouna, Goldsmith College, Ms. Alice Hearst, Smith College, Mayeda Jamal, Stockholm School of Economics, Ms. Titti Mattsson, Lund University, Faculty of Law, Ms. Lusia Peilouw, Institute of Social Studies, Ms. Branka Sladovic Franz, School of Social Work, University of Zagreb, Mr. Thomas Whalen, Georgia State University and Ms. Annegret Wigger, University of Applied Sciences/Social Work.

Annex III

**DAY OF GENERAL DISCUSSION ON “CHILDREN
WITHOUT PARENTAL CARE”***

16 September 2005

Updated list of submissions

1. **Association Comunità Papa Giovanni XXIII** (Italy), *Children without Parental Care*.
2. **Children’s Rights** (USA), *Overview of Institutional Care in the United States*.
3. **CLAP - Committee for Legal Aid to Poor** (India), *A Socio-Legal Analysis from Indian Perspective*.
4. **CRY - Child relief and You** (India), *Children without Parental Care*.
5. **Association François-Xavier Bagnoud** (Rwanda) *Stratégie globale de soutien aux enfants sans protection parentale*.
6. **Quakers - Friends World Committee for Consultation** (Switzerland) *Parental Imprisonment Deprives a Child of Parental Care*.
7. **Quakers - Friends World Committee for Consultation** (Switzerland) *Child Soldiers*.
8. **Georgia State University**, Prof. Thomas Whalen (USA), *Appropriate Technology to Support Timely Child Placement Decisions*.
9. **Global Initiative to End All Corporal Punishment of Children** (UK) *Corporal Punishment*.
10. **Gruppo di Lavoro per la CRC** (Italy), *Children without Parental Care*.
11. **Include Youth** (Northern Ireland), *Children without Parental Care*.
12. **India Alliance for Child Rights** (India), *Children out of Parental Care: Sites and Situations of Denial*.
13. **International Advocates for Children** (USA), Submission.
14. **International Federation of Social Workers** (Switzerland), *Children without Parental Care*.
15. **International Foster Care Organisation**, *Children without Parental Care*.

* This annex is circulated in the original languages only.

16. **International Social Service**, *A Global Policy for the Protection of Children Deprived of Parental Care*.
17. **Joint Council of International Children's Services**, *White Paper on Child Welfare Legislation*.
18. **Lebanese Association of SOS Children's Villages**, *Children without Parental Care*.
19. **Matilde Luna** (Argentina), *Experience in the City of Buenos Aires, Argentina* (in English and Spanish).
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40. **International Social Service and UNICEF**, *Improving Protection for Children Without Parental Care: a Call for International Standards* (in English), *Mejorar la protección de los niños privados del cuidado de sus padres: la necesidad de reglas internacionales* (in Spanish) and *Pour une meilleure protection des enfants ne bénéficiant pas d'une prise en charge parentale: la nécessité de normes internationales* (in French).

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