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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka



International Documents related to Child Rights

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Convention on the Rights of the Child

Convention on the Rights of the Child

**Adopted and opened for signature, ratification and accession by General Assembly
resolution 44/25 of 20 November 1989**

entry into force 2 September 1990, in accordance with article 49

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life. 2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their

own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
 - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy

throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. 4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party; or

(b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute

a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any

amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.

**Optional Protocol to the Convention
on the Rights of the Child on the
Involvement of Children in Armed
Conflict (2000)**

[ENGLISH TEXT — TEXTE ANGLAIS]

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

The States Parties to the present Protocol,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child,

Reaffirming that the rights of children require special protection, and calling for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security,

Disturbed by the harmful and widespread impact of armed conflict on children and the long-term consequences this has for durable peace, security and development,

Condemning the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places generally having a significant presence of children, such as schools and hospitals,

Noting the adoption of the Statute of the International Criminal Court and, in particular, its inclusion as a war crime of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts,

Considering, therefore, that to strengthen further the implementation of rights recognized in the Convention on the Rights of the Child there is a need to increase the protection of children from involvement in armed conflict,

Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purposes of that Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier,

Convinced that an optional protocol to the Convention raising the age of possible recruitment of persons into armed forces and their participation in hostilities will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children,

Noting that the twenty-sixth international Conference of the Red Cross and Red Crescent in December 1995 recommended, inter alia, that parties to conflict take every feasible step to ensure that children under the age of 18 years do not take part in hostilities,

Welcoming the unanimous adoption, in June 1999, of International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which prohibits, inter alia, forced or compulsory recruitment of children for use in armed conflict,

Condemning with the gravest concern the recruitment, training and use within and across national borders of children in hostilities by armed groups distinct from the armed forces of a State, and recognizing the responsibility of those who recruit, train and use children in this regard,

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Recalling the obligation of each party to an armed conflict to abide by the provisions of international humanitarian law,

Stressing that this Protocol is without prejudice to the purposes and principles contained in the Charter of the United Nations, including Article 51, and relevant norms of humanitarian law,

Bearing in mind that conditions of peace and security based on full respect of the purposes and principles contained in the Charter and observance of applicable human rights instruments are indispensable for the full protection of children, in particular during armed conflicts and foreign occupation,

Recognizing the special needs of those children who are particularly vulnerable to recruitment or use in hostilities contrary to this Protocol owing to their economic or social status or gender,

Mindful of the necessity of taking into consideration the economic, social and political root causes of the involvement of children in armed conflicts,

Convinced of the need to strengthen international cooperation in the implementation of this Protocol, as well as the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflict,

Encouraging the participation of the community and, in particular, children and child victims in the dissemination of informational and educational programmes concerning the implementation of the Protocol,

Have agreed as follows:

Article 1

States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

Article 2

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

Article 3

1. States Parties shall raise the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under 18 are entitled to special protection.

2. Each State Party shall deposit a binding declaration upon ratification of or accession to this Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards that it has adopted to ensure that such recruitment is not forced or coerced.

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3. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 shall maintain safeguards to ensure, as a minimum, that:

- (a) Such recruitment is genuinely voluntary;
- (b) Such recruitment is done with the informed consent of the person's parents or legal guardians;
- (c) Such persons are fully informed of the duties involved in such military service;
- (d) Such persons provide reliable proof of age prior to acceptance into national military service.

4. Each State Party may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall inform all States Parties. Such notification shall take effect on the date on which it is received by the Secretary-General.

5. The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

Article 4

1. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.

2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.

3. The application of the present article under this Protocol shall not affect the legal status of any party to an armed conflict.

Article 5

Nothing in the present Protocol shall be construed as precluding provisions in the law of a State Party or in international instruments and international humanitarian law that are more conducive to the realization of the rights of the child.

Article 6

1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of this Protocol within its jurisdiction.

2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.

3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to this Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to these persons

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all appropriate assistance for their physical and psychological recovery and their social re-integration.

Article 7

1. States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary to the Protocol and in the rehabilitation and social reintegration of persons who are victims of acts contrary to this Protocol, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with concerned States Parties and relevant international organizations.

2. States Parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes, or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly.

Article 8

1. Each State Party shall submit, within two years following the entry into force of the Protocol for that State Party, a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol, including the measures taken to implement the provisions on participation and recruitment.

2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the Protocol. Other States Parties to the Protocol shall submit a report every five years.

3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of this Protocol.

Article 9

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification and is open to accession by any State. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. The Secretary-General, in his capacity as depositary of the Convention and the Protocol, shall inform all States Parties to the Convention and all States that have signed the Convention of each instrument of declaration pursuant to article 13.

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Article 10

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 11

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General. If, however, on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the armed conflict.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee prior to the date on which the denunciation becomes effective.

Article 12

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments that they have accepted.

Article 13

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

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2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.

**Optional Protocol to the Convention
on the Rights of the Child on the Sale
of Children, Child Prostitution and
Child Pornography (2000)**

[ENGLISH TEXT — TEXTE ANGLAIS]

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE
CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND
CHILD PORNOGRAPHY

The States Parties to the present Protocol,

Considering that, in order further to achieve the purposes of the Convention on the Rights of the Child and the implementation of its provisions, especially articles 1, 11, 21, 32, 33, 34, 35 and 36, it would be appropriate to extend the measures that States Parties should undertake in order to guarantee the protection of the child from the sale of children, child prostitution and child pornography,

Considering also that the Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development,

Gravely concerned at the significant and increasing international traffic of children for the purpose of the sale of children, child prostitution and child pornography,

Deeply concerned at the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography,

Recognizing that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation, and that girl children are disproportionately represented among the sexually exploited,

Concerned about the growing availability of child pornography on the Internet and other evolving technologies, and recalling the International Conference on Combating Child Pornography on the Internet (Vienna, 1999) and, in particular, its conclusion calling for the worldwide criminalization of the production, distribution, exportation, transmission, importation, intentional possession and advertising of child pornography, and stressing the importance of closer cooperation and partnership between Governments and the Internet industry,

Believing that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking of children,

Believing that efforts to raise public awareness are needed to reduce consumer demand for the sale of children, child prostitution and child pornography, and also believing in the importance of strengthening global partnership among all actors and of improving law enforcement at the national level,

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Noting the provisions of international legal instruments relevant to the protection of children, including the Hague Convention on the Protection of Children and Cooperation with Respect to Inter-Country Adoption, the Hague Convention on the Civil Aspects of International Child Abduction, the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, and International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists for the promotion and protection of the rights of the child,

Recognizing the importance of the implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography and the Declaration and Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children, held at Stockholm from 27 to 31 August 1996, and the other relevant decisions and recommendations of pertinent international bodies,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Have agreed as follows:

Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2

For the purpose of the present Protocol:

- (a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;
- (b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;
- (c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Article 3

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether these offences are committed domestically or transnationally or on an individual or organized basis:

- (a) In the context of sale of children as defined in Article 2:

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- (i) The offering, delivering or accepting, by whatever means, a child for the purpose of:
 - a. Sexual exploitation of the child;
 - b. Transfer of organs of the child for profit;
 - c. Engagement of the child in forced labour;
 - (ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;
 - (b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in Article 2;
 - (c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in Article 2.
2. Subject to the provisions of a State Party's national law, the same shall apply to an attempt to commit any of these acts and to complicity or participation in any of these acts.
3. Each State Party shall make these offences punishable by appropriate penalties that take into account their grave nature.
4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph I of the present Article. Subject to the legal principles of the State Party, this liability of legal persons may be criminal, civil or administrative.
5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

Article 4

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in Article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.
2. Each State Party may take such measures as may be necessary to establish its jurisdiction over the offences referred to in Article 3, paragraph 1, in the following cases:
- (a) When the alleged offender is a national of that State or a person who has his habitual residence in its territory;
 - (b) When the victim is a national of that State.
3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the above-mentioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.
4. This Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

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Article 5

1. The offences referred to in Article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in those treaties.

2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Protocol as a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.

3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 4.

5. If an extradition request is made with respect to an offence described in Article 3, paragraph 1, and if the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.

Article 6

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in Article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present Article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 7

States Parties shall, subject to the provisions of their national law:

(a) Take measures to provide for the seizure and confiscation, as appropriate, of:

(i) Goods such as materials, assets and other instrumentalities used to commit or facilitate offences under the present Protocol;

(ii) Proceeds derived from such offences;

(b) Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph (a) (i);

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(c) Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

Article 8

1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:

(a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;

(b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;

(c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;

(d) Providing appropriate support services to child victims throughout the legal process;

(e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;

(f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.

2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim.

3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.

4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.

5. States Parties shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.

6. Nothing in the present Article shall be construed as prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

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Article 9

1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to these practices.

2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this Article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.

3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.

4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.

5. States Parties shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol.

Article 10

1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.

2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.

3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.

4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

Article 11

Nothing in the present Protocol shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:

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- (a) The law of a State Party;
- (b) International law in force for that State.

Article 12

1. Each State Party shall submit, within two years following the entry into force of the Protocol for that State Party, a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol.

2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with Article 44 of the Convention, any further information with respect to the implementation of the Protocol. Other States Parties to the Protocol shall submit a report every five years.

3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of this Protocol.

Article 13

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification and is open to accession by any State that is a party to the Convention or has signed it. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 14

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 15

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General of the United Nations.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Protocol in regard to any offence that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any

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way the continued consideration of any matter that is already under consideration by the Committee prior to the date on which the denunciation becomes effective.

Article 16

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present Article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments that they have accepted.

Article 17

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.

Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (2011)

**OPTIONAL PROTOCOL TO THE CONVENTION
ON THE RIGHTS OF THE CHILD
ON A COMMUNICATIONS PROCEDURE**

The States parties to the present Protocol,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Noting that the States parties to the Convention on the Rights of the Child (hereinafter referred to as “the Convention”) recognize the rights set forth in it to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status,

Reaffirming the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms,

Reaffirming also the status of the child as a subject of rights and as a human being with dignity and with evolving capacities,

Recognizing that children’s special and dependent status may create real difficulties for them in pursuing remedies for violations of their rights,

Considering that the present Protocol will reinforce and complement national and regional mechanisms allowing children to submit complaints for violations of their rights,

Recognizing that the best interests of the child should be a primary consideration to be respected in pursuing remedies for violations of the rights of the child, and that such remedies should take into account the need for child-sensitive procedures at all levels,

Encouraging States parties to develop appropriate national mechanisms to enable a child whose rights have been violated to have access to effective remedies at the domestic level,

Recalling the important role that national human rights institutions and other relevant specialized institutions, mandated to promote and protect the rights of the child, can play in this regard,

Considering that, in order to reinforce and complement such national mechanisms and to further enhance the implementation of the Convention and, where applicable, the Optional Protocols thereto on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, it would be appropriate to enable the Committee on the Rights of the Child (hereinafter referred to as “the Committee”) to carry out the functions provided for in the present Protocol,

Have agreed as follows:

PART I GENERAL PROVISIONS

ARTICLE 1 COMPETENCE OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

1. A State party to the present Protocol recognizes the competence of the Committee as provided for by the present Protocol.
2. The Committee shall not exercise its competence regarding a State party to the present Protocol on matters concerning violations of rights set forth in an instrument to which that State is not a party.
3. No communication shall be received by the Committee if it concerns a State that is not a party to the present Protocol.

ARTICLE 2 GENERAL PRINCIPLES GUIDING THE FUNCTIONS OF THE COMMITTEE

In fulfilling the functions conferred on it by the present Protocol, the Committee shall be guided by the principle of the best interests of the child. It shall also have regard for the rights and views of the child, the views of the child being given due weight in accordance with the age and maturity of the child.

ARTICLE 3 RULES OF PROCEDURE

1. The Committee shall adopt rules of procedure to be followed when exercising the functions conferred on it by the present Protocol. In doing so, it shall have regard, in particular, for article 2 of the present Protocol in order to guarantee child-sensitive procedures.
2. The Committee shall include in its rules of procedure safeguards to prevent the manipulation of the child by those acting on his or her behalf and may decline to examine any communication that it considers not to be in the child's best interests.

ARTICLE 4 PROTECTION MEASURES

1. A State party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to any human rights violation, ill-treatment or intimidation as a consequence of communications or cooperation with the Committee pursuant to the present Protocol.
2. The identity of any individual or group of individuals concerned shall not be revealed publicly without their express consent.

PART II COMMUNICATIONS PROCEDURE

ARTICLE 5 INDIVIDUAL COMMUNICATIONS

1. Communications may be submitted by or on behalf of an individual or group of individuals, within the jurisdiction of a State party, claiming to be victims of a violation by that State party of any of the rights set forth in any of the following instruments to which that State is a party:
 - (a) The Convention;
 - (b) The Optional Protocol to the Convention on the sale of children, child prostitution and child pornography;
 - (c) The Optional Protocol to the Convention on the involvement of children in armed conflict.

2. Where a communication is submitted on behalf of an individual or group of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

ARTICLE 6 INTERIM MEASURES

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State party concerned for its urgent consideration a request that the State party take such interim measures as may be necessary in exceptional circumstances to avoid possible irreparable damage to the victim or victims of the alleged violations.
2. Where the Committee exercises its discretion under paragraph 1 of the present article, this does not imply a determination on admissibility or on the merits of the communication.

ARTICLE 7 ADMISSIBILITY

The Committee shall consider a communication inadmissible when:

- (a) The communication is anonymous;
- (b) The communication is not in writing;
- (c) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention and/or the Optional Protocols thereto;
- (d) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- (e) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;
- (f) The communication is manifestly ill-founded or not sufficiently substantiated;

(g) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State party concerned, unless those facts continued after that date;

(h) The communication is not submitted within one year after the exhaustion of domestic remedies, except in cases where the author can demonstrate that it had not been possible to submit the communication within that time limit.

ARTICLE 8

TRANSMISSION OF THE COMMUNICATION

1. Unless the Committee considers a communication inadmissible without reference to the State party concerned, the Committee shall bring any communication submitted to it under the present Protocol confidentially to the attention of the State party concerned as soon as possible.

2. The State party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that it may have provided. The State party shall submit its response as soon as possible and within six months.

ARTICLE 9

FRIENDLY SETTLEMENT

1. The Committee shall make available its good offices to the parties concerned with a view to reaching a friendly settlement of the matter on the basis of respect for the obligations set forth in the Convention and/or the Optional Protocols thereto.

2. An agreement on a friendly settlement reached under the auspices of the Committee closes consideration of the communication under the present Protocol.

ARTICLE 10

CONSIDERATION OF COMMUNICATIONS

1. The Committee shall consider communications received under the present Protocol as quickly as possible, in the light of all documentation submitted to it, provided that this documentation is transmitted to the parties concerned.

2. The Committee shall hold closed meetings when examining communications received under the present Protocol.
3. Where the Committee has requested interim measures, it shall expedite the consideration of the communication.
4. When examining communications alleging violations of economic, social or cultural rights, the Committee shall consider the reasonableness of the steps taken by the State party in accordance with article 4 of the Convention. In doing so, the Committee shall bear in mind that the State party may adopt a range of possible policy measures for the implementation of the economic, social and cultural rights in the Convention.
5. After examining a communication, the Committee shall, without delay, transmit its views on the communication, together with its recommendations, if any, to the parties concerned.

ARTICLE 11 FOLLOW-UP

1. The State party shall give due consideration to the views of the Committee, together with its recommendations, if any, and shall submit to the Committee a written response, including information on any action taken and envisaged in the light of the views and recommendations of the Committee. The State party shall submit its response as soon as possible and within six months.
2. The Committee may invite the State party to submit further information about any measures the State party has taken in response to its views or recommendations or implementation of a friendly settlement agreement, if any, including as deemed appropriate by the Committee, in the State party's subsequent reports under article 44 of the Convention, article 12 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography or article 8 of the Optional Protocol to the Convention on the involvement of children in armed conflict, where applicable.

ARTICLE 12 INTER-STATE COMMUNICATIONS

1. A State party to the present Protocol may, at any time, declare that it recognizes the competence of the Committee to receive and consider

communications in which a State party claims that another State party is not fulfilling its obligations under any of the following instruments to which the State is a party:

- (a) The Convention;
- (b) The Optional Protocol to the Convention on the sale of children, child prostitution and child pornography;
- (c) The Optional Protocol to the Convention on the involvement of children in armed conflict.

2. The Committee shall not receive communications concerning a State party that has not made such a declaration or communications from a State party that has not made such a declaration.

3. The Committee shall make available its good offices to the States parties concerned with a view to a friendly solution of the matter on the basis of the respect for the obligations set forth in the Convention and the Optional Protocols thereto.

4. A declaration under paragraph 1 of the present article shall be deposited by the States parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communications by any State party shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State party concerned has made a new declaration.

PART III INQUIRY PROCEDURE

ARTICLE 13 INQUIRY PROCEDURE FOR GRAVE OR SYSTEMATIC VIOLATIONS

1. If the Committee receives reliable information indicating grave or systematic violations by a State party of rights set forth in the Convention or in the Optional Protocols thereto on the sale of children, child prostitution and child pornography or on the involvement of children in armed conflict, the Committee shall invite the State party to cooperate in the examination of the

information and, to this end, to submit observations without delay with regard to the information concerned.

2. Taking into account any observations that may have been submitted by the State party concerned, as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State party, the inquiry may include a visit to its territory.

3. Such an inquiry shall be conducted confidentially, and the cooperation of the State party shall be sought at all stages of the proceedings.

4. After examining the findings of such an inquiry, the Committee shall transmit without delay these findings to the State party concerned, together with any comments and recommendations.

5. The State party concerned shall, as soon as possible and within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.

6. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2 of the present article, the Committee may, after consultation with the State party concerned, decide to include a summary account of the results of the proceedings in its report provided for in article 16 of the present Protocol.

7. Each State party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in the present article in respect of the rights set forth in some or all of the instruments listed in paragraph 1.

8. Any State party having made a declaration in accordance with paragraph 7 of the present article may, at any time, withdraw this declaration by notification to the Secretary-General of the United Nations.

ARTICLE 14

FOLLOW-UP TO THE INQUIRY PROCEDURE

1. The Committee may, if necessary, after the end of the period of six months referred to in article 13, paragraph 5, invite the State party concerned to inform it of the measures taken and envisaged in response to an inquiry conducted under article 13 of the present Protocol.

2. The Committee may invite the State party to submit further information about any measures that the State party has taken in response to an inquiry conducted under article 13, including as deemed appropriate by the Committee, in the State party's subsequent reports under article 44 of the Convention, article 12 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography or article 8 of the Optional Protocol to the Convention on the involvement of children in armed conflict, where applicable.

PART IV FINAL PROVISIONS

ARTICLE 15 INTERNATIONAL ASSISTANCE AND COOPERATION

1. The Committee may transmit, with the consent of the State party concerned, to United Nations specialized agencies, funds and programmes and other competent bodies its views or recommendations concerning communications and inquiries that indicate a need for technical advice or assistance, together with the State party's observations and suggestions, if any, on these views or recommendations.

2. The Committee may also bring to the attention of such bodies, with the consent of the State party concerned, any matter arising out of communications considered under the present Protocol that may assist them in deciding, each within its field of competence, on the advisability of international measures likely to contribute to assisting States parties in achieving progress in the implementation of the rights recognized in the Convention and/or the Optional Protocols thereto.

ARTICLE 16 REPORT TO THE GENERAL ASSEMBLY

The Committee shall include in its report submitted every two years to the General Assembly in accordance with article 44, paragraph 5, of the Convention a summary of its activities under the present Protocol.

ARTICLE 17
DISSEMINATION OF AND INFORMATION ON THE
OPTIONAL PROTOCOL

Each State party undertakes to make widely known and to disseminate the present Protocol and to facilitate access to information about the views and recommendations of the Committee, in particular with regard to matters involving the State party, by appropriate and active means and in accessible formats to adults and children alike, including those with disabilities.

ARTICLE 18
SIGNATURE, RATIFICATION AND ACCESSION

1. The present Protocol is open for signature to any State that has signed, ratified or acceded to the Convention or either of the first two Optional Protocols thereto.
2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention or either of the first two Optional Protocols thereto. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention or either of the first two Optional Protocols thereto.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General.

ARTICLE 19
ENTRY INTO FORCE

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

ARTICLE 20

VIOLATIONS OCCURRING AFTER THE ENTRY INTO FORCE

1. The Committee shall have competence solely in respect of violations by the State party of any of the rights set forth in the Convention and/or the first two Optional Protocols thereto occurring after the entry into force of the present Protocol.
2. If a State becomes a party to the present Protocol after its entry into force, the obligations of that State vis-à-vis the Committee shall relate only to violations of the rights set forth in the Convention and/or the first two Optional Protocols thereto occurring after the entry into force of the present Protocol for the State concerned.

ARTICLE 21

AMENDMENTS

1. Any State party may propose an amendment to the present Protocol and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States parties with a request to be notified whether they favour a meeting of States parties for the purpose of considering and deciding upon the proposals. In the event that, within four months of the date of such communication, at least one third of the States parties favour such a meeting, the Secretary-General shall convene the meeting under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and, thereafter, to all States parties for acceptance.
2. An amendment adopted and approved in accordance with paragraph 1 of the present article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States parties that have accepted it.

ARTICLE 22

DENUNCIATION

1. Any State party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations. The

denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under articles 5 or 12 or any inquiry initiated under article 13 before the effective date of denunciation.

ARTICLE 23

DEPOSITARY AND NOTIFICATION BY THE SECRETARY-GENERAL

1. The Secretary-General of the United Nations shall be the depositary of the present Protocol.

2. The Secretary-General shall inform all States of:

(a) Signatures, ratifications and accessions under the present Protocol;

(b) The date of entry into force of the present Protocol and of any amendment thereto under article 21;

(c) Any denunciation under article 22 of the present Protocol.

ARTICLE 24

LANGUAGES

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.

Concluding observations on the combined fifth and sixth periodic reports of Sri Lanka (2018)

United Nations

CRC/C/LKA/CO/5-6



Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the combined fifth and sixth periodic reports of Sri Lanka*

I. Introduction

1. The Committee considered the combined fifth and sixth periodic reports of Sri Lanka (CRC/C/LKA/5-6) at its 2254th and 2255th meetings (see CRC/C/SR.2254 and 2255), held on 15 and 16 January 2018, and adopted the present concluding observations at its 2282nd meeting, held on 2 February 2018.

2. The Committee welcomes the submission of the combined fifth and sixth periodic reports of the State party and the written replies to the list of issues (CRC/C/LKA/Q/5-6/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

II. Follow-up measures taken and progress achieved by the State party

3. The Committee welcomes the progress achieved by the State party in various areas, including the ratification, in 2016, of the Convention on the Rights of Persons with Disabilities. The Committee also notes with appreciation the legislative, institutional and policy measures adopted to implement the Convention, in particular the National Plan of Action for Children of Sri Lanka (2016–2020), the plan of action on social protection for children (2016–2019) and the Policy Framework and National Plan of Action to address Sexual and Gender-based Violence. It further welcomes the reconciliation efforts made by the State party to date and the progress made in reducing child and maternal mortality.

III. Main areas of concern and recommendations

4. The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention and emphasizes the importance of all the recommendations contained in the present concluding observations. The Committee would like to draw the State party's attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: violence, including corporal punishment (para. 21), sexual exploitation and abuse (para. 23), economic exploitation, including child labour (para. 41), administration of juvenile justice (para. 45) and reconciliation, truth and justice (para. 47).

* Adopted by the Committee at its seventy-seventh session (14 January–2 February 2018).



A. General measures of implementation (arts. 4, 42 and 44 (6))**Legislation**

5. The Committee recommends that the State party:

(a) Transpose the Convention into its national legislation to ensure that all the principles and provisions of the Convention can be applied by the judicial and administrative authorities;

(b) Expedite the adoption of the bill on judicial protection for children;

(c) Ensure that domestic legislation, including any local or customary laws, is brought into compliance with the Convention.

Comprehensive policy and strategy

6. The Committee recommends that the State party:

(a) Increase its efforts to implement the National Plan of Action for Children of Sri Lanka (2016–2020) and allocate the necessary human, technical and financial resources;

(b) Adopt the National Child Protection Policy, ensure that it is in line with the Convention and allocate the necessary resources for its implementation.

Coordination

7. The Committee recommends that the State party ensure that the National Child Protection Authority is independent, reports to a level above any one government department, is able to continue to fully exercise its functions under any circumstances and is adequately resourced.

Allocation of resources

8. With reference to its general comment No. 19 (2016) on public budgeting for the realization of children's rights, the Committee recommends that the State party:

(a) Conduct a comprehensive assessment of the budget needs of children, with a special additional focus on children in disadvantaged and vulnerable situations, and allocate adequate budgetary resources, in accordance with article 4 of the Convention, for the implementation of children's rights;

(b) Increase the budget allocated to social sectors, in particular health and education, address disparities on the basis of indicators related to children's rights and define earmarked budgetary lines that which are protected, including in the context of crises, disasters or emergencies, for children in disadvantaged or vulnerable situations;

(c) Establish a mechanism to evaluate the adequacy, efficacy and equitability of the distribution of resources allocated to the implementation of children's rights and strengthen efforts to prevent and prosecute corruption.

Data collection

9. The Committee reiterates its previous recommendations (see CRC/C/LKA/CO/3-4, para. 21), and encourages the State party to set up a comprehensive data-collection system with the support of its partners and to analyse the data collected as a basis for assessing progress achieved in the realization of children's rights and for helping to design policies and programmes to implement the Convention. The data collected should be disaggregated by, inter alia, age, sex, ethnicity, geographic location and socioeconomic background to facilitate analysis of the situation of all children. The State party should ensure that information collected contains up-to-date data on a wide range of children in marginalized and vulnerable situations, including children with disabilities, in poverty and in street situations. The

Committee urges the State party to develop and implement a policy to protect the privacy of all children who have been registered in the national databases.

Independent monitoring

10. While welcoming the strengthening of the Human Rights Commission of Sri Lanka following the nineteenth amendment to the Constitution and the development of a new strategy document for 2016–2019, the Committee, with reference to its 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, recommends that the State party continue its efforts to:

- (a) Ensure the independence of the Human Rights Commission of Sri Lanka, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);
- (b) Allocate the necessary human, financial and technical resources to enable the Human Rights Commission of Sri Lanka to carry out its responsibilities effectively;
- (c) Engage with the Global Alliance of National Human Rights Institutions and the Office of the United Nations High Commissioner for Human Rights with regard to its accreditation status;
- (d) Establish a specific mechanism for monitoring children's rights.

Dissemination, awareness-raising and training

11. The Committee recommends that the State party continue to:

- (a) Increase awareness-raising activities in all languages to ensure that, among adults and children, there is widespread familiarity with and understanding of the importance of children's rights and their implementation and all the principles and provisions of the Convention;
- (b) Conduct specific training sessions on the Convention and its Optional Protocols for relevant groups of professionals, including the judiciary, law enforcement and military personnel, teachers, health-care personnel, social workers and the media;
- (c) Vigorously address the low rate of recognition of children's rights and of actors working on children's rights in society.

Cooperation with civil society

12. The Committee, while welcoming the cooperation with non-governmental organizations (NGOs) in certain fields and recalling the 2017 concluding observations of the Committee against Torture (see CAT/C/LKA/CO/5, paras. 39–40), urges the State party to ensure that child rights defenders can safely carry out their functions in a manner consistent with the principles of a democratic society, that all instances of arbitrary arrest, intimidation and harassment of these activists are promptly and independently investigated and that those responsible for such abuses are held accountable.

Children's rights and the business sector

13. Noting with concern the continuing negative impact of private domestic and foreign business and industries on children, including on tea plantations and in the construction, textiles and tourism industries, the Committee, with reference to its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights and to the Guiding Principles on Business and Human Rights, endorsed by the Human Rights Council in 2011, urges the State party to:

Reconciliation, truth and justice

47. While welcoming the undertaking made by the State party during the recent universal periodic review process to implement its commitments under Human Rights Council resolution 30/1 on promoting reconciliation, accountability and human rights in Sri Lanka, the Committee is concerned about the slow pace of progress in relation to the implementation of those commitments. In particular, it is concerned that:

(a) The number of missing children or persons who were children during the conflict remains high, including children who have surrendered and been sent for rehabilitation and that the Office of Missing Persons, established in 2016, has not yet been operationalized;

(b) Many persons who recruited and used children during the armed conflict continue to enjoy impunity and paramilitary leaders allegedly responsible for killings, abductions and widespread recruitment of child soldiers continue to hold public positions.

48. **The Committee urges the State party to meet its commitments arising from Human Rights Council resolution 30/1 in an effective and timely manner, while ensuring that children and those who were children at the time of the armed conflict be given a voice in the national reconciliation and transitional justice processes and be supported as victims, witnesses or claimants. In particular, the Committee urges the State party to:**

(a) **Strengthen its efforts to operationalize a fully independent Office of Missing Persons, focusing in particular on addressing cases of individuals who went missing as children at the time of the armed conflict and who are still missing; and**

(b) **Ensure that all persons responsible for the recruitment and use of children during the course of the armed conflict are brought to justice.**

Follow-up to the Committee's previous concluding observations and recommendations on the Optional Protocol on the involvement of children in armed conflict

49. **The Committee recalls its previous recommendation (see CRC/C/OPAC/LKA/CO/1, para. 39) and urges the State party to:**

(a) **Consider formalizing its commitment not to prosecute children or persons who, as children, were involved in the armed conflict;**

(b) **Provide psychological support to former child combatants to address trauma and other mental health issues and to children who have been internally displaced and/or deprived of a family environment owing to violence and/or enforced disappearance;**

(c) **Ensure that all schools currently run by the military are transferred back under the control of the Ministry of Education;**

(d) **Ensure that training of the National Cadet Corps does not include active service;**

(e) **Consider acceding to the Protocols additional to the Geneva Conventions and the Rome Statute of the International Criminal Court.**

J. Ratification of the Optional Protocol to the Convention on a communications procedure

50. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.**

(d) Ensure that girls covered by Muslim law are provided with rights on equal terms with boys, including the right to inheritance;

(e) Mobilize communities and the public at large by making systematic efforts, in collaboration with the mass media, social networks and community and religious leaders, to combat and change discriminatory attitudes towards and practices concerning children in general and children in disadvantaged and marginalized situations;

(f) Include segments on non-discrimination and equality in the mandatory school curriculum for children of all ages, adapt teaching materials and regularly train teachers accordingly.

Right to life, survival and development

17. The Committee encourages the State party to continue to intensify its landmine-awareness programmes and demining activities and its assistance to and rehabilitation services for child landmine victims.

Respect for the views of the child

18. Recalling its general comment No. 12 (2009) on the right of the child to be heard and noting with concern that this right continues to be insufficiently implemented, the Committee recommends that the State party duly include the right of the child to be heard in all relevant legislation. Training of relevant professionals and awareness-raising measures should be undertaken to ensure that the right is consistently applied in all judicial and administrative proceedings affecting children and in family, school and community settings.

D. Civil rights and freedoms (arts. 7, 8 and 13–17)

Birth registration/Name and nationality

19. In spite of the high rate of birth registration in the State party, a significant number of births remain unregistered among certain marginalized groups. The Committee, taking note of target 16.9 of the Sustainable Development Goals on providing legal identity for all, including birth registration, recommends that the State party further raise awareness on the importance of birth registration and simplify the procedure, including by creating mobile registration structures, in particular for those children who were not registered within established timelines.

Freedom of association

20. The Committee recommends that the State party revise its Prevention of Terrorism Act to bring it into line with children's rights standards and to refrain from using this piece of legislation to restrict the freedom of association of children, in particular children suspected of alleged terrorist activities.

E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)

Violence, including corporal punishment

21. The Committee, while noting with appreciation that the State party has accepted a recommendation issued in the course of the universal periodic review in November 2017 that corporal punishment should be prohibited in all settings, is deeply concerned that high numbers of children are subjected to abuse and violence, including corporal punishment, and that corporal punishment remains legal in the home, alternative care settings, penal institutions and schools.

22. The Committee, recalling its previous recommendations (see CRC/C/LKA/CO/3-4, para. 41, and CRC/C/15/Add.207, para. 29), and with reference to its general comments No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and No. 13 (2011) on the right of the child to freedom from all forms of violence and taking note of target 16.2 of the Sustainable Development Goals on ending abuse, exploitation, trafficking and all forms of violence against and torture of children, urges the State party to prioritize the elimination of all forms of violence against children and to:

(a) Prohibit unequivocally by law, and without any further delay, corporal punishment, however light, in all settings, repeal any legal defence concerning its use and ensure that the relevant laws are effectively implemented and that legal proceedings are systematically initiated upon their breach;

(b) Increase the capacity of relevant groups of professional, in particular law enforcement officers, health personnel, social workers and the judiciary, including *quazis*, to handle cases of violence against children, including the capacity to bring cases of domestic child abuse under the Prevention of Domestic Violence Act;

(c) Introduce sustained public education, awareness-raising and social mobilization programmes, involving children, families, communities and religious leaders, on the harmful effects of corporal punishment, with a view to changing the general attitude towards this practice, ensure children's involvement in the design of prevention strategies and promote positive, non-violent, participatory forms of child-rearing and discipline as an alternative to corporal punishment;

(d) Regularly monitor the situation of children in all places of detention, install closed complaint boxes in prisons, police stations and remand homes to enable children to confidentially complain about torture or ill-treatment when in detention, and ensure unimpeded access by the Human Rights Commission of Sri Lanka to police stations and detention facilities;

(e) Allocate all necessary resources to efforts to implement the national plan of action to prevent child abuse (2016 onwards) and to ensure that efficient follow-up measures are taken where child abuse is reported via helplines.

Sexual exploitation and abuse

23. Despite noting the efforts to combat the sexual exploitation and abuse of children, the Committee is gravely concerned about:

(a) The high number of cases of sexual exploitation and abuse of children, including in alternative care institutions, religious institutions, the community and the home, child prostitution and online child sexual exploitation and abuse, including child pornography, with regard to which a climate of impunity frequently prevails;

(b) The lack of legal recognition of male rape and underreporting of sexual abuse of boys because of stigmatization, criminalization of homosexuality and feelings of shame concerning so-called "emasculatation";

(c) Lengthy prosecutions leading to revictimization in child sexual abuse cases and the lack of access to fundamental legal guarantees and due process for child victims of sexual exploitation and abuse;

(d) The low rate of conviction for sexual abuse of children by members of the Sri Lankan military contingents deployed as a part of the United Nations Stabilization Mission in Haiti (MINUSTAH).

24. The Committee urges the State party to develop an effective and comprehensive policy for preventing the sexual exploitation and abuse of children, including through child pornography, and for promoting the recovery and social reintegration of child victims, taking into consideration the root causes that place children at risk. It further urges the State party to:

- (a) Strengthen legislation criminalizing child pornography and also ensure its criminalization under the Computer Crimes Act of 2007;
- (b) Take prompt measures to revise article 363 of the Penal Code to criminalize statutory rape of boys and take large-scale awareness-raising measures to encourage the reporting of rape of boys, to eliminate the associated stigma and to ensure accessible, confidential, child-friendly and effective channels for the reporting of such violations;
- (c) Conduct awareness-raising and education programmes and campaigns aimed at preventing and responding to the sexual exploitation and abuse of children, including child prostitution, targeting parents, children and community members;
- (d) Ensure the systematic and timely investigation of complaints, protect victims against acts of reprisal and ensure full respect for the confidentiality of child victims, including through the use of closed court proceedings in cases of child sexual abuse and exploitation, and bring perpetrators to justice;
- (e) Bring members of the armed forces who sexually abused and exploited children while serving with MINUSTAH to justice expeditiously and ensure reparation for child victims.

Gender-based violence

25. While noting with appreciation the initiatives taken to tackle gender-based violence against girls, such as the National Plan of Action to address Sexual and Gender-based Violence (2016–2020), the establishment of women's and children's desks in several police stations and gender-based violence desks in several hospitals, the Committee is gravely concerned at the continuing high prevalence of gender-based violence against girls and recommends that the State party:

- (a) Strengthen legislation punishing gender-based violence, criminalize as marital rape sexual intercourse in all circumstances where the consent of the spouse is missing and remove any requirement to participate in mediation prior to pursuing a case in court;
- (b) Remove from article 363 (e) of the Penal Code, on statutory rape, exceptions related to marital status for girls under the age of 16 years;
- (c) Take large-scale awareness-raising measures, including through mandatory segments in the school curriculum, cooperation with community and religious leaders and the mass and social media, to remove the strong stigma and fear of acts of reprisal that deter girls who are victims and witnesses from reporting violence and to change persisting patriarchal attitudes and eliminate discriminatory stereotypes that are a major root cause of sexual and gender-based violence and that perpetuate the associated culture of impunity;
- (d) Increase the number of safe houses for women and child victims, placing a specific focus on ensuring provision of shelter for internally displaced women and girls;
- (e) Provide regular substantive training for the judiciary, the police and other relevant groups of professionals on the Prevention of Domestic Violence Act and on standardized, gender- and child-sensitive procedures for dealing with victims and ensure that perpetrators are brought to justice;
- (f) Ensure that complaints can be made and that all support is available in all languages to victims of gender-based violence.

Harmful practices

26. The Committee recommends that the State party:

- (a) Ban, as currently under discussion, female (circumcision) for girls, a form of genital mutilation practised by the Dawoodi Bohra community and carry out

awareness-raising activities, including campaigns, on the patriarchal nature of this practice and its negative effects on health;

(b) In the light of the prevalence of child marriage, including within the Vedda community, take all necessary steps to eliminate the practice of marriage under the age of 18 years.

F. Family environment and alternative care (arts. 5, 9–11, 18 (1) and (2), 20, 21, 25 and 27 (4))

Family environment

27. The Committee, in the light of its general comment No. 22 (2017) on the general principles regarding the human rights of children in the context of international migration, issued jointly with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, and in view of the relatively high number of parents who migrate abroad for work, leaving their children behind, recommends that the State party:

(a) Step up efforts to provide adequate support and work opportunities within the State party to families in disadvantaged and marginalized situations;

(b) Establish adequate care options, avoiding institutionalization for children whose parents decide to migrate for work, and provide specific measures of support for these children, who are often subjected to dire situations;

(c) Create incentives for parents to return, as well as enter into diplomatic agreements with the destination countries to ensure their right to freely leave their employer, visit and reunite with their children.

Children deprived of a family environment

28. The Committee, drawing the State party's attention to the Guidelines for the Alternative Care of Children, emphasizes that financial and material poverty should never be the sole justification for removing a child from parental care, for receiving a child into alternative care or for preventing a child's social reintegration, and recommends that the State party:

(a) Ensure that families who are destitute are provided with the necessary means to provide care for their children;

(b) Support and facilitate care for children in their families of origin, including single-parent families, establish a system of foster care for children who cannot stay with their families, with a view to reducing the high rate of institutionalization of children, and implement mechanisms to expand and stimulate the reintegration of children into their families;

(c) Ensure adequate safeguards and clear criteria, based on the needs and the best interests of the child, for determining placement in alternative care and strengthen the periodic review of the placement of children in alternative care;

(d) Enforce mandatory registration for childcare institutions, particularly in the north and east; criminalize the act of running a childcare institution without a license; establish a uniform set of standards for public and private institutions and voluntary homes; improve conditions in those facilities; monitor the quality of care provided therein by means of unannounced visits where children are heard without the presence of staff; provide accessible channels for reporting maltreatment, sexual abuse and exploitation of children; and ensure that perpetrators are brought to justice;

(e) Ensure that children in need of care are under no circumstances placed together with children in conflict with the law;

(f) Ensure that children who are institutionalized can access good quality education and quality health services.

G. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1)–(3) and 33)

Children with disabilities

29. The Committee, with reference to its general comment No. 9 (2006) on the rights of children with disabilities, recommends that the State party:

(a) Adopt a human rights-based approach to disability and set up a comprehensive strategy for the inclusion of children with disabilities in all public policies and programmes;

(b) Undertake awareness-raising campaigns aimed at government officials, the public and families to combat the stigmatization of and prejudice against children with disabilities, promote a positive image of such children and ensure that they are not portrayed as objects of charity, but as rights-holders;

(c) Collect disaggregated data on children with disabilities of all ages and improve early intervention services;

(d) Guarantee the right to education for all children with disabilities and promote and strengthen inclusive education.

Health and health services

30. While noting with appreciation the provision of free health care to all citizens, the Committee, with reference to its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, recommends that the State party:

(a) Address the regional disparities in terms of health care, increase the number of health personnel, particularly in rural and remote areas, and educate specialists in fields where capacity is currently lacking, especially in mental, sexual and reproductive health services;

(b) Combat high out-of-pocket health expenses, high prices of medicines and expensive private medical care, with a view to ensuring that each child has equal access to quality public health care.

Mental health

31. The Committee recommends that the State party strengthen its efforts to prevent adolescent suicides, including by increasing available psychological counselling services and social workers and training professionals working with children to identify and address mental health problems and suicidal tendencies, and carry out campaigns to raise awareness on the issue.

Adolescent health

32. The Committee, with reference to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention, recommends that the State party:

(a) Ensure that age-appropriate sexual and reproductive health education is part of the mandatory school curriculum, paying special attention to preventing early pregnancy and sexually transmitted infections;

(b) Ensure access to safe and confidential abortion without stigmatization and post-abortion care services for adolescent girls, making sure that their views are always heard and given due consideration;

(c) Foster responsible parenthood and sexual behaviour, focusing in particular on boys.

Drug and substance abuse

33. The Committee recommends that the State party:

- (a) Strengthen efforts to address the relatively high rates of consumption of tobacco and alcohol among adolescents, including by strictly prohibiting the advertising and sale of all forms of those substances to children and by raising awareness at school in that regard;
- (b) Provide children with accurate and objective information and life-skills education on preventing substance abuse, in collaboration with the mass media and social networks;
- (c) Train teachers to identify and address drug dealing on school premises;
- (d) Develop accessible and youth-friendly drug-dependence treatment and harm-reduction services, in particular in the north and east, and make the necessary legislative amendments to ensure that children are not detained for drug use.

Nutrition

34. Taking note of target 2.2 of the Sustainable Development Goals on ending all forms of malnutrition, the Committee recommends that the State party effectively address malnutrition, particularly with regard to stunting, wasting, low weight and anaemia, and carry out public awareness programmes on proper infant and young child feeding practices.

Environmental health

35. The Committee urges the State party to significantly reduce the very high use of agrochemicals, which are harmful to the health of children, and to establish an effective monitoring system in this regard.

Impact of climate change on the rights of the child

36. The Committee draws attention to target 13.b of the Sustainable Development Goals on promoting mechanisms for raising capacity for effective climate change-related planning and management, and recommends that the State party increase children's awareness of and preparedness for climate change and natural disasters by incorporating the topic into the school curriculum and teacher-training programmes.

Standard of living

37. While welcoming the general reduction in poverty rates, the Committee, taking note of target 1.3 of the Sustainable Development Goals on implementing nationally appropriate social protection systems and measures for all, recommends that the State party further increase its efforts to tackle high poverty rates and inequality. In this regard the State party should:

- (a) Strengthen its child-centred measures, paying special attention to the most disadvantaged groups, including children and families living in rural areas, child workers and children in single-parent households;
- (b) Place particular emphasis on support for and empowerment of women-headed households;
- (c) Adopt an adequate legal framework providing protection against forced eviction.

H. Education, leisure and cultural activities (arts. 28–31)**Education, including vocational training and guidance**

38. While noting with appreciation the near-universal enrolment of girls and boys in primary education and the raising of the age until which children must remain in

education from 14 to 16 years, the Committee, with reference to its general comment No. 1 (2001) on the aims of education, recommends that the State party:

- (a) Address, with the necessary budget allocation, the regional disparities in school infrastructure and quality teaching, including by ensuring the availability of qualified school personnel, providing quality education in all languages, aligning curriculum contents and improving technical and infrastructural facilities;
- (b) Protect children, in particular girls, from harassment, abuse and violence in schools and on their way to and from school, and combat discriminatory gender stereotypes in education programmes;
- (c) Ensure that pregnant girls and adolescent mothers are under no circumstances pressured into dropping out of school and are supported in continuing their education in mainstream schools;
- (d) Address the significant school dropout rate in rural areas and long-term absences, including by making available adequate transportation systems, and develop and promote quality vocational training to enhance the skills of children, especially those who drop out of school and children in street situations;
- (e) Strengthen efforts to eradicate all hidden costs of schooling, in particular the practice of donations for school admittance that constitute de facto bribes;
- (f) Provide school re-entry programmes for victims of child marriage.

I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d) and 38–40)

Internally displaced children

39. The Committee recommends that the State party continue its efforts to find sustainable solutions for internally displaced children and their families and that it:

- (a) Address all factors that impede the return or resettlement of internally displaced children and their families;
- (b) Provide compensation and assistance to internally displaced families and make sure that their basic infrastructural needs are met upon resettlement, including access to schools and hospitals;
- (c) Ensure that internally displaced children and their families living in camps have access to sufficient and safe water and sanitation facilities, electricity, schools and health care;
- (d) Ensure that internally displaced Muslim children and their families from Northern Province are fully included in return or resettlement initiatives.

Children belonging to minority or indigenous groups

40. The Committee urges the State party to significantly strengthen measures to combat discrimination against children belonging to ethnic, ethnoreligious and indigenous minority groups, and to:

- (a) Ensure that the rights, traditions and lands of the indigenous Vedda children and their families are preserved and tackle the socioeconomic marginalization and discrimination to which they are subjected;
- (b) Adopt and provide adequate resources for the implementation of legislation, strategies and awareness-raising measures to combat caste-based discrimination and train the judiciary and law enforcement personnel accordingly;
- (c) Increase efforts to prevent hate speech, incitement to violence and violent attacks, including riots, against ethnic, ethnoreligious and indigenous minority groups.

Economic exploitation, including child labour

41. While noting the efforts undertaken by the State party to eliminate child labour, including the National Policy on Elimination of Child Labour in Sri Lanka, the Committee notes with deep concern that a considerable number of children are economically active, including as street vendors and in domestic service, agriculture, mining, construction, manufacturing, transport and fishing, and that children are reportedly trafficked for the purposes of forced domestic work.

42. **The Committee urges the State party to:**

(a) **Further strengthen and implement existing legislation, with a view to ensuring that all hazardous or abusive forms of labour are prohibited for children under 18 years of age, and adopt specific measures to address the situation of child domestic workers;**

(b) **Establish a strong component of the labour inspectorate responsible for monitoring child labour cases;**

(c) **Increase efforts to ensure that perpetrators of exploitation of child labour and perpetrators of trafficking in children for the purposes of labour exploitation are brought to justice.**

Children in street situations

43. The Committee, with reference to its general comment No. 21 (2017) on children in street situations, recommends that the State party:

(a) **Assess the number of children in street situations and study the root causes of the phenomenon;**

(b) **Increase its efforts and develop, adequately resource and implement a specific strategy on children in street situations that complements the strategies already included in the National Plan of Action for Children in Sri Lanka (2016–2020) and respects the views, autonomy and diversity of such children;**

(c) **Ensure that children in street situations are under no circumstances placed in detention merely for being in the street, that institutionalization is employed only as a measure of last resort where reintegration with family or foster care is not available and that, when implementing reintegration measures, the child's best interests are fully respected and due weight is given to his or her views, according to age and maturity.**

Sale, trafficking and abduction

44. While noting with appreciation the National Strategic Plan to Monitor and Combat Human Trafficking (2015–2019), the Committee recommends that the State party:

(a) **Strengthen anti-trafficking legislation and impose adequate sanctions for trafficking in children;**

(b) **Increase resources allocated to the investigation of cases of trafficking in children and ensure that perpetrators are brought to justice;**

(c) **Cooperate with neighbouring countries and NGOs to set up prevention and awareness-raising mechanisms;**

(d) **Increase the resources allocated to support physical and psychological recovery for all child victims of sale or trafficking.**

Administration of juvenile justice

45. The Committee is seriously concerned that:

(a) **At 8 years, the current age of criminal responsibility is extremely low;**

(b) Children over the age of 16 years continue to be excluded from the protection of the Children and Young Persons Ordinance;

(c) The periods for which children are held in pretrial detention are very lengthy and that children held in such detention are often ill-treated by the police and have no access to education;

(d) The number of juvenile courts is particularly low and, despite provision of training of staff, child-friendly approaches are not implemented in the courts and there is a general lack of understanding of the implications and requirements of a specialized system of juvenile justice;

(e) Domestic legislation does not guarantee children the right to legal representation;

(f) Alternatives to detention are lacking;

(g) Children are not separated from adults throughout all stages of the judicial process;

(h) Data on children who have come into conflict with the law are scarce.

46. **With reference to its general comment No. 10 (2007) on children's rights in juvenile justice, the Committee urges the State party to bring its juvenile justice system fully into line with the Convention and other relevant standards, and, in particular, to:**

(a) **Expediently raise the age of criminal responsibility to an internationally accepted standard and give the child the benefit of the doubt in the context of punishment where there is conflicting, inconclusive or uncertain evidence of the child's age;**

(b) **Promptly take measures to adopt and implement the Children (Judicial Protection) Bill, which will apply to all children aged up to 18 years;**

(c) **Adopt a comprehensive policy for juvenile justice, based on restorative practices and guided by the right of the child to have his or her best interests taken into account as a primary consideration;**

(d) **Expediently establish specialized juvenile court facilities and procedures, with adequate human, technical and financial resources, appoint specialized judges for children and ensure that they receive appropriate training;**

(e) **Ensure the provision of qualified, independent and, if necessary, free legal aid to children in conflict with the law at an early stage of and throughout legal proceedings;**

(f) **Promote non-judicial measures in the case of children accused of criminal offences, such as diversion, mediation and counselling, and wherever possible, use alternative measures at sentencing, such as probation or community service;**

(g) **Ensure that detention, including pretrial detention, is used as a measure of last resort only and for the shortest possible period of time and that it is reviewed on a regular basis with a view to its withdrawal, and ensure that detention is not used for petty offences;**

(h) **With regard to cases where detention is unavoidable and to transportation to and from court, ensure that the children are not detained together with adults and that detention conditions comply with international standards, including concerning education and health services;**

(i) **Provide data on children in conflict with the law in its next periodic report.**

Reconciliation, truth and justice

47. While welcoming the undertaking made by the State party during the recent universal periodic review process to implement its commitments under Human Rights Council resolution 30/1 on promoting reconciliation, accountability and human rights in Sri Lanka, the Committee is concerned about the slow pace of progress in relation to the implementation of those commitments. In particular, it is concerned that:

(a) The number of missing children or persons who were children during the conflict remains high, including children who have surrendered and been sent for rehabilitation and that the Office of Missing Persons, established in 2016, has not yet been operationalized;

(b) Many persons who recruited and used children during the armed conflict continue to enjoy impunity and paramilitary leaders allegedly responsible for killings, abductions and widespread recruitment of child soldiers continue to hold public positions.

48. **The Committee urges the State party to meet its commitments arising from Human Rights Council resolution 30/1 in an effective and timely manner, while ensuring that children and those who were children at the time of the armed conflict be given a voice in the national reconciliation and transitional justice processes and be supported as victims, witnesses or claimants. In particular, the Committee urges the State party to:**

(a) **Strengthen its efforts to operationalize a fully independent Office of Missing Persons, focusing in particular on addressing cases of individuals who went missing as children at the time of the armed conflict and who are still missing; and**

(b) **Ensure that all persons responsible for the recruitment and use of children during the course of the armed conflict are brought to justice.**

Follow-up to the Committee's previous concluding observations and recommendations on the Optional Protocol on the involvement of children in armed conflict

49. **The Committee recalls its previous recommendation (see CRC/C/OPAC/LKA/CO/1, para. 39) and urges the State party to:**

(a) **Consider formalizing its commitment not to prosecute children or persons who, as children, were involved in the armed conflict;**

(b) **Provide psychological support to former child combatants to address trauma and other mental health issues and to children who have been internally displaced and/or deprived of a family environment owing to violence and/or enforced disappearance;**

(c) **Ensure that all schools currently run by the military are transferred back under the control of the Ministry of Education;**

(d) **Ensure that training of the National Cadet Corps does not include active service;**

(e) **Consider acceding to the Protocols additional to the Geneva Conventions and the Rome Statute of the International Criminal Court.**

J. Ratification of the Optional Protocol to the Convention on a communications procedure

50. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.**

K. Ratification of international human rights instruments

51. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, consider ratifying the following core human rights instruments to which it is not yet a party:

(a) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

(b) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;

(c) The Optional Protocol to the Convention on the Rights of Persons with Disabilities.

IV. Implementation and reporting

A. Follow-up and dissemination

52. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the combined fifth and sixth periodic reports, the written replies to the list of issues and the present concluding observations be made widely available in the languages of the country.

B. National mechanism for reporting and follow-up

53. The Committee recommends that the State party establish a national mechanism for reporting and follow-up as a standing government structure that is mandated with coordinating and preparing reports to and engaging with international and regional human rights mechanisms, as well as with coordinating and tracking national follow-up to and implementation of the treaty obligations and the recommendations and decisions emanating from such mechanisms. The Committee emphasizes that such a structure should be adequately and continuously supported by dedicated staff and should have the capacity to consult systematically with the national human rights institution and civil society.

C. Next report

54. The Committee invites the State party to submit its seventh periodic report by 10 August 2023 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 (CRC/C/58/Rev.3) and should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

55. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I) and paragraph 16 of General Assembly resolution 68/268.

**Concluding observations on the
reports submitted by States parties
under article 8 of the
Optional Protocol to the Convention
on the Rights of the Child on the
involvement of children in armed
conflict (2010)**



Convention on the Rights of the Child

Committee on the Rights of the Child

Fifty-fifth session

13 September – 1 October 2010

Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Concluding observations: Sri Lanka

1. The Committee considered the initial report of Sri Lanka (CRC/C/OPAC/LKA/1) at its 1571st meeting (see CRC/C/SR.1571), held on 24 September 2010, and adopted at its 1583rd meeting (see CRC/C/SR.1583), held on 1 October 2010, the following concluding observations.

Introduction

2. The Committee welcomes the submission of the State party's initial report, although it regrets that the report does not follow the Committee's reporting guidelines under the Optional Protocol (CRC/C/OPAC/2). The Committee further welcomes the written replies of the State party (CRC/C/OPAC/LKA/Q/1/Add.1) to the list of issues and appreciates the constructive dialogue held with the multisectoral delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations on the State party's combined third and fourth periodic report (CRC/C/LKA/CO/3-4) adopted on 1 October 2010.

I. Positive aspects

4. The Committee notes as positive that:

- (a) The State party has made a declaration upon ratification of the Optional Protocol stating 18 years as the minimum age for voluntary recruitment to the armed forces;
- (b) There is no conscription in the State party and that the minimum age of voluntary recruitment is 18 years without exception;
- (c) The penal code was amended (Amendment Act No. 16 of 1 January 2006) to penalize the engagement or recruitment of children for use in armed conflicts.

5. The Committee also welcomes the ratification of the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) of the International Labour Organization on 1 March 2001.

II. General measures of implementation

Independent monitoring

6. The Committee notes with concern that the National Human Rights Commission lacks independence and has not been provided with the necessary human, financial and technical resources to carry out its responsibilities effectively. The Committee further regrets that its recommendation to the State party to consider the establishment of a bureau for children's rights within the Commission to enhance access for children has not been followed up.

7. The Committee urges the State party to take the necessary measures to ensure the independence of the National Human Rights Commission in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Drawing attention to its 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 also calls upon the State party to ensure that the National Human Rights Commission is provided with the necessary human, financial and technical resources to carry out its responsibilities effectively. It further urges the State party to consider establishing either a bureau for children's rights within the Commission or an ombudsman for children. The State party should ensure that the bureau or the ombudsman for children has adequate human, technical and financial resources, is accessible to all children and has the power to receive, investigate and address complaints by children, in particular those affected by conflict.

Dissemination and awareness

8. The Committee is concerned about the very limited measures undertaken by the State party to disseminate the Optional Protocol to the public at large and children in particular.

9. In the light of article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated to the general public and among children.

Training

10. The Committee is concerned that relevant professional categories, in particular the military, the police and other security personnel and those working for the administration of justice, do not receive adequate training on the provisions of the Optional Protocol, as reflected by the lack of information provided by the State party in this regard.

11. The Committee recommends that the State party strengthen the human rights training of the members of the armed forces, the police and other security personnel and those working for the administration of justice and ensure that they receive specific training on the provisions of the Optional Protocol. Furthermore, the Committee recommends that the State party develop awareness-raising, education and training programmes on the provisions of the Optional Protocol for relevant professional groups working with children, notably law enforcement officers, social workers, medical professionals, teachers, media professionals and local and district officials. The State party is invited to provide information in that respect in its next report.

Killings of children

12. The Committee expresses serious concern that insufficient efforts have been made by the State party to investigate the death of hundreds of children during the final five months of the conflict in 2009 as a result, in particular, of alleged shelling and aerial bombardments of civilians, hospitals, schools and humanitarian operations and deliberate deprivation of food, medical care and humanitarian assistance.

13. The Committee strongly urges the State party to ensure that prompt, independent and impartial investigations are conducted, that those responsible for the killings of children are duly prosecuted and sanctioned with appropriate penalties and that further killings of children do not take place. To this end, the Committee urges the State party to fully cooperate with the Secretary General's advisory panel of experts on accountability in Sri Lanka which will assist the State party's Commission on Lessons Learnt and Reconciliation in establishing a credible and efficient accountability mechanism and in applying the international best practices in this regard.

Missing children and data collection

14. The Committee notes with concern that data on children in armed conflict is almost exclusively collected through a United Nations Children's Fund (UNICEF) database established in 2003. The Committee expresses serious concern that while some progress has been made in terms of family tracing, the whereabouts of hundreds of missing children have not been clarified and that many children remain unidentified due mainly to the lack of a coordinated tracing structure and the obstacles met by humanitarian agencies, including those with specific expertise in family tracing and reunification, with regard to access to camps and transit, return and resettlement areas. The Committee is further concerned at the absence of accurate data on children who have died as a result of the conflict and the difficulties of families to obtain death certificates.

15. The Committee urges the State party to ascertain the whereabouts of all the children whose fate remains unknown and to this end collect accurate data on all areas covered by the Optional Protocol, including children recruited and used in armed conflict, missing children, unaccompanied and separated children and reunited children. The Committee also urges the State party to guarantee full access to the north and east of the country to international and local humanitarian agencies and partners with specific expertise in family tracing and reunification programmes. The Committee further urges the State party, on the basis of data collected, to take all necessary measures to speed up the process of issuance of death certificates and to conduct DNA testing when necessary.

III. Prevention

Prevention of recruitment by non-State forces

16. The Committee is concerned about the lack of information provided by the State party on measures to prevent the recruitment and use of children in armed conflict. The Committee is also concerned that information in the latest report of the Special Envoy of the Special Representative of the Secretary-General for children and armed conflict on re-recruitment of children in the Ampara district by a former Tamil Makkal Viduthalai Puligal (TMVP) commander could not be verified and that the State party's position that the need for such recruitment no longer exists may impede the adoption of concrete measures to prevent and inquire into possible re-recruitment. The Committee also notes that prevention efforts are hampered by the lack of child protection and child welfare services in the war-affected areas, with only a limited number of qualified officers having been deployed, equipped and funded to deal with thousands of highly vulnerable children.

17. In the light of article 4 of the Protocol, the Committee urges the State party to take all feasible measures to eliminate the root causes of and prevent recruitment and use of persons below the age of 18 years by non-State armed groups. The

Committee encourages the State party to promptly establish the village-level committees for the purpose of surveillance and prevention of recruitment of children for armed conflict as stated in its report (CRC/C/OPAC/LKA/1, para. 95). The Committee further urges the State party to include the welfare and protection of children as a priority in its reconstruction plans for the north and east and re-establish as a matter of urgency child protection and child welfare services in war-affected areas.

Human rights and peace education

18. While noting that an assessment of the education-sector needs in the conflict-affected areas, which also covered peace education, was conducted in 2003, the Committee expresses concern at the absence of information on specific human rights education provided by the State party in the curricula of all schools at all levels, including in relation to peace education.

19. Considering that human rights and peace education are essential to enhance a culture of peace and promote harmonious relationships which guarantee the culture of non-violence among children and the larger society, the Committee recommends that the State party take prompt and concrete measures to ensure the provision of human rights education and, in particular, peace education, for all children in school and train teachers and other professionals to help students to resolve conflict through conflict - resolution and peer - mediation training.

Landmines

20. The Committee notes that despite efforts made by the State party in relation to demining and mine risk education, children have been and remain at high risk of being killed and maimed by anti-personnel landmines and unexploded ordinance. The Committee also expresses concern that not all internally displaced families have received mine risk education before their return to their area of origin and that mine-victim assistance remains underdeveloped.

21. The Committee recommends that the State party:

- (a) Continue and strengthen mine-awareness campaigns and demining activities, in particular by strengthening funding for demining activities, in cooperation with humanitarian demining units as well as with demining operators from international and non-governmental organizations;**
- (b) Consider establishing special rehabilitation programmes for children affected by the explosion of mines and other consequences of the armed conflict and ensure that all affected children have access to such programmes through, inter alia, increased allocation of resources to centres for social work and increased coverage of the system of personal disability benefits;**
- (c) Ensure that internally displaced families are provided with mine risk education prior to, during and after their return and that child-friendly educational measures are implemented, in coordination with civil society, especially at the municipal level, in rural areas where landmine risks have been identified or are suspected;**
- (d) Consider acceding to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction.**

IV. Prohibition and related matters

Legislation

22. While welcoming the criminalization of the engagement and recruitment of children for use in armed conflict by Penal Code (Amendment) Act No. 16 of 1 January 2006, the Committee expresses serious concern that there has been so far no prosecution under the new law and that all those who recruited and used children continue to enjoy impunity. The Committee notes with particular concern the slow progress in investigating the whereabouts of the remaining cases of children associated with the TMVP and the allegations of government officials' complicity in the recruitment of children by the Karuna group.

23. The Committee urges the State party to establish as a matter of priority the whereabouts of the remaining cases of children associated with the TMVP as recommended by the Special Envoy of the Special Representative of the Secretary-General for children and armed conflict in his December 2009 report. The Committee also urges the State party to take more concrete steps to implement the recommendation of the Secretary - General (S/2009/325, para. 58 (c)) to ensure effective implementation of its "zero tolerance" position on child recruitment, including systematic and vigorous investigations for every reported case, followed by prosecutions and convictions of responsible perpetrators and to complete the investigation undertaken by the inter-ministerial committee on the government officials' complicity in the abduction and recruitment of children.

Military occupation of schools

24. The Committee expresses serious concern that some schools remain occupied by the State party armed forces or are used to host "separates". The Committee is also concerned about the deteriorated state in which school facilities are left at the end of such occupations.

25. The Committee calls upon the State party:

- (a) To immediately discontinue military occupation and use of schools and strictly ensure compliance with humanitarian**

law and the principle of distinction and to cease utilizing the primary section of the V/Tamil MV school and the Omantahi Central College in Varuniya to host separatists;

(b) To ensure that school infrastructure damaged as a result of military occupation is promptly and fully restored.

Military school activities

26. The Committee welcomes the State party's assertion that the Ministry of Education oversees the administration, curricula and functioning of the Cadet Corps. However, the Committee expresses concern that the training of the Cadet Corps includes the use of firearms during marching exercises.

27. The Committee urges the State party to ensure that training of the Cadet Corps does not include military activities. The Committee also calls upon the State party to prohibit the handling and use of firearms for all children in line with the spirit of the Optional Protocol.

V. Protection, recovery and reintegration

Restrictions on humanitarian access for children

28. The Committee expresses deep concern about orders issued in June 2010 from the Ministry of Defence to all commanders of the Security Forces to curtail humanitarian access for virtually all United Nations agencies, international organizations and international and national non-governmental organizations at a time when internally displaced families, especially families remaining in camps, are facing food shortages and require urgent assistance.

29. The Committee reminds the State party that international humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. It therefore calls upon the State party to immediately lift unnecessary restrictions on the activities of humanitarian organizations and ensure the unimpeded delivery of assistance to internally displaced families and children requiring urgent assistance.

Protection of victims of crime and witnesses

30. The Committee notes with concern that little progress has been made since 2008 towards the adoption of the Assistance and Protection to Victims of Crime and Witnesses Bill. As a result, there is currently no provision for witness protection in the State party, which hampers effective investigations into cases of recruitment and use of children in armed conflict. The Committee also expresses concern about cases in which persons reporting child recruitment and use in armed conflict have been subjected to reprisals, intimidation and threats. The Committee is also concerned that the draft bill contains several shortcomings and contains insufficient provisions to fully take into consideration children-specific needs.

31. The Committee urges the State party to carefully review the shortcomings of the witness protection law which could undermine the effective protection of child victims or witnesses, in order to ensure that the law complies with internationally accepted norms and best practices relating to the protection of victims of crime and witnesses, and to expedite its adoption. The Committee also calls upon the State party to ensure that the law fully takes into account children-specific needs in terms of threat assessment, protection and assistance. The Committee further recommends that a witness-protection programme be promptly implemented and well resourced so as to include, in particular in the programme's protection division, staff specifically trained and experienced in working with children.

Detention of children under emergency regulations

32. The Committee expresses deep concern that children suspected of security-related offenses have and may still be detained under the Emergency (Miscellaneous Provisions and Powers) Regulation No. 1 of 2005 and the Prevention of Terrorism Act. The Committee is seriously concerned these children may be detained in unpublicized places of detention for up to one year, and denied access to a lawyer, family members, a judge or any other competent authority to challenge the legitimacy of their detention.

33. The Committee urges the State party to make further and immediate investigations to ensure that children are no longer detained under security or anti-terrorism legislations. The Committee also calls upon the State party to repeal without delay the emergency regulations which can be used to detain children outside of the regular justice system.

34. The Committee notes the adoption of Emergency Regulation No. 1580/5 of 2008 relating to child-friendly rehabilitation and reintegration procedures for children associated with armed groups, which introduces judicial intervention in the rehabilitation and reintegration process. The Committee is however concerned that this process does not comply with the international juvenile justice standards, in particular as concerns children's rights to be assisted by a legal counsel and to challenge the lawfulness of their placement in a protective accommodation centre. The Emergency Regulation has therefore not received support from United Nations agencies.

35. The Committee urges the State party to review the legal framework applicable to the rehabilitation and reintegration of children and ensure that children:

(a) Are able to exercise their right to be heard, are provided with a copy of the social inquiry report and are informed about the evidence examined by the magistrates;

(b) Are allowed the assistance of a legal counsel;

(c) Can challenge the lawfulness of their detention before a higher authority and provide additional evidence in their favour.

Rehabilitation centres

36. The Committee welcomes the information given by the State party that all 667 children who underwent rehabilitation, some of whom had been held in rehabilitation centres and separated from their families for lengthy period of time, have now been released and reunited with their families. The Committee however expresses concern about the involvement of army personnel in the running of the rehabilitation programmes.

37. The Committee urges the State party to promptly establish family and community-based rehabilitation programmes as provided for in Emergency Regulation 1580/5 and to use centre - based rehabilitation only as a last resort. The Committee also urges the State party to ensure that rehabilitation centres are managed and operated in compliance with the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups , and in particular that army personnel are no longer involved in the running of the centres.

Criminal liability of children formerly associated with armed groups

38. The Committee notes as positive the assurances given by the State party to the Committee that children formerly associated with armed conflict, including those detained on security and terrorism-related charges, will never face prosecution. However, the Committee expresses concern that in the absence of any official document clarifying the criminal liability of children formerly associated with armed groups, the prosecution of children could still be envisaged in the application of Emergency Regulation 1462/8 of September 2006 and other security and anti-terrorism laws which equally apply to adults and children.

39. The Committee urges the State party to consider formalizing its commitment not to prosecute children involved in armed conflict by issuing without delay a directive to all judicial authorities clearly stating that children should not be prosecuted for their association with any armed group.

High Security Zones

40. The Committee notes the explanation given during the dialogue with the delegation of the State party that High Security Zones are maintained for conducting demining activities in war-affected areas. However, it expresses concern that thousands of families and their children remain displaced, some in transit camps, others with host families or without access to their lands, for long periods of time due to the establishment of these High Security Zones, notably in Shanthapuram and Indupuram (Mullativu and Killinochchi districts), in Silvathurai and Mullikulam (Puttalam and Mannar districts) and in Sampur (Trincomalee district) and other ad hoc sites.

41. Drawing attention to the United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons, the Committee reminds the State party that all refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, and that the State party shall demonstrably prioritize the right to restitution as the preferred remedy for displacement and as a key element of restorative justice. The Committee therefore calls upon the State party to speed up the demining process of war - affected areas so as to promptly dismantle High Security Zones and ensure that families can return to their area of origin.

Psychosocial support

42. The Committee notes as positive the establishment of a subcommittee with a multi-disciplinary membership under the supervision of the Chairman of the National Child Protection Authority to assess former child combatants in depth and to provide psychosocial support, as well as the development of Guidelines on Protective Care, Rehabilitation and Reintegration of Child Combatants. However, the Committee expresses concern at the slow progress in providing thousands of former child soldiers with the psychosocial support they urgently need and that mental health services remain insufficient.

43. The Committee urges the State party to strengthen available psychosocial assistance for children and to recruit more mental health workers and other specialized professional to work with child victims of conflict. The Committee encourages the State party to seek technical assistance in this domain.

Small arms

44. While noting that the State party is committed to the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects and that it established a national commission on small arms in 2004, the Committee expresses concern that the proliferation of illicit small arms in the State party continues to represent a major threat to child safety and security.

45. The Committee urges the State party to set up, as soon as possible, a policy to eradicate and control the availability of arms, including small arms, and ensure that their sale occurs only under strict governmental control.

VI. International assistance and cooperation

46. In the light of Security Council resolution 1882 (2009) , the Committee encourages the State party to continue its cooperation with United Nations agencies and programmes, in particular the Office of the High Commissioner for Human Rights and UNICEF, and with non-governmental organizations and to further strengthen its cooperation with the Special

Representative of the Secretary-General for children and armed conflict, in the development and implementation of measures aimed at an adequate application of the Optional Protocol.

47. The Committee recommends that the State party ratify the Rome Statute of the International Criminal Court .

VII.Follow-up and dissemination

48. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, by , inter alia , transmitting them to the Ministry of Defence, the Supreme Court, members of the cabinet and parliament and to all relevant national and local authorities, for appropriate consideration and further action.

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

VIII.Next report

50. In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Protocol and these concluding observations in its next periodic report under the Convention, due on 1 October 2015. The Committee further requests the State party to submit the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography , which was due on 22 October 2008, as soon as possible .

**Concluding observations on the
report submitted by Sri Lanka under
article 12 (1) of the Optional Protocol
to the Convention on the Rights of the
Child on the sale of children, child
prostitution and child pornography
(2019)**

United Nations

CRC/C/OPSC/LKA/CO/1



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Committee on the Rights of the Child

Concluding observations on the report submitted by Sri Lanka under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

I. Introduction

1. The Committee considered the report of Sri Lanka (CRC/C/OPSC/LKA/1) at its 2384th meeting (see CRC/C/SR.2384), held on 21 May 2019, and adopted the present concluding observations at its 2400th meeting, held on 31 May 2019.
2. The Committee welcomes the submission of the report of the State party and the written replies to the list of issues (CRC/C/OPSC/LKA/Q/1/Add.1). The Committee expresses appreciation for the constructive dialogue held with the multisectoral delegation of the State party.
3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the combined fifth and sixth periodic reports submitted by the State party under the Convention (CRC/C/LKA/CO/5-6), adopted on 2 February 2018.

II. General observations

Positive aspects

4. The Committee notes with appreciation the State party's ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 15 June 2015.
5. The Committee welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including the adoption of the Assistance to and Protection of Victims of Crimes and Witnesses Act, in 2015, and the amendment thereto enabling the State party's diplomatic missions to record evidence and take statements from victims and witnesses abroad, in November 2017.
6. Furthermore, the Committee notes with appreciation the progress achieved in the establishment of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including:
 - (a) The National Action Plan for the Protection and Promotion of Human Rights (2017–2021);

* Adopted by the Committee at its eighty-first session (13–31 May 2019).

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- (b) The National Plan of Action for Children (2016–2020);
- (c) The Policy Framework and National Plan of Action to Address Sexual and Gender-based Violence (2016–2020);
- (d) The National Strategic Plan to Monitor and Combat Human Trafficking (2015–2019);
- (e) The National Policy on Elimination of Child Labour (2016), and the Road Map 2016 on the Elimination of the Worst Forms of Child Labour;
- (f) The women and children’s bureaux established in 42 police divisions and 492 police stations countrywide to consider complaints pertaining to children;
- (g) The National Authority for the Protection of Victims of Crime and Witnesses, created in 2015;
- (h) The National Anti-Human Trafficking Task Force, established in 2010.

III. Data

Data collection

7. The Committee notes that databases on reported complaints are maintained by the National Child Protection Authority and the Women and Children’s Bureau of the police. It is concerned, however, that the State party lacks a centralized and adequately disaggregated data-collection system in relation to the offences under the Optional Protocol and therefore faces difficulties in assessing the magnitude of the problem. The Committee is also concerned that the lack of data affects the State party’s ability to prevent such offences and to protect and rehabilitate child victims through the appropriate laws, policies and necessary services.

8. **The Committee recommends that the State party develop and implement a comprehensive, coordinated and effective system for disaggregated data collection, analysis, monitoring and evaluation on all areas covered by the Optional Protocol, including on the sale of children, child prostitution and child pornography. In particular, the Committee recommends that the State party:**

- (a) **Disaggregate data by, inter alia, sex, age, nationality and ethnic origin, geographic location, type of offence and socioeconomic status;**
- (b) **Collect data on how children access and use digital and social media, the impact of digital and social media on children’s lives and safety and factors that affect children’s resilience to online risks as they access and use information and communications technology;**
- (c) **Collect data on the number of cases reported, prosecutions and convictions and the redress provided to child victims, disaggregated by the type of offence, including with regard to online and offline activity, details regarding the perpetrator and the sex, age, nationality and ethnic origin, geographic location and socioeconomic status of the victims;**
- (d) **Give due respect to children’s right to privacy in collecting, analysing and storing data;**
- (e) **Analyse the data collected and use it as a basis for designing policies and strategies to implement the Optional Protocol while assessing progress achieved towards that objective.**

IV. General measures of implementation

Legislation

9. The Committee welcomes that various provisions of the Convention and the Optional Protocol were integrated into the Children’s Charter (1992) and that the Penal

Code (1883) was subsequently amended to prohibit several offences under the Optional Protocol. However, the Committee is concerned that the Penal Code does not effectively address all offences covered under articles 2 and 3 of the Optional Protocol. It is particularly concerned that:

- (a) The sale of children, a concept similar, but not identical, to trafficking in children, is not explicitly defined and criminalized;
- (b) Child prostitution and child pornography are not explicitly defined and not all acts and activities of the offences are criminalized;
- (c) Sexual exploitation of children in travel and tourism is not addressed in the national legislation.

10. **The Committee urges the State party to ensure that all acts and activities listed in the Optional Protocol are fully covered under domestic criminal law, including all forms of the sale of children, child prostitution and pornography and the sexual exploitation of children in travel and tourism.**

Comprehensive policy and strategy

11. The Committee notes that the National Plan of Action for Children (2016–2020), the National Action Plan for the Protection and Promotion of Human Rights (2017–2021) and the Policy Framework and National Plan of Action to Address Sexual and Gender-based Violence (2016–2020) include provisions relating to the sexual exploitation of children. It also notes that, as confirmed during the dialogue, the State party is at the final stages of developing a national child protection policy, and also has prepared a draft national action plan for national partnership to end violence against children and a draft national action plan on child abuse and sexual exploitation, including online safety. It further notes that the State party was recognized as a pathfinder country by the Global Partnership to End Violence against Children. Nevertheless, the Committee is concerned that a comprehensive plan to address all issues covered under the Optional Protocol is missing.

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

- (a) **Develop a national plan of action specifically aimed at addressing all the issues covered under the Optional Protocol and provide adequate human and financial resources for its implementation, monitoring and evaluation. In doing so, the State party should pay particular attention to the implementation of all the provisions of the Optional Protocol, taking into account the outcomes of the World Congresses against Commercial Sexual Exploitation of Children;**
- (b) **Adopt and implement without further delay the pending policy initiatives, ensuring their compliance with the Convention and the Optional Protocol, and allocate the necessary resources to their implementation.**

Coordination

13. The Committee notes that the National Child Protection Authority, under the Ministry of Women and Child Affairs and Dry Zone Development, is responsible for the coordination of activities in relation to the Convention and its Optional Protocols. However, the Committee regrets the reportedly limited resources and coordination capacity of the Authority. It is also concerned that the establishment of the national monitoring committee to coordinate the implementation of the national Children's Charter and the Presidential task force for the protection of children may lead to overlaps and the duplication of functions and could further weaken the mandate of the National Child Protection Authority in relation to the Optional Protocol.

14. **Recalling its concluding observations under the Convention (CRC/C/LKA/CO/5-6, para. 7), the Committee recommends that the State party strengthen the National Child Protection Authority, including by allocating adequate resources to it, with a view to ensuring that the Authority provides leadership and effective general oversight for the monitoring and evaluation of activities on children's**

rights under the Convention and its Optional Protocols across sectoral ministries and at the central and local government levels.

Dissemination, awareness-raising and training

15. While noting various awareness-raising activities by the State party and other stakeholders, the Committee regrets that they are not sufficiently coordinated, systematic or continuous in order to raise public awareness on the issues under the Optional Protocol. It is also concerned at the very limited awareness of the Optional Protocol among the judiciary and the limited information about training on issues under the Optional Protocol for professionals working for and with children.

16. **The Committee recommends that the State party intensify its efforts to disseminate and raise public awareness of the provisions of the Optional Protocol, including among children, in cooperation with civil society and other stakeholders. It also recommends that the State party establish systematic, multidisciplinary and mandatory training programmes on the Optional Protocol for all professionals working with and for children, including judges, prosecutors, law enforcement and immigration officials, health-care and social workers, information and communications technology specialists and those working in the tourism and travel sector.**

Allocation of resources

17. While noting the information about resources allocated to the Ministry of Women and Child Affairs and Dry Zone Development and its Department of Probation and Child Care Services and to the National Child Protection Authority, the Committee regrets the lack of information as to whether the allocations were specific to the implementation of the Optional Protocol. It is also concerned at the reportedly very limited funding available to the National Child Protection Authority.

18. **The Committee recommends that the State party ensure the allocation of adequate financial and human resources specifically for the implementation of the Optional Protocol to cover the critical areas of data collection and analysis, policy and strategy development, awareness-raising and training, prevention, prosecution and protection.**

V. Prevention of the sale of children, child prostitution and child pornography (art. 9 (1) and (2))

Measures adopted to prevent offences prohibited under the Protocol

19. The Committee notes the measures taken to prevent the sexual exploitation of children. However, it is seriously concerned about:

(a) The high number of children, including boys, who are sexually exploited, including by foreigners, while the scope of the sexual exploitation of children is unknown due to a lack of disaggregated data and a standard data-gathering system;

(b) Reported cases of the sale of boys by their families for sexual exploitation and cases of parents encouraging children, particularly girls, to enter the sex industry;

(c) The insufficient regulation of the communications technology sector by the State party, in the light of increased access to the Internet, which is reportedly contributing to the prevalence of online child pornography;

(d) The persistent involvement of children in forced labour, including through trafficking;

(e) The fact that current policies and programmes do not effectively address the underlying root causes of the sale of children, child prostitution and child pornography, particularly poverty and social pressure;

(f) The absence of mechanisms to detect, identify and monitor children at risk of becoming victims of the offences covered by the Optional Protocol.

20. **The Committee urges the State party to adopt a comprehensive approach to address the root causes of offences under the Optional Protocol and to target families and children in the most vulnerable situations. In particular, the Committee recommends that the State party:**

(a) **Undertake research on the root causes and extent of the sexual exploitation of boys and girls, including in the context of travel and tourism, and the sale of children, child prostitution and pornography, including online, to identify children at risk, assess the extent of the problem and develop targeted policies and programmes. In that regard, protective measures to combat child sexual exploitation should be closely linked with poverty reduction interventions and awareness-raising activities;**

(b) **Strengthen its poverty reduction strategies and supportive social protection measures for families in disadvantaged and marginalized situations, including child-centred early intervention programmes, to support parents in better performing their care and protection responsibilities towards children;**

(c) **Intensify its awareness-raising activities to change attitudes about the sexual exploitation of children and alert the general public, in particular children and families, to the dangers of online sexual exploitation and pornography;**

(d) **Strengthen its regulation and engagement with the communications technology sector to prevent and respond to online child sexual exploitation;**

(e) **Further strengthen its efforts to eliminate child labour;**

(f) **Establish a mechanism to effectively identify, monitor and support children who are at risk of becoming victims, or are victims, of offences covered by the Optional Protocol and their families.**

Child marriage

21. The Committee is seriously concerned that, despite the minimum marriage age of 18 years set by law, child marriage remains prevalent in the State party and may in some circumstances be tantamount to the sale of children.

22. **Recalling its concluding observations under the Convention (CRC/C/LKA/5-6, para. 15), the Committee urges the State party to completely prohibit marriage under the age of 18 by law, without any exceptions.**

Sexual exploitation of children in travel and tourism

23. The Committee welcomes the State party's commitment to eradicate the sexual exploitation of children in travel and tourism by 2020. In addition, it notes the State party's initiatives to address the sexual exploitation of children in travel and tourism, in particular national consultations on advancing responsible business practices in that connection and zero-tolerance programmes for foreigners in the areas of Bentota and Kalutara. However, the Committee is seriously concerned that:

(a) There are allegations that boys are increasingly victims of sexual abuse and exploitation in the context of travel and tourism;

(b) The State party has not sufficiently engaged with and regulated the private sector, especially the travel, hotel and tourism industry, to prevent and combat child sex tourism, including prevention, monitoring and reporting of cases of the sexual exploitation of children;

(c) There is a lack of data to assess the scope of the sexual exploitation of children in travel and tourism and the level of impunity of perpetrators of such acts.

24. **The Committee urges the State party to engage with the tourism industry to address the sexual exploitation of children in travel and tourism, to widely**

disseminate the World Trade Organization Global Code of Ethics for Tourism among travel agents and tourism agencies and to encourage those enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism. It also urges the State party to:

- (a) Take measures to identify children who are especially at risk of becoming victims of sexual exploitation in travel and tourism, such as boys affected by poverty and social pressure, to assess the scope of the phenomenon and to link those measures to inform time-bound child protection programmes, poverty reduction strategies and awareness-raising activities;
- (b) Strengthen its knowledge, screening and monitoring of the flow of foreign nationals and its surveillance of unregistered tourist accommodation;
- (c) Regulate and engage with the private sector, particularly the tourism industry, in the prevention, monitoring and reporting of cases of sexual exploitation of children. The State party should also ensure regular monitoring of the compliance of tourist accommodation, travel and tour agencies and operators with child protection policies, including in relation to the prohibition of the sexual exploitation of children in travel and tourism;
- (d) Encourage the reporting of cases of sexual exploitation of children, effectively prosecute the perpetrators and impose penalties commensurate with the gravity of the offences.

Measures to prevent and address online child sexual exploitation and abuse

25. While noting the measures taken by the State party, such as cyber safety programmes for children and bans on accessing some child pornography websites, the Committee is concerned at:

- (a) The reported prevalence of online child sexual exploitation and abuse, especially by foreigners;
- (b) Insufficient data to assess the extent of the problem;
- (c) The lack of a systematic and sustainable approach to address online sexual exploitation of children and inadequate implementation of the measures taken;
- (d) The State party's limited engagement and regulation of the communications technology sector to prevent and combat sexual exploitation of children.

26. Recalling Human Rights Council resolution 31/7 on the rights of the child, which addresses information and communications technologies and child sexual exploitation, and the outcomes of the WeProtect Global Alliance summits in London in 2014 and Abu Dhabi in 2015, the Committee recommends that the State party adopt a national response for preventing and addressing online child sexual exploitation and abuse, in close collaboration with relevant industries and organizations, consisting of, at a minimum:

- (a) A national policy to prevent and respond to online child sexual exploitation and abuse through an appropriate legal framework, a dedicated coordination and oversight entity and specific analysis, research and monitoring capabilities;
- (b) A strategy for preventing online child sexual exploitation and abuse, including:
 - (i) A public education programme to raise awareness of, and mandatory school education on, online behaviour and safety and how to report online child sexual exploitation and abuse offences;
 - (ii) Child participation in the development of policies and practices;
 - (iii) Industry engagement to block and remove online child sexual exploitation and abuse content, to report violations to law enforcement authorities and to develop innovative solutions;

- (iv) **Close cooperation with organizations working to end child sexual exploitation online;**
- (v) **Ethical and informed media reporting;**
- (c) **Appropriate support services for child victims, including integrated services during investigation, prosecution and aftercare, training for professionals working with and for children and child-friendly, confidential and accessible procedures for complaints, compensation and remedies;**
- (d) **A dedicated, proactive, responsive and victim-focused criminal justice system with a trained police force, prosecution and judiciary, management of offenders to prevent reoffending, nationally and internationally, and a national database linked to the International Criminal Police Organization (INTERPOL) database.**

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (2) and (3) and 5–7)

Criminal or penal laws and regulations in force

27. The Committee notes that the amended Penal Code prohibits the sexual exploitation of children, child pornography, procurement of children for prostitution, trafficking in children and inducing consent for the adoption of a child. However, the Committee is concerned at the confusion of the offences under the Optional Protocol with trafficking and the remaining gap in criminalizing all the offences. In particular, the Committee is concerned that:

- (a) While not explicitly defined, sale of children, a concept similar, but not identical, to trafficking in children, is nonetheless criminalized as trafficking;
- (b) Offences of offering, delivering and accepting a child for forced labour or the removal of organs are criminalized as trafficking but not as the sale of children;
- (c) Child prostitution and child pornography have not been criminalized as defined in articles 2 and 3 of the Optional Protocol;
- (d) Sections 360A (Procurement) and 365 (Unnatural offence) of the Penal Code only protect children up to the age of 16 from being procured for prostitution and from being involved in same-sex activity, with or without consent.

28. **The Committee urges the State party to review its Penal Code with a view to bringing it into full compliance with the Optional Protocol. In particular, the State party should:**

- (a) **Define and criminalize the offences of the sale of children, child prostitution and child pornography, covering all the acts and activities prohibited under articles 2 and 3 of the Optional Protocol, including an attempt to commit any of those acts or complicity or participation in any of those acts;**
- (b) **Prohibit child and forced marriage;**
- (c) **Ensure that all boys and girls under the age of 18 are fully protected from all forms of sexual exploitation, including prostitution.**

Impunity

29. The Committee welcomes the establishment of toll-free helplines for children to lodge complaints and notes that offences under the Optional Protocol are punishable with imprisonment between six months and 20 years and may also be punished with a fine. However, the Committee is concerned at:

- (a) A lack of enforcement of laws pertaining to the sexual exploitation of children;

(b) Underreporting of offences under the Optional Protocol, in particular in relation to the sexual exploitation of boys, due to social stigma, the criminalization of homosexuality and corruption;

(c) Inadequate capacity and resources to duly investigate and prosecute offences under the Optional Protocol;

(d) Low prosecution rates and a high number of pending cases concerning offences under the Optional Protocol;

(e) Reports of official complicity, protracted proceedings and extensive application of bail, fines and suspended sentences in relation to cases of the sale of children, child prostitution and child pornography;

(f) Reports that cases of the sale and trafficking of children are prosecuted as procurement under section 360A of the Penal Code and not as trafficking under section 360C;

(g) The State Party's explanation during the constructive dialogue that, while minimum sentences are provided for most of the offences, in some instances the judiciary deviates from the minimum sentences, resulting in penalties that do not reflect the gravity of the offence, and that such sentences are appealed to a higher court by the Attorney General's Office;

(h) Inconsistent information about the number of reported cases of offences under the Optional Protocol and a lack of data on their outcome, including the number of perpetrators who have been prosecuted and criminally sentenced.

30. The Committee urges the State party to:

(a) **Ensure that laws pertaining to the sexual exploitation of children are duly enforced, including by establishing monitoring and evaluation mechanisms and using the results for informing future policies and legislative amendments;**

(b) **Take all necessary measures to encourage the general public, including boys and girls, to report offences under the Optional Protocol;**

(c) **Ensure that reported violations under the Optional Protocol are expeditiously investigated and that perpetrators are prosecuted and punished with appropriate sanctions, commensurate with the gravity of their crimes;**

(d) **Continue to address, including through appeals, penalties applied outside of the minimum sentences regime for offences under the Optional Protocol;**

(e) **Build the capacity of, and allocate adequate resources to, the law enforcement authorities, prosecutors and the judiciary to effectively investigate and prosecute the offences under the Optional Protocol and end impunity for them;**

(f) **Effectively prevent and combat corruption and official complicity and prosecute the officials concerned;**

(g) **Collect gender-disaggregated data on investigations, prosecutions and convictions of perpetrators of offences under the Optional Protocol.**

Liability of legal persons

31. Noting the reportedly high prevalence of the sexual exploitation of children, including boys, in travel and tourism, and in view of the growing tourism industry based on the State party's policy to promote tourism, the Committee is concerned that the liability of legal persons for the offences under the Optional Protocol has not been established or envisaged.

32. In the light of article 3 (4) of the Optional Protocol, the Committee recommends that the State party, without delay, establish criminal, civil or administrative liability of legal persons for the offences covered by the Optional Protocol.

Extraterritorial jurisdiction

33. The Committee notes that section 2 (2) of the Penal Code establishes the State party's extraterritorial jurisdiction for offences under the Optional Protocol committed by its nationals. It regrets that the State party does not extend this provision to a person who has habitual residence in the territory of the State party.

34. **The Committee recommends that the State party revise its Penal Code with a view to extending its extraterritorial jurisdiction over the offences under the Optional Protocol to habitual residents in its territory, in accordance with article 4 (2) of the Optional Protocol.**

Extradition

35. The Committee notes that the national legislation requires a treaty for extradition, except in respect of Commonwealth countries. It also regrets that in both situations, extradition is subject to the requirement of double criminality and minimum gravity (one year of imprisonment), and that extradition to the Commonwealth countries is furthermore subject to the inclusion of the offence in the schedule to the extradition law.

36. **The Committee recommends that the State party remove the requirements of double criminality, minimum gravity and inclusion of the offences in the schedule to the extradition law for extradition in respect of the offences covered by the Optional Protocol. It also recommends that, in the absence of an extradition treaty, the State party consider the Optional Protocol to be a legal basis for extradition in respect of offences covered by the Optional Protocol to non-Commonwealth countries that are States parties to the Optional Protocol.**

VII. Protection of the rights of child victims (arts. 8 and 9 (3) and (4))

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

37. The Committee notes as positive that the Assistance to and Protection of Victims of Crime and Witnesses Act contains provisions to ensure the best interests of child victims of crime or witnesses and established a National Authority for the Protection of Victims of Crime and Witnesses. However, it is concerned that the system in place for identifying victims of the offences under the Optional Protocol is inadequate and inefficient.

38. **In the light of article 9 of the Optional Protocol, the Committee recommends that the State party:**

(a) **Strengthen its mechanism for the early identification of child victims of offences under the Optional Protocol, including by issuing guidelines on the implementation of standard operating procedures and by providing training to the authorities concerned;**

(b) **Adopt and implement the draft national guidelines concerning the treatment of and reparation, restitution and rehabilitation with regard to all crime victims;**

(c) **Ensure that child victims of offences under the Optional Protocol are not subject to treatment or sanctions as offenders and are given appropriate support;**

(d) **Provide all children with free legal aid and the support of specialized child psychologists and social workers, and ensure they have access to child- and gender-sensitive complaint mechanisms and appropriate procedures for seeking compensation and redress, without discrimination.**

Recovery and reintegration of victims

39. While noting the development of the National Guideline for the Management of Child Abuse and Neglect (2014) and the existence of "places of safety" for children, the

Committee is concerned that such institutions accommodate both child victims and child suspects and do not provide tailored services to child victims of offences under the Optional Protocol.

40. The Committee urges the State party to establish an effective mechanism to ensure that child victims of the offences under the Optional Protocol are separated from child suspects and are provided with appropriate assistance, including special shelters and tailored services for their full social reintegration and physical and psychological recovery.

Helpline

41. The Committee notes the existence of several toll-free helplines, including a “childline” operated by the National Child Protection Authority to lodge complaints related to violence against children and a generic helpline operated by the Police. However, the Committee regrets the absence of information on the functioning of the helplines, their staff, the services provided and referrals made and the allocation of resources to ensure the quality and permanence of the helplines.

42. The Committee recommends that the State party:

- (a) Allocate sufficient resources to ensure the quality of the existing helplines and ensure that they are fully accessible and known to all children;
- (b) Conduct systematic training for professionals operating the helplines to effectively prevent and respond to cases of the sale of children, child prostitution and child pornography;
- (c) Establish a regular and effective monitoring mechanism to ensure the quality of the helpline support and advice provided.

VIII. International assistance and cooperation (art. 10)

43. In the light of article 10 (1) of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures and mechanisms for coordinating the implementation of such arrangements, with a view to making progress in respect of the prevention of offences covered under the Optional Protocol and the detection, investigation, prosecution and punishment of those responsible for any such offences.

IX. Ratification of the Optional Protocol on a communications procedure

44. The Committee recommends that, in order to further strengthen the fulfilment of children’s rights, the State party ratify the Optional Protocol on a communications procedure.

X. Implementation and reporting

A. Follow-up and dissemination

45. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented, including by transmitting them to the National Child Protection Authority for appropriate consideration and further action.

46. The Committee recommends that the report and the written replies to the list of issues submitted by the State party and the present concluding observations be

made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.

B. Next periodic report

47. In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report to be submitted in accordance with article 44 of the Convention.

The Role of Independent National Human Rights Institutions in the Protection and Promotion of the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD
Thirty-second session
13-31 January 2003**GENERAL COMMENT No. 2 (2002)****The role of independent national human rights institutions in the
promotion and protection of the rights of the child**

1. Article 4 of the Convention on the Rights of the Child obliges States parties to “undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention”. Independent national human rights institutions (NHRIs) are an important mechanism to promote and ensure the implementation of the Convention, and the Committee on the Rights of the Child considers the establishment of such bodies to fall within the commitment made by States parties upon ratification to ensure the implementation of the Convention and advance the universal realization of children’s rights. In this regard, the Committee has welcomed the establishment of NHRIs and children’s ombudspersons/children’s commissioners and similar independent bodies for the promotion and monitoring of the implementation of the Convention in a number of States parties.
2. The Committee issues this general comment in order to encourage States parties to establish an independent institution for the promotion and monitoring of implementation of the Convention and to support them in this regard by elaborating the essential elements of such institutions and the activities which should be carried out by them. Where such institutions have already been established, the Committee calls upon States to review their status and effectiveness for promoting and protecting children’s rights, as enshrined in the Convention on the Rights of the Child and other relevant international instruments.
3. The World Conference on Human Rights, held in 1993, in the Vienna Declaration and Programme of Action reaffirmed “... the important and constructive role played by national institutions for the promotion and protection of human rights”, and encouraged “... the establishment and strengthening of national institutions”. The General Assembly and the

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Commission on Human Rights have repeatedly called for the establishment of national human rights institutions, underlining the important role NHRIs play in promoting and protecting human rights and enhancing public awareness of those rights. In its general guidelines for periodic reports, the Committee requires that States parties furnish information on “any independent body established to promote and protect the rights of the child ...”,¹ hence, it consistently addresses this issue during its dialogue with States parties.

4. NHRIs should be established in compliance with the Principles relating to the status of national institutions for the promotion and protection of human rights (The “Paris Principles”) adopted by the General Assembly in 1993² transmitted by the Commission on Human Rights in 1992.³ These minimum standards provide guidance for the establishment, competence, responsibilities, composition, including pluralism, independence, methods of operation, and quasi-judicial activities of such national bodies.

5. While adults and children alike need independent NHRIs to protect their human rights, additional justifications exist for ensuring that children’s human rights are given special attention. These include the facts that children’s developmental state makes them particularly vulnerable to human rights violations; their opinions are still rarely taken into account; most children have no vote and cannot play a meaningful role in the political process that determines Governments’ response to human rights; children encounter significant problems in using the judicial system to protect their rights or to seek remedies for violations of their rights; and children’s access to organizations that may protect their rights is generally limited.

6. Specialist independent human rights institutions for children, ombudspersons or commissioners for children’s rights have been established in a growing number of States parties. Where resources are limited, consideration must be given to ensuring that the available resources are used most effectively for the promotion and protection of everyone’s human rights, including children’s, and in this context development of a broad-based NHRI that includes a specific focus on children is likely to constitute the best approach. A broad-based NHRI should include within its structure either an identifiable commissioner specifically responsible for children’s rights, or a specific section or division responsible for children’s rights.

7. It is the view of the Committee that every State needs an independent human rights institution with responsibility for promoting and protecting children’s rights. The Committee’s principal concern is that the institution, whatever its form, should be able, independently and effectively, to monitor, promote and protect children’s rights. It is essential that promotion and protection of children’s rights is “mainstreamed” and that all human rights institutions existing in a country work closely together to this end.

Mandate and powers

8. NHRIs should, if possible, be constitutionally entrenched and must at least be legislatively mandated. It is the view of the Committee that their mandate should include as broad a scope as possible for promoting and protecting human rights, incorporating the Convention on the Rights of the Child, its Optional Protocols and other relevant international human rights instruments - thus effectively covering children’s human rights, in particular their civil, political, economic, social and cultural rights. The legislation should include provisions

setting out specific functions, powers and duties relating to children linked to the Convention on the Rights of the Child and its Optional Protocols. If the NHRI was established before the existence of the Convention, or without expressly incorporating it, necessary arrangements, including the enactment or amendment of legislation, should be put in place so as to ensure conformity of the institution's mandate with the principles and provisions of the Convention.

9. NHRIs should be accorded such powers as are necessary to enable them to discharge their mandate effectively, including the power to hear any person and obtain any information and document necessary for assessing the situations falling within their competence. These powers should include the promotion and protection of the rights of all children under the jurisdiction of the State party in relation not only to the State but to all relevant public and private entities.

Establishment process

10. The NHRI establishment process should be consultative, inclusive and transparent, initiated and supported at the highest levels of Government and inclusive of all relevant elements of the State, the legislature and civil society. In order to ensure their independence and effective functioning, NHRIs must have adequate infrastructure, funding (including specifically for children's rights, within broad-based institutions), staff, premises, and freedom from forms of financial control that might affect their independence.

Resources

11. While the Committee acknowledges that this is a very sensitive issue and that State parties function with varying levels of economic resources, the Committee believes that it is the duty of States to make reasonable financial provision for the operation of national human rights institutions in light of article 4 of the Convention. The mandate and powers of national institutions may be meaningless, or the exercise of their powers limited, if the national institution does not have the means to operate effectively to discharge its powers.

Pluralistic representation

12. NHRIs should ensure that their composition includes pluralistic representation of the various elements of civil society involved in the promotion and protection of human rights. They should seek to involve, among others, the following: human rights, anti-discrimination and children's rights non-governmental organizations (NGOs), including child- and youth-led organizations; trade unions; social and professional organizations (of doctors, lawyers, journalists, scientists, etc.); universities and experts, including children's rights experts. Government departments should be involved in an advisory capacity only. NHRIs should have appropriate and transparent appointment procedures, including an open and competitive selection process.

Providing remedies for breaches of children's rights

13. NHRIs must have the power to consider individual complaints and petitions and carry out investigations, including those submitted on behalf of or directly by children. In order to be able to effectively carry out such investigations, they must have the powers to compel and question

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witnesses, access relevant documentary evidence and access places of detention. They also have a duty to seek to ensure that children have effective remedies - independent advice, advocacy and complaints procedures - for any breaches of their rights. Where appropriate, NHRIs should undertake mediation and conciliation of complaints.

14. NHRIs should have the power to support children taking cases to court, including the power (a) to take cases concerning children's issues in the name of the NHRI and (b) to intervene in court cases to inform the court about the human rights issues involved in the case.

Accessibility and participation

15. NHRIs should be geographically and physically accessible to all children. In the spirit of article 2 of the Convention, they should proactively reach out to all groups of children, in particular the most vulnerable and disadvantaged, such as (but not limited to) children in care or detention, children from minority and indigenous groups, children with disabilities, children living in poverty, refugee and migrant children, street children and children with special needs in areas such as culture, language, health and education. NHRI legislation should include the right of the institution to have access in conditions of privacy to children in all forms of alternative care and to all institutions that include children.

16. NHRIs have a key role to play in promoting respect for the views of children in all matters affecting them, as articulated in article 12 of the Convention, by Government and throughout society. This general principle should be applied to the establishment, organization and activities of national human rights institutions. Institutions must ensure that they have direct contact with children and that children are appropriately involved and consulted. Children's councils, for example, could be created as advisory bodies for NHRIs to facilitate the participation of children in matters of concern to them.

17. NHRIs should devise specially tailored consultation programmes and imaginative communication strategies to ensure full compliance with article 12 of the Convention. A range of suitable ways in which children can communicate with the institution should be established.

18. NHRIs must have the right to report directly, independently and separately on the state of children's rights to the public and to parliamentary bodies. In this respect, States parties must ensure that an annual debate is held in Parliament to provide parliamentarians with an opportunity to discuss the work of the NHRI in respect of children's rights and the State's compliance with the Convention.

Recommended activities

19. The following is an indicative, but not exhaustive, list of the types of activities which NHRIs should carry out in relation to the implementation of children's rights in light of the general principles of the Convention. They should:

(a) Undertake investigations into any situation of violation of children's rights, on complaint or on their own initiative, within the scope of their mandate;

- (b) Conduct inquiries on matters relating to children's rights;
- (c) Prepare and publicize opinions, recommendations and reports, either at the request of national authorities or on their own initiative, on any matter relating to the promotion and protection of children's rights;
- (d) Keep under review the adequacy and effectiveness of law and practice relating to the protection of children's rights;
- (e) Promote harmonization of national legislation, regulations and practices with the Convention on the Rights of the Child, its Optional Protocols and other international human rights instruments relevant to children's rights and promote their effective implementation, including through the provision of advice to public and private bodies in construing and applying the Convention;
- (f) Ensure that national economic policy makers take children's rights into account in setting and evaluating national economic and development plans;
- (g) Review and report on the Government's implementation and monitoring of the state of children's rights, seeking to ensure that statistics are appropriately disaggregated and other information collected on a regular basis in order to determine what must be done to realize children's rights;
- (h) Encourage ratification of or accession to any relevant international human rights instruments;
- (i) In accordance with article 3 of the Convention requiring that the best interests of children should be a primary consideration in all actions concerning them, ensure that the impact of laws and policies on children is carefully considered from development to implementation and beyond;
- (j) In light of article 12, ensure that the views of children are expressed and heard on matters concerning their human rights and in defining issues relating to their rights;
- (k) Advocate for and facilitate meaningful participation by children's rights NGOs, including organizations comprised of children themselves, in the development of domestic legislation and international instruments on issues affecting children;
- (l) Promote public understanding and awareness of the importance of children's rights and, for this purpose, work closely with the media and undertake or sponsor research and educational activities in the field;
- (m) In accordance with article 42 of the Convention which obligates State parties to "make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike", sensitize the Government, public agencies and the general public to the provisions of the Convention and monitor ways in which the State is meeting its obligations in this regard;

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(n) Assist in the formulation of programmes for the teaching of, research into and integration of children's rights in the curricula of schools and universities and in professional circles;

(o) Undertake human rights education which specifically focuses on children (in addition to promoting general public understanding about the importance of children's rights);

(p) Take legal proceedings to vindicate children's rights in the State or provide legal assistance to children;

(q) Engage in mediation or conciliation processes before taking cases to court, where appropriate;

(r) Provide expertise in children's rights to the courts, in suitable cases as amicus curiae or intervenor;

(s) In accordance with article 3 of the Convention which obliges States parties to "ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision", undertake visits to juvenile homes (and all places where children are detained for reform or punishment) and care institutions to report on the situation and to make recommendations for improvement;

(t) Undertake such other activities as are incidental to the above.

Reporting to the Committee on the Rights of the Child and cooperation between NHRIs and United Nations agencies and human rights mechanisms

20. NHRIs should contribute independently to the reporting process under the Convention and other relevant international instruments and monitor the integrity of government reports to international treaty bodies with respect to children's rights, including through dialogue with the Committee on the Rights of the Child at its pre-sessional working group and with other relevant treaty bodies.

21. The Committee requests that States parties include detailed information on the legislative basis and mandate and principal relevant activities of NHRIs in their reports to the Committee. It is appropriate for States parties to consult with independent human rights institutions during the preparation of reports to the Committee. However, States parties must respect the independence of these bodies and their independent role in providing information to the Committee. It is not appropriate to delegate to NHRIs the drafting of reports or to include them in the government delegation when reports are examined by the Committee.

22. NHRIs should also cooperate with the special procedures of the Commission on Human Rights, including country and thematic mechanisms, in particular the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Representative of the Secretary-General for Children and Armed Conflict.

23. The United Nations has a long-standing programme of assistance for the establishment and strengthening of national human rights institutions. This programme, which is based in the Office of the High Commissioner for Human Rights (OHCHR), provides technical assistance and facilitates regional and global cooperation and exchanges among national human rights institutions. States parties should avail themselves of this assistance where necessary. The United Nations Children's Fund (UNICEF) also offers expertise and technical cooperation in this area.

24. As articulated in article 45 of the Convention, the Committee may also transmit, as it considers appropriate, to any specialized United Nations agency, OHCHR and any other competent body any reports from States parties that contain a request or indicate a need for technical advice or assistance in the establishment of NHRIs.

NHRIs and States parties

25. The State ratifies the Convention on the Rights of the Child and takes on obligations to implement it fully. The role of NHRIs is to monitor independently the State's compliance and progress towards implementation and to do all it can to ensure full respect for children's rights. While this may require the institution to develop projects to enhance the promotion and protection of children's rights, it should not lead to the Government delegating its monitoring obligations to the national institution. It is essential that institutions remain entirely free to set their own agenda and determine their own activities.

NHRIs and NGOs

26. Non-governmental organizations play a vital role in promoting human rights and children's rights. The role of NHRIs, with their legislative base and specific powers, is complementary. It is essential that institutions work closely with NGOs and that Governments respect the independence of both NHRIs and NGOs.

Regional and international cooperation

27. Regional and international processes and mechanisms can strengthen and consolidate NHRIs through shared experience and skills, as NHRIs share common problems in the promotion and protection of human rights in their respective countries.

28. In this respect, NHRIs should consult and cooperate with relevant national, regional and international bodies and institutions on children's rights issues.

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29. Children's human rights issues are not constrained by national borders and it has become increasingly necessary to devise appropriate regional and international responses to a variety of child rights issues (including, but not limited to, the trafficking of women and children, child pornography, child soldiers, child labour, child abuse, refugee and migrant children, etc.). International and regional mechanisms and exchanges are encouraged, as they provide NHRIs with an opportunity to learn from each other's experience, collectively strengthen each other's positions and contribute to resolving human rights problems affecting both countries and regions.

Notes

¹ General guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention (CRC/C/58), para. 18.

² Principles relating to the status of national institutions for the promotion and protection of human rights (The "Paris Principles"), General Assembly resolution 48/134 of 20 December 1993, annex.

³ Commission on Human Rights resolution 1992/54 of 3 March 1992, annex.

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General Measures of Implementation of the Convention on the Rights of the Child



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GENERAL COMMENT No. 5 (2003)

General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)

FOREWORD

The Committee on the Rights of the Child has drafted this general comment to outline States parties' obligations to develop what it has termed "general measures of implementation". The various elements of the concept are complex and the Committee emphasizes that it is likely to issue more detailed general comments on individual elements in due course, to expand on this outline. Its general comment No. 2 (2002) entitled "The role of independent national human rights institutions in the protection and promotion of the rights of the child" has already expanded on this concept.

Article 4

"States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation."

I. INTRODUCTION

1. When a State ratifies the Convention on the Rights of the Child, it takes on obligations under international law to implement it. Implementation is the process whereby States parties take action to ensure the realization of all rights in the Convention for all children in their jurisdiction.¹ Article 4 requires States parties to take "all appropriate legislative, administrative

and other measures” for implementation of the rights contained therein. While it is the State which takes on obligations under the Convention, its task of implementation - of making reality of the human rights of children - needs to engage all sectors of society and, of course, children themselves. Ensuring that all domestic legislation is fully compatible with the Convention and that the Convention’s principles and provisions can be directly applied and appropriately enforced is fundamental. In addition, the Committee on the Rights of the Child has identified a wide range of measures that are needed for effective implementation, including the development of special structures and monitoring, training and other activities in Government, parliament and the judiciary at all levels.²

2. In its periodic examination of States parties’ reports under the Convention, the Committee pays particular attention to what it has termed “general measures of implementation”. In its concluding observations issued following examination, the Committee provides specific recommendations relating to general measures. It expects the State party to describe action taken in response to these recommendations in its subsequent periodic report. The Committee’s reporting guidelines arrange the Convention’s articles in clusters,³ the first being on “general measures of implementation” and groups article 4 with article 42 (the obligation to make the content of the Convention widely known to children and adults; see, paragraph 66 below) and article 44, paragraph 6 (the obligation to make reports widely available within the State; see paragraph 71 below).

3. In addition to these provisions, other general implementation obligations are set out in article 2: “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind ...”.

4. Also under article 3, paragraph 2, “States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.”

5. In international human rights law, there are articles similar to article 4 of the Convention, setting out overall implementation obligations, such as article 2 of the International Covenant on Civil and Political Rights and article 2 of the International Covenant on Economic, Social and Cultural Rights. The Human Rights Committee and the Committee on Economic, Social and Cultural Rights have issued general comments in relation to these provisions which should be seen as complementary to the present general comment and which are referred to below.⁴

6. Article 4, while reflecting States parties’ overall implementation obligation, suggests a distinction between civil and political rights and economic, social and cultural rights in its second sentence: “With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.” There is no simple or authoritative division of human rights in general or of Convention rights into the two categories. The Committee’s reporting guidelines group articles 7, 8, 13-17 and 37 (a) under the heading “Civil rights and freedoms”, but indicate by the context that these are not the only civil and political rights in the Convention. Indeed, it is clear that many other articles, including articles 2, 3, 6 and 12 of the Convention, contain elements which constitute civil/political rights, thus reflecting the interdependence and indivisibility of all human rights. Enjoyment of economic, social and

cultural rights is inextricably intertwined with enjoyment of civil and political rights. As noted in paragraph 25 below, the Committee believes that economic, social and cultural rights, as well as civil and political rights, should be regarded as justiciable.

7. The second sentence of article 4 reflects a realistic acceptance that lack of resources - financial and other resources - can hamper the full implementation of economic, social and cultural rights in some States; this introduces the concept of “progressive realization” of such rights: States need to be able to demonstrate that they have implemented “to the maximum extent of their available resources” and, where necessary, have sought international cooperation. When States ratify the Convention, they take upon themselves obligations not only to implement it within their jurisdiction, but also to contribute, through international cooperation, to global implementation (see paragraph 60 below).

8. The sentence is similar to the wording used in the International Covenant on Economic, Social and Cultural Rights and the Committee entirely concurs with the Committee on Economic, Social and Cultural Rights in asserting that “even where the available resources are demonstrably inadequate, the obligation remains for a State party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances ...”.⁵ Whatever their economic circumstances, States are required to undertake all possible measures towards the realization of the rights of the child, paying special attention to the most disadvantaged groups.

9. The general measures of implementation identified by the Committee and described in the present general comment are intended to promote the full enjoyment of all rights in the Convention by all children, through legislation, the establishment of coordinating and monitoring bodies - governmental and independent - comprehensive data collection, awareness-raising and training and the development and implementation of appropriate policies, services and programmes. One of the satisfying results of the adoption and almost universal ratification of the Convention has been the development at the national level of a wide variety of new child-focused and child-sensitive bodies, structures and activities - children’s rights units at the heart of Government, ministers for children, inter-ministerial committees on children, parliamentary committees, child impact analysis, children’s budgets and “state of children’s rights” reports, NGO coalitions on children’s rights, children’s ombudspersons and children’s rights commissioners and so on.

10. While some of these developments may seem largely cosmetic, their emergence at the least indicates a change in the perception of the child’s place in society, a willingness to give higher political priority to children and an increasing sensitivity to the impact of governance on children and their human rights.

11. The Committee emphasizes that, in the context of the Convention, States must see their role as fulfilling clear legal obligations to each and every child. Implementation of the human rights of children must not be seen as a charitable process, bestowing favours on children.

12. The development of a children’s rights perspective throughout Government, parliament and the judiciary is required for effective implementation of the whole Convention and, in particular, in the light of the following articles in the Convention identified by the Committee as general principles:

Article 2: the obligation of States to respect and ensure the rights set forth in the Convention to each child within their jurisdiction without discrimination of any kind. This non-discrimination obligation requires States actively to identify individual children and groups of children the recognition and realization of whose rights may demand special measures. For example, the Committee highlights, in particular, the need for data collection to be disaggregated to enable discrimination or potential discrimination to be identified. Addressing discrimination may require changes in legislation, administration and resource allocation, as well as educational measures to change attitudes. It should be emphasized that the application of the non-discrimination principle of equal access to rights does not mean identical treatment. A general comment by the Human Rights Committee has underlined the importance of taking special measures in order to diminish or eliminate conditions that cause discrimination.⁶

Article 3 (1): the best interests of the child as a primary consideration in all actions concerning children. The article refers to actions undertaken by “public or private social welfare institutions, courts of law, administrative authorities or legislative bodies”. The principle requires active measures throughout Government, parliament and the judiciary. Every legislative, administrative and judicial body or institution is required to apply the best interests principle by systematically considering how children’s rights and interests are or will be affected by their decisions and actions - by, for example, a proposed or existing law or policy or administrative action or court decision, including those which are not directly concerned with children, but indirectly affect children.

Article 6: the child’s inherent right to life and States parties’ obligation to ensure to the maximum extent possible the survival and development of the child. The Committee expects States to interpret “development” in its broadest sense as a holistic concept, embracing the child’s physical, mental, spiritual, moral, psychological and social development. Implementation measures should be aimed at achieving the optimal development for all children.

Article 12: the child’s right to express his or her views freely in “all matters affecting the child”, those views being given due weight. This principle, which highlights the role of the child as an active participant in the promotion, protection and monitoring of his or her rights, applies equally to all measures adopted by States to implement the Convention.

Opening government decision-making processes to children is a positive challenge which the Committee finds States are increasingly responding to. Given that few States as yet have reduced the voting age below 18, there is all the more reason to ensure respect for the views of unenfranchised children in Government and parliament. If consultation is to be meaningful, documents as well as processes need to be made accessible. But appearing to “listen” to children is relatively unchallenging; giving due weight to their views requires real change. Listening to children should not be seen as an end in itself, but rather as a means by which States make their interactions with children and their actions on behalf of children ever more sensitive to the implementation of children’s rights.

One-off or regular events like Children's Parliaments can be stimulating and raise general awareness. But article 12 requires consistent and ongoing arrangements. Involvement of and consultation with children must also avoid being tokenistic and aim to ascertain representative views. The emphasis on "matters that affect them" in article 12 (1) implies the ascertainment of the views of particular groups of children on particular issues - for example children who have experience of the juvenile justice system on proposals for law reform in that area, or adopted children and children in adoptive families on adoption law and policy. It is important that Governments develop a direct relationship with children, not simply one mediated through non-governmental organizations (NGOs) or human rights institutions. In the early years of the Convention, NGOs had played a notable role in pioneering participatory approaches with children, but it is in the interests of both Governments and children to have appropriate direct contact.

II. REVIEW OF RESERVATIONS

13. In its reporting guidelines on general measures of implementation, the Committee starts by inviting the State party to indicate whether it considers it necessary to maintain the reservations it has made, if any, or has the intention of withdrawing them.⁷ States parties to the Convention are entitled to make reservations at the time of their ratification of or accession to it (art. 51). The Committee's aim of ensuring full and unqualified respect for the human rights of children can be achieved only if States withdraw their reservations. It consistently recommends during its examination of reports that reservations be reviewed and withdrawn. Where a State, after review, decides to maintain a reservation, the Committee requests that a full explanation be included in the next periodic report. The Committee draws the attention of States parties to the encouragement given by the World Conference on Human Rights to the review and withdrawal of reservations.⁸

14. Article 2 of the Vienna Convention on the Law of Treaties defines "reservation" as a "unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a Treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the Treaty in their application to that State". The Vienna Convention notes that States are entitled, at the time of ratification or accession to a treaty, to make a reservation unless it is "incompatible with the object and purpose of the treaty" (art. 19).

15. Article 51, paragraph 2, of the Convention on the Rights of the Child reflects this: "A reservation incompatible with the object and purpose of the present Convention shall not be permitted". The Committee is deeply concerned that some States have made reservations which plainly breach article 51 (2) by suggesting, for example, that respect for the Convention is limited by the State's existing Constitution or legislation, including in some cases religious law. Article 27 of the Vienna Convention on the Law of Treaties provides: "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty".

16. The Committee notes that, in some cases, States parties have lodged formal objections to such wide-ranging reservations made by other States parties. It commends any action which contributes to ensuring the fullest possible respect for the Convention in all States parties.

III. RATIFICATION OF OTHER KEY INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

17. As part of its consideration of general measures of implementation, and in the light of the principles of indivisibility and interdependence of human rights, the Committee consistently urges States parties, if they have not already done so, to ratify the two 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) and the six other major international human rights instruments. During its dialogue with States parties the Committee often encourages them to consider ratifying other relevant international instruments. A non-exhaustive list of these instruments is annexed to the present general comment, which the Committee will update from time to time.

IV. LEGISLATIVE MEASURES

18. The Committee believes a comprehensive review of all domestic legislation and related administrative guidance to ensure full compliance with the Convention is an obligation. Its experience in examining not only initial but now second and third periodic reports under the Convention suggests that the review process at the national level has, in most cases, been started, but needs to be more rigorous. The review needs to consider the Convention not only article by article, but also holistically, recognizing the interdependence and indivisibility of human rights. The review needs to be continuous rather than one-off, reviewing proposed as well as existing legislation. And while it is important that this review process should be built into the machinery of all relevant government departments, it is also advantageous to have independent review by, for example, parliamentary committees and hearings, national human rights institutions, NGOs, academics, affected children and young people and others.

19. States parties need to ensure, by all appropriate means, that the provisions of the Convention are given legal effect within their domestic legal systems. This remains a challenge in many States parties. Of particular importance is the need to clarify the extent of applicability of the Convention in States where the principle of “self-execution” applies and others where it is claimed that the Convention “has constitutional status” or has been incorporated into domestic law.

20. The Committee welcomes the incorporation of the Convention into domestic law, which is the traditional approach to the implementation of international human rights instruments in some but not all States. Incorporation should mean that the provisions of the Convention can be directly invoked before the courts and applied by national authorities and that the Convention will prevail where there is a conflict with domestic legislation or common practice. Incorporation by itself does not avoid the need to ensure that all relevant domestic law, including any local or customary law, is brought into compliance with the Convention. In case of any conflict in legislation, predominance should always be given to the Convention, in the light of article 27 of the Vienna Convention on the Law of Treaties. Where a State delegates powers to legislate to federated regional or territorial governments, it must also require these subsidiary governments to legislate within the framework of the Convention and to ensure effective implementation (see also paragraphs 40 et seq. below).

21. Some States have suggested to the Committee that the inclusion in their Constitution of guarantees of rights for “everyone” is adequate to ensure respect for these rights for children. The test must be whether the applicable rights are truly realized for children and can be directly invoked before the courts. The Committee welcomes the inclusion of sections on the rights of the child in national constitutions, reflecting key principles in the Convention, which helps to underline the key message of the Convention - that children alongside adults are holders of human rights. But this inclusion does not automatically ensure respect for the rights of children. In order to promote the full implementation of these rights, including, where appropriate, the exercise of rights by children themselves, additional legislative and other measures may be necessary.

22. The Committee emphasizes, in particular, the importance of ensuring that domestic law reflects the identified general principles in the Convention (arts. 2, 3, 6 and 12 (see paragraph 12 above)). The Committee welcomes the development of consolidated children’s rights statutes, which can highlight and emphasize the Convention’s principles. But the Committee emphasizes that it is crucial in addition that all relevant “sectoral” laws (on education, health, justice and so on) reflect consistently the principles and standards of the Convention.

23. The Committee encourages all States parties to enact and implement within their jurisdiction legal provisions that are more conducive to the realization of the rights of the child than those contained in the Convention, in the light of article 41. The Committee emphasizes that the other international human rights instruments apply to all persons below the age of 18 years.

V. JUSTICIABILITY OF RIGHTS

24. For rights to have meaning, effective remedies must be available to redress violations. This requirement is implicit in the Convention and consistently referred to in the other six major international human rights treaties. Children’s special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights. So States need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives. These should include the provision of child-friendly information, advice, advocacy, including support for self-advocacy, and access to independent complaints procedures and to the courts with necessary legal and other assistance. Where rights are found to have been breached, there should be appropriate reparation, including compensation, and, where needed, measures to promote physical and psychological recovery, rehabilitation and reintegration, as required by article 39.

25. As noted in paragraph 6 above, the Committee emphasizes that economic, social and cultural rights, as well as civil and political rights, must be regarded as justiciable. It is essential that domestic law sets out entitlements in sufficient detail to enable remedies for non-compliance to be effective.

VI. ADMINISTRATIVE AND OTHER MEASURES

26. The Committee cannot prescribe in detail the measures which each or every State party will find appropriate to ensure effective implementation of the Convention. But from its first

decade's experience of examining States parties' reports and from its ongoing dialogue with Governments and with the United Nations and United Nations-related agencies, NGOs and other competent bodies, it has distilled here some key advice for States.

27. The Committee believes that effective implementation of the Convention requires visible cross-sectoral coordination to recognize and realize children's rights across Government, between different levels of government and between Government and civil society - including in particular children and young people themselves. Invariably, many different government departments and other governmental or quasi-governmental bodies affect children's lives and children's enjoyment of their rights. Few, if any, government departments have no effect on children's lives, direct or indirect. Rigorous monitoring of implementation is required, which should be built into the process of government at all levels but also independent monitoring by national human rights institutions, NGOs and others.

A. Developing a comprehensive national strategy rooted in the Convention

28. If Government as a whole and at all levels is to promote and respect the rights of the child, it needs to work on the basis of a unifying, comprehensive and rights-based national strategy, rooted in the Convention.

29. The Committee commends the development of a comprehensive national strategy or national plan of action for children, built on the framework of the Convention. The Committee expects States parties to take account of the recommendations in its concluding observations on their periodic reports when developing and/or reviewing their national strategies. If such a strategy is to be effective, it needs to relate to the situation of all children, and to all the rights in the Convention. It will need to be developed through a process of consultation, including with children and young people and those living and working with them. As noted above (para. 12), meaningful consultation with children requires special child-sensitive materials and processes; it is not simply about extending to children access to adult processes.

30. Particular attention will need to be given to identifying and giving priority to marginalized and disadvantaged groups of children. The non-discrimination principle in the Convention requires that all the rights guaranteed by the Convention should be recognized for all children within the jurisdiction of States. As noted above (para. 12), the non-discrimination principle does not prevent the taking of special measures to diminish discrimination.

31. To give the strategy authority, it will need to be endorsed at the highest level of government. Also, it needs to be linked to national development planning and included in national budgeting; otherwise, the strategy may remain marginalized outside key decision-making processes.

32. The strategy must not be simply a list of good intentions; it must include a description of a sustainable process for realizing the rights of children throughout the State; it must go beyond statements of policy and principle, to set real and achievable targets in relation to the full range of economic, social and cultural and civil and political rights for all children. The comprehensive national strategy may be elaborated in sectoral national plans of action - for example for education and health - setting out specific goals, targeted implementation measures and allocation of financial and human resources. The strategy will inevitably set priorities, but it

must not neglect or dilute in any way the detailed obligations which States parties have accepted under the Convention. The strategy needs to be adequately resourced, in human and financial terms.

33. Developing a national strategy is not a one-off task. Once drafted the strategy will need to be widely disseminated throughout Government and to the public, including children (translated into child-friendly versions as well as into appropriate languages and forms). The strategy will need to include arrangements for monitoring and continuous review, for regular updating and for periodic reports to parliament and to the public.

34. The “national plans of action” which States were encouraged to develop following the first World Summit for Children, held in 1990, were related to the particular commitments set by nations attending the Summit.⁹ In 1993, the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, called on States to integrate the Convention on the Rights of the Child into their national human rights action plans.¹⁰

35. The outcome document of the United Nations General Assembly special session on children, in 2002, also commits States “to develop or strengthen as a matter of urgency if possible by the end of 2003 national and, where appropriate, regional action plans with a set of specific time-bound and measurable goals and targets based on this plan of action ...”.¹¹ The Committee welcomes the commitments made by States to achieve the goals and targets set at the special session on children and identified in the outcome document, *A World Fit for Children*. But the Committee emphasizes that making particular commitments at global meetings does not in any way reduce States parties’ legal obligations under the Convention. Similarly, preparing specific plans of action in response to the special session does not reduce the need for a comprehensive implementation strategy for the Convention. States should integrate their response to the 2002 special session and to other relevant global conferences into their overall implementation strategy for the Convention as a whole.

36. The outcome document also encourages States parties to “consider including in their reports to the Committee on the Rights of the Child information on measures taken and results achieved in the implementation of the present Plan of Action”.¹² The Committee endorses this proposal; it is committed to monitoring progress towards meeting the commitments made at the special session and will provide further guidance in its revised guidelines for periodic reporting under the Convention.

B. Coordination of implementation of children’s rights

37. In examining States parties’ reports the Committee has almost invariably found it necessary to encourage further coordination of government to ensure effective implementation: coordination among central government departments, among different provinces and regions, between central and other levels of government and between Government and civil society. The purpose of coordination is to ensure respect for all of the Convention’s principles and standards for all children within the State jurisdiction; to ensure that the obligations inherent in ratification of or accession to the Convention are not only recognized by those large departments which have a substantial impact on children - education, health or welfare and so on - but right across Government, including for example departments concerned with finance, planning, employment and defence, and at all levels.

38. The Committee believes that, as a treaty body, it is not advisable for it to attempt to prescribe detailed arrangements appropriate for very different systems of government across States parties. There are many formal and informal ways of achieving effective coordination, including for example inter-ministerial and interdepartmental committees for children. The Committee proposes that States parties, if they have not already done so, should review the machinery of government from the perspective of implementation of the Convention and in particular of the four articles identified as providing general principles (see paragraph 12 above).

39. Many States parties have with advantage developed a specific department or unit close to the heart of Government, in some cases in the President's or Prime Minister's or Cabinet office, with the objective of coordinating implementation and children's policy. As noted above, the actions of virtually all government departments impact on children's lives. It is not practicable to bring responsibility for all children's services together into a single department, and in any case doing so could have the danger of further marginalizing children in Government. But a special unit, if given high-level authority - reporting directly, for example, to the Prime Minister, the President or a Cabinet Committee on children - can contribute both to the overall purpose of making children more visible in Government and to coordination to ensure respect for children's rights across Government and at all levels of Government. Such a unit can be given responsibility for developing the comprehensive children's strategy and monitoring its implementation, as well as for coordinating reporting under the Convention.

C. Decentralization, federalization and delegation

40. The Committee has found it necessary to emphasize to many States that decentralization of power, through devolution and delegation of government, does not in any way reduce the direct responsibility of the State party's Government to fulfil its obligations to all children within its jurisdiction, regardless of the State structure.

41. The Committee reiterates that in all circumstances the State which ratified or acceded to the Convention remains responsible for ensuring the full implementation of the Convention throughout the territories under its jurisdiction. In any process of devolution, States parties have to make sure that the devolved authorities do have the necessary financial, human and other resources effectively to discharge responsibilities for the implementation of the Convention. The Governments of States parties must retain powers to require full compliance with the Convention by devolved administrations or local authorities and must establish permanent monitoring mechanisms to ensure that the Convention is respected and applied for all children within its jurisdiction without discrimination. Further, there must be safeguards to ensure that decentralization or devolution does not lead to discrimination in the enjoyment of rights by children in different regions.

D. Privatization

42. The process of privatization of services can have a serious impact on the recognition and realization of children's rights. The Committee devoted its 2002 day of general discussion to the theme "The private sector as service provider and its role in implementing child rights", defining the private sector as including businesses, NGOs and other private associations, both for profit and not-for-profit. Following that day of general discussion, the Committee adopted detailed recommendations to which it draws the attention of States parties.¹³

43. The Committee emphasizes that States parties to the Convention have a legal obligation to respect and ensure the rights of children as stipulated in the Convention, which includes the obligation to ensure that non-State service providers operate in accordance with its provisions, thus creating indirect obligations on such actors.

44. The Committee emphasizes that enabling the private sector to provide services, run institutions and so on does not in any way lessen the State's obligation to ensure for all children within its jurisdiction the full recognition and realization of all rights in the Convention (arts. 2 (1) and 3 (2)). Article 3 (1) establishes that the best interests of the child shall be a primary consideration in all actions concerning children, whether undertaken by public or private bodies. Article 3 (3) requires the establishment of appropriate standards by competent bodies (bodies with the appropriate legal competence), in particular, in the areas of health, and with regard to the number and suitability of staff. This requires rigorous inspection to ensure compliance with the Convention. The Committee proposes that there should be a permanent monitoring mechanism or process aimed at ensuring that all State and non-State service providers respect the Convention.

E. Monitoring implementation - the need for child impact assessment and evaluation

45. Ensuring that the best interests of the child are a primary consideration in all actions concerning children (art. 3 (1)), and that all the provisions of the Convention are respected in legislation and policy development and delivery at all levels of government demands a continuous process of child impact assessment (predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights) and child impact evaluation (evaluating the actual impact of implementation). This process needs to be built into government at all levels and as early as possible in the development of policy.

46. Self-monitoring and evaluation is an obligation for Governments. But the Committee also regards as essential the independent monitoring of progress towards implementation by, for example, parliamentary committees, NGOs, academic institutions, professional associations, youth groups and independent human rights institutions (see paragraph 65 below).

47. The Committee commends certain States which have adopted legislation requiring the preparation and presentation to parliament and/or the public of formal impact analysis statements. Every State should consider how it can ensure compliance with article 3 (1) and do so in a way which further promotes the visible integration of children in policy-making and sensitivity to their rights.

F. Data collection and analysis and development of indicators

48. Collection of sufficient and reliable data on children, disaggregated to enable identification of discrimination and/or disparities in the realization of rights, is an essential part of implementation. The Committee reminds States parties that data collection needs to extend over the whole period of childhood, up to the age of 18 years. It also needs to be coordinated throughout the jurisdiction, ensuring nationally applicable indicators. States should collaborate with appropriate research institutes and aim to build up a complete picture of progress towards implementation, with qualitative as well as quantitative studies. The reporting guidelines for

periodic reports call for detailed disaggregated statistical and other information covering all areas of the Convention. It is essential not merely to establish effective systems for data collection, but to ensure that the data collected are evaluated and used to assess progress in implementation, to identify problems and to inform all policy development for children. Evaluation requires the development of indicators related to all rights guaranteed by the Convention.

49. The Committee commends States parties which have introduced annual publication of comprehensive reports on the state of children's rights throughout their jurisdiction. Publication and wide dissemination of and debate on such reports, including in parliament, can provide a focus for broad public engagement in implementation. Translations, including child-friendly versions, are essential for engaging children and minority groups in the process.

50. The Committee emphasizes that, in many cases, only children themselves are in a position to indicate whether their rights are being fully recognized and realized. Interviewing children and using children as researchers (with appropriate safeguards) is likely to be an important way of finding out, for example, to what extent their civil rights, including the crucial right set out in article 12, to have their views heard and given due consideration, are respected within the family, in schools and so on.

G. Making children visible in budgets

51. In its reporting guidelines and in the consideration of States parties' reports, the Committee has paid much attention to the identification and analysis of resources for children in national and other budgets.¹⁴ No State can tell whether it is fulfilling children's economic, social and cultural rights "to the maximum extent of ... available resources", as it is required to do under article 4, unless it can identify the proportion of national and other budgets allocated to the social sector and, within that, to children, both directly and indirectly. Some States have claimed it is not possible to analyse national budgets in this way. But others have done it and publish annual "children's budgets". The Committee needs to know what steps are taken at all levels of Government to ensure that economic and social planning and decision-making and budgetary decisions are made with the best interests of children as a primary consideration and that children, including in particular marginalized and disadvantaged groups of children, are protected from the adverse effects of economic policies or financial downturns.

52. Emphasizing that economic policies are never neutral in their effect on children's rights, the Committee has been deeply concerned by the often negative effects on children of structural adjustment programmes and transition to a market economy. The implementation duties of article 4 and other provisions of the Convention demand rigorous monitoring of the effects of such changes and adjustment of policies to protect children's economic, social and cultural rights.

H. Training and capacity-building

53. The Committee emphasizes States' obligation to develop training and capacity-building for all those involved in the implementation process - government officials, parliamentarians and members of the judiciary - and for all those working with and for children. These include, for example, community and religious leaders, teachers, social workers and other professionals,

including those working with children in institutions and places of detention, the police and armed forces, including peacekeeping forces, those working in the media and many others. Training needs to be systematic and ongoing - initial training and re-training. The purpose of training is to emphasize the status of the child as a holder of human rights, to increase knowledge and understanding of the Convention and to encourage active respect for all its provisions. The Committee expects to see the Convention reflected in professional training curricula, codes of conduct and educational curricula at all levels. Understanding and knowledge of human rights must, of course, be promoted among children themselves, through the school curriculum and in other ways (see also paragraph 69 below and the Committee's General Comment No. 1 (2001) on the aims of education).

54. The Committee's guidelines for periodic reports mention many aspects of training, including specialist training, which are essential if all children are to enjoy their rights. The Convention highlights the importance of the family in its preamble and in many articles. It is particularly important that the promotion of children's rights should be integrated into preparation for parenthood and parenting education.

55. There should be periodic evaluation of the effectiveness of training, reviewing not only knowledge of the Convention and its provisions but also the extent to which it has contributed to developing attitudes and practice which actively promote enjoyment by children of their rights.

I. Cooperation with civil society

56. Implementation is an obligation for States parties, but needs to engage all sectors of society, including children themselves. The Committee recognizes that responsibilities to respect and ensure the rights of children extend in practice beyond the State and State-controlled services and institutions to include children, parents and wider families, other adults, and non-State services and organizations. The Committee concurs, for example, with general comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights on the right to the highest attainable standard of health, paragraph 42, of which states: "While only States are parties to the Covenant and thus ultimately accountable for compliance with it, all members of society - individuals, including health professionals, families, local communities, intergovernmental and non-governmental organizations, civil society organizations, as well as the private business sector - have responsibilities regarding the realization of the right to health. States parties should therefore provide an environment which facilitates the discharge of these responsibilities."

57. Article 12 of the Convention, as already emphasized (see paragraph 12 above), requires due weight to be given to children's views in all matters affecting them, which plainly includes implementation of "their" Convention.

58. The State needs to work closely with NGOs in the widest sense, while respecting their autonomy; these include, for example, human rights NGOs, child- and youth-led organizations and youth groups, parent and family groups, faith groups, academic institutions and professional associations. NGOs played a crucial part in the drafting of the Convention and their involvement in the process of implementation is vital.

59. The Committee welcomes the development of NGO coalitions and alliances committed to promoting, protecting and monitoring children's human rights and urges Governments to give them non-directive support and to develop positive formal as well as informal relationships with them. The engagement of NGOs in the reporting process under the Convention, coming within the definition of "competent bodies" under article 45 (a), has in many cases given a real impetus to the process of implementation as well as reporting. The NGO Group for the Convention on the Rights of the Child has a very welcome, strong and supportive impact on the reporting process and other aspects of the Committee's work. The Committee underlines in its reporting guidelines that the process of preparing a report "should encourage and facilitate popular participation and public scrutiny of government policies".¹⁵ The media can be valuable partners in the process of implementation (see also paragraph 70).

J. International cooperation

60. Article 4 emphasizes that implementation of the Convention is a cooperative exercise for the States of the world. This article and others in the Convention highlight the need for international cooperation.¹⁶ The Charter of the United Nations (Arts. 55 and 56) identifies the overall purposes of international economic and social cooperation, and members pledge themselves under the Charter "to take joint and separate action in cooperation with the Organization" to achieve these purposes. In the United Nations Millennium Declaration and at other global meetings, including the United Nations General Assembly special session on children, States have pledged themselves, in particular, to international cooperation to eliminate poverty.

61. The Committee advises States parties that the Convention should form the framework for international development assistance related directly or indirectly to children and that programmes of donor States should be rights-based. The Committee urges States to meet internationally agreed targets, including the United Nations target for international development assistance of 0.7 per cent of gross domestic product. This goal was reiterated along with other targets in the Monterrey Consensus, arising from the 2002 International Conference on Financing for Development.¹⁷ The Committee encourages States parties that receive international aid and assistance to allocate a substantive part of that aid specifically to children. The Committee expects States parties to be able to identify on a yearly basis the amount and proportion of international support earmarked for the implementation of children's rights.

62. The Committee endorses the aims of the 20/20 initiative, to achieve universal access to basic social services of good quality on a sustainable basis, as a shared responsibility of developing and donor States. The Committee notes that international meetings held to review progress have concluded that many States are going to have difficulty meeting fundamental economic and social rights unless additional resources are allocated and efficiency in resource allocation is increased. The Committee takes note of and encourages efforts being made to reduce poverty in the most heavily indebted countries through the Poverty Reduction Strategy Paper (PRSP). As the central, country-led strategy for achieving the millennium development goals, PRSPs must include a strong focus on children's rights. The Committee urges Governments, donors and civil society to ensure that children are a prominent priority in the development of PRSPs and sectorwide approaches to development (SWAp). Both PRSPs

and SWApS should reflect children's rights principles, with a holistic, child-centred approach recognizing children as holders of rights and the incorporation of development goals and objectives which are relevant to children.

63. The Committee encourages States to provide and to use, as appropriate, technical assistance in the process of implementing the Convention. The United Nations Children's Fund (UNICEF), the Office of the High Commissioner for Human Rights (OHCHR) and other United Nations and United Nations-related agencies can provide technical assistance with many aspects of implementation. States parties are encouraged to identify their interest in technical assistance in their reports under the Convention.

64. In their promotion of international cooperation and technical assistance, all United Nations and United Nations-related agencies should be guided by the Convention and should mainstream children's rights throughout their activities. They should seek to ensure within their influence that international cooperation is targeted at supporting States to fulfil their obligations under the Convention. Similarly the World Bank Group, the International Monetary Fund and World Trade Organization should ensure that their activities related to international cooperation and economic development give primary consideration to the best interests of children and promote full implementation of the Convention.

K. Independent human rights institutions

65. In its general comment No. 2 (2002) entitled "The role of independent national human rights institutions in the protection and promotion of the rights of the child", the Committee notes that it "considers the establishment of such bodies to fall within the commitment made by States parties upon ratification to ensure the implementation of the Convention and advance the universal realization of children's rights". Independent human rights institutions are complementary to effective government structures for children; the essential element is independence: "The role of national human rights institutions is to monitor independently the State's compliance and progress towards implementation and to do all it can to ensure full respect for children's rights. While this may require the institution to develop projects to enhance the promotion and protection of children's rights, it should not lead to the Government delegating its monitoring obligations to the national institution. It is essential that institutions remain entirely free to set their own agenda and determine their own activities."¹⁸ General comment No. 2 provides detailed guidance on the establishment and operation of independent human rights institutions for children.

Article 42: Making the Convention known to adults and children

"States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike."

66. Individuals need to know what their rights are. Traditionally in most, if not all, societies children have not been regarded as rights holders. So article 42 acquires a particular importance. If the adults around children, their parents and other family members, teachers and carers do not

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understand the implications of the Convention, and above all its confirmation of the equal status of children as subjects of rights, it is most unlikely that the rights set out in the Convention will be realized for many children.

67. The Committee proposes that States should develop a comprehensive strategy for disseminating knowledge of the Convention throughout society. This should include information on those bodies - governmental and independent - involved in implementation and monitoring and on how to contact them. At the most basic level, the text of the Convention needs to be made widely available in all languages (and the Committee commends the collection of official and unofficial translations of the Convention made by OHCHR. There needs to be a strategy for dissemination of the Convention among illiterate people. UNICEF and NGOs in many States have developed child-friendly versions of the Convention for children of various ages - a process the Committee welcomes and encourages; these should also inform children of sources of help and advice.

68. Children need to acquire knowledge of their rights and the Committee places special emphasis on incorporating learning about the Convention and human rights in general into the school curriculum at all stages. The Committee's general comment No. 1 (2001) entitled "The aims of education" (art. 29, para. 1), should be read in conjunction with this. Article 29, paragraph 1, requires that the education of the child shall be directed to "... the development of respect for human rights and fundamental freedoms ...". The general comment underlines: "Human rights education should provide information on the content of human rights treaties. But children should also learn about human rights by seeing human rights standards implemented in practice whether at home, in school or within the community. Human rights education should be a comprehensive, lifelong process and start with the reflection of human rights values in the daily life and experiences of children."¹⁹

69. Similarly, learning about the Convention needs to be integrated into the initial and in-service training of all those working with and for children (see paragraph 53 above). The Committee reminds States parties of the recommendations it made following its meeting on general measures of implementation held to commemorate the tenth anniversary of adoption of the Convention, in which it recalled that "dissemination and awareness-raising about the rights of the child are most effective when conceived as a process of social change, of interaction and dialogue rather than lecturing. Raising awareness should involve all sectors of society, including children and young people. Children, including adolescents, have the right to participate in raising awareness about their rights to the maximum extent of their evolving capacities".²⁰

"The Committee recommends that all efforts to provide training on the rights of the child be practical, systematic and integrated into regular professional training in order to maximize its impact and sustainability. Human rights training should use participatory methods, and equip professionals with skills and attitudes that enable them to interact with children and young people in a manner that respects their rights, dignity and self-respect."²¹

70. The media can play a crucial role in the dissemination of the Convention and knowledge and understanding of it and the Committee encourages their voluntary engagement in the process, which may be stimulated by governments and by NGOs.²²

Article 44 (6): Making reports under the Convention widely available

“... States Parties shall make their reports widely available to the public in their own countries.”

71. If reporting under the Convention is to play the important part it should in the process of implementation at the national level, it needs to be known about by adults and children throughout the State party. The reporting process provides a unique form of international accountability for how States treat children and their rights. But unless reports are disseminated and constructively debated at the national level, the process is unlikely to have substantial impact on children's lives.

72. The Convention explicitly requires States to make their reports widely available to the public; this should be done when they are submitted to the Committee. Reports should be made genuinely accessible, for example through translation into all languages, into appropriate forms for children and for people with disabilities and so on. The Internet may greatly aid dissemination, and Governments and parliaments are strongly urged to place such reports on their web sites.

73. The Committee urges States to make all the other documentation of the examination of their reports under the Convention widely available to promote constructive debate and inform the process of implementation at all levels. In particular, the Committee's concluding observations should be disseminated to the public including children and should be the subject of detailed debate in parliament. Independent human rights institutions and NGOs can play a crucial role in helping to ensure widespread debate. The summary records of the examination of government representatives by the Committee aid understanding of the process and of the Committee's requirements and should also be made available and discussed.

Notes

¹ The Committee reminds States parties that, for the purposes of the Convention, a child is defined as “every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier” (art. 1).

² In 1999, the Committee on the Rights of the Child held a two-day workshop to commemorate the tenth anniversary of adoption of the Convention on the Rights of the Child by the United Nations General Assembly. The workshop focused on general measures of implementation following which the Committee adopted detailed conclusions and recommendations (see CRC/C/90, para. 291).

³ General Guidelines Regarding the Form and Content of Initial Reports to be Submitted by States Parties under Article 44, Paragraph 1 (a) of the Convention, CRC/C/5, 15 October 1991; General Guidelines Regarding the Form and Contents of Periodic Reports to be Submitted under Article 44, Paragraph 1 (b) of the Convention on the Rights of the Child, CRC/C/58, 20 November 1996.

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⁴ Human Rights Committee, general comment No. 3 (thirteenth session, 1981), *Article 2: Implementation at the national level*; Committee on Economic, Social and Cultural Rights, general comment No. 3 (fifth session, 1990), *The nature of States parties' obligations (article 2, paragraph 1, of the Covenant)*; also general comment No. 9 (nineteenth session, 1998), *The domestic application of the Covenant*, elaborating further on certain elements in general comment No. 3. A compendium of the treaty bodies' general comments and recommendations is published regularly by the Office of the High Commissioner for Human Rights (HRI/GEN/1/Rev.6).

⁵ General comment No. 3, HRI/GEN/1/Rev.6, para. 11, p. 16.

⁶ Human Rights Committee, general comment No. 18 (1989), HRI/GEN/1/Rev.6, pp. 147 et seq.

⁷ General Guidelines Regarding the Form and Contents of Periodic Reports to be Submitted under Article 44, Paragraph 1 (b) of the Convention on the Rights of the Child, CRC/C/58, 20 November 1996, para. 11.

⁸ World Conference on Human Rights, Vienna, 14-25 June 1993, "Vienna Declaration and Programme of Action", A/CONF.157/23.

⁹ World Summit for Children, "World Declaration on the Survival, Protection and Development of Children and Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s", CF/WSC/1990/WS-001, United Nations, New York, 30 September 1990.

¹⁰ World Conference on Human Rights, Vienna, 14-25 June 1993, "Vienna Declaration and Programme of Action", A/CONF.157/23.

¹¹ *A World Fit for Children*, outcome document of the United Nations General Assembly special session on children, 2002, para. 59.

¹² *Ibid.*, para. 61 (a).

¹³ Committee on the Rights of the Child, Report on its thirty-first session, September-October 2002, Day of General Discussion on "The private sector as service provider and its role in implementing child rights", paras. 630-653.

¹⁴ General Guidelines Regarding the Form and Contents of Periodic Reports to be Submitted under Article 44, Paragraph 1(b), of the Convention on the Rights of the Child, CRC/C/58, 20 November 1996, para. 20.

¹⁵ *Ibid.*, para. 3.

¹⁶ The following articles of the Convention relate to international cooperation explicitly: articles 7 (2); 11 (2); 17 (b); 21 (e); 22 (2); 23 (4); 24 (4); 27 (4); 28 (3); 34 and 35.

¹⁷ Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002 (A/Conf.198/11).

¹⁸ HRI/GEN/1/Rev. 6, para. 25, p. 295.

¹⁹ Ibid., para. 15, p. 286.

²⁰ See CRC/C/90, para. 291 (k).

²¹ Ibid., para. 291 (l).

²² The Committee held a day of general discussion on the theme “The child and the media” in 1996, adopting detailed recommendations (see CRC/C/57, paras. 242 et seq.).

Annex I**RATIFICATION OF OTHER KEY INTERNATIONAL
HUMAN RIGHTS INSTRUMENTS**

As noted in paragraph 17 of the present general comment, the Committee on the Rights of the Child, as part of its consideration of general measures of implementation, and in the light of the principles of indivisibility and interdependence of human rights, consistently urges States parties, if they have not already done so, to ratify the two 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) and the six other major international human rights instruments. During its dialogue with States parties the Committee often encourages them to consider ratifying other relevant international instruments. A non-exhaustive list of these instruments is annexed here. The Committee will update this from time to time.

- Optional Protocol to the International Covenant on Civil and Political Rights;
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
- Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women;
- Optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Convention against Discrimination in Education;
- ILO Forced Labour Convention No. 29, 1930;
- ILO Convention No. 105 on Abolition of Forced Labour, 1957;
- ILO Convention No. 138 Concerning Minimum Age for Admission to Employment, 1973;
- ILO Convention No. 182 on Worst Forms of Child Labour, 1999;
- ILO Convention No. 183 on Maternity Protection, 2000;
- Convention relating to the Status of Refugees of 1951, as amended by the Protocol relating to the Status of Refugees of 1967;
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949);
- Slavery Convention (1926);

- Protocol amending the Slavery Convention (1953);
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956);
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime of 2000;
- Geneva Convention relative to the Protection of Civilians in Time of War;
- Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I);
- Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II);
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and of Their Destruction;
- Statute of the International Criminal Court;
- Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption;
- Hague Convention on the Civil Aspects of International Child Abduction;
- Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children of 1996.
