

COMMITTEE ON THE RIGHTS OF THE CHILD

Reports of General Discussion Days

Document compiled by the
Office of the UN High Commissioner for Human Rights

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Explanatory Notes

1 The Nature of General Discussion Days

At its first session, the Committee decided to include a specific provision in its rules of procedure (rule 75), on the organization, in one or more meetings of its regular sessions, of a general discussion on one specific article of the Convention on the Rights of the Child or a related subject. The purpose of the general discussion is to enhance understanding of the contents and implications of the Convention on the Rights of the Child in areas as discussed.

2 This Document

This document contains all material relevant to all days of general discussion, taken from the Sessional reports of the Committee. In general, therefore, for any particular discussion day the information presented is in the following format;

- introduction or outline of the day (normally in the preceding Sessional report)
- a summary of the discussion
- recommendations adopted
- lists of documents submitted
- reports on any follow-up carried out

However, this format has developed through time. Hence, earlier reports, such as those on children in armed conflict or economic exploitation may not follow this general lay-out.

If one of the above elements is not included for any particular discussion day, this is due to the element not existing. This document does represent all available material.

Each element is referenced to the official United Nations document number for the Sessional report of the Committee, including, where applicable, the Annex number. Paragraph numbers in bold correspond to those from the Sessional report.

3 Further Information

The full text of all the Sessional Reports of the Committee can be accessed electronically via the website of the Office of the United Nations High Commissioner for Human Rights.

From www.unhchr.ch, the reports are contained in the **Treaty Body Database**, under 'Documents' / 'By Treaty' / 'Committee on the Rights of the Child' / 'Sessional/Annual Report of Committee'

Submissions received for discussion days since the Commemorative 10th Anniversary Meeting can be accessed on the Child Rights Information Network website (www.crin.org)

Children in Armed Conflict, 2nd Session, 5th October 1992

I. **General discussion on children in armed conflicts**

UN Document CRC/C/10

61. At its first session, the Committee decided to include a specific provision in its rules of procedure on the organization, in one or more meetings of its regular sessions, of a general discussion on one specific article of the Convention on the Rights of the Child or a related subject, as a means to enhance a deeper understanding of the contents of this international instrument (rule 75). At that time, the Committee decided to devote a day of its second session to the consideration of the topic "Children in armed conflicts".

62. The decision to consider this topic was based on:

- (a) The outstanding importance of this issue in the context of the promotion and protection of children's rights and the role the Convention can play in that respect;
- (b) The fact that, in recent years, a growing number of conflicts are occurring (more than 150 since the Second World War), using more sophisticated and brutal weapons and fighting methods, affecting a growing number of civilians, particularly children;
- (c) The urgency of creating awareness, raising concern and encouraging adequate action;
- (d) The need to underline the complexity of the question of children in armed conflicts, which should not be simply reduced to the consideration of a single provision of the Convention, namely article 38.

63. In the consideration of the topic in light of the relevant provisions of the Convention, concerns of a different nature might be raised. Among them:

- (a) the relevance and adequacy of existing international instruments, including international humanitarian law, and the advisability of envisaging new standard-setting activities;
- (b) the need to reinforce the adoption of preventive measures, designed either to prevent conflicts or to prevent children from taking direct or indirect part in the hostilities or suffering its effects;
- (c) the need to ensure an effective protection of children in a period of armed conflict, in the overall framework of the realization of all the rights of the child, inherent to his or her dignity and essential to the full and harmonious development of his or her personality;
- (d) the need to ensure the promotion of the physical and psychological recovery and social reintegration of any child victim of, or affected by, an armed conflict, in an environment which fosters the health, self-respect and dignity of the child.

64. The Committee devoted its 38th and 39th meetings, on 5 October 1992, to a general discussion on Children in armed conflicts. The following organizations participated in the debate: Food and Agriculture Organization of the United Nations, United Nations Educational, Scientific and Cultural Organization, World Health Organization, Office of the United Nations High Commissioner for Refugees, United Nations Children's Fund, International Committee of the Red Cross, Friends' World Committee for Consultation, Institut Henri-Dunant, International Catholic Child Bureau, International Council of Voluntary Agencies and International Save the Children Alliance, including Rättnad Barnen and Save the Children Fund UK. The Committee also had on

this occasion the opportunity to establish a dialogue with Mr. Vitit Muntarbhorn, the Special Rapporteur of the Commission on Human Rights on the Sale of Children.

1. Relevance and adequacy of existing standards

65. Reference was made to the different provisions applicable in the framework of children in armed conflicts, including the four Geneva Conventions, the additional Protocols, the Declaration on the Protection of Women and Children in Periods of Emergency and Armed Conflicts, the Declaration on the Rights of the Child, and the Convention on the Rights of the Child. Mention was also made of other United Nations standards, such as the International Covenant on Civil and Political Rights and General Comment 17 adopted by the Human Rights Committee on article 24 of that Covenant.

66. It was pointed out that there were some situations in which children did not benefit from the protection of existing standards, as was very often the case in internal strife. There was therefore a need to consider a set of minimum humanitarian standards to be applicable in all situations to all children, without discrimination, in a period of armed conflict, thus filling any possible existing gaps.

67. When basing the consideration of the question of children in armed conflicts on the Convention itself, it was recalled that States parties have undertaken to respect and ensure all the rights set forth therein to all children within their jurisdiction (art. 2). States parties have also made a commitment to adopt all appropriate measures in order to achieve such a purpose (art. 4) and that, in all actions taken, the best interests of the child shall be a primary consideration (art. 3). None of these general provisions admit a derogation in time of war or emergency.

68. It was further recalled that the Convention, under its article 41, invites States parties to always apply the norms which are more conducive to the realization of the rights of the child, contained either in applicable international law or in national legislation. Finally, attention was drawn to the fact that States parties may also make declarations when ratifying or acceding to the Convention, expressing their commitment before the international community to apply more conducive standards than those directly deriving from the Convention, namely by not recruiting children under 18 years of age into the armed forces.

69. This framework led to the consideration of different needed actions:

- (a) ratification of, or accession to, existing relevant international instruments;
- (b) effective implementation of such standards; and
- (c) improvement of the existing normative framework.

2. Reinforcement of preventive measures

70. General measures designed to prevent the occurrence of conflicts were discussed. Emphasis was put on the role which education can play:

- (a) Education in a spirit of understanding, solidarity and peace, as a general and continuous process, as reflected in article 29 of the Convention on the Rights of the Child;
- (b) Education and training for the military and for groups working with and for children;
- (c) Education and dissemination of information specifically for children.

Attention was also drawn to the need for creating awareness of the political grounds for the existence of conflicts; such an attitude may contribute to the consideration of solutions of mediation or conciliation designed to prevent the conflict or attenuate its effects.

71. Importance was also given to the question of arms expenditures, the sale of arms and the advisability of considering an adequate monitoring mechanism of this reality. As a general preventive measure, reference was also made to the prevention of child abuse and neglect, which could contribute to the prevention of future use of violence.

72. Specific preventive measures designed to prevent the involvement of children in armed conflicts were also discussed: mention was made of the interdiction of recruitment into the armed forces under a certain age, as well as of the adoption of measures ensuring that children will not take part in hostilities or suffer their effects.

3. Ensuring an effective protection to children in situations of armed conflict

73. It was recalled that, apart from article 38, the overall framework of the realization of the rights of the child set forth by the Convention should be ensured; this framework was very often also reflected in the provisions of humanitarian law. Among these, reference was made to the importance of:

- protecting the family environment;
- ensuring the provision of essential care and assistance;
- ensuring access to health, food and education;
- prohibiting torture, abuse or neglect;
- prohibiting the death penalty;
- and the need to preserve the children's cultural environment, as well as the need of protection in situations of deprivation of liberty.

Particular emphasis was also put on the need to ensure humanitarian assistance and relief and humanitarian access to children in situations of armed conflict. In this respect, special attention was paid to important measures, such as days of tranquility and corridors of peace.

4. Promotion of physical and psychological recovery and social reintegration

74. Consideration was particularly given to article 39 of the Convention: different experiences and programmes were brought to the attention of the Committee, underlying the need for resources and goods (namely, food and medicine). Moreover, emphasis was put on the need to consider a coherent plan for recovery and reintegration, to be planned and implemented in a

combined effort by United Nations bodies and non-governmental organizations. Attention should be paid to:

- (a) the implementation and monitoring of adequate strategies and
- (b) the need to reinforce the involvement of the family and the local community in this process.

5. Follow-up to the general discussion

75. In view of the different contributions made and the problems considered, the Committee recognized that there was a need for a continuous response to the outstanding and complex question of children in armed conflicts, in the framework of its mandate. It therefore envisaged different measures which it could take to face this problem:

- (a) Development of more specific guidelines for the implementation of the more relevant provisions, namely articles 38 and 39;
- (b) Drafting of a set of recommendations;
- (c) Consideration of a preliminary general comment;
- (d) Realization of general studies on certain aspects of the problem;
- (e) Preliminary drafting of a future optional protocol to the Convention on the Rights of the Child raising the age of recruitment of children into the armed forces to 18 years of age.

76. To consider these different measures, in the light of the general discussion the Committee decided to establish a working group composed of some of its members, entrusted with the task of submitting final proposals at the next regular session of the Committee, scheduled for January 1993.

77. Furthermore, the Committee highlighted that, in the task of examining States parties reports, it could envisage:

- (a) Welcoming the declaration made by some States parties on the decision they had taken not to recruit children under the age of 18 years;
- (b) Emphasizing the need for information on the legislation and practice of States parties, as far as the application of article 38 is concerned;
- (c) Seeking information, in light of article 41, on whether the most conducive norms are applied, or encouraging the adoption of more protective provisions at the national level;
- (d) Encouraging States parties to consider, when recruitment into the armed forces is admitted under the age of 18 years, how this situation takes the best interests of the child as a primary consideration;
- (e) Emphasizing and encouraging States parties to consider, in their continuous process of monitoring progress, whether all necessary and appropriate measures have been adopted to ensure the full realization of the rights of the child, to all children under their jurisdiction.

PRELIMINARY DRAFT OPTIONAL PROTOCOL ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICTS
CRC/C/16, Annex VII

The States Parties to the present Protocol,

Encouraged by the fact that an unprecedented number of States have to date become parties to the Convention, thereby 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 call for continuous improvement of the situation of children all over the world, as well as for their development and education in conditions of peace and security,

Considering that to further implement the rights recognized in the Convention on the Rights of the Child, there is a need to strengthen the protection of children involved in armed conflicts,

Believing that the involvement in hostilities of persons who have not attained the age of eighteen years is harmful for them physically and psychologically and affects the full implementation of the rights of the child, including the right to life,

Noting that Article 1 of the Convention recognizes every human being below the age of eighteen years to be a child, unless under the law applicable to the child, majority is attained earlier,

Recognizing that Article 38 of the Convention admits recruitment of persons into armed forces and their direct participation in hostilities after the attainment of the age of fifteen years,

Taking into account that many States Parties to the Convention have expressed their determination, including through unilateral declarations upon signature or ratification, not to recruit into their armed forces persons below the age of eighteen years,

Convinced that an optional protocol to the Convention, raising the age of possible recruitment of persons into armed forces [and their direct participation in hostilities] to eighteen years, 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, while giving States Parties which find themselves in a position to do so the possibility to adhere to such a protocol,

Have agreed as follows:

Article 1

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

Article 2

States Parties shall refrain from recruiting any person who has not attained the age of eighteen years into their armed forces.

Article 3

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

Article 4

No reservation is admissible to the present Protocol.

Article 5

The States Parties to the present Protocol shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, information on the measures that they have adopted to give effect to the present Protocol.

Article 6

The provisions of the present Protocol shall apply to the States Parties instead of article 38, paragraphs 2 and 3, of the Convention.

Article 7

1. The present Protocol is open for signature by any State which is a party to the Convention or has signed it.
2. The present Protocol is subject to ratification or open to accession by any State which has ratified or acceded to the Convention. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.
3. The Secretary-General of the United Nations in his capacity as the depositary of the Convention and the Protocol shall inform all States Parties to the Convention and all States which have signed the Convention of the deposit of each instrument of ratification or accession to the Protocol.

Article 8

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 9

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 which have signed the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General of the United Nations.

Article 10

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 together with the Convention on the Rights of the Child,
2. The Secretary-General of the United Nations shall transmit certified copies of this Protocol to all States Parties to the Convention and all States which have signed the Convention.

Economic Exploitation of Children, 4th Session, 4th October 1993

Summary

I. General discussion on the economic exploitation of children

UN Document CRC/C/20

186. In view of the importance it attaches to the enhancement of a deeper understanding of the Convention on the Rights of the Child, the Committee had decided to devote one day of its fourth session to a general discussion on the economic exploitation of children. The decision to consider this topic reflected the importance of the issue in the framework of the promotion and protection of the rights of the child, the urgency of creating awareness and raising concern at the growing number of children in situations of economic exploitation; the need for integrated and concerted action by Governments, United Nations bodies and other competent bodies active in the field of the rights of the child, as well as the decisive role the Convention on the Rights of the Child could play in that regard.

187. The Committee had been provided with some important background documents, in addition to the two Programmes of Action adopted by the Commission on Human Rights for the Elimination of Child Labour and for the Prevention of the Sale of Children, Child Prostitution and Child Pornography.

188. Several organizations had submitted documents on the theme, as follows:

- Protection of children against economic exploitation by the International Labour Organisation;
- Sale of children by the Special Rapporteur on the sale of children of the Commission on Human Rights;
- Eliminating the exploitation of child labour by the sub-group on child labour of the NGO Group for the Convention on the Rights of the Child;
- Comments regarding the monitoring by the Committee of the Convention's articles relating to child victims of sexual exploitation by the Sub-group on sexual exploitation of children of the NGO Group for the Convention on the Rights of the Child;
- Economic exploitation of children (extreme poverty and child labour) by the International Movement ATD Fourth World;
- Niños trabajadores: organizando la esperanza de América Latina y el Caribe by Radda Barnen;
- Wish you weren't there: the sexual exploitation of children in connection with tourism and international travel, and Children and income-generating projects by Save the Children UK;
- Possible causes and solutions of child prostitution in Taiwan by the Association François-Xavier Bagnoud;

- Reflexiones en torno al trabajo infantil en el Perú by the Grupo de Iniciativa Nacional por los Derechos del Niño.

189. The following organizations and bodies made statements on the day of the general discussion: United Nations Children's Fund, United Nations Development Programme, International Labour Organisation, Food and Agriculture Organization of the United Nations, United Nations Educational, Scientific and Cultural Organization, World Health Organization, International Monetary Fund, Board of Trustees of the United Nations Voluntary Fund on Contemporary Forms of Slavery, Anti-Slavery International, Child Workers in Nepal, International Catholic Child Bureau, International Confederation of Free Trade Unions, International Federation of Social Workers, International Institute for Human Rights, Environment and Development, International Movement ATD Fourth World, International Movement of Apostolate of Children, Movement for Child Workers in Latin America, World Federation of Methodist Women, Youth for Unity and Voluntary Action.

190. The Committee took note of the steps taken in that regard by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, namely its decision, contained in resolution 1993/5 of 20 August 1993, to appoint a Special Rapporteur to update the report of Mr. Abdelwahab Boudhiba on the exploitation of child labour (E/CN.4/Sub.2/479/Rev.1).

191. The Special Rapporteur on the sale of children, child prostitution and child pornography also submitted a document concerning the steps he has taken within the framework of his mandate and made a statement before the Committee.

192. The general discussion was a meaningful occasion for a fruitful exchange of views between the members of the Committee and United Nations bodies, specialized agencies and other competent bodies, in particular non-governmental organizations.

193. Situations of child labour, including the question of domestic servants, child prostitution and pornography and sale of children, were considered by the participants. During the discussion, which was introduced by members of the Committee (Mrs. Marta Santos Pais, Mr. Thomas Hammarberg and Mrs. Akila Belembaogo; see annex V), particular emphasis was put on the need for the child to be put at the centre of all policies, whether they are adopted by international financial institutions, development agencies or Governments. Attention was also drawn to the need to respect the dignity of the child, while enhancing the values of solidarity, participation and equity.

194. The discussion made clear the need for a comprehensive and concerted action for prevention, protection and rehabilitation. The need to strengthen preventive actions was stressed and education was referred to in that regard as an essential tool. Recommendations were also made in the field of the protection of the rights of the child, including the establishment of an ombudsperson who might intervene and assist the child victim of economic exploitation. The important role of recovery and social reintegration of child victims of any form of economic exploitation was recognized. At all levels of action, effective coordination was recognized as an essential aspect to achieve progress, both at the national and the international level.

195. The discussion emphasized the relevance of the general principles of the Convention to assess the reality, design adequate policies and implement effective plans of action to combat the plight of exploited children and ensure the effective enjoyment of their right to childhood.

196. In view of the contributions made and the importance of the problems considered, the Committee decided that there was a need for a continuous response to this urgent question. It therefore decided (i) to make a public statement on the outcome of the general discussion day (see annex VI); (ii) to establish a working group among its members to prepare, in the light of the discussion and of the provisions of the Convention, a set of recommendations to be considered at its regular session scheduled for January 1994; (iii) to consider issuing a publication based on the general discussion on the economic exploitation of children.

Opening Statements

OPENING STATEMENTS ON THE DAY OF GENERAL DISCUSSION ON THE ECONOMIC EXPLOITATION OF CHILDREN

UN Document CRC/C/20, Annex V

1. Statement by Mrs. Marta Santos Pais

The Committee on the Rights of the Child attaches decisive importance to the promotion of awareness and dissemination of information on the Convention. For this reason, and in order to emphasize a deeper understanding of the content and implications of its provisions, the Committee has decided to devote one day of its regular sessions to a general discussion on a specific article or theme covered by the Convention.

Following its first experience, on the situation of children in armed conflicts, the Committee decided to consider at its fourth session the question of "Economic exploitation of children" - a complex reality which, while underlying the vulnerability of children, openly emphasizes the holistic nature of their rights and the urgency of the implementation of those same rights. By the same token, the study of this reality reaffirms the need for integrated and concerted action by Governments, United Nations and other competent bodies active in the field of the rights of the child, in a determined way, showing how indispensable it is to promote, like the World Conference on Human Rights recently reaffirmed, a comprehensive national approach together with a regular review and monitoring by all relevant organizations and mechanisms of the United Nations system of their policies on children.

It seems important to start the theme day's discussion by addressing some preliminary questions:

- 1) What is the scope of our study, that is, what should be understood by the expression "economic exploitation", used in article 32 of the Convention on the Rights of the Child?
- 2) To what extent can we dissociate situations of economic exploitation from the consideration of the child as the central subject, unfortunately also the central victim?
- 3) How closely interrelated are the situations of economic exploitation of children with the deprivation of their fundamental rights, and how relevant are the general principles of the Convention - namely non-discrimination, best interests of the child and the child's participation - to bring these situations to an end?

First, what is meant by "economic exploitation"? The Convention does not provide us with a definition; a conceptual approach may thus shed some light. This expression combines two distinct elements: economic and exploitation.

Economic implies the idea of a certain gain or profit through the production, distribution and consumption of goods and services. This material interest has an impact on the economy of a certain unit, be it the State, the community or the family.

For its part, exploitation means taking unjust advantage of another for one's own advantage or benefit. It covers situations of manipulation, misuse, abuse, victimization, oppression or ill-treatment.

If we take the Convention as the framework for our approach, we will recognize the existence of a material interest in activities such as child labour, child pornography or the use of children for criminal activities, as in the case of drug trafficking. On the other hand, we are confronted with a situation of exploitation essentially when the human dignity of the child or the harmonious development of the child's personality is not respected - situations such as the sale of children, child bondage or child prostitution.

Combining the two elements, it is important to recognize that, although there is a large area of coincidence, not all activities where an economic element prevails are necessarily exploitive. In fact, in view of the general definition of the child in article 1 of the Convention as a person below the age of 18 years, situations of licit work may arise if due regard is taken of the relevant provisions of international instruments, for instance, according to ILO Convention No. 138, light work may be performed at the age of 13.

This conceptual approach may therefore be a relevant guiding principle in trying to define the scope of our discussion on economic exploitation.

Second, there is often a temptation to emphasize the situation of poverty, underdevelopment or the external debt of a country as root causes, and in fact the main justification, for the inevitable existence of activities where the child becomes more vulnerable to exploitation.

The fight for survival leads the child to feel a need to contribute to the family income. The family cannot but encourage such a contribution. The community at large accepts it as a "needed evil". The child is seen solely, if ever recognized, as a simple element within the overall system, where economic challenges are given priority and the human place is undermined.

Such an approach, together with the fact that the activities in which children often engage are illicit and clandestine, contribute to public apathy and to the growing marginalization of the child. But can children be forgotten until poverty and development problems are overcome?

There is an urgent need to reassess the whole reality, respecting the dignity and individuality of the child, ensuring the effective realization of his or her rights, changing deprivation into solidarity, discrimination and vulnerability into participation and equity. Bringing the child into the centre of all development strategies. Only then will it be possible to envisage appropriate policies and to adopt necessary measures to combat situations of economic exploitation in the light of the best interests of the child.

Finally, it is important to be alert to the close relationship between the realization of the rights of the child and the eradication of situations of economic exploitation. Such a relationship will help

us to envisage strategies and find solutions to the problems we may face. In fact, we need first to know the extent of the problem. No one really knows how many children are involved in situations of economic exploitation. Being often illicit, activities are developed in a hidden environment. Statistics and indications are lacking.

However, the compulsory registration of children after birth enables the identification of their age for those who are working, those who go to school, those who are forced to marry at an early age, those who are entitled to benefit from a special protection in view of their age or vulnerability. The definition of the child thus gains additional relevance.

We also need to bring what is invisible into the light. If awareness is created about the rights of children, it becomes easier to break the curtain of silence and public apathy. Children themselves will learn about their rights, including the rights to play, to study, to take rest, and will become aware of the risks they face in the activities they develop. Information becomes an essential tool for prevention!

We further need to establish an effective system of protection to prevent vulnerability, marginalization and discrimination. This can be done through a legislative system, which places the authority of the State behind the protection of children and envisages the child as a victim and not as a perpetrator; through a system of compulsory and free education which enables the development of the child's personality, talents and mental and physical abilities to their fullest potential; through the establishment of bodies, like the ombudsperson, entrusted with the task of protecting and assisting the child, including through access to places where the child might be exploited, and a system of free legal aid.

Finally, we need to envisage a system of physical and psychological recovery and social reintegration of any exploited or abused child.

Today's discussion will undoubtedly contribute to better realising the importance of the Convention on the Rights of the Child in addressing all these questions and in envisaging effective strategies to bring situations of economic exploitation to an end.

With our combined efforts we cannot but expect a new impetus to be given to this crucial question.

2. Statement by Mr. Thomas Hammarberg

This Committee has so far received 31 reports from Governments of which a third now have been analysed in depth. It is too early to talk about trends and patterns. However, it is clear that economic exploitation of children is a major concern in both poor and rich countries.

The exploitation may take the form of hazardous child labour or even child slavery. Child prostitution is one example which now appears to be on the increase. Sales of children occur for such purposes but also within a market for adoptions. There is a demand and a supply aspect to all these phenomena. The supply of children for exploitation has several causes, but a major one is poverty.

Poverty is no longer limited to the developing countries. Segments of the population are poor in the industrialized countries as well. This has contributed to making exploitation of children a global problem.

Some years ago, UNICEF argued for structural adjustment with a human face. The idea was that, though economic reforms were necessary, not least to give children a more secure future, the measures taken must have a human dimension. The burden to compensate for earlier economic mismanagement should not be put on today's children. Budget cuts which undermine primary health care and primary education would be unfair (and short-sighted). However, this is precisely what seems to be happening now, as Governments in country after country seek their way out of the recession.

"Costa Rica is no longer a welfare state", said a Costa Rican government representative in this room the other day. In its report that Government wrote the following:

"In social matters, the measures adopted because of the 1980s crisis of principles have had serious consequences such as: (a) a widening of the social gaps and the regional imbalances; (b) changes in the organization of the family, particularly among the weaker groups, due to the need for more family members to have recourse to the labour market; (c) a reduction in State investment in major social programmes, and (d) the difficulty of adopting State institutions to meet new demands and needs of the poorest groups."

Costa Rica is not unique in this regard. Children have been the prime victims of both the economic crisis and the sweeping measures to reform and balance the economy in several countries. It is mostly the already disadvantaged children who are victimized. That came through in reports from Viet Nam, Russia and Sweden.

When political leaders met in New York three years ago for the World Summit for Children, they also discussed this problem. They stated that structural adjustments were necessary to promote economic growth. However, such measures should be taken "while ensuring the well-being of the most vulnerable sectors of the population, in particular the children".

Our impression is that that pledge has not been honoured. Our discussion here today will focus on violations, which are partly consequences of that failure.

A key article in the Convention - article 4 - states that Governments should implement the economic, social and cultural rights of the child "to the maximum extent of their available resources". We are not convinced that any Government which has reported to us has managed to show that it has lived up to that obligation.

The whole point of the concept of the rights of the child is that there is an obligation to meet the child's needs. It is not sufficient to give children what remains when other interests have already been met. If children had a voice they would, rightly and repeatedly, criticize adult society for hypocrisy.

Article 4 also prescribes international cooperation. However, assistance from donor countries is now reduced - when it is most needed. Again, if children had a voice they would protest.

All this is a question of attitudes and values. I already mentioned that the word "right" has a particular meaning; it means rights, not "do not completely forget". Another problem is that children are seen only as a cost in the budget discussion, not as an investment possibility for a better future.

We would like to challenge the international financial institutions, the development agencies and all Governments to review their policies and programmes in the light of the Convention on the Rights of the Child.

We are also proposing that reports about the situation of children - and their rights - form an important basis for future intergovernmental discussions about international cooperation and, in particular, development assistance.

3. Statement by Mrs. Akila Belembaogo

The consideration of the first initial reports submitted by the Governments of the States parties to the Convention on the Rights of the Child justifies the choice made by the Committee on the Rights of the Child of the topic for our meeting today. Indeed, the economic exploitation of children is gaining ground in most countries, whether developed or developing, and takes on very diverse forms, depending on the situation in which the child lives and the economic conditions in the child's country. The social repercussions are felt by the child, the family and society at large. They seriously affect the child's situation and his future.

The problems that arise are the following: When is a child to be regarded as being exploited? What are the social aspects of this exploitation? What should be done to make sure that a child is not exploited, that he has a normal childhood and that he becomes an adult under normal conditions? What is it that forces a child to work?

These questions seem all the more important in that, increasingly, recognition is being given to the child's responsibility and to his participation, but at the same time to protecting him as someone who is still vulnerable and, consequently, stands in need of special assistance and attention. The child should therefore be taught to take on his responsibility as a future adult, member of the family and citizen of society. Accordingly, to educate the child, the parents usually start the boy or girl on a number of activities in the family, even more so in the case of a girl, whose social status depends on this. Yet the bounds of this upbringing are not always properly observed. Thus, at some point the child becomes an integral part of the family workforce and a source of income for the family. Furthermore, the socio-cultural context, extreme poverty, irresponsibility on the part of the parents, the lack of any opportunity to develop because of parental problems such as divorce, separation or death, or again, imprisonment of the father; the persistence of certain customs involving abandonment of the child, and the flight to the cities, are conditions such that the child joins the workforce, particularly in the informal sector, at an early age in order to look after himself or contribute to a family that is in financial difficulties. These situations also make for special psychological constraints on the child. Generally speaking, working in the informal sector means working to survive, and rarely to build a future. There are no statistics to prove that children working at an early age under harsh conditions manage to start a home and family one day and lead a proper life. Perhaps ILO could shed some light for us on this particular matter. Without social protection, most children work in conditions which endanger their lives, whether in searching for gold by traditional methods or working down mines, in factories, in craft industries, at home or in the fields. They lose any chance of attending school, of an education and of leisure activity.

Pornography, prostitution, the sex industry, drugs, the new forms of sale and enslavement are becoming sources of economic exploitation of children. My question is: What social and legal protection can we provide for children growing up in bars or in dens of iniquity? Yet, with the spread of AIDS, adults have tried a new tactic which consists in finding increasingly younger

children so as to protect their own health. These are children sacrificed for the "pleasure" of adults.

Domestic work in families is rarely taken into account in statistics on the active population or on working children. Whether they are from the members of the family or not, child domestics experience special problems tied in with their complete subordination and with lack of privacy. Girls are the victims of incest, rape and sexual abuse. National labour laws on domestic staff rarely reach out to them, for they are not identified as being in wage-earning employment. If they are paid, the pay is no more than an allowance collected by their parents, who live in need. Often, the girl receives no pay, because it is simply a family arrangement to make her ready for her future as a submissive wife.

Again, in some countries, historical, environmental and socio-cultural factors have encouraged prostitution. For example, towns and villages with military camps and barracks are places that have fomented this and made it worse. The persistence of some customs such as abandoning and casting out young girls who become pregnant before marriage ensnares girls in prostitution, exploitation of their bodies and subjection, since it is the only way out for them.

The situation is all the more disturbing in that social customs are deteriorating, the extended family is breaking up, individualism is taking over from family and national solidarity. In the circumstances, children are less and less inclined to appreciate the ideas of marriage, the family and the future.

In most developing countries, statistics show that children, particularly those under 15 years of age, make up the larger part of the population.

Despite government efforts, development programmes primarily concern the regions, mostly urban or semi-urban, and the privileged population. Civil and criminal social legislation to protect children, where it does exist, is either insufficient or runs into serious difficulties in implementation. Population growth defies Governments which have opted for birth control policies, for it brings them face to face with serious socio-cultural and religious obstacles.

Although they contribute to the economic expansion of their countries, children, including those from minority or disadvantaged groups, do not always benefit from the spin-off of development. Society's toleration of child labour, the resignation and the utter belief of parents in fate, and lack of awareness and ignorance in particular, make the strategies to protect children who work even more complicated.

The implementation of the Convention on the Rights of the Child, the ILO Conventions on child labour and international human rights treaties in general must be the leitmotiv of any development programme.

These are the concerns and questions raised by the social aspects of the economic exploitation of children that I would put before the participants in this meeting, in the hope that they will be among the focal points of the discussion and that the debate will lead to appropriate recommendations.

Statement on the Economic Exploitation of Children

Statement on the Economic Exploitation of Children

UN Document CRC/C/20, Annex VI

Children are exploited in all parts of the world today. More than 100 million children are forced into jobs destroying their health or preventing them from going to school. In some cases their conditions amount to slavery.

The United Nations Committee on the Rights of the Child has received reports indicating that children in several countries are exposed to new and more severe risks, particularly in the unregulated informal sector, the tourist economy and in agriculture. It therefore convened a special meeting at Geneva during its session ending on 8 October 1993 to discuss the problem of economic exploitation of children.

The International Labour Organisation, United Nations Children's Fund, World Health Organization and other United Nations bodies delivered reports as did non-governmental representatives from several countries including India, the Ivory Coast, Nepal, and Peru. Through video-filmed reports there were also accounts from children working under difficult circumstances in, for instance, Colombia, Egypt, the Philippines and the United States of America.

After the discussion the Committee took the following decisions:

The Committee invites financial institutions, including the World Bank and the International Monetary Fund, to a discussion about the need to protect the rights of the child in programmes of economic reform.

- When analysing States' reports, the Committee noted that groups of children in both poor and rich countries have been victimized by sweeping measures to curb inflation and encourage economic growth. Social allocations have been cut in drastic proportion.
- This has caused new poverty. Groups of vulnerable children, in particular, have been made to suffer: the girl child, the disabled, minority ethnic groups, orphans, displaced and refugee children.
- Political leaders who met three years ago for the World Summit for Children stated that measures for structural adjustment should be undertaken without undermining the well-being of children.
- The Convention on the Rights of the Child states that Governments should implement the economic, social and cultural rights of the child "to the maximum extent of their available resources". The Committee is not convinced that any government fully lives up to that ambition today.
- There is an urgent need for a discussion on how children can be protected in programmes of economic reform. International, regional and national financial institutions have a role to play in this endeavour.

The Committee recommends that the United Nations Educational, Scientific and Cultural Organization take the lead in an international effort to make school education a real and effective alternative to exploitative child labour, including child prostitution.

- Education policy should be reviewed in several countries in order to offer a genuine right to all children to go to school. Primary education should be compulsory and free of charge. No one should be prevented from going to school because of poverty. School hours should be flexible and adapted to the real needs of the child, especially in rural areas.
- The teaching in the schools should be meaningful, the pedagogic methods child friendly and respectful of the dignity of the child.
- National development programmes should give priority to giving each child access to a good school. International cooperation is important in this regard, support from agencies like the United Nations Educational, Scientific and Cultural Organization and the United Nations Children's Fund crucial.

The Committee recommends that all Governments ratify promptly the International Labour Organisation standards on minimum age and on conditions of employment. These international norms should also be incorporated into national legislation - and be enforced.

- The laws in many countries do not give protection against economic exploitation of children. In other cases the legislation is consistent with international standards but is not enforced. A system for inspection of work places is needed in each country. Also, the informal sector of the economy should be systematically controlled.
- The cynicism which has made large-scale exploitation of children possible must now be effectively countered. Violations of the rights of working children should be penalized. Child prostitution must be severely criminalized; intermediaries, accomplices and "clients" should be penalized. Child pornography should be banned.
- The Committee welcomes the fact that the International Criminal Police Organization has given attention to these issues and recommends new initiatives for combating corruption within police forces which in some countries seems to have undermined effective measures against such crimes. International organizations should support non-governmental groups which actively combat exploitation of children.
- The Committee furthermore decided to appoint a subcommittee to follow up on the recommendations made during the discussion with the United Nations bodies and the non-governmental organizations. It will present recommendations to the Committee in mid-November. The members of the subcommittee are Mgr. Luis Bambaren Gastelumendi (Peru), Mrs. Akila Belembaogo (Burkina Faso), Mr. Thomas Hammarberg (Sweden) and Mrs. Marta Santos Pais (Portugal).

D. Follow-up to the general discussion on the economic exploitation of children

UN Document CRC/C/24

176. Following the holding, at its fourth session, of a general discussion on the economic exploitation of children, the Committee had stressed the need for a continuous response to this urgent matter, and decided to take the following steps (CRC/C/20, para. 196):

- (a) to make a public statement on the outcome of the general discussion day (which was included in the Committee's report on its fourth session (*ibid.*, annex VI));
- (b) to establish a working group among its members ¹ to prepare, in the light of the discussion and of the provisions of the Convention, a set of recommendations to be considered at the Committee's fifth regular session;
- (c) to consider possible ways of issuing a publication based on the general discussion.

177. In the light of the above-mentioned mandate, the working group made two proposals which were endorsed by the Committee at its fifth session:

- (a) the compilation of a dossier, putting together an extended record of the theme day, containing the statements made on behalf of the Committee (*ibid.*, Annexes V and VI), the summary records of the discussion reflecting the statements made by the participants in the meeting, including the Special Rapporteur of the Commission on Human Rights on sale of children, child prostitution and child pornography, as well as basic documents adopted within the framework of the United Nations system in the field of the protection of children against economic exploitation - namely the two Programmes of Action adopted by the Commission on Human Rights for the Elimination of the Exploitation of Child Labour (resolution 1993/79, annex), and for the Prevention of the Sale of Children, Child Prostitution and Child Pornography (resolution 1992/74, annex). This dossier, to be produced and distributed in close cooperation with ILO, should be brought to the attention of all States parties, United Nations organs and specialized agencies, financial institutions and development agencies, and other bodies competent in the field, including Interpol and the NGO community (see annex IV to the present report);
- (b) the adoption of the following set of recommendations for follow-up initiatives, designed to improve the system of prevention, protection and rehabilitation regarding children in situations of economic exploitation:

¹ The members appointed to the working group were Mgr. Luis A. Bambaren Gastelumendi, Mrs. Akila Belembaogo, Mr. Thomas Hammarberg and Mrs. Marta Santos Pais.

Recommendations

Recommendations concerning economic exploitation of children

The Committee on the Rights of the Child, at its fifth session, recognizing the importance of the problems considered during its general discussion on the economic exploitation of children, namely relating to child labour, including in the informal sector as is the case of domestic servants, the sale of children, child prostitution and child pornography, and in the light of the fruitful exchange of views between the Committee and United Nations organs, specialized agencies and other competent bodies, in particular non-governmental organizations, decided to continue to pay attention to this reality in the framework of its activities and to adopt a set of recommendations in this area.

Introduction

- 1) The general discussion on the economic exploitation of children reflected the important holistic approach to the human rights of children stressed in the Convention on the Rights of the Child. In this spirit, the Committee on the Rights of the Child recalls that all the rights are **indivisible and interrelated**, each and all of them being inherent to the **human dignity** of the child. The implementation of each right set forth in the Convention, as is the case of the right to be protected from economic exploitation, should therefore take into account the implementation of, and respect for, all the other rights of the child.
- 2) The Committee further recalls that, under the Convention, States parties have undertaken to **respect and ensure all the rights** recognized therein to all children under their jurisdiction, **without discrimination** of any kind (art. 2), **to adopt all appropriate measures** in order to achieve that purpose (art. 4) and, in all actions taken, to regard the **best interests of the child** as their primary consideration (art. 3). Moreover, in all matters affecting the child, **the views of the child should be given due weight** and the child given the opportunity of participating in any decision-making process affecting his or her life (art. 12).
- 3) This general framework naturally applies also in situations **of economic exploitation of children**. Here, as elsewhere, the Convention calls upon States parties to take action through the establishment, in conformity with its principles and provisions, of an adequate legal framework and necessary mechanisms of implementation.
- 4) Such measures will strengthen the **prevention** of situations of economic exploitation and of their detrimental effects on the lives of children, should be aimed at reinforcing the system of children's **protection** and will promote the **physical and psychological recovery and social reintegration** of children victims of any form of economic exploitation, in an environment which fosters the health, self-respect and dignity of the child.

5) Through its reporting system (see Part II of the Convention), the Convention also stresses the importance for States parties to ensure a **periodic assessment and evaluation of progress** achieved in the implementation of the Convention. This monitoring activity will enable States parties to review their laws and policies on a regular basis and to focus on areas where further or other action is required. The Committee therefore recalls the relevance of the reporting system to improve the situation of children and invites States, United Nations organs, specialized agencies and other competent bodies to consider, in the specific framework of the protection of the child from economic exploitation, the following set of recommendations:

(a) The Committee recognizes that only through comprehensive and concerted action by all relevant entities in the field of the rights of the child will it be possible to improve and ensure success to policies of prevention, protection and rehabilitation regarding economically exploited children. For this reason, it stresses the importance of, and the need for, **coordination**, at both the national and international levels.

I. The Committee recommends in this regard the establishment of a **national mechanism for coordinating policies and monitoring the implementation of the Convention** on the Rights of the Child, having specific competence in the area of protection from economic exploitation.

A. Such a coordinating mechanism (as is the case of a National Committee or National Commission on the Rights of the Child), being composed of the various competent entities at the country level, is in a position to ensure a global and **multidisciplinary approach to the implementation** of the Convention and to promote an effective interaction and complementarity of the activities developed. Furthermore, it may facilitate the gathering of all relevant information, enable a systematic and accurate evaluation of the reality and pave the way for the consideration of new strategies for the promotion and protection of the rights of the child, including in the field of protection from economic exploitation.

6) This coordinating mechanism will also be an important **reference focal point for the work of non-governmental organizations**, including workers' and employers' organizations, whose cooperation should be encouraged. In fact, as the World Conference on Human Rights recognized, such organizations play an important role in the effective implementation of the Convention, namely in the fields of advocacy, education, training or rehabilitation - areas which are also of crucial importance in protecting children from any form of economic exploitation.

II. The Committee recalls the essential role attached by the Convention on the Rights of the Child to **international cooperation**. It further recalls that the World Conference on Human Rights recognized the need for international cooperation and solidarity to be promoted to support the implementation of the Convention,

and that the **rights of the child should be given a priority in the United Nations system.**

- A. The Committee therefore encourages States to consider ways of strengthening their cooperation and solidarity for the promotion of the rights of the child, namely at the bilateral and regional levels.
 - B. The Committee also encourages the relevant United Nations organs and specialized agencies, international financial institutions and development agencies to **enhance the coordination and interaction** of their activities, including in the area of the protection of children against any form of economic exploitation.
 - C. The Committee further encourages United Nations organs and specialized agencies regularly to review and monitor the human rights and the situation of children, in accordance with their mandates. In this framework, the Committee recalls the decisive relevance of the Convention as an inspiring and legal framework for **programmes of technical advice and assistance** and reaffirms the catalytic role the Committee intends to continue to play as a **focal point** on the rights of the child within United Nations system-wide action.
- (b) The Committee stresses the essential importance of **information and education** to ensure the prevention of situations of economic exploitation, as well as to protect and rehabilitate children affected thereby.
- I. The Committee recalls in this framework that States parties undertake to make the principles and the provisions of the Convention on the Rights of the Child widely known, by appropriate and active means, both to adults and children (art. 42).
 - A. For this purpose, the Committee recommends that States parties launch **wide information campaigns** on the Convention specifically addressed to **children**, in order for them to become aware of their rights (including the rights to study, to play and to take rest), of the measures of protection they can benefit from and of the risks they face when they are involved in situations of economic exploitation - as in the case of activities harmful to their health, preventing their harmonious development, interfering with their education, or involving them in criminal activities.
 - B. Similarly, **information campaigns aimed at the public** in general, including at the family and community levels and addressed to workers and employers, should be envisaged in order to raise consciousness and a deeper understanding of the Convention, in particular to ensure respect for the dignity of the child, to prevent discriminatory attitudes, and to achieve effective protection of children against situations of economic exploitation. **Training for special professional groups** working with or for children, including

teachers, law enforcement officials, judges and social workers, should also be organized and will contribute to preventing discrimination and the marginalization and stigmatization of the child, as well as encouraging the taking of the child's perspective into due account.

- C. All these different activities, which should be developed in close cooperation between governmental and non-governmental entities, and in which the media have an important role to play, will contribute to **bringing to light** situations of economic exploitation, often illicit and clandestine, as well as to overcoming public apathy and indifference towards those situations. Such action will, furthermore, permit an understanding of the extent of existing problems and consideration of the adoption of the measures necessary to face them.

- II. The Committee stresses the importance of education as an essential preventive measure to counter situations of economic exploitation of children. It therefore recommends that education be given due weight, namely by making primary education compulsory and free for all children. Furthermore, education should be envisaged, as recognized by the Convention on the Rights of the Child, as a decisive tool to ensure the full development of the child's personality, talents and abilities, the occasion to give the child an opportunity to experience childhood while preparing him or her for a responsible life in society, benefiting from equal opportunities to make free and informed choices.

The Committee also recommends that the Convention be considered, within the framework of **school curricula**, as a meaningful illustration of education for human rights, as well as an incentive to encourage the **participation of children** in school and social life, including through the establishment or adherence to children's organizations. In the case of children legally employed, and in the light of article 32 of the Convention, a flexible system of education should be implemented.

- (c) In the area of the protection of the child from economic exploitation, the Committee considers the child as a person who should be given the benefit of respect and solidarity within the family and society.
- I. In the case of sexual exploitation or exploitation through work, the Committee considers the child as a victim who should be given the benefit of special protection in terms of health, education and development.
- II. In any event, the following must be strictly forbidden:
- Activities jeopardizing the development of the child or contrary to human values and dignity;

- Activities involving cruel, inhuman or degrading treatment, the sale of children or situations of servitude;
 - Activities that are dangerous or harmful to the child's harmonious physical, mental and spiritual development or are liable to jeopardize the future education and training of the child;
 - Activities involving discrimination, particularly with regard to vulnerable and marginalized social groups;
 - All activities under the minimum ages referred to in article 32, paragraph 2, of the Convention on the Rights of the Child and in particular those recommended by ILO;
 - All activities using the child for legally punishable criminal acts, such as trafficking in drugs or prohibited goods.
- III. In accordance with article 32 of the Convention on the Rights of the Child, every child has the right to be protected from economic exploitation. Taking into consideration the best interests of the child, States parties must formulate standards or revise legislation in force with a view to ensuring the legal protection of the child from any form of exploitation. States parties are invited to take all legislative, administrative and other measures aimed at ensuring the protection of the child, taking account of all forms of employment, including employment within the family and in the agricultural sector and informal employment.
- IV. States parties must also take measures to ensure the rehabilitation of children who, as a result of economic exploitation, are exposed to serious physical and moral danger. It is essential to provide these children with the necessary social and medical assistance and to envisage social reintegration programmes for them in the light of article 39 of the Convention on the Rights of the Child.

GENERAL DISCUSSION ON THE ECONOMIC EXPLOITATION OF CHILDREN

UN Document CRC/C/24, Annex IV

The United Nations Committee on the Rights of the Child organized a general discussion on the economic exploitation of children on 4 October 1993, with the participation of United Nations agencies and non-governmental organizations. Subsequently, the Committee appointed a working group to suggest ways of following up the discussion (see CRC/C/20, para. 196). The following members were appointed to the working group: Mgr. Luis A. Bambaren Gastelumendi, Mrs. Akila Belembaogo, Mr. Thomas Hammarberg and Mrs. Marta Santos Pais.

Recommendations

1. A dossier should be compiled as an extended record of the general discussion. It should contain the statement adopted by the Committee on 7 October 1993 (*ibid.*, annex VI); the

summary records of the discussion on 4 October 1993; the written statements made on behalf of the Committee (ibid., annex V); the written statement made by the United Nations Special Rapporteur on sale of children, child prostitution and child pornography; as well as the current key policy documents in the field, namely the Programme of Action for the Elimination of the Exploitation of Child Labour adopted by the United Nations Commission on Human Rights by its resolution 1993/79, and the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography adopted by the Commission on Human Rights by its resolution 1992/74. It is hoped that there will be cooperation with ILO in the production and distribution of the dossier.

2. These documents should, with a covering letter, be brought to the attention of all States parties to the Convention on the Rights of the Child, the agencies and institutions mentioned in the Committee's statement of 7 October 1993 (the World Bank, IMF, UNDP, UNESCO, UNICEF, WHO, ILO, Interpol and representatives of the NGO community), and any other competent body working in the field.

3. The letters to the World Bank and IMF should reiterate the suggestion that a discussion be organized between these bodies and the Committee on the protection of the rights of the child in programmes for economic reform.

4. The letter to UNESCO should recommend that the organization give emphasis in its future programme of work to making school education an effective alternative to child labour, including sexual exploitation of the child.

5. The letter to ILO should stress the importance of the organization's programme for the elimination of harmful child labour as well as the importance of ratification and effective implementation of ILO standards on minimum ages and conditions of employment, in particular ILO Convention 138.

6. The letter to WHO should stress the importance of 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.

7. All the letters should emphasize the importance of the Convention on the Rights of the Child and relevant programmes adopted in this field, such as the United Nations Programmes of Action for the Elimination of the Exploitation of Child Labour, and for the Prevention of the Sale of Children, Child Prostitution and Child Pornography.

8. The Committee on the Rights of the Child, in the light of the importance it attaches to ensuring effective interaction and cooperation with United Nations bodies acting in the field of the rights of the child, including the Special Rapporteur of the Commission on Human Rights on sale of children, child prostitution and child pornography and the Sub-Commission on Prevention of Discrimination and Protection of Minorities and its working group on contemporary forms of slavery, decides regularly to inform those bodies of the discussions held with States parties on this issue in the framework of the examination of their reports on the implementation of the Convention.

Role of the Family in the Promotion of the Rights of the Child, 7th Session, 10th October 1994

Outline of issues to be raised during the general discussion on the topic

Role of the family in the promotion of the rights of the child

UN Document CRC/C/24

1. The general discussion aims to address in more depth the rights of the child within the family.
2. Discussions are premised on the four principles of the Convention on the Rights of the Child, namely the "best interests" of the child (art. 3); non-discrimination (art. 2); the inherent right to life, survival and development (art. 6); and the child's right to express his or her views (art. 12). Two specific topics are proposed: the evolution and importance of the family; and civil rights and freedoms within the family.

Evolution and importance of the family

2.1. The basic institution in society for the survival, protection and development of the child is the family. When considering the family environment, the Convention reflects different family structures arising from various cultural patterns and emerging familial relationships. In this regard, the Convention refers to the extended family and the community and applies in situations of nuclear family, separated parents, single-parent family, common-law family and adoptive family. Such situations deserve to be studied in the framework of the rights of the child within the family. Relevant measures and remedies have to be identified to protect the integrity of the family (see, in particular, arts. 5, 18 and 19), and to ensure appropriate assistance in the upbringing and development of children.

Civil rights and freedoms within the family

2.2. The civil rights of the child begin within the family. The family has an important role to play as to the right of the child to be registered with a name, to a nationality, to know as far as possible his or her parentage, and to preserve his or her identity (arts. 7 and 8). Socialization and acquisition of values are developed within the family for freedom of expression and association, for privacy and discipline, and for the child not being subject to cruel, inhuman or degrading treatment or punishment, including neglect, corporal punishment, and sexual or verbal abuse. The family is an essential agent for creating awareness and preservation of human rights, and respect for human values, cultural identity and heritage, and other civilizations. There is a need to consider appropriate ways of ensuring balance between parental authority and the realization of the rights of the child, including the right to freedom of expression. Corresponding measures to prevent abrogation of these rights of the child within the family should be discussed.

3. Pursuant to article 45 of the Convention, other United Nations organs and specialized agencies, and other competent bodies (non-governmental organizations, research and academic institutions)

concerned with the topic, are invited to contribute to the discussion and provide expert advice within their respective fields of specialization. The Committee on the Rights of the Child recognizes the importance of maintaining close contact with the secretariat of the International Year of the Family, in the United Nations Centre for Social Development and Humanitarian Affairs. In view of the recommendation adopted by the Committee at its first session concerning meetings with members of other treaty bodies to discuss matters of mutual interest relating to the rights of the child (A/47/41, Recommendation 3), the Committee decides to invite, to take part in its general discussion, the Committee on Economic, Social and Cultural Rights, the Human Rights Committee and the Committee on the Elimination of Discrimination against Women. It further recognizes the importance of this thematic discussion to consider the situation of the girl child within the family (see CRC/C/20, Recommendation 4, paragraph 6. a/²

4. The Committee welcomes the presentation of papers dealing with any of the above topics for not more than 10 minutes, beyond which corresponding annexes can be submitted as part of the documentation.

Summary of General Discussion

General discussion on the role of the family in the promotion of the rights of the child

UN Document CRC/C/34

183. In view of the importance it attaches to the enhancement of a deeper understanding of the Convention on the Rights of the Child, and taking into account the fact that 1994 had been proclaimed as the International Year of the Family, the Committee had decided to devote one day of its seventh session to a general discussion on the role of the family in the promotion of the rights of the child.

184. Several organizations had submitted documents on the theme. The list of these documents is to be found in annex VI to the present report.

185. Representatives of the following organizations and bodies made statements on the day of the general discussion: United Nations Division for the Advancement of Women, United Nations Children's Fund, Office of the United Nations High Commissioner for Refugees, International Labour Organisation, Food and Agriculture Organization of the United Nations, World Health Organization, The Hague Conference on Private International Law, Anti-Slavery International, Associated Country Women of the World, Children's Rights Development Unit, Epoch Worldwide, Foundation for the Protection of Children Damaged from the State of Emergency, International Catholic Child Bureau, International Federation Terre des Hommes, International Movement ATD Fourth World, London Black Women's Health Action, National Children's Bureau, Radda Barnen International, Women Living Under Muslim Law. The Coordination of the International Year of the Family also made a statement.

186. The general discussion was framed by the outline which had been prepared by the Committee on the "Role of the family in the promotion of the rights of the child". Two main issues were addressed: the evolution and importance of the family, stressing the diversity of

² See also the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (A/CONF.157/24 (Part I), chap. III), part I, para. 21, and part II, para. 49.

family structures arising from different cultural patterns and emerging family relationships, and civil rights and freedoms within the family, including the right to be registered with a name, to a nationality, to preserve the child's identity and not to be subjected to any form of mental or physical violence.

187. In their interventions the participants emphasized some of these issues, calling attention to the positive role the Convention has played in promoting the consideration of the rights of the child, the rights and responsibilities of parents and other family members, and the need to tackle situations in which the human dignity of the child may not be fully respected. Representatives of United Nations bodies and specialized agencies stressed the essential value of the Convention as a framework for shaping and implementing their respective programmes designed to improve the situation of the family and to promote the protection of the rights of its members.

188. At the conclusion of the general discussion, the Committee reached some preliminary conclusions, which are summarized below.

189. The general discussion on the role of the family in the promotion of the rights of the child has allowed for extensive consideration of a diversity of issues relating to the responsibilities and rights of parents, the support and assistance to be provided by the State to families and their individual members, to the situation and the fundamental rights and freedoms of children within the overall framework of the family.

1. What is the family?

190. On the basis of the different interventions, it would seem hard to argue for a single notion of the family. Through the influence of economic and social factors, and of the prevailing political, cultural or religious traditions, the family has been shaped in a diversity of ways and naturally faces different challenges or living conditions. Would it therefore be acceptable to consider that only some kinds of family or family situations deserve assistance and support from the State and society i.e., nuclear, extended, biological, adoptive or single-parent families? Could it be considered that only in certain circumstances would the family or family life have decisive social value? On the basis of what criteria: legal, political, religious or other? Would it be possible to favour a perspective where only under certain conditions would children be given the opportunity to enjoy rights which, in fact, are inherent to the dignity of their human nature?

191. All these questions seem to place the essential value of the principle of non-discrimination in the forefront of the general discussion.

2. What is the child within the family?

192. Traditionally, the child has been seen as a dependent, invisible and passive family member. Only recently has he or she become "seen" and, furthermore, the movement is growing to give him or her the space to be heard and respected. Dialogue, negotiation, participation have come to the forefront of common action for children.

193. The family becomes in turn the ideal framework for the first stage of the democratic experience for each and all of its individual members, including children. Is this only a dream or should it also be envisaged as a precise and challenging task?

194. It is well known that much remains to be done. In view of the external circumstances surrounding the family and the tensions arising therein, be they economic, social or cultural,

situations still often occur in which the child is supposed to work for and with the family, the girl is expected to take care of her siblings and replace the mother in all the tasks of the household, encouraged at an early stage to prepare for her "role" as a mother, etc. Children are often abused, neglected, and their right to physical integrity ignored, on the assumption that the privacy of the family automatically confers on parents the ability to make correct and informed judgements with respect to the "responsible upbringing of future citizens".

195. The hope was expressed that, by adhering to the essential principle of the best interests of the child and making use of active campaigns of awareness, information and education, it will be possible to change prevailing prejudices and cultural or religious traditions which are contrary to the dignity of the child, detrimental to the child's harmonious development or prevent the effective enjoyment of the fundamental rights by children.

3. What is the child in the absence of a family?

196. The discussion also addressed the "usually forgotten" question of what is the reality of a child, in the absence of a family? In such cases, would the system of protection be improved? Would the best interests of the child ever be assessed? Would there be any room for the participation of the child? Would there be anyone to listen? Would it be possible to prevent and combat discrimination? In short, would it ever be possible to address seriously the situation of these children within the framework of fundamental human rights and freedoms?

197. All these questions are a natural encouragement to further elaboration, to further studies and discussions, and to concrete programmes and strategies both at the national level and within the framework of international cooperation. For all of them, the Convention was reaffirmed as the common reference and the inspiring document. The Convention is, furthermore, the most appropriate framework in which to consider, and to ensure respect for, the fundamental rights of all family members, in their individuality.

198. Children's rights will gain autonomy, but they will be especially meaningful in the context of the rights of parents and other members of the family - to be recognized, to be respected, to be promoted. And this will be the only way to promote the status of, and the respect for, the family itself.

199. The Committee expressed the hope that the debate may have played a catalysing role in the future consideration and action in this important issue.

200. The follow-up to be ensured in the future, both by the Committee and all other partners, in the implementation of the Convention on the Rights of the Child, will contribute to further developing the important conclusions of this general thematic discussion.

201. In view of the contributions made and the importance of the realities considered, the Committee decided to ensure a follow-up to its general discussion and prepare to that purpose a working paper to be discussed during its eighth session, scheduled to take place in January 1995.

List of Documents Submitted

GENERAL DISCUSSION ON THE ROLE OF THE FAMILY IN THE PROMOTION OF THE RIGHTS OF THE CHILD, 10 OCTOBER 1994:

LIST OF DOCUMENTS CONTRIBUTED*

UN Document CRC/C/34, Annex VI

1. By United Nations bodies and organizations

UNESCO

- The Role of the Family in the Promotion of the Rights of the Child: An Educational Viewpoint

United Nations Division for the Advancement of Women

- Role of the Family in the Promotion of the Rights of the Child

UNICEF

- Progress report on Preparatory Activities to the International Year of the Family, Inter-Agency Meeting, 10-12 March 1993
- Discussion paper on policy implications and support for families resulting from the World Summit for Children, its World Declaration and the Plan of Action for its implementation as well as the Convention on the Rights of the Child, UNICEF, 1993

United Nations Centre for Human Settlements (Habitat)

- Human settlements and children

World Health Organization

- The family cycle, family health and the Convention on the Rights of the Child

2. By intergovernmental organizations

Hague Conference on Private International Law

- Adair Dyer, "Protecting the Integrity of a Child's Family Ties"

* Titles as received by the Secretariat.

3. By non-governmental organizations

Evolution and importance of the family

The International School Psychology Association

- "Secure Parent-Infant Attachment: a Foundation for Promoting the Rights of the Child in the Context of Family."

International Catholic Child Bureau (ICCB)

- Is there a conflict between the rights of the child and the rights of the family?

Associated Country Women of the World

- Cultural patterns and the way families can uphold moral and ethical values

International Federation Terre des Hommes

- Projects to strengthen family links and help children living on the streets to reintegrate their family

Civil rights and freedoms within the family

Anti-Slavery International

- Exploitation within the family (domestic services, chronic bondage, slavery)
- Video on early marriage in Ethiopia and child brides in Nepal

Epoch Worldwide

- The child's right to physical and personal integrity within the family
- Children's civil rights in the family

Penelope Leach, Commissioner, Commission on Social Justice (UK)

- Physical punishment of children

Minor's Rights (Australia)

- Review of research studies on the consequences of laws allowing the corporal discipline of children in cultures derived from England

NAPCAN (National Association for Prevention of Child Abuse and Neglect) (Australia)

- Protection of children against all forms of physical violence

National Children's and Youth Law Centre (Australia)

- Entitlement of children to the protection of their bodily integrity

The Canadian Society for the Prevention of Cruelty to Children

- Brief to the Minister of Justice and Attorney-General re. The Corporal Punishment of Children

Institute for the Prevention of Child Abuse (Canada)

- Brief to the Minister of Justice and Attorney-General re. The Corporal Punishment of Children

Hutt Family Violence Network (New Zealand)

- Physical violence by adults against children

4. Background papers and documentation (on file with the Secretariat)

Office of the Commissioner for Children (New Zealand)

Ian Hassall, *The Child's Right to a Place, but Whose Place?* Wellington, May 1994

Bureau international catholique de l'enfance BICE/International Catholic Child Bureau ICCB

L'enfance dans le monde/Children Worldwide, "Famille et résilience de l'enfant"/"The family and child resilience", vol. 21, No. 1/94

Jordi Cots, Famille - droits et responsabilités. Analyse des principaux textes internationaux. BICE, Lausanne, 1994

Centre de recherche pour l'étude et l'observation des conditions de vie

Les 9-14 ans: de l'encadrement vers l'autonomie. Etude commandée et financée par le BICE

BICE-Afrique

Aperçu sur la famille africaine. Abidjan, 1994

Vienna NGO Committee on the Family

Second Preparatory Committee of the World Summit for Social Development: statement of international NGOs on Family and Social Development

Mannerheim League for Social Welfare

Discipline is needed, but not disciplinary measures

Head and heart in parent education

Why are new methods needed in the prevention and treatment of child abuse and similar family problems

An experimental programme on social skills for the comprehensive school

Helping young people to become adults with the help of adults - a challenge for the International Year of the Family 1994

Education is needed, but what kind?

Parent school - the right of every parent

Some turning points of family education and its preventive aspects

A birth in the family encourages the father to take part in family life and child-raising (report of a study)

Département fédéral de l'intérieur (Suisse)

Groupe de travail Enfance maltraitée, Enfance maltraitée en Suisse, Berne, juin 1992

Epoch-USA

Philip Craven, Spare the Child: The Religious Roots of Punishment and the Psychological Impact of Physical Abuse. Vintage Books, New York, 1992

Hague Conference on private international law/Conférence de La Haye de droit international privé

Convention on the Civil Aspects of International Child Abduction/Convention sur les aspects civils de l'enlèvement international d'enfants. The Hague/La Haye, 1982

Status of the Convention as of 2 September 1994

Seventeenth Session, Final Act, (extract), The Hague, 29 May 1993

Fundación de Protección a la Infancia Dañada por los Estados de Emergencia (PIDEE) (Protection of Children Injured by States of Emergency Foundation)

Report of the Documentation Centre on Infancy in Latin America (Centro de Documentación sobre la Realidad de la Infancia en América Latina (CEDIAL)). Santiago de Chile, June 1994

Loreta Alamos et al., Infancia y Represión. Historias Para No Olvidar. Fundación PIDEE, Santiago de Chile, 1992

M. Estela Ortiz R. y Chetty Espinoza M., Casa Hogar. Familia en Emergencia. Fundación PIDEE, Santiago de Chile, diciembre 1990

Infancia: Desaparición y Muerte. Informe de la Comisión Nacional de Verdad y Reconciliación. Fundación PIDEE, Santiago de Chile, 1991

Curso de entrenamiento para profesionales de América Latina sobre el tema de maltrato infantil.
Fundación PIDE, Santiago de Chile, julio 1994

Derecho a la Infancia. Revista sobre la infancia en América Latina. Santiago de Chile, 4
Bimestre, 1993.

RAPCAN (Resources Aimed at the Prevention of Child Abuse and Neglect) (South Africa)

Ending parental physical punishment of children

National Children's Bureau (UK)

Children's civil rights and freedoms within the family

Mannerheim League for Child Welfare (Finland)

Protection of children from all forms of physical or mental violence

End Violence Against the Next Generation, Inc. (USA)

Lesli Taylor and Adah Maurer, "Think Twice: The Medical Effects of Physical Punishment".
Generation Books, Berkeley, CA, 1993

European Forum for Child Welfare/Forum européen pour la protection de l'enfance (Belgium)

Protection of children from all forms of physical and mental violence

Rädda Barnen (Sweden)

Swedish anti-spanking law

The Girl Child, 8th Session, 21st January 1995

Summary

General discussion on the girl child

UN Document CRC/C/38

275. At its previous session, the Committee had decided to organize a general discussion on the girl child on 23 January 1995. The decision was intended to allow the Committee to contribute to the Fourth World Conference on Women: Action for Equality, Development and Peace, to be held in September 1995 in Beijing, as well as to allow the conclusions of its thematic discussion to be reflected in the Platform for Action to be adopted by the Conference. It was also an opportunity for the Committee to create a wider awareness of the situation and human rights of girls, a situation which had deservedly received special attention, both in examining State party reports and in the context of previous thematic discussions. This had particularly been the case during the general discussion on economic exploitation of children (CRC/C/20) and the discussion held during the International Year of the Family (CRC/C/34).

276. The Chairperson had prepared an outline identifying areas to be addressed during the thematic day, emphasizing the principle of non-discrimination and the need for the girl child to enjoy all her fundamental rights, including the right to make free and informed choices concerning her life. The outline had been sent to relevant United Nations bodies, specialized agencies, non-governmental organizations and other competent bodies with an invitation to participate in the general discussion and to submit written contributions in advance, to be used as background material for the discussion.

277. Representatives of the following organizations and bodies participated in the general discussion: UNICEF, UNHCR, UNFPA, ILO, FAO, UNESCO, WHO, Associated Country Women of the World, Inter-African Committee on Traditional Practices Affecting the Health of Women and Children, International Abolitionist Federation, NGO Committee on UNICEF and Radda Barnen International.

278. During the discussion, it was stressed that in view of the fact that the Convention on the Rights of the Child was the most widely ratified international instrument in the field of human rights, with 168 States parties as at January 1995, it was undoubtedly also the most widely accepted framework for action in favour of the fundamental rights of girls. There was an undeniable commitment on the part of the international community to use the provisions of Convention as an agenda for action to identify persisting forms of inequality and discrimination against the girl child, to abolish practices and traditions detrimental to the enjoyment of their rights and to define a real forward-looking strategy to promote and protect those rights. This explained the essential importance of reflecting the Convention in the Platform for Action to be adopted by the Conference in Beijing.

279. The Committee had a crucial role to play when monitoring progress made by States parties in the realization of the rights recognized by the Convention, when promoting respect for and protection of those rights, and when combating all forms of discrimination, including on the basis

of gender. The Committee should be clearly identified as one of the fundamental international institutions designated to implement the Platform for Action to be adopted by the Beijing Conference.

280. The activities developed by the Committee coincided with increasing awareness and action in favour of women's and children's rights at the international, regional and national levels. The importance of this movement was highlighted by the organization of the Conference in 1995, the year of the fiftieth anniversary of the United Nations. Thus, women and girls were undeniably in the front line of the priorities of the Organization.

281. Such an assessment was confirmed by the final document of the World Conference on Human Rights, which recognized that the human rights of women and of the girl child were an inalienable, integral and indivisible part of universal human rights; that they should form an integral part of the United Nations human rights activities and be regularly and systematically addressed. Furthermore, the eradication of all forms of discrimination on the grounds of sex were priority objectives of the international community.

282. Yet, despite being recognized as a priority, the place in society of girls, and women in general, raised serious and unresolved questions of inequality and indifference, manifested by discrimination, neglect, exploitation and violence. It was important to recognize the complementary and mutually reinforcing nature of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

283. Addressing the questions of inequality and discrimination on the basis of gender did not imply that they had to be seen in a complete isolation, as if girls were a special group entitled to special rights. In fact, girls are simply human beings who should be seen as individuals and not just as daughters, sisters, wives or mothers, and who should fully enjoy the fundamental rights inherent to their human dignity. The rights of the girl should in no way be ignored or neglected, but rather promoted and protected.

284. Within the larger movement for the realization of women's rights, history had clearly shown that it was essential to focus on the girl child in order to break down the cycle of harmful traditions and prejudices against women. Only through a comprehensive strategy to promote and protect the rights of girls, starting with the younger generation, would it be possible to build a shared and lasting approach and a wide movement of advocacy and awareness aimed at promoting the self-esteem of women and allowing for the acquisition of skills which will prepare them to participate actively in decisions and activities affecting them. Such an approach must be based on the recognition of human rights as a universal and unquestionable reality, free from gender bias.

285. There was a need to ensure that a woman's life cycle would not become a vicious cycle, where the evolution from childhood to adulthood would be blighted by fatalism and a sense of inferiority. Only through the active involvement of girls, who are at the root of the life cycle, would it be possible to initiate a movement for change and betterment. In fact, if the Platform for Action was to be an agenda for change and advancement of women, it could only be meaningful if it placed the human rights of girls at its core.

286. Mention was made of the State party reports submitted to the Committee and to the full picture they provided of the situation of girls around the world. Several States had identified persistent traditions and prejudices as a main difficulty affecting the enjoyment of girls' fundamental rights. Discrimination often arose from the way roles were traditionally distributed

within the family. Girls often shared the responsibilities of the household, taking care of younger siblings and refused access to education and participation in social life. The son preference, historically rooted in the patriarchal system, often manifested itself by neglect, less food and little health care. Such a situation of inferiority often favoured violence and sexual abuse within the family, as well as problems associated with early pregnancy and marriage. In some cases it had led to such traditional practices as female circumcision and forced marriage.

287. Reports had also indicated that the situation of the girl was of particular concern in rural or remote areas under the strong influence of community and religious leaders and aggravated by the persistence of harmful traditions and beliefs.

288. While seriously concerned at the persistence and extent of gender discrimination, the Committee was encouraged by the fact that States parties often had sought the advice of the Committee and, through it, the assistance of the international community to address discrimination, neglect and abuse. The Committee therefore had had the opportunity to recommend, in its concluding observations, that a comprehensive strategy be formulated and effectively implemented to create awareness and understanding of the principles and provisions of the Convention; launch educational programmes to eradicate all forms of discrimination against the girl child; and encourage the participation of all segments of society, including non-governmental organizations. In this connection, the Committee had further suggested that customary, religious and community leaders may be systematically involved in the steps undertaken to overcome the negative influences of traditions and customs.

289. Education was of essential importance. It allows for the harmonious and informed development of children, and gives them the necessary confidence and skills to make free choices in their lives and to act in a context of gender partnership - both at the professional and at the family level. However, the level of illiteracy among girls is still extremely high and it has become urgent to ensure their effective access to the educational and vocational system, to enhance their rate of school attendance and reduce the drop-out rate.

290. Attention was also paid to the need to eliminate stereotypes in educational materials and train all those involved with the educational system in the Convention and the fundamental rights of children. It was pointed out that the recent launching by the General Assembly of the United Nations Decade on Human Rights Education provided a timely opportunity to use the Convention as a meaningful educational tool to enhance the promotion and protection of the rights of girls and to eradicate gender discrimination. Its incorporation in the school and training curricula should also be considered as an important step to ensure the implementation of the Platform for Action.

291. Reference was also made to the importance of eradicating degrading and exploitative images of girls and women in the media and advertising. The values and models of behaviour that were portrayed contributed to the perpetuation of inequality and inferiority.

292. The interventions made during the day, along with the experience gained by the Committee through its examination of State party reports, showed that discrimination against girls was often also reflected in the legislative solutions adopted by States. Although the eradication of prevailing mental and social attitudes will mainly be achieved through advocacy, information and education, legislation will play a decisive role. In fact, legislative measures send a formal message that traditions and customs contrary to the rights of the child will no longer be accepted, create a meaningful deterrent and clearly contribute to changing attitudes.

293. The Committee had often recommended, in the light of article 2 of the Convention, that national legislation of States parties should clearly recognize the principle of equality before the law and forbid gender discrimination, while providing for effective protection and remedies in case of non-respect. There was also a need to reflect in the legislation the prohibition of harmful traditional practices, such as genital mutilation and forced marriage, and any other form of violence against girls, including sexual abuse.

294. The Committee had also identified certain areas where law reform should be undertaken, in both the civil and penal spheres, such as the minimum age for marriage and the linking of the age of criminal responsibility to the attainment of puberty. In several States the minimum age for marriage was different for girls and boys. To explain this, States had often argued that girls attain physical maturity earlier. However, maturity cannot be identified simply as physical development; social and mental development also had to be taken into account. Moreover, on the basis of such criteria, girls are considered as adults before the law upon marriage, thereby being deprived of the comprehensive protection of the Convention. It was noted that the final document of the Cairo Conference on Population and Development (A/CONF.171/13) has recently encouraged Governments to raise the minimum age at marriage, and the Special Rapporteur on violence against women in her preliminary report to the Commission on Human Rights recognized that the age of marriage is a factor contributing to the violation of women's rights (E/CN.4/1995/42).

295. In the criminal area, some legislation retained the linkage between the age of criminal responsibility and the attainment of puberty. Once again based on a subjective criterion that addresses only the physical aspect of the development of the child, this approach allows boys and girls to be treated differently, often applying to the latter criminal punishments applicable to adults.

296. The situation of specific vulnerable groups of children was also addressed. The situation of girls affected by armed conflicts and that of refugee girls were given particular attention. In view of the prevailing circumstances of emergency surrounding them, such girls do not really have any time to enjoy their childhood, and the traditional inferiority affecting girls' lives is seriously aggravated. Sexual violence and abuse and economic exploitation often occur, education is not perceived as a priority when urgent basic needs must be met, forced and early marriage is seen as a protective measure. And although dramatically affected by emergency situations, girls often cannot voice their fear and insecurity or share their hopes and feelings.

297. Concern was also expressed about the situation of working girls. Girls below the age of 15 often do the same household work as adult women; such labour is not regarded as "real work" and is therefore never reflected in the statistical data. To free girls from this cycle they must have the equal chances and equal treatment, with special emphasis on education.

298. As in previous thematic discussions, there was recognition of the urgent importance of gathering information and gender-disaggregated data, in a comprehensive and integrated manner, at the international, regional, national and local levels, with a view to assessing the prevailing reality affecting girls, identifying persisting problems and challenging the prevalence of invisibility, which in turn allows for the perpetuation of vulnerability. Only through a serious analysis of the root causes of gender gaps would it be possible to develop appropriate strategies and programmes to eliminate gender disparity and empower girls and women. International organizations should devote greater efforts to defining a comprehensive and integrated strategy to monitor the situation of girls in accordance with their mandates.

299. At the end of the thematic discussion, the Committee stressed the importance of wide participation by United Nations and non-governmental bodies, which had contributed to the richness of the debate. It presented a set of conclusions which reflected the main areas addressed during the day (annex V). The Committee adopted a recommendation on this subject (see chap. I) which it decided to transmit, along with the contents of the general discussion, to the secretariat of the Fourth World Conference on Women, in particular with a view to ensuring that particular emphasis is given to the following:

- (a) The Platform for Action should reflect, throughout its different chapters, the situation and fundamental rights of the girl child, in particular in the areas specifically addressed during the general discussion of the Committee;
- (b) The Convention on the Rights of the Child, together with the Convention on the Elimination of All Forms of Discrimination against Women, should constitute an essential framework for a forward-looking strategy to promote and protect the fundamental rights of girls and women and eradicate inequality and discrimination;
- (c) The Committee on the Rights of the Child in view of its crucial role in monitoring the rights of girls, should be clearly considered as an essential mechanism within the framework of the international machinery that will be entrusted with the task of monitoring and periodically reviewing the implementation of the Platform for Action.

Conclusions

GENERAL DEBATE ON THE "GIRL CHILD"

UN Document CRC/C/38, Annex V

Conclusions

A. Nationally

1. In the political sphere

- Demonstrate a genuine will to act by drawing up an appropriate policy and an overall integrated strategy for national implementation that sets specific priorities and goals in conformity with the rights of the child and of women.
- Submit to the Committee on the Rights of the Child reports on the implementation of the Convention on the Rights of the Child within the set time-limits, and ensure they include all the gender-specific data and statistics relating to the various forms of inequality and discrimination in the spheres of education, health, employment, etc.
- Encourage participation by all strata of the country's society, including men and community and religious leaders, in the advancement of the rights of girls.

- Provide non-governmental organizations and women's associations that operate on behalf of girls with the support they need.

2. In the legislative sphere

- Proceed to universal ratification of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.
- Consider the possibility of withdrawing reservations that are inconsistent with the fundamental principles of the Convention on the Rights of the Child.
- Adopt national laws to ensure respect for the principle of equal rights and duties for both sexes (the minimum age for marriage is an example).
- Lay down sanctions for violations of national legislation and establish mechanisms for implementation.

3. As regards the implementation of the Convention on the Rights of the Child

(a) Information and education

- Change the image of women in the media, in advertising and in school textbooks by adopting suitable messages to combat inequalities, stereotypes and social apathy.
- Promote parental education in the formal and informal sectors.
- Incorporate teaching on the rights of the child in the school curriculum and in teacher-training programmes, as part of the United Nations Decade for Human Rights Education.
- Make families aware of the role they should play in securing the inherent dignity of girls as human beings and not merely as sisters, mothers and spouses and in ensuring that girls enjoy equal opportunities to participate actively in national life.

(b) Health

- Ensure that girls have access to health services.
- Strengthen the training of health professionals, devoting particular attention to the specific health needs of girls.
- Foster beneficial traditional practices and combat those that are detrimental to the health and development of girls.

4. Evaluation of the Convention's implementation

- Institute a system for gathering reliable, gender-specific information and statistics.
- Carry out the necessary research and studies to develop an understanding of specific cultural, religious and sociological issues.

B. Internationally

1. The Committee should

- Participate in the work of the World Conference on Women.
- Join in following up and implementing the conclusions of the World Conference on Women.
- Strengthen its cooperation with the Committee on the Elimination of All Forms of Discrimination against Women.
- Promote its advisory role with the support of the United Nations specialized agencies and non-governmental organizations.
- Insert a request for gender-specific data on all forms of discrimination in the list of questions sent to Governments in connection with the consideration of their reports.

2. The international organizations should

- Carry out joint activities among international organizations, having regard to their specific spheres of action.

The Administration of Juvenile Justice, 10th Session, 13th November 1995

Outline

GENERAL DISCUSSION ON THE ADMINISTRATION OF JUVENILE JUSTICE - OUTLINE

UN Document CRC/C/43, Annex VIII

In the light of rule 75 of its provisional rules of procedure, the Committee on the Rights of the Child has decided to devote one or more meetings of its regular sessions to a general discussion on one specific article of the Convention or related subject in order to enhance a deeper understanding of the content and implications of the Convention.

Encouraged by the successful contribution of its previous thematic debates to creating wider awareness of the principles and provisions of the Convention and to guide States in their implementation, the Committee decided to devote the day of 13 November 1995 to the question of the administration of juvenile justice.

The area of the administration of juvenile justice has deserved constant and decisive attention by the Committee within the framework of its activities as a treaty-monitoring body. Similarly, it has gained particular importance in the concluding observations adopted by the Committee on the Rights of the Child in relation to States parties reports (CRC/C/15 and Addenda). Thus, the general discussion is a special opportunity to evaluate the Committee's experience in the first years of its mandate.

The experience of the Committee has shown that the area of the administration of juvenile justice is of practical and current relevance in all regions of the world and in relation to the different existing legal systems, in particular in the light of the challenging and innovative philosophy arising from the Convention on the Rights of the Child. In fact, this legal instrument, together with other United Nations standards adopted in the field - the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty - call for the adoption of a child-oriented system, that recognizes the child as a subject of fundamental rights and freedoms and stresses the need for all actions concerning children to be guided by the best interests of the child as a primary consideration.

These, along with other essential values, demonstrate how crucial it is for States parties to adopt all necessary measures to ensure full compliance of their national law and practice with the Convention on the Rights of the Child. The general discussion will therefore set an important framework to guide such a process of change.

It is important to recall that the field of the administration of juvenile justice, and in particular the standards relating to juveniles deprived of their liberty, has become the subject of increasing and very special interest on the part of different sectors of the United Nations system. Last year an important meeting of experts was held at Vienna at which was adopted a set of important

recommendations on the human rights of detained juveniles (see E/CN.4/1995/100). Addressed to the international community as a whole, United Nations bodies and agencies, States and non-governmental organizations, this set of recommendations was later endorsed both by the Commission on Human Rights (resolution 1995/41) and the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Cairo, 29 April-8 May 1995). These decisions and the report of the expert meeting therefore constitute an important reference for the thematic discussion to be held by the Committee.

The thematic debate will mainly address the provisions of articles 37, 39 and 40 of the Convention on the Rights of the Child. But it will naturally reflect the holistic approach of the Convention, thus illustrating the interdependence and indivisibility of the fundamental rights of children. In this regard, and as was the case in the previous discussions held by the Committee, the general principles of the Convention, namely of non-discrimination, the best interests of the child and the participation of the child in the decisions affecting him or her, will be of decisive importance in the consideration of this theme.

The two basic areas to be considered during the debate will be the relevance of the effective implementation of existing standards and the value of international cooperation, namely through programmes of technical assistance. The consideration of these areas will emphasize the importance of accountability for the protection of, and respect for, the human rights of children, while stressing the need to foster international solidarity for the realization of those same rights.

Pursuant to article 45 of the Convention on the Rights of the Child, United Nations organs, bodies and specialized agencies, and other competent bodies, including non-governmental organizations and research and academic institutions, are invited to contribute to the discussion and provide expert advice on these two topics, in the light of the activities developed within the scope of their mandates. These contributions may, *inter alia*, address the content of specific rights recognized by the Convention in articles 37, 39 and 40, inform about concrete projects carried out at the country or regional level, or illustrate successful achievements or difficulties encountered in such a process.

In order to allow for the organization of the thematic discussion, participants are requested to submit, by 20 September 1995 written contributions, which may be presented orally during the day of the general discussion, in an intervention that should not exceed 10 minutes. The Committee welcomes the submission of specific action-oriented recommendations which may effectively enhance the promotion and protection of children's rights.

Summary report

General discussion on the administration of juvenile justice

UN Document CRC/C/46

203. In the light of rule 74 of its provisional rules of procedure, the Committee on the Rights of the Child has decided periodically to devote one or more meetings to a general discussion on a specific article of the Convention or to a theme in the area of the rights of the child in order to enhance understanding of the content and implications of the Convention.

204. Encouraged by the successful contribution of its previous thematic debates towards creating wider awareness of the principles and provisions of the Convention and towards providing guidance to States for its implementation, the Committee had decided to devote the day of 13 November 1995 to discussion of the administration of juvenile justice.

205. The topic of the administration of juvenile justice has received consistent attention from the Committee, particularly in the concluding observations adopted by the Committee in relation to States parties reports (CRC/C/15 and addenda). The general discussion therefore provided an opportunity to evaluate the Committee's experience in the first years of its mandate.

206. The experience of the Committee has shown that the administration of juvenile justice is of practical concern in all regions of the world and in relation to all legal systems. The challenging and innovative philosophy arising from the Convention on the Rights of the Child and other United Nations standards adopted in the field - the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty - predicates a child-oriented system that recognizes the child as a subject of fundamental rights and freedoms and ensures that all actions concerning him or her are guided by the best interests of the child as a primary consideration. To achieve such a system there was a need for States parties to adopt all necessary measures to ensure full compliance of their national law and practice with the Convention on the Rights of the Child, in particular in the light of its article 4.

207. In an outline prepared to guide the general discussion, the Committee recalled the increasing and special interest paid by different instances of the United Nations system to the field of the administration of juvenile justice, and in particular to the standards relating to juveniles deprived of their liberty. Special reference was made in this spirit to the expert group meeting on children and juveniles in detention held in Vienna in October-November 1994 and the important set of recommendations it adopted (E/CN.4/1995/100), as well as to the subsequent endorsement of them by the Commission on Human Rights (in its resolution 1995/41) and the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Consideration was also given to the important resolutions adopted at the fourth session of the Commission on Crime Prevention and Criminal Justice, in particular those relating to children as victims and perpetrators of crime and the effective application of United Nations standards and norms in juvenile justice.

208. The Committee had identified two main areas to be considered during the debate: the relevance of the effective implementation of existing standards; and the value of international cooperation, namely through programmes of technical assistance. It was of the opinion that discussion of those themes would contribute to emphasizing the importance of accountability for the protection of, and respect for, the human rights of children, and would stress the need to foster international solidarity for the realization of those rights.

209. As for previous thematic discussions, the Committee had invited, in the light of article 45 of the Convention, representatives of United Nations organs, bodies and specialized agencies, and other competent bodies, including non-governmental organizations and research and academic institutions, to contribute to the discussion and provide expert advice on the two identified topics.

210. Several organizations submitted documents on the theme. Written contributions were also received from the Governments of Austria and the Former Yugoslav Republic of Macedonia. The list of these documents and contributions is to be found in annex VI to the present report.

211. Representatives of the following organizations and bodies made statements on the day of the general discussion: Centre for Human Rights, United Nations Centre for Social Development and Humanitarian Affairs (Crime Prevention and Criminal Justice Branch), United Nations Children's Fund, Office of the United Nations High Commissioner for Refugees, World Health Organization, International Committee of the Red Cross, Children Rights Centre of Ghent University, Defence for Children International, Epoch Worldwide, Human Rights Watch Children's Rights Project, International Association of Juvenile and Family Court Magistrates, International Federation of Social Workers, International Save the Children Alliance, Japan Federation of Bar Associations, Rädde Barnen, Terre des Hommes (Bal Sakha), World Organization against Torture. Mr. Bruce Adamson, Mr. Dan O'Donnell, Ms. Dulce P. Estrella-Gust, and Ms. Ann Skelton (Coordinator, Child Rights for Lawyers for Human Rights, South Africa) in their capacity as individual experts also made statements during the debate.

212. The theme day was introduced by a Committee member, Ms. Sandra Mason. In her statement, the holistic approach of the Convention to children's rights was stressed, as well as the essential value of its general principles, which were of a particular relevance in the area of juvenile justice. Envisaging the child as a subject of rights, ensuring clear recognition and implementation of the principle of equality before the law and recognizing the inherent link existing between human rights and legal rights were emphasized as essential means to ensure respect for existing standards, in particular the Convention on the Rights of the Child.

213. The various interventions of Committee members and invited participants ensured a lively debate during which the importance of existing United Nations norms and principles was stressed, concrete examples of projects carried out at the country and regional levels were presented, and successful achievements or difficulties encountered in the process of ensuring the realization of children's rights worldwide were mentioned.

214. In that framework, the universality of the Convention was referred to as having particular significance. In view of the fact that it had been ratified by 181 States, the Convention provided a common reference and an ethical vision for addressing the issue of the administration of juvenile justice. The binding nature of its provisions implied a clear recognition on the part of States parties of the rights set forth therein. In addition, the Convention called for the implementation of the most conducive provisions for the realization of the rights of the child, and had therefore to be considered in conjunction with other relevant international instruments, namely the Beijing Rules, the Riyadh Guidelines and the Rules for the Protection of Juveniles Deprived of their Liberty. Those instruments complemented and provided guidance for the implementation of the rights recognized by the Convention and confirmed that there was no possible conflict between human rights and juvenile justice.

215. That approach was prevalent in the consideration of States parties reports by the Committee, in the preparation of the list of issues, as well as in the formulation of concluding observations and of the recommendations addressed to Governments. It would further guide the Committee in the preparation of the guidelines for the future periodic reports to be submitted in the light of article 44 of the Convention.

216. Such an approach should also inspire action for the realization of children's rights in a broader context, since juvenile justice could not be reduced to situations where a conflict with criminal law had arisen. As an illustration, attention was paid to the area of asylum-seeking, refugee and unaccompanied children. In fact, the diversity of provisions in the Convention on the Rights of the Child applicable to them, and the universal nature of that legal instrument, extended

the level of the protection of their fundamental human rights and legal safeguards, in particular in situations of deprivation of liberty or separation from their families. In such circumstances, it was essential to ensure that the child was treated in a manner consistent with the promotion of his or her sense of dignity and worth and that decisions were clearly taken in the light of the best interests of the child, in a due process that gave the child who was capable of forming his or her own views the right to express those views freely.

217. In the evaluation of the experience of the Committee in its monitoring function, it was stressed that very often reports lacked information concerning juvenile justice, including data on the number of children deprived of liberty through arrest, detention or imprisonment. Reports were usually limited to a general description of legal provisions, rarely addressing social factors leading to the involvement of juveniles with the system of administration of justice or the social consequences of the decisions taken in that context. Similarly, they usually did not identify factors or difficulties which impeded progress towards the effective realization of children's rights.

218. It was particularly felt that the general principles of the Convention had not been adequately reflected in national legislation or practice. In relation to non-discrimination, particular concern was expressed about instances where criteria of a subjective and arbitrary nature (such as with regard to the attainment of puberty, the age of discernment or the personality of the child) still prevailed in the assessment of the criminal responsibility of children and in deciding upon the measures applicable to them. Attention was also paid to the situation of children living and/or working on the street, who in view of their low status were often confronted with social exclusion and stigmatization, including on the part of police officials. Such a situation paved the way for frequent and extreme abuses that were rarely monitored or punished and were therefore committed with unacceptable impunity.

219. The principle of the best interests of the child was reaffirmed by the Convention in the context of the administration of juvenile justice, particularly when it stressed that the child should be treated in a manner consistent with the promotion of his or her sense of dignity and worth which reinforced respect for the child's human rights and fundamental freedoms and took into account the child's age and special needs. However, reports revealed that special juvenile justice systems were often non-existent, that judges, lawyers, social workers or personnel in institutions were not given any special training and that information on fundamental rights and legal safeguards were not provided to children. For those reasons, and contrary to the Convention, deprivation of liberty was not used only as a measure of last resort or for the shortest period of time possible as called for in the Convention, nor were contacts with the family the rule; access to legal and other assistance was not provided and free legal aid was often not available.

220. Similarly, in relation to the right of the child to participate in proceedings affecting him or her, States parties' reports had indicated that children were seldom made sufficiently aware of their rights, including the right to assistance from a legal counsel, or of the circumstances surrounding the case or of the measures decided. They were also often denied the right to lodge complaints when they were victims of violation of their fundamental rights, including in cases of ill-treatment and sexual abuse. Moreover, the increasing trend for juvenile justice to become the subject of social and emotional pressure was a matter of particular concern, since it created opportunities to undermine respect for the best interests of the child.

221. It was noted with deep regret that the death penalty was still admitted in some countries for persons below the age of 18, that whipping and flogging were used as educative and punitive measures, and that insufficient attention was paid to the need for the promotion of an effective

system of physical and psychological recovery and social reintegration of the child, in an environment that fostered his or her health, self-respect and dignity.

222. In that context, it was felt that there was a clear need to ensure, in the light of article 42 of the Convention and in the spirit of the United Nations Decade for Human Rights Education, a systematic campaign of information and awareness of the rights of the child. Particular efforts should be made to provide accessible information to children, including through the school system, as a means to strengthen the prevention of violation of their fundamental rights or neglect of fundamental legal safeguards.

223. Similarly, further steps should be taken to ensure that systematic training activities were provided to relevant professional groups working with and for children in that area. In that connection, the importance was stressed of incorporating the Convention on the Rights of the Child in training curricula and of reflecting its basic values in relevant codes of conduct. Particular reference was made to the role played by judges, lawyers, social workers, law enforcement officials, immigration officers and personnel working in institutions for children.

224. It was emphasized that there was an urgent need to ensure the publication and wide dissemination of a manual on standards of juvenile justice, including the Convention and other relevant United Nations standards adopted in this field, if possible with a commentary thereon, as well as of a manual on training for law enforcement officials. Expressing its willingness to be associated in such efforts, the Committee recognized the importance of such manuals as tools for advocacy and training activities, including those developed by the Centre for Human Rights and the Crime Prevention and Criminal Justice Branch.

225. All those measures would further contribute to ensuring the effective realization of children's rights and would promote the full compliance of national legislation with international standards adopted in the field of juvenile justice.

226. Moreover, all the above-mentioned measures would help to ensure that the child was always envisaged as a subject of the rights inherent to the human dignity of the person and that the child was envisaged mainly as a victim, including in situations of sexual abuse, child prostitution and child pornography. The criminal responsibility of the child should be based on objective criteria clearly excluding situations where the child was simply confronted with poverty and social exclusion.

227. Moreover, deprivation of liberty, in particular pre-trial detention, should never be unlawful or arbitrary and should only be used once all other alternative solutions would have proved to be inadequate. When deprived of liberty every child should have the right to prompt legal or other appropriate assistance, and the right to challenge the deprivation of liberty before a court or other impartial and independent body. The privacy of the child should be fully respected in all stages of the proceedings, including in relation to criminal records and possible reporting by the media.

228. In the same context, concern was expressed at the placement of children in institutions, under a welfare pretext, without taking into due consideration the best interests of the child nor ensuring the fundamental safeguards recognized by the Convention, including the right to challenge the decision of placement before a judicial authority, to a periodic review of the treatment provided to the child and all other circumstances relevant to the child's placement and the right to lodge complaints.

229. It was urged that alternatives to institutional care should be sought, and a call was made for the adoption of adequate measures to end the prevailing lack of transparency in institutions for children. In that regard, it was suggested that serious consideration be given to the development of independent mechanisms, at the national and international levels, to ensure periodic visits to and an effective monitoring of such institutions, including in relation to complaints that might have been lodged. Recalling the significant role played by the International Committee of the Red Cross, in particular in situations of armed conflict, and the current efforts of the Commission on Human Rights aimed at introducing a system of periodic visits to places of detention in the framework of an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, participants highlighted the particular relevance of national independent mechanisms. In that connection, reference was made to the role judges might play and to the importance of the intervention of an Ombudsman to ensure respect for the rights and interests of young persons.

230. During the debate, the role of the family was recognized as fundamental ensuring the effective enjoyment of the rights of children and their reintegration in an environment that fostered their self-respect and dignity. In the light of both the Convention and the Riyadh Guidelines, families should be encouraged to have closer and more frequent contacts with children placed in institutions and to have a say in children's treatment. The child's socialization should be promoted through increasing the involvement of families in children's programmes and through facilitating the release of children for home visits. Research on psycho-social implications of juvenile justice was recommended in that regard.

231. It was interesting to note, in that connection, the importance attached by traditional systems to the family, including the extended family, as well as to the community, in the process of ensuring the social reintegration of children and the promotion of their active participation in society. Such systems allowed for respect of the privacy of the family and encouraged the consideration of healing and reconciliation measures as alternatives to custody or corporal punishment.

232. Research in that area was therefore considered as being important to identify the traditional solutions which were fully compatible with the Convention and its basic values. When widely shared in a given society, such solutions might be instrumental in the effective realization of children's rights.

233. The general discussion stressed the great relevance of international cooperation in the field of juvenile justice, an area which had become a clear priority in the United Nations system.

234. Relevant bodies, including the Committee on the Rights of the Child, the Commission on Crime Prevention and Criminal Justice and the Crime Prevention and Criminal Justice Branch of the United Nations Centre for Social Development and Humanitarian Affairs, the Commission on Human Rights, as well as the Advisory Services, Technical Assistance and Information Branch of the Centre for Human Rights should therefore cooperate increasingly in the areas of research, training, dissemination and the exchange of information, implementation and monitoring of existing standards, as well as in specific programmes of technical assistance. Only in that way would it be possible to rationalize the use of resources, streamline activities and enhance the efficiency of programmes, while clearly reaffirming the inherent link between criminal justice and human rights. For that reason, the participation in the thematic discussion of representatives of some of those bodies was welcomed.

235. The reporting system of the Convention, including the dialogue held with the States parties and the concluding observations adopted by the Committee, was recognized as decisively important to ensure a comprehensive framework for programmes of technical assistance. It provided the basis for a clear understanding of the situation in any given country and for fostering international cooperation and strengthening national capacities and infrastructures.

236. The recommendations addressed to States parties by the Committee could be of special benefit in the implementation of programmes of technical assistance in the areas of research, law reform and training of professional groups or in the consideration of alternatives to custodial measures, as well as for needs assessment missions and evaluation procedures.

237. For all those reasons, and in the light of the almost universal ratification of the Convention on the Rights of the Child, the Committee was a natural focal point and played a central and catalytic role in the area of international cooperation and assistance in the field of juvenile justice.

238. In that spirit, the Committee welcomed the initiatives designed to consider a strategy for technical cooperation and the establishment of a possible network for that purpose. It further welcomed the proposals made to ensure an increasing assistance to the Committee, in the light of the Plan of Action of the High Commissioner for Human Rights or through the establishment of an independent institution for that purpose.

List of Documents Submitted

GENERAL DISCUSSION ON THE ADMINISTRATION OF JUVENILE JUSTICE, 13 NOVEMBER 1995: LIST OF DOCUMENTS CONTRIBUTED CRC/C/46, Annex VI

1. By Governments

Austria

- Austrian Federal Ministry for Youth and Family, "Children in trouble". United Nations Expert Group Meeting, Vienna, Austria, 30 October-4 November 1994
- "Human rights in juvenile justice: towards an integrated international strategy"

The former Yugoslav Republic of Macedonia

- "Implementation of juvenile justice", by Ms. E. Andreevska, Adviser to the Ministry of Foreign Affairs

2. By United Nations organs

United Nations Children's Fund

- Emilio Garcia Mendez, Regional Adviser on Child Rights, UNICEF Regional Office for Latin America and the Caribbean, "Adolescents in conflict with criminal law: citizen security and basic rights"

3. By intergovernmental and non-governmental organizations and individual experts

Children's Rights Centre of Ghent University

- Eugen Verhellen and Geert Cappelaere, "United Nations Guidelines for the Prevention of Juvenile Delinquency: prevention of juvenile delinquency or promotion of a society which respects children too?"

Defence for Children International

- West Bank Legal Aid Program, "Juvenile Justice in Israeli occupied West Bank. Lessons of the joint project of DCI-Palestine and DCI-Israel"
- "Un réseau international sur la justice des mineurs. De la création des normes à la mise en oeuvre"

Epoch Worldwide

- Peter Newell, "Physical punishment of children in the juvenile justice system"
- "Juvenile justice: using the UN Convention to audit juvenile justice systems and related services"

Human Rights Watch Children's Rights Project

- Lois Whitman, "United States: children in confinement in Louisiana"

International Catholic Child Bureau

- Project "Children in prison" in Africa
- Project on community-based alternatives to imprisoning children in central and north-eastern Brazil
- "Liberar la esperanza. Niñas y niños privados de libertad en América Latina"

International Committee of the Red Cross

- "Administration of juvenile justice"

Japan Federation of Bar Associations

- A report from the Japan Federation of Bar Associations to the General Discussion of the Committee on the Rights of the Child
- A report to the Eighth United Nations Congress on Crime Prevention: "Japan's juvenile justice system: an overview"
- A report on the application and practice in Japan of the International Covenant on Civil and Political Rights
- A report from the Japan Federation of Bar Associations to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Justice

- Submissions to the Convention on the Rights of the Child

National Children's Bureau, United Kingdom

- Submission to the General Discussion day on the administration of juvenile justice
- "Safe to let out? The current and future use of secure accommodation for children and young people"

Child Rights for Lawyers for Human Rights, South Africa

- Ann Skelton, "Developing a juvenile justice system for South Africa: international instruments and restorative justice"

Dan O'Donnell

- "The arrest and detention of street children under the Convention on the Rights of the Child"

Organisation Mondiale contre la Torture (OMCT/SOS-Torture)

- "Les enfants en conflit avec la loi"

Rädda Barnen

- Tim O'Flynn, "Summary of findings re juvenile justice in Sri Lanka, India and Nepal"

Save the Children Fund, United Kingdom

- John Parry Williams et al., "The administration of juvenile justice; a discussion paper"
- Petrus Trevi, Department of Social Welfare, Ghana, "Report on the re-establishment of probation services and community supervision for juveniles in Ghana, 1992-1995"

Terre des Hommes

- Bal Sakha, "Programme for the protection of children's rights, Patna, Bihar, India"
- "The juvenile justice system in India"

The Child and The Media, 13th Session, 7th October 1996

Introduction

GENERAL DISCUSSION ON "THE CHILD AND THE MEDIA "

UN Document CRC/C/50, Annex IX

"The child and the media" is the theme for the next general discussion of the United Nations Committee on the Rights of the Child. The discussion will take place on 7 October 1996 at the United Nations Office at Geneva. United Nations bodies and specialized agencies as well as non-governmental organizations and representatives of the media, including organizations of journalists, are invited to take part in this full-day discussion.

This decision was taken by the Committee on the Rights of the Child at its eleventh session in the light of rule 75 of its provisional rules of procedure. The purpose of the general discussions is to enhance a deeper understanding of the content and implications of the Convention. The discussions are public.

The Convention on the Rights of the Child is formally addressed to Governments and does not interfere with the independence of the media; however, it does have an indirect message for media institutions: as with human rights in general, the press and other media have essential functions in promoting and protecting the fundamental rights of the child.

The Committee on the Rights of the Child believes that the media - both written and audiovisual - are highly important in the efforts to make reality the principles and standards of the Convention. The media in many countries have already contributed greatly in creating an awareness of the Convention and its content. The media could also play a pivotal role in monitoring the actual implementation of the rights of the child.

In their reporting the media give an "image" of the child; they reflect and influence perceptions about who children are and how they behave. This image could create and convey respect for young people; however, it could also spread prejudices and stereotypes which may have a negative influence on public opinion and politicians. Nuanced and well-informed reporting is to the benefit of the rights of the child.

It is important that the media themselves do not abuse children. The integrity of the child should be protected in reporting about, for instance, involvement in criminal activities, sexual abuse and family problems. Fortunately, the media in some countries have voluntarily agreed to respect guidelines which offer such protection of the privacy of the child; however, such ethical standards are not always adhered to.

Concern has also been expressed about the influence on children of negative aspects of the media, primarily programmes containing brutal violence and pornography. There is discussion in a number of countries about how to protect children from violence on television in video films and

in other modern media. Again, voluntary agreements have been attempted, with varied impact. This particular problem is raised in article 17 of the Convention which recommends that appropriate guidelines be developed "for the protection of the child from information and material injurious to his or her well-being".

Such guidelines have indeed been developed in some countries, with varied results. The United Nations Educational, Scientific and Cultural Organization has recently renewed discussion on this topic.

Finally, the media is important for offering children the possibility of expressing themselves. One of the principles of the Convention is that the views of children be heard and given due respect (art. 12). This is also reflected in articles about freedom of expression, thought, conscience and religion (arts. 13-14). It is in the spirit of these provisions that children should not only be able to consume information material but also to participate themselves in the media. This requires that there exist media which communicate with children. The Committee on the Rights of the Child has noted that there have been experiments in several countries to develop child-oriented media; some daily newspapers have special pages for children and radio and television programmes also devote special segments for the young audience. Further efforts are, however, needed.

For the general discussion, the Committee on the Rights of the Child invites written contributions on all the topics mentioned above. The Committee has decided to recommend special emphasis on the following aspects:

- (a) What can be done to protect children from harmful media violence?
- (b) What can be done to encourage the media to contribute in combating xenophobia?
- (c) What can be done to develop the possibilities for children to participate actively in the media?

The analysis is intended to cover all forms of media, including video games and the INTERNET.

Written input is welcome and should be addressed to the United Nations Committee on the Rights of the Child, c/o Centre for Human Rights, Palais des Nations, Geneva, Switzerland, by 2 September 1996.

Summary of Discussion

General discussion on the child and the media

UN Document CRC/C/57

242. In the light of rule 75 of its provisional rules of procedures, the Committee on the Rights of the Child has decided periodically to devote one day of general discussion to a specific article of the Convention or to a theme in the area of the rights of the child in order to enhance understanding of the content and implications of the Convention.

243. At its eleventh session, the Committee decided to devote its next day of general discussion to the issue of "The child and the media", to be held on 7 October 1996.

244. In an outline prepared to guide the general discussion, the Committee expressed the view that, as with human rights in general, the press and other media had essential functions in promoting and protecting the fundamental rights of the child and in helping to implement in practice the principles and standards of the Convention. The Committee also expressed the view that the media could play a pivotal role in monitoring the realization of the rights of the child. Special reference was made to the “image” of the child given by the media, which could either create and convey respect for children and young people or spread prejudice and stereotypes which might have a negative influence on public opinion and politicians. Reference was also made to protection by the media of the privacy of the child in reporting, for instance, involvement in criminal activities, sexual abuse or family problems and to the protection of children against information that might have a harmful impact on them, primarily programmes containing brutal violence and pornography. Finally, reference was made to the role of the media in offering children the possibility to express themselves.

245. The Committee identified three main areas to be considered during the day of general discussion:

- 1 What can be done to develop the possibilities for children to participate actively in the media?
- 2 What can be done to protect children from harmful influences through the media?
- 3 What can be done to encourage the media to contribute to improving the image of the child through their reporting?

246. As for previous thematic discussions, the Committee had invited, in the light of article 45 of the Convention, representatives of United Nations organs, bodies and specialized agencies, and other competent bodies, including non-governmental organizations, media representatives, research and academic organizations, and children to contribute to the discussion and provide expert advice on the topics identified.

247. Several organizations submitted documents and contributions on the theme. The list of these documents and contributions is to be found in annex VI to the present report.

248. Representatives of the following organizations and bodies participated in the day of general discussion: High Commissioner/Centre for Human Rights, United Nations Information Service, United Nations Children’s Fund, the International Labour Organization, the Office of the United Nations High Commissioner for Refugees, United Nations Conference on Trade and Development, the United Nations Educational, Scientific and Cultural Organization, United Nations Non-Governmental Organizations Liaison Office, International Committee of the Red Cross, National Youth Bureau of the Office of the Prime Minister of Thailand, Permanent Mission of Albania to the United Nations Office in Geneva, Permanent Mission of Hungary to the United Nations Office in Geneva, Permanent Mission of the Islamic Republic of Iran to the United Nations Office in Geneva, Permanent Mission of Ukraine to the United Nations Office in Geneva, Association internationale des Magistrats de la Jeunesse, ATD Fourth World, Alianza Civica Mexico, Bahai International Community, British Broadcasting Corporation, Bureau International Catholique de l’Enfance, Caritas Internationalis, Centre international du film pour l’enfance et la jeunesse, Childnet International, Child Rights International Research Institute, Children’s Rights Development Unit (UK), Children’s Rights Office (London), Consultant on Health and Social Aspects, Defence for Children International, International Abolitionist

Federation, International School of Geneva, International Federation of Journalists, International Federation of Social Workers, International Inner Wheel, International Save the Children Alliance, Just Think Foundation, Lutheran World Federation, Network for the Convention on the Rights of the Child (Japan), NGO Group for the Convention on the Rights of the Child, Romanian National Committee for UNICEF, Save the Children-UK, SOS Torture, Women International League for Peace and Freedom, Women's World Summit Foundation, World Council of Churches, World Federation of Methodist Women, Young Media Partners, Zonta International. Ms. Dulce P. Estrella-Gust also participated.

249. The following persons made statements during the introductory part of the day: Ms. Akila Belembaogo, Chairperson of the Committee on the Rights of the Child; Mr. José Ayala-Lasso, High Commissioner for Human Rights; Mr. Thomas Hammarberg, Vice-Chairman of the Committee on the Rights of the Child and rapporteur for the day of general discussion; Mr. Paul Ignatieff, Director, UNICEF Geneva Office; Mr. Neil Boothby, Senior Coordinator for Refugee Children, UNHCR; Mr. Carlos Arnaldo, Chief, Free Flow of Information and Communication Research, UNESCO; Ms. Angela Penrose, Save the Children-UK, on behalf of International Save the Children Alliance; Ms. Gunilla von Hall, a journalist with Svenska agbladet; and Ms. Bettina Peeters, Deputy Secretary-General, International Federation of Journalists.

250. After the introductory statements in plenary session, the participants were divided into three panels to discuss the various issues identified. Panel I on “Child participation in the media”, was chaired by Ms. Marilia Sardenberg, Vice Chairperson of the Committee on the Rights of the Child, and the Rapporteur was Ms. June Kane from UNICEF; Panel II on “Protection of the child against harmful influences through the media” was chaired by Mr. Youri Kolosov, a member of the Committee on the Rights of the Child and the Rapporteur was Mr. Carlos Arnaldo from UNESCO; Panel III on “Respect for the integrity of the child in media reporting”, was chaired by Ms. Sandra Mason, a member of the Committee on the Rights of the Child and the Rapporteur was Ms. Bettina Peeters from the International Federation of Journalists.

251. After the discussions in the three panels, a general debate was held, in which, together with members of the Committee, the representatives of a number of United Nations organs, bodies, specialized agencies and non-governmental organizations participated. The day of general discussion was concluded by the statements made by Ms. Thérèse Gastaut, Director of the United Nations Information Service, Ms. Bettina Peeters and Mr. Thomas Hammarberg, who presented the preliminary conclusions of the discussion in his capacity as Rapporteur of the day.

252. On the occasion of the discussion day, UNICEF organized a lunch-time interactive session which brought together young people from the International School in Geneva, representatives of the media and persons working in the field of the protection and promotion of children's rights to discuss examples of effective partnerships between children and the media, with the objective of providing practical examples of the use of the media to promote children's rights.

253. The discussion in Panel I (“Child participation in the media”) centred around the importance of children participating not just as commentators, but at all levels of the information process, as the only way to avoid tokenism. For that purpose it was necessary to develop adequate mechanisms to enable the child to participate at all stages of media production. It was also felt that it was essential to take into account the context in which each child lived and communicated, as well as to know to what extent and how the child's voice was already heard in each community. The participants discussed ways of influencing the various actors in helping children to make their voices heard. Such actors encompassed a broader range than the media as such and included parents and professionals working with and for children. The essential need to form

partnerships and collaboration and to encourage all actors to make the links themselves between their personal concern for children and their professional capacity to make a difference was stressed in that connection. The potential positive impact of technology for children's rights was also underlined, as well as the importance of access to all kinds of media including traditional forms. The educational role of the media and the global responsibility of all groups in society in changing attitudes was mentioned. Lastly, the group considered that any guidelines produced must draw attention to the positive potential of the media and the desirability of promoting collaboration and participation.

254. Participants in Panel II (“Protection of the child against harmful influences through the media”) felt that there was a need to keep children on the media's agenda on a continuing basis and that States should be called upon to take concrete measures to 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 of the Convention, as called for in article 17 (a). The clear identification of harmful influences in the media was considered essential, as well as the need to raise, through school and in other forums, children's awareness of how to handle media issues. For that purpose, it was necessary to promote education programmes on how to deal in a critical and constructive manner with the media. It was also considered that a better balance should be reached in the media between concern for protection and an accurate reflection of the real world; it was stressed that positive as well as negative aspects of the news should be covered. Reference was made to the need to protect and preserve cultural diversity and avoid cultural stereotypes. The general gender bias against girls and women was mentioned as being an important protection issue that should not be overshadowed by the issue of sexual exploitation. The need for media professionals to draft, or to amend guidelines for media in the light of the Convention on the Rights of the Child was stressed. While the implementation of these guidelines should be carried out by the media profession and industry in a spirit of self-discipline, this could be made more effective through empowering citizens' associations and consumer groups in their monitoring of media programmes and scheduling. Freedom of expression was to be safeguarded as a basic right enshrined in the Convention, though several felt it was necessary to resort to strong measures to limit the access of the very young to injurious media fare, specifically pornography, paedophilia and gratuitous violence. Specific reference was made to Internet, and some suggested promoting software to limit access to harmful sites. The need to develop in all countries hotlines where Internet users could transmit information on existing harmful sites in order to allow those responsible for the hotline together with other interested parties to find solutions was also stressed, as well as the need to share responsibility for screening the material between the industry, the parents, the teachers and where appropriate children themselves.

255. The debate in Panel III (“Respect for the integrity of the child in media reporting”) started with a reference to the general legal framework provided by the Convention on the Rights of the Child, which addressed every human being below the age of 18. It was recognized that the media played an essential role in the promotion and protection of human rights in general and that media professionals, including media editors and owners, should be particularly vigilant in trying to safeguard the integrity of the child. It was felt that there was a need for further debate and cooperation at the national, regional and local levels on integrating the principles of the Convention in media reporting and implementing the Convention through the media. The discussion focused on two main issues. The first related to the way the media should approach children as sources of information. Reference was made to the need to use special techniques taking into account the best interests of the child in interviews or simulations involving child victims of violence and abuse. It was stressed that it was useful to provide such children with an appropriate channel of expression, and that such an opportunity could contribute to raising awareness on human rights violations suffered by children. The second issue concerned the

child's access to the media. In that regard, mention was made of a number of positive experiences, such as news agencies where child reporters provided information aimed at children. Reference was made to the most common stereotypes in media reporting about children, such as the "violent teen-ager" or the misrepresentation of children from specific groups. It was mentioned that such stereotypes were not only the responsibility of the media but involved the society at large.

256. On the basis of the discussions on the various issues both at the plenary and by the three panels, the following recommendations were formulated by the Rapporteur for the thematic debate:

- 1 **Child media.** A dossier should be compiled on positive practical experiences of active child participation in the media, such as "Children's Express" in the United Kingdom and the United States.
- 2 **Child forum within Internet.** The UNICEF-initiated "Voices of Youth" at the World Wide Web should be promoted and advertised as a positive facility for international discussion on important issues between young people.
- 3 **Active child libraries.** The experience of dynamic child libraries, or child departments within public libraries, should be documented and disseminated.
- 4 **Media education.** Knowledge about the media, their impact and functioning should be imparted in schools at all levels. Students should be enabled to relate to and use the media in a participatory manner, as well as to learn how to decode media messages, including in advertising. Good experiences in some countries should be made available to others.
- 5 **State support to media for children.** There is a need for budgetary support to ensure the production and dissemination of children's books, magazines and papers, music, theatre and other artistic expressions for children, as well as child oriented films and videos. Assistance through international cooperation should also support media and art for children.
- 6 **Constructive agreements with media companies to protect children against harmful influences.** Facts should be gathered about various attempts at voluntary agreements with media companies on positive measures, such as not broadcasting violent programmes during certain hours, clear presentations before programmes about their content and the development of technical devices, such as "V-chips", to help consumers to block out certain types of programmes. Likewise, experiences with respect to the introduction of voluntary ethical standards and mechanisms to encourage respect for them should be assembled and evaluated; this should include an analysis of the effectiveness of existing codes of conduct, professional guidelines, press councils, broadcasting councils, press ombudsmen and similar bodies.
- 7 **Comprehensive national plans of action to empower parents in the media market.** Governments should initiate a national discussion on means to promote positive alternatives to the negative tendencies in the media market, to encourage media knowledge and support parents in their role as guides to their children in relation to electronic and other media. An international workshop should be organized to promote a discussion on this approach.

- 8 **Advice on implementation of article 17 of the Convention on the Rights of the Child.** A study should be conducted with the purpose of developing advice to Governments on how they could encourage the development of “guidelines for the protection of the child from information and material injurious to his or her well-being”. Such a study should also serve the purpose of assisting the Committee on the Rights of the Child in drafting a general comment on article 17.
- 9 **Specific guidelines for reporting on child abuse.** To encourage further discussion in newsrooms and within the media community as a whole guidelines should be drafted by appropriate journalist bodies on how to report on abuse of children and at the same time protect the dignity of the children involved. Special emphasis should be placed on the issue of not exposing the identity of the child.
- 10 **Material for journalist education on child rights.** Material should be produced to assist journalist and media schools on child rights standards, established procedures for child rights monitoring, existing international, regional and national institutions working with children, as well as basic aspects of child development. The manual planned by the Centre for Human Rights of the United Nations as a tool for journalist education on human rights should be widely disseminated when produced.
- 11 **Network for media watchgroups.** The positive work of media watchgroups in various countries should be encouraged and “good ideas” transferred between countries. The purpose is to give media consumers a voice in the discussion on media ethics and children. A focal point for exchanges should be established.
- 12 **Service to “child rights correspondents”.** Interested journalists should be invited to sign up on a list of “child rights correspondents”. They should be provided regularly with information about important child issues and with interesting reports by others, and be seen as media advisers to the international child rights community.

257. In view of the various contributions made and the importance of the issues considered, the Committee felt that there was a need to ensure follow-up to the general discussion. It was therefore decided that a working group on the media and the Convention on the Rights of the Child should be constituted to consider further the various recommendations made. This working group should include representatives of the Committee, the United Nations Educational, Scientific and Cultural Organization, the United Nations Children's Fund, the Department of Public Information, the International Federation of Journalists and non-governmental organizations. It was requested that that working group should consider, in particular, constructive ways of ensuring implementation of the 12 recommendations and other proposals made during the discussion. The Committee decided to authorize Mr. Thomas Hammarberg to represent it on the working group and initiate its convening. The group is expected to report to the Committee at a future session (May-June 1997).

List of Documents Submitted

LIST OF DOCUMENTS AND CONTRIBUTIONS SUBMITTED FOR THE GENERAL DISCUSSION ON THE CHILD AND THE MEDIA, HELD ON 7 OCTOBER 1996

UN Document CRC/C/57, Annex VI

By the Committee on the Rights of the Child

Mr. Thomas Hammarberg

- “Children, the United Nations Convention and the media”, Background paper for the discussion day.

By United Nations organs

Department of Public Information

- “Children's Rights”, United Nations Backgrounder, January 1996 (English/French)

United Nations Children's Fund (UNICEF)

- “Prime time for children: Media, ethics and reporting of commercial sexual exploitation”, paper submitted by the International Federation of Journalists, for UNICEF, to the World Congress against Commercial Sexual Exploitation of Children, Stockholm, August 1996
- “Interviewing children”, a training pack for journalists, written and produced by Sarah McCrum and Paul Bernal, 1994; book and tape
- International Children's Day of Broadcasting, “Tune to Kids”, 15 December 1996

By specialized agencies

United Nations Educational, Scientific and Cultural Organization (UNESCO)

- “Children, the media and the rights of the child”, by Carlos A. Arnaldo and John Bennett
- “Children and violence”, summary of the report of the Commission on Children and Violence convened by the Gulbenkian Foundation
- “How do you curb violence in the media?”, paper by Andréa Martinez, submitted to the International Symposium on Women and the Media. Access to Expression and Decision-Making, Toronto, 28 February-3 March 1996
- “Violence et télévision”, par Hervé Bourges, Président du Conseil supérieur de l'audiovisuel (France), Programme international pour le développement de la communication - Paris, 22-26 janvier 1996
- “Jeunes et média de demain, quelles problématiques? quelles perspectives?”, Groupe de recherche sur les relations enfants/média, Forum international de chercheurs, UNESCO, Paris, 21-25 avril 1997
- “Non-violence, tolerance and television”; an international round table organized by UNESCO, the International Programme for the Development of Communication, and the Indian Government, New Delhi, 1 April 1994; report of the Chairman to the

Intergovernmental Council of the International Programme for the Development of Communication

- “Violence in Broadcasting Worldwide”, International Survey of Regulations in Broadcasting with Specific Regard to Violence, prepared for UNESCO by Broadcasting Standards Council, paper by Colin Shaw, Director, BSC
- “Television Violence versus Viewer Power: the Power to Zap Away”, a synthesis of UNESCO IPDC Actions 1994-1996, by Carlos A. Arnaldo, Chief, Free Flow of Information and Communication Research, International Programme for the Development of Communication, UNESCO, Paris, 23 January 1996
- Chroniques du Forum, No. 1, “Les jeunes et les médias demain”, juin 1996 (English/français)

United Nations Development Programme/UNESCO/UNICEF/World Bank

- “Education for all, achieving the goal”, final report mid-decade of the International Consultative Forum on Education for All, 16-19 June 1996, Amman, Jordan

By regional intergovernmental organizations

“Télévision et enfants”, par Bernard Blin, Conseil de l'Europe, Comité directeur sur la politique sociale, projet politique de l'enfance, Strasbourg, 11 avril 1995

By intergovernmental and non-governmental organizations and individual experts

Childnet International

- “Promoting the interests of children in international communications”, Nigel Williams

GRAPES

- Children's Environments Research Group, City University of New York: “The Whole Story by Kids for Kids”

International Committee of the Red Cross/Office of the United Nations High Commissioner for Refugees (UNHCR)/UNICEF/International Federation of Red Cross and Red Crescent Societies

- Joint statement on the evacuation of unaccompanied children from Rwanda

International Federation of Journalists

- “The Child and the Media”, Bettina Peeters, Brussels, October 1996

International Save the Children Alliance

- “Children, Ethics and the Media”

M. Koren

- “Tell me the right of the child to information”, NBLC, The Hague, November 1996

NGO Group for the Convention on the Rights of the Child

- Sub-Group on Education, Literacy and Mass Media, “Media and children's rights”

Unlimited Productions

- “What can be done to develop the possibilities for children to participate actively in the media?”, by Sara MacNeill

Watch, the World Alliance of Television for Children

- Prix Jeunesse and Watch at the UNICEF Workshop, “The Child and the Media”, 7 October 1996. The Foundation's objective is to contribute to an improvement of worldwide television output for the young, to promote communication between nations and to increase programme exchange on an international level
- Asian Declaration on the Child and the Media, Asian Summit on Rights of the Child and the Media, Manila - 2-5 July 1996
- “Youth and media”, bibliography compiled by David B. Shedden, Poynter Institute for Media Studies
- “Panel 3b: The role of the media”, Rapporteur's summary, World Congress against Commercial Sexual Exploitation of Children, Stockholm, August 1996
- “Networking for children's rights in the media”, by Connie Tadros, in Media Development, 1994
- “Lolita lives: child imagery in the media”, by Jane Lizop, Media Adviser to the World Congress against Commercial Sexual Exploitation of Children, in CROSSLINES Global Report, August 1996
- “Prime Time for Children”, including “Recommendations for Further Action”, in CROSSLINES Global Report, August 1996
- “Sex, computers and video tapes” by Eve Porter, in CROSSLINES Global Report, September 1996, vol. 4, No. 24

Report of Working Group

WORKING GROUP ON CHILDREN AND THE MEDIA - REPORT TO THE COMMITTEE ON THE RIGHTS OF THE CHILD

UN Document CRC/C/66, Annex IV

Introduction

On 7 October 1996, the Committee on the Rights of the Child convened a general discussion day on the wide-ranging issues of “Children and the media”. The Committee, moreover, felt that there was a need to ensure follow-up on this important issue, and requested Mr. Thomas Hammarberg to constitute and convene a working group to consider the implementation of 12 specific recommendations coming out of the October 1996 meeting, with a view to action by concerned United Nations bodies, NGO and media industry partners and other relevant players interested in exploring and facilitating the role the media can play in the protection and promotion of children's rights. The Committee requested Mr. Hammarberg to report on progress at its next session in May/June 1997.

After collaborative preparation, the Working Group met on 14 April 1997 at the headquarters of UNESCO in Paris. The 20 participants represented a broad range of players including UNICEF, UNESCO, the United Nations Information Service, ILO, the United Nations High Commissioner/Centre for Human Rights, NGOs, the International Federation of Journalists and representative journalists and media associations.

The participants agreed that it was important to put together a first-stage action plan for the 12 recommendations and allied issues, and to report to the Committee at its next session so that interested donors might be identified and work be undertaken speedily. Once first-stage action was under way, second-stage action could be discussed and planned.

General observation

While discussion of the 12 principal recommendations was ensuing, a number of general issues were also considered and the Working Group noted that action on the 12 recommendations would generally benefit from the development of a strategic framework. Such a framework would aim to identify target audiences, formats, working partners, and time-frames and would permit deeper reflection on the aims of article 17 and other relevant articles of the Convention relating to information. It was agreed that potential elements of a strategic framework should be identified during stage one activities with a view to constructing a general strategy in which stage two activities might be undertaken.

Action on recommendation 1: Preparation of a best practice dossier on child participation in the media

The Working Group considered that it was important not only to compile a dossier of best practices of child participation in the media, but also to conduct an analysis of the examples gathered both to identify obstacles that might stand in the way of effective child participation and to examine ways in which such obstacles have been or might be overcome. It was therefore agreed that this work would begin immediately.

In stage one (approximately six months), UNICEF, UNESCO, the NGO Group for the Convention on the Rights of the Child with the Child Rights Information Network, and ILO/IPEC, will conduct internal research and compile best practice dossiers. For these searches to produce comparable data, UNICEF will prepare a questionnaire for all partners to use.

Additionally Groupe de recherche sur la relation enfants-média (GRREM) and UNESCO, who are co-organizing a forum for researchers in the field of children and the media in Paris in late April 1996, will identify a special rapporteur who will conduct a similar search based on the presentations at the forum.

In stage two, these individual dossiers will be compiled and analysed, and further input will be sought. Such work might be undertaken by a consultant. At this stage, additionally, there will need to be consideration of the target audiences for such a compilation, the format it will consequently take and how it will be distributed.

Action on recommendation 2: A child forum on Internet

This recommendation sought to “add value” to the work already done by UNICEF, whose Voices of Youth web site has become a widely used and well-respected interactive Internet site for children and teachers to exchange opinions and information on a wide range of issues of importance to young people. The participants agreed that it would not be practical to consider creating additional web sites specifically for this initiative, but rather to further develop Voices of Youth and to attempt, where possible, to link other web sites so that children and young people might more readily “surf” across them and have the widest possible access to sites containing useful information aimed at children and additional opportunities to interact via the Internet.

In stage one, therefore, UNICEF undertook to further develop Voices of Youth, and invited input from partners in the Working Group.

In stage two, it was felt that it would be useful also to develop working partnerships with journalists and editors of Internet-related magazines aimed at young people. This would allow wide dissemination of information on available web sites and would provide both an additional source of information for young people and the opportunity to forge new relationships between this specific arm of the media and the Working Group in the interests of children.

Action on recommendation 3: Documentation and dissemination of experience of active child libraries

The Working Group discussed the value of sharing experiences on active child libraries and children's departments within public libraries, while noting that many children, particularly in developing countries, live in societies where libraries and, indeed, books and reading, are not major sources of information.

At the close of discussion, it was agreed to record that the project to compile best practices of child libraries remains unfunded.

Action on recommendation 4: Encouragement and furtherance of media literacy

The Working Group discussed the importance of helping children to become critical consumers of media in all its forms, a task which today fewer parents assume and which, although included in school curricula in some parts of the world, is not consistently or widely undertaken or implemented with updated information. It was noted, with regret, that UNESCO is no longer active in this area although a number of past UNESCO reports, including one from a meeting in Toulouse in 1990 on this subject, are available.

It was agreed that, in stage one, UNESCO would compile and circulate amongst Working Group members any documentation currently available, including the Toulouse report.

In stage two, UNICEF undertook to give consideration to how a clearing-house function for such information (and potentially data compiled under recommendations 1 and 3) could be planned and funded.

Action on recommendations 5 and 8: State support to media for children and advice on implementation of article 17

The role of Governments and mechanisms through which the Committee on the Rights of the Child might assist Governments in fulfilling the aims of article 17 and other relevant articles of the Convention relating to information were considered together. The Working Group noted that a number of members of the Group had already collaborated in some preliminary work on this issue: the United Nations High Commissioner/Centre for Human Rights circulated a draft research paper which examined and compiled reporting to the Committee on the issue of children and the media by Governments to date; UNICEF had been working on a general conceptual framework which might form the basis of a narrative general comment on article 17, and a UNICEF handbook on implementation of the Convention (currently in draft) also deals with this issue.

It was agreed that, in stage one, these complementary undertakings would form the basis of further analysis and discussion with a view to producing an appropriate narrative. Members of the Working Group will receive copies of the draft work done so far for comment.

Action on recommendation 6: Agreements with media companies to protect children against harmful influences

At this first meeting, recommendation 6 was not discussed in detail. However, this issue forms part of the ongoing work of the journalism association representatives present, and a number of initiatives were described which are furthering discussion of professional guidelines, codes of conduct, ethical frameworks and monitoring mechanisms. As part of its ongoing work, therefore, the Working Group will take note of such progress and identify opportunities for cooperation.

Action on recommendations 7 and 11: National plans of action to empower parents/networks of media watch groups

There was wide discussion on the broad scope of this topic, during which it was noted that the Norwegian Government was potentially a valuable source of experience on the subject of parental roles in the protection of children from harmful media influences. In Sweden, Redda Barnen had also worked on this issue and UNICEF advised that it had worked with Consumers International to prepare a report on children as media consumers.

It was agreed, therefore, that in stage one the Chairman of the Working Group would approach the Norwegian Government to seek collaboration in making experience on this issue more widely available, potentially through a meeting of interested parties and/or follow-up documentation.

Action on recommendation 9: Specific guidelines for reporting on child abuse

The International Federation of Journalists noted that, following the World Congress against Commercial Sexual Exploitation of Children in 1996, there was a “change of atmosphere” that would facilitate cooperation with journalists on this issue. It was agreed at the Congress that input from non-journalists should be “non-intrusive” and aim rather at collaboration than imposition. Indeed, it was also agreed at the Congress that child rights organizations themselves would benefit from further reflection and direction on the way they treat the image of the child in, for example, fund-raising materials. A follow-up meeting in late 1997 will bring together media professionals to consider guidelines and ethics for journalists, and how journalists interact with the communities they serve. This would be useful as a way of spreading this debate further, since there remains the concern that ideas being discussed will only make a real difference for children if they are spread widely. UNICEF advised that it would be willing to continue to work with IFJ on this issue, and to integrate its own work on the image of the child into the debate. The United Nations Special Rapporteur on the sale of children, child prostitution and child pornography is also an important player in this work and should be both supported in her work and involved in debate on this issue.

It was agreed that, in stage one, the IFJ would consider how it might coordinate the media professionals' side of this debate and facilitate the process of drafting text, workshopping regionally with media and child rights workers and potentially then collaborating in a larger international meeting. UNICEF would work with IFJ on this and contribute input on how the process might be widened to include NGOs and United Nations bodies and mechanisms. The United Nations High Commissioner/Centre for Human Rights may have some funding available

for this in support of the Special Rapporteur and the Chairman also undertook to identify potential sources of funding for this work.

Action on recommendation 10: Materials for journalist education on child rights

The Working Group noted that work has been initiated by the United Nations High Commissioner/Centre for Human Rights to produce a training manual on the wider issue of human rights, and that an expanded child rights section could be developed within this already funded project. The International Federation of Journalists is currently advising on the development of this work and noted the importance of the manual being a “real tool” for newsrooms, so that journalists should be engaged, rather than trained. The IFJ also noted that such a handbook must go beyond “structural” listings of international instruments and mechanisms, and include narrative which would assist journalists as they confront the ethical issues involved in reporting children's issues. It was noted that journalists already show great interest in rights issues and that the desire to explore children's rights seems to be growing. It was also noted, however, that other sectors such as advertising professionals, film and entertainment media and the suchlike are not yet similarly engaged. It was also noted that within the profession of journalism it is not only journalists who must be engaged but also editors, photo editors and other actors in the media process. The Working Group also noted that the IFJ and UNICEF had collaborated successfully in promoting debate on media coverage of child rights issues in preparation for the World Congress against Commercial Sexual Exploitation of Children in 1996, which produced preliminary input to journalism materials on this issue. UNICEF would be willing to continue this collaboration during preparation of training materials.

It was recommended, therefore, that in stage one the International Federation of Journalists formulate thinking on how to include child rights issues in the materials currently being developed with funding from the United Nations High Commissioner/Centre for Human Rights. Collaboration between IFJ and UNICEF on this work should continue.

Action on recommendation 12: Service to “child rights correspondents”

This idea to build a “register” of media professionals with a specific interest in the wide range of children's issues, including child rights, was discussed in the context of heightened media interest. It was noted that all the Working Group members already had access to mailing lists of journalists. It is vital, however, that journalists whose names appear on such lists should be “serviced” and that their inclusion on a list should not lead to their receiving large quantities of unsolicited and irrelevant information which might alienate them from the issue of children and their rights. A consolidated mailing list, therefore, should be disaggregated (to allow journalists to receive only information that is of specific interest to them, and to allow for country- and issue-specific mailings), and serviced (for example so that journalists do not receive duplicate mailings and can move off the list when they wish to, and so that their requests for information are dealt with speedily). It was also noted that there is a specific, immediate need to upgrade press work around the Committee on the Rights of the Child, so that its discussions and deliberations are more widely reported in the interests of children.

It was agreed that, in stage one, the United Nations High Commissioner/Centre for Human Rights and the United Nations Information Service in Geneva would continue to work together to improve reporting on the work of the Committee on the Rights of the Child.

Meanwhile, consideration will be given to producing, in stage two, the consolidated, disaggregated mailing list (register) of child rights journalists envisaged, including mechanisms for servicing such a list so that it functions effectively.

Conclusion

It was agreed that the Rapporteur of the Working Group would ensure immediate follow-up after the meeting and would prepare a report to the Committee on the Rights of the Child and an expanded action-oriented record for Working Group members.

The Working Group recommends to the Committee on the Rights of the Child that the Working Group meets again before the Committee's January 1998 session, to assess progress and consolidate stage one action in order to facilitate stage two undertakings. In preparation for the meeting, consideration should be given to including more media professionals and taking a more regional approach.

Children with Disabilities, 16th Session, 6th October 1997

Introduction

GENERAL DISCUSSION ON "THE RIGHTS OF CHILDREN WITH DISABILITIES" DRAFT OUTLINE

UN Document CRC/C/66, Annex V

The theme for the next general discussion of the United Nations Committee on the Rights of the Child is "The rights of children with disabilities". The discussion will take place on Monday, 6 October 1997 at the United Nations Office at Geneva. United Nations bodies and specialized agencies as well as non-governmental organizations and individual experts are invited to take part in this one-day discussion.

The decision to devote one day to discuss this topic was taken by the Committee on the Rights of the Child at its fourteenth session in the light of rule 75 of its provisional rules of procedure. The purpose of the general discussions is to foster a deeper understanding of the content and implications of the Convention. The discussions are public.

There are approximately 2 billion children in the world, of whom, it is conservatively estimated, as many as 100 million have disabilities. And the evidence of the dramatically restricted life opportunities of these children in many parts of the world makes grim reading. Hundreds of thousands of children with disabilities are condemned to live their lives in institutions, often deprived not only of love and affection, but also of the most basic physical care and intellectual stimulation. Armed conflicts and political violence, which have such devastating impacts on children's lives, also contribute heavily to the toll of disability: they are now the leading causes of injury, impairment and physical disability in children, and only 3 per cent of children disabled as a result of war receive any rehabilitative care.

Throughout history children with disabilities have been, and indeed in many societies still are, denied access to education, family life, adequate health care, opportunities for play or for training, and the right to participate in the "normal" activities of childhood. They experience in effect a form of social exclusion which represents a denial of their basic rights. Furthermore, these children are amongst those most vulnerable to abuse and neglect by the adults who are responsible for them and the least able to assert their rights on their own behalf. And despite the scale of the problem and the extent of the discrimination, the plight of children with disabilities rarely figures high on the national or international agenda. They remain invisible.

A theme day devoted to the rights of children with disabilities represents a powerful opportunity to challenge this invisibility. It can provide a high-profile focus on the right of children with disabilities to social inclusion; their right not to be discriminated against on the grounds of their handicap. It may contribute to raising international awareness of the huge gulf between the principles and standards embodied in the Convention and the day-to-day realities of so many children's lives.

The Committee on the Rights of the Child clearly has a role to play in creating opportunities to highlight not only the obligations Governments have undertaken with respect to children with disabilities under the Convention, but also the extent to which the rights of children with disabilities are violated, and in promoting international debate and action on this issue. It also has a role in the development of indicators to measure the performance of Governments in implementing the provisions of the Convention, including through legislation, policy and practice to give effect to those provisions.

The thematic debate, which will mainly address the provisions of article 23 of the Convention on the Rights of the Child, will also naturally reflect the holistic approach of the Convention, illustrating and reinforcing the interdependence and indivisibility of all the human rights of children. Once again, the basic general principles of the Convention - non-discrimination, the best interests of the child, the right to survival and development to the maximum extent possible and the participation of the child in the decisions affecting him or her - will be the guiding themes in the consideration of this issue. Other articles of particular relevance include article 24 (the right to enjoy the highest attainable standard of health), article 28 (the right to education on the basis of equality of opportunity), article 29 (the aims of education, including the development of the child's personality, talents and mental and physical abilities to his/her fullest potential) and article 31 (the right to engage in play and recreational activities and to participate freely in cultural life and the arts).

The main objectives of the theme day will be as follows:

- (a) To share ideas, knowledge and examples of good practice in challenging discrimination against and encouraging participation of children with disabilities;
- (b) To promote public debate and awareness at both the national and international levels of the need to bridge the gap between the obligations undertaken by Governments on behalf of children with disabilities and the day-to-day realities of the lives of millions of children;
- (c) To contribute to the development of indicators which might assist Governments in evaluating the extent of their compliance with the provisions of the Convention relevant to the rights of children with disabilities;
- (d) To contribute to the development of programmes of action at both the national and international levels to protect and promote the rights of children with disabilities; and
- (e) To contribute to the formulation of national strategies that need to be developed in order to work towards the full enjoyment by children with disabilities of their rights to social inclusion and appropriate care.

The discussion will focus mainly on the following three issues:

- The right to life and development;
- Self-representation and full participation;
- The right of children with disabilities to full participation in education.

Written contributions are welcome. These should be sent by 25 August 1997 to:

Committee on the Rights of the Child
c/o High Commissioner/Centre for Human Rights
Palais des Nations
1211 Geneva 10
Switzerland

Summary of the Discussion

General discussion on the rights of children with disabilities

UN Document CRC/C/69

310. In the light of rule 75 of its provisional rules of procedures, the Committee on the Rights of the Child has decided periodically to devote one day of general discussion to a specific article of the Convention or to a theme in the area of the rights of the child in order to enhance understanding of the content and implications of the Convention.

311. At its fourteenth session, the Committee decided to devote its next day of general discussion to the issue of “The rights of children with disabilities”, to be held on 6 October 1997.

312. In an outline prepared to guide the general discussion, the Committee stressed that throughout history children with disabilities had been, and in many societies still were denied access to education, family life, adequate health care, opportunities for play or for training, and the right to participate in “normal” childhood activities. In spite of the fact that these children were experiencing a form of social exclusion representing a denial of their basic rights as enshrined in the Convention, their plight rarely figured high on the national or international agenda, and they tended to remain invisible. The Committee also had a clear role to play in creating opportunities to highlight the obligations undertaken by Governments with respect to children with disabilities under the Convention, as well as the extent to which the rights of children with disabilities were violated. The thematic debate would mainly address the provisions of article 23 of the Convention, but would also reflect the holistic approach of the Convention, illustrating and reinforcing the interdependence and indivisibility of all the human rights of children.

313. The Committee identified three main issues to be considered during the day of general discussion:

- (a) The right to life and development;
- (b) Self-representation and full participation;
- (c) The right of children with disabilities to inclusive education.

314. As for the previous thematic discussions, the Committee had invited representatives of United Nations organs, bodies and specialized agencies, and other competent bodies, including non-governmental organizations, research and academic organizations, individual experts and children, to contribute to the discussion.

315. Several organizations and individual experts submitted documents and other contributions on the theme. The list of these contributions is contained in annex IV.

316. Representatives of the following bodies and organizations participated in the day of general discussion:

Government bodies

Ministry for Social Protection of Togo, Permanent Mission of Aliens Appeal Board of Sweden, Permanent Mission of the Philippines to the United Nations Office at Geneva, Permanent Mission of Sweden to the United Nations Office at Geneva.

Regional bodies

Inter-American Children's Institute of the Organization of American States.

United Nations entities and specialized agencies

International Labour Organization, Office of the United Nations High Commissioner for Human Rights, Office of the United Nations High Commissioner for Refugees, Special Rapporteur of the Commission for Social Development on Disability, UNAIDS, United Nations Children's Fund, United Nations Development Programme, United Nations Educational, Scientific and Cultural Organization, World Bank.

Non-governmental organizations

ATD-Fourth World, Childrights Research Institute, Children's Rights Office (UK), Christian Children's Fund, Defence for Children International (DCI), DCI-Benin, DCI-Colombia, DCI-Israel, DCI-Japan, DCI-Paraguay, DICAG (South Africa), Die Lebenshilfe Wien, Disabled Children Action Group South Africa, Disabled Peoples' International, Epoch Worldwide (UK), Federation for the Protection of Children's Human Rights (Japan), German National Coalition, Handicap Collectif région Annecy, Handicap International, Inclusion International, International Catholic Child Bureau, International Council of Women, International Federation of Social Workers, International Save the Children Alliance, International Service for Human Rights, Japan Federation of Bar Associations, International Society for the Prevention of Child Abuse and Neglect, Kuong Teila Graduate School of International Development, NGO Group for the Convention on the Rights of the Child, Save the Children (South Africa), Save the Children (Sweden), Save the Children (UK), Save the Children (Yugoslavia), Swedish Organization of Handicapped International Aid Foundation, Women's World Summit Foundation, World Federation of Methodist Women, Zonta International.

Other organizations

International Committee of the Red Cross

Mr. Bruce Adamson, Ms. Dulce P. Estrella-Gust, Mr. Sanford Fox and Mr. Vitit Muntarbhorn also participated, as did children and adults with disabilities and parents of children with disabilities. Ms. Gerison Lansdown, Director of the Children's Rights Office (UK), was designated as the Rapporteur for the day of general discussion.

317. The meeting was opened by Ms. Mason, Chairperson of the Committee, who expressed the hope that the discussion would lead to concrete action. The morning was devoted to statements by the Rapporteur of the Committee, who gave an introduction to the subject, and Mr. Bengt Lindqvist, Special Rapporteur of the Commission on Social Development on Disabilities. Representatives of various United Nations and other international agencies/bodies offered their comments and shared their experiences and views on the subject.

318. Invited speakers introduced the three previously identified sub-themes, as follows:

Sub-theme	Speaker(s)
Right to life, survival and development	Ms. Rachel Hurst, Disabled People's International
Right to self-representation and full participation	Ms. Pearl Makutaone and Ms. Chantal Rex, two disabled young girls from South Africa
Right to inclusive education	Ms. Lena Saleh, UNESCO and Ms. Sue Stubbs, Save the Children (UK)

319. Mrs. Mboi opened her introductory remarks at the afternoon session by emphasizing that in discussing the rights of children with disabilities, the main concern must always be the best interests of the whole child, not just the disability. The rights of children with disabilities were in no way confined to article 23; rather, the provisions of that article were intended to ensure that the disabled child had maximum opportunity to fulfil all the rights set out in the Convention. She pointed out that society's responsibility to protect children from disabilities must start well before birth and involved concern for all the circumstances which might result in disability at the time of birth. The challenges of protection ran throughout the life of a child and included the right to protection against violence in wartime or in peace, and protection against debilitating disease, poor nutrition and health, environmental pollution, harmful/hazardous child labour, etc. The challenge for the meeting was therefore twofold: how to protect children from becoming disabled, and how to ensure that those with disabilities were dealt with fairly, effectively and compassionately. She concluded by expressing the hope that the theme day would start a process which would lead to the development of practical guidance for Governments on strategies and policies to strengthen and accelerate movement towards comprehensive fulfilment of all the rights set forth in the Convention by disabled children and to protection against disability both before and after birth, the construction of a set of indicators by which Governments and others could measure progress towards fulfilment of those rights.

320. Mr. Lindqvist pointed out some differences and the complementarity between the Convention on the Rights of the Child and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96 of 20 December 1993). The Convention he saw as an important statement of principles protecting the rights of all children, including the disabled. The Standard Rules was a whole document on disability policy, containing a much higher degree of specification giving more guidance on what should be done and how it should be done. Elaborating further the nature of “disability policy”,

he suggested that measures to combat exclusion and bad conditions, to be effective, must be taken in two main areas - support to the individual and measures to create accessibility. Emphasizing the importance of closer cooperation between himself and the Committee, he made seven concrete suggestions of possible areas for cooperation including various kinds of information-sharing, collaborative analysis of country reports, advocacy and public education. In closing, he urged that thought be given to finding ways to ensure active participation by disabled young people and discussion of the problems of disabled youth at a United Nations international youth forum scheduled to take place in August 1998.

321. The representative of the ILO spelled out in some detail child labour as a major source of disability in children and indicated some of ILO's long-standing and ongoing work directed towards the elimination of harmful and hazardous child labour. The UNICEF representative gave highlights of its programmes to advance the rights of children with disabilities. The WHO representative provided some current data and information about its work. Other representatives also commented on the issue of the rights of the disabled from the perspective of their areas of expertise.

322. Ms. Hurst spoke about the right to life, survival and development, citing the need to oppose with great force the abortion of unborn babies known to be handicapped and provide support as needed for the disabled child to live and develop fully in accordance with his/her rights as set forth in the Convention on the Rights of the Child. Ms. Makutaone and Ms. Rex spoke of their personal experience as handicapped young people and advocated persuasively for the right to self-representation and full participation. They presented themselves as examples of the happy outcome which was possible if disabled children were given love, care and training in appropriate surroundings. Ms. Saleh and Ms. Stubbs discussed the importance of the right to inclusive education.

323. In the course of the afternoon the issue of protection against disability both for the unborn and after birth was discussed from various perspectives. It was pointed out that, in the developing world, where most of the world's disabled children lived, programmes as diverse and "conventional" such as national immunization for children, good pre-natal and birthing services for mothers, and nutritional improvement programmes must be recognized as important activities in support of children's right to development and to be protected against disability.

324. At the end of the discussion, Ms. Lansdown, Rapporteur for the day of discussion, presented a summary of the main issues raised during the day, as described in the following paragraphs.

325. The issue under discussion was not about victims or about pity, but rather about challenging oppression and discrimination; it was about disabled children experiencing widespread abuse of their fundamental human rights.

326. It was important that the scale of the problems experienced by disabled children be acknowledged. The statistics were shocking: huge numbers of children were disabled by the physical, social and economic world that adults had created - by war, poverty, child labour, violence and abuse, environmental pollution, lack of access to health care. The world was a dangerous place for many children and adults had a responsibility to work towards the elimination of the factors which contributed to their harm. The disabilities faced by many children were not inevitable; they could and must be tackled.

327. The humanity behind the statistics must not be lost sight of. The contribution by the two young women from South Africa illustrated that by failing to respect their rights to inclusion and participation, the disabled are too often condemned to social isolation, loneliness, lack of friendships, denial of a voice and, indeed, often also a lack of love.

328. Behind the statistics and the denial of many of the rights of disabled children throughout the world lay attitudes which viewed the life of a disabled child as being of less worth, less importance and less potential than that of an able-bodied child. Those attitudes must be challenged. This required political action at every level, including legal reform to end all forms of discrimination, public education programmes, practical action to support families and communities in challenging prejudice and social exclusion, campaigns to raise awareness of the human rights of disabled children, programmes to end institutionalization of children, and positive images of disabled children in the media. It was also important to engage religious and community leaders as advocates in this process of change.

329. All children had the right to life. Failure to take all necessary measures to promote the survival and development of disabled children on an equal basis with other children represented a profound violation of the Convention on the Rights of the Child. All children were equal members of the human race, discriminatory laws which denied their right to life should be repealed. Public debate should take place on the unspoken assumption, underlying much medical and scientific research, that we should be striving towards the goal of perfection in human beings. It was one thing to work to eliminate impairment but quite another to eliminate the person with the impairment. We must be clear what we mean when we talk about prevention. It was of course vitally important to work towards the creation of a safer world for children in which the risks of impairment and harm were minimized, but the solution was not through the denial of life itself as a preventive strategy. Rather, we must celebrate diversity and learn to celebrate the birth of every child, with or without disability.

330. There was a need to develop strategies to ensure that the rights of disabled children were respected, both as individuals and as a group. Every child should have access to the necessary medical care and treatment, to education, to help with independent living, to a wheelchair if needed. We also therefore needed to change the physical environment to promote the active inclusion of all disabled children in society. This would involve, for example, the development of accessible transport and accessible buildings - shops, schools, play centres, offices.

331. We must take a holistic approach to disability. All the rights in the Convention must be considered in respect of disabled children, and disabled children should be considered when examining the implementation of all the rights in the Convention. That message should be applied by the Committee in its examination of States parties reports, Governments when implementing the Convention and non-governmental organizations and other agencies in promoting and monitoring implementation of the Convention. The Convention provides a framework of principles for monitoring law, policy and practice in respect of disabled children. The Standard Rules on the Equalization of Opportunities for Persons with Disabilities provided a source of detailed guidance on what should be done and how to do it. Those two documents should be used by the Committee and others as complementary tools in promoting the rights of disabled children.

332. Action must be taken at every level - international, regional, national, local and community - to effectively promote the rights of disabled children. At the international level, the Committee had a clear role to play by rigorously scrutinizing States parties reports, highlighting the situation of disabled children, and promoting the application of the Standard Rules. We could also learn

from exchange of experience, research, expertise and information, and good practice between countries.

333. Action also needed to be taken to support the families of disabled children, promote access to education, train teachers to work in inclusive schools, enhance access to adequate health care, and provide practical help within villages and local communities. Such action would necessarily include legal reform, development of policies to promote opportunities for disabled children, reconsideration of budgets and reallocation of resources.

334. Disabled children, like other children, had a right to participate in decisions that affected them, but they suffered a double denial of this right. Many adults found it difficult to recognize both the right and the capacity of any child to contribute effectively to decision-making; where the child was disabled, there tended to be an even deeper inability to accept its competence. This was compounded by protectiveness on the part of carers which sought to shield the children from the responsibility of participation. It was imperative to begin to explore ways of challenging the lack of belief in disabled children. There were many reasons for promoting more active participation in their own lives. First, decisions made about or on behalf of a child would be better informed and more likely to produce positive outcomes if the child him or herself was involved in the process. The views, experiences and knowledge of the child must be an important part of any planning or decision-making. Second, the process of participation was a central part of learning to take responsibility, to make decisions, to develop self-esteem and confidence. It was hard for any child to learn those skills if no confidence is ever placed in him or her by adults; it was profoundly more difficult for a disabled child who faced prejudice and exclusion every day of his or her life and who was constantly confronted by a self-image defined by society as negative and of little worth. It was therefore even more important that disabled children exercise their right to participate actively. Finally, by denying children the right to be heard we were denying them citizenship; they became non-people. Children whose voices were not heard or listened to were vulnerable to abuse, violence and exploitation by adults because they had no means of challenging their oppression. Disabled children were significantly more likely to suffer sexual abuse than able-bodied children, precisely because adults could act with impunity.

335. The inclusion of disabled children was a right, not a privilege. There was an important distinction between integration and inclusion. Policies of integration tended to seek to change the child in order to fit into the school. Inclusion, on the other hand, sought to change the school environment in order to meet the needs of the disabled child. Inclusive education needed to be introduced as part of a strategy for promoting an inclusive society. Marginalization and exclusion of disabled children were often defended on grounds of cost-effectiveness. However, such arguments could not be sustained when the question was turned around: can we afford the costs of exclusion? The loss to societies throughout the world of failure to include disabled children was huge: all their potential productive capacity was wasted. We also lost a potential for enrichment through their contribution to the social, creative, cultural and emotional dimensions of society. Inclusion was not an expensive luxury, but rather an opportunity for all children to become productive members of society. Indeed, failure to promote the inclusion of disabled children sometimes reflected less a lack of resources and more a lack of political will. It was often those Governments claiming to be least able to promote the rights of disabled children that were spending a significant proportion of the country's wealth on armaments and other military expenditures.

336. The final message of the discussion was that the time for talking was over. Now it was time for action.

337. Words of thanks to all the participants, delivered in the name of the Committee by Mrs. Karp, Vice-Chairperson of the Committee, concluded the thematic day. She said that the thematic day had proved to be not only a stimulating process that brought many new insights, but also a very moving experience due especially to those who had shared with the participants their own personal stories and experiences. Inclusion was the goal, but it was as well a means to improve society. The aim was to have a society which accommodated a wide spectrum of individual abilities, and not a society which simply expected all to conform to one hypothetical, and often unachieved, standard of “normally”. The key issue was respect for the human dignity of children with disabilities. Inclusion of children with disabilities into society was part of a process of social change to make a society in which human dignity was a living value.

338. On the basis of the discussions on the various issues, the following recommendations were formulated by the Chairperson of the Committee:

- (a) In its examination of States parties reports, the Committee should commit itself to highlighting the situation of disabled children and the need for concrete measures to ensure recognition of their rights, in particular the right to life, survival and development, the right to social inclusion and to participation; it should also emphasize that adequate monitoring of the situation of disabled children in all States must be undertaken and encourage moves to promote the collection of statistics and other information to enable constructive comparisons between regions and States;
- (b) The Committee should consider the possibility of drafting a general comment on disabled children;
- (c) The various bodies providing information to the Committee in the course of the reporting process should ensure that the information they provide includes disabled children;
- (d) States should review and amend laws affecting disabled children which are not compatible with the principles and provisions of the Convention, for example legislation
 - I. Which denies disabled children an equal right to life, survival and development (including - in those States which allow abortion - discriminatory laws on abortion affecting disabled children, and discriminatory access to health services);
 - II. Which denies disabled children the right to education;
 - III. Which compulsorily segregates disabled children in separate institutions for care, treatment or education;
- (e) States should actively challenge attitudes and practices which discriminate against disabled children and deny them equal opportunities to the rights guaranteed by the Convention, including infanticide, traditional practices prejudicial to health and development, superstition, perception of disability as a tragedy;
- (f) In view of the appalling impact of armed conflict, which disables hundreds of thousands of children, States should be encouraged to ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and Their Destruction, due to be opened for signature in Ottawa in December 1997;

- (g) The Committee should promote the Standard Rules on the Equalization of Opportunities for Persons with Disabilities as being relevant for full implementation of the Convention on the Rights of the Child, and strengthen its cooperation with the Special Rapporteur on Disabilities and his panel of experts;
- (h) The Committee, in cooperation with UNESCO, UNICEF and other relevant agencies, should ensure that inclusive education is included on the agendas of meetings, conferences and seminars as an integral part of debates concerning education;
- (i) Relevant agencies should be encouraged to develop programmes which promote alternatives to institutionalization and to develop and promote strategies to deinstitutionalize children;
- (j) The rights and interests of disabled children should be included on the agenda of multi- and bilateral agencies, development agencies, donor agencies, funding organizations such as the World Bank and regional banks, as well as technical cooperation agencies;
- (k) Research into the provision of statistics and empirical evidence should be promoted with a view to: (i) promoting awareness of the extent to which the right to life of disabled children is denied; (ii) challenging the widespread existence of superstition, prejudice, social stigma and denial of access to education in relation to disabled children; (iii) challenging the argument of “cost-effectiveness” used to marginalize disabled children and evaluating the costs of exclusion and lost opportunities; (iv) bringing the issue to prominence in the process of drafting and adopting conventions on bio-ethics;
- (l) Disabled children should be consulted, involved in decision-making and given greater control over their lives; existing good practices should be publicized and shared, and appropriate training materials devised;
- (m) Governments should be encouraged to make these materials available at the community level in appropriate forms for children and disabled people; this could potentially be undertaken by one of the development agencies such as the Swedish Organization of Handicapped International Aid Foundation or Save the Children, in collaboration with some of the disabled peoples' organizations;
- (n) Training materials on promoting the participation of disabled children should be produced. The UNICEF International Child Development Centre (Innocenti Centre) should be requested to produce an edition in its series of information digests on the subject of inclusion, as its contribution to the issues raised during the general discussion.

339. In view of the various contributions made and the importance of the issues considered, the Committee felt that there was a need to ensure follow-up to the general discussion. It was decided to set up a working group on the rights of children with disabilities including members of the Committee, representatives of relevant United Nations bodies and agencies and non-governmental organizations of disabled people, including disabled children, to consider further the various recommendations made and elaborate a plan of action to facilitate the concrete

implementation of the various proposals. The Committee decided to pursue further the question of the mandate, composition and activities of the working group at its next session in January 1998

Follow-up

Follow-up to the day of general discussion on children with disabilities

UN Document CRC/C/84

219. The working group on the rights of children with disabilities, established as an outcome of the day of general discussion on children with disabilities (1997) (see CRC/C/69, paras. 310-339 and CRC/C/80, paras. 244-247), held its first meeting in London on 23 and 24 January 1999. It was chaired by Mr. Bengt Lindquist, the Special Rapporteur of the Commission on Social Development on disabilities, and attended by Mrs. Esther Queenie Mokhuane from the Committee on the Rights of the Child, Mrs. Rachel Hurst from Disabled Peoples' International, Mrs. Sue Stubbs and Mrs. Ulrike Persson from the International Save the Children Alliance, Mrs. Kicki Nordstrom from the World Blind Union, Mrs. Gerison Lansdown from the Children's Rights Office, United Kingdom, and Mr. Darryl Cowley, coordinator of the working group. Representatives from the World Federation of the Deaf and Inclusion International were invited but unable to attend.

220. On behalf of the Committee, Mrs. Mokhuane made a statement in which she highlighted the Committee's efforts to promote the rights of children with disabilities. Through its dialogue with and recommendations to States parties, the Committee recommended the enactment of domestic legislation, implementation of appropriate policies and programmes, and allocation of adequate resources to guarantee and protect the rights of children with disabilities. The Committee had also urged States parties to take all necessary measures to improve the situation and protect the rights of children in armed conflicts and those affected by landmines.

221. The primary purpose of the first meeting was to develop a plan of action for the 18-month working life of the Group. It was agreed that the primary purpose of the Group would be to strengthen and support the work of the Committee on the Rights of the Child in monitoring and promoting the rights of children with disabilities. Accordingly the following programme was agreed:

- (a) To organize a series of regional meetings to which disabled children and young people, and local disability organizations would be invited to present their experiences of respect or lack of respect for their rights, what they would like to see changed and their suggestions for future action. Initially, the Group will seek to organize meetings in Latin America and Africa. Further meetings will be held in Western Europe, Eastern Europe and, eventually, in Asia;
- (b) To collect examples of good practice in promoting the rights of children with disabilities - for example, participation, inclusion, deinstitutionalization - for widespread dissemination. To collate data on social outcomes for children - for example, the proportion of children with access to education, in mainstream education, and supported in the community. The International Save the Children Alliance agreed to undertake this work;

- (c) To explore the possibility for the Committee on the Rights of the Child to adopt a general comment on article 23 of the Convention;
- (d) To hold a hearing in Geneva, and possibly also in New York, at which United Nations agencies and bodies would be invited to present to the Group current and planned work designed to promote the rights of children with disabilities;
- (e) To provide evidence to the pre-sessional working group of the Committee on the Rights of the Child on the situation of children with disabilities in the States parties under discussion;
- (f) To contribute, through the evidence gathered in the regional meetings, to the Children's Summit planned for 2001;
- (g) To contribute to the debate on bioethics from the perspective of the rights of children with disabilities;
- (h) To design a logo and leaflet to promote and explain the role and aims of the working group. It was agreed that the title of the Group would be "Rights of children with disabilities: a working group in consultation with the Committee on the Rights of the Child".

222. The next meeting of the working group will take place in London on 15 and 16 May 1999.

Follow-up to the day of general discussion on children with disabilities

CRC/C/80, p.61

244. During the day of general discussion on the rights of children with disabilities, held on 6 October 1997, it was decided to establish a working group to promote implementation of the recommendations arising from the day (see CRC/C/69, paras. 310-339). On 6 October 1998, Mrs. Gerison Lansdown, Director of the Children's Rights Office (UK) and Rapporteur of the discussion day, informed the Committee of recent developments concerning the establishment of the working group. Discussions between the organizations involved in helping prepare the thematic day had resulted in the identification of the need for a coordinator to service the working group. Disabled People International had agreed that the coordinator could be based in its office in London. A funding application had been drafted setting out the aims of the project, which were to:

- (a) Form a working group of key disability and children's rights organizations together with international experts in the field;
- (b) Prepare a plan of action in respect of the recommendations of the Committee on the Rights of the Child;
- (c) Develop a strategy for its implementation and implement the plan.

245. These aims would be pursued through the following activities:

- Working closely with the Special Rapporteur of the Commission on Social Development of the United Nations on disabilities and the panel of experts on the Standard Rules on the Equalization of Opportunities for Persons with Disabilities and supporting their implementation with regard to children with disabilities, and building up dialogue with disabled children's groups so that their voices can be heard;
- Ensuring that the working group meets and has discussions with local groups of children whenever they meet, in order that its work is informed by the perspectives of children;
- Raising awareness of the situation of children with disabilities through provision of statistical and personal evidence on violations of human rights against them and actively challenging attitudes and practices such as infanticide, traditional practices prejudicial to health and development, superstition, the perception of disability as a tragedy and the segregation of children with disabilities in separate institutions for care, treatment and education - all of which practices discriminate against disabled children and deny them equal opportunities to the rights guaranteed by the Convention;
- Producing examples of good practice for projects, policies and legislation that upholds the principles and provisions of the Convention, such as legislation which ensures children with disabilities the equal right to life, survival and development, and which abolishes discriminatory laws on abortion and access to health care.

246. Grants have now been received and provide sufficient funding to proceed with the working group. It is planned that the first meeting of the working group will take place in December 1998.

247. Mr. Bengt Lindquist, Special Rapporteur of the Commission on Social Development of the United Nations on disabilities has agreed to chair the working group, which will be composed of representatives of the Committee on the Rights of the Child, International Save the Children Alliance, Disabled People International, Inclusion International, the World Blind Union and the World Federation of the Deaf. There will also be a wider reference group comprising other interested organizations and relevant United Nations bodies and agencies.

Children Living in a World with AIDS, 19th Session, 5th October 1998

Introduction

GENERAL DISCUSSION ON “CHILDREN LIVING IN A WORLD WITH AIDS”

UN Document CRC/C/79, Annex VI

Outline

“Children living in a world with AIDS” is the theme for the next general discussion of the Committee on the Rights of the Child. The discussion will take place on 5 October 1998 during the nineteenth session of the Committee at the United Nations Office at Geneva. United Nations bodies and specialized agencies as well as non-governmental organizations and individual experts are invited to take part.

The purpose of the general discussions is to foster a deeper understanding of the contents and implications of the Convention as they relate to specific topics. The discussions are public. The decision to devote a day of discussion to this topic was taken by the Committee at its seventeenth session in accordance with rule 75 of its provisional rules of procedure.

Since its identification in the early 1980s, AIDS has drastically changed the world in which all children live. It is estimated that since the beginning of the epidemic close to 4 million children under 15 years old have been infected worldwide, and that nearly 3 million of them have died. The impact of HIV/AIDS in the daily lives of children is enormous as they all run the potential risk of being infected with or affected by HIV/AIDS.

The history of the epidemic has shown that vulnerable persons, including children, are the most likely to be infected. Infection increases vulnerability as it exposes victims to discrimination and injustice. This vicious circle, which affects in particular the developing world, where more than 90 per cent of infected people live, has a huge impact on the future of our societies because most infected people are in their peak productive and reproductive years. The AIDS epidemic therefore threatens the social and economic development of all States, especially the most fragile ones. According to the United Nations Development Programme (UNDP), several countries have already fallen in the ranking of the Human Development Index mainly as a consequence of the reduction of life expectancy and economic production due to AIDS.

Initially, children were considered to be only marginally affected by the epidemic. However, the international community has discovered that unfortunately, children are at the heart of the problem. According to UNAIDS - the Joint United Nations Programme on HIV/AIDS - the most recent trends are alarming: in most parts of the world, the majority of new infections are in young people between the ages of 15 and 24, sometimes younger. Women are also increasingly becoming infected: in 1997, 46 per cent of the people who died of AIDS were women. In most regions of the world, the vast majority of infected women do not know they are infected and may unknowingly infect their children before or during birth or through breastfeeding. Over 90 per cent of the children who have acquired the virus were infected by their HIV-positive

mothers. Consequently, many States have recently registered an increase in their infant and child mortality rates.

Young adolescents are also vulnerable to HIV/AIDS because their first sexual experience may take place in an environment in which they have no access to proper information and guidance. Young people who are drug users are, of course, at high risk.

HIV/AIDS has also generated double victimization of children living in especially difficult circumstances, such as victims of sexual exploitation, forced and exploitative labour, detention, forced recruitment, extreme poverty and drug addiction and children members of such groups as asylum seekers and unaccompanied and refugee children. Those children are proportionally at higher risk of infection by the virus. Because HIV is primarily transmitted through sexual intercourse, discriminatory attitudes with respect to sex often lead to the stigmatization and marginalization of children living and interacting with persons with HIV/AIDS.

In the absence of a cure or a vaccine, the main way of slowing the spread of HIV is prevention. The Convention on the Rights of the Child contains human rights whose enforcement is extremely relevant in preventing and combating the spread of AIDS among children and adolescents and avoiding their being adversely affected by the disease and its consequences. This will be the starting point for the discussion.

All too often, the issue of children and AIDS is perceived as mainly a medical problem, although in reality it touches on a much wider range of issues. In this regard the right to health (article 24 of the Convention) will be central to the discussion. But AIDS impacts so heavily on the lives of all children that it affects all their rights - civil, political, economic, social and cultural. The general principles of the Convention - non-discrimination (art. 2), the best interests of the child (art. 3), the right to life, survival and development (art. 6), respect for the views of the child (art. 12) - will therefore be the guiding themes in the consideration of this issue at all levels of the fight against the disease: prevention, care and protection.

Adequate preventive measures can only be provided to children and adolescents if their rights are fully respected, including their right to access information and material aimed at the promotion of their social, spiritual and moral well-being and physical and mental health (art. 17), their right to preventive health care and family planning education and services (art. 24 (f)), their right to an appropriate standard of living (art. 27) and their right to privacy (art. 16).

Protection and adequate care can only be provided in an environment which promotes and protects all rights, especially the right not to be separated from parents (art. 9), the right to privacy (art. 16), the right to be protected from violence (art. 19), the right to special protection and assistance by the State (art. 20), the rights of children with disabilities (art. 23), the right to health (art. 24), the right to social security, including social insurance (art. 26), the right to education and leisure (arts. 28 and 31), the right to be protected from economic exploitation, from illicit use of narcotic drugs and from sexual exploitation (arts. 32, 33, 34 and 36), the right to be protected from abduction, sale and trafficking as well as torture or other cruel, inhuman or degrading treatment or punishment (arts. 35 and 37), and the right to physical and psychological recovery and social reintegration (art. 39).

Experience has shown that many obstacles hinder delivery of effective prevention and care services and the support of community initiatives on HIV/AIDS. Denial that a problem exists can block the political and individual commitment needed for effective programmes. Financial,

technical and human resources to support community-based action are difficult to mobilize. In too many cases, even essential services are limited, poorly managed or technically unsound.

The Committee on the Rights of the Child and its wide range of partners clearly has a role to play in facilitating the shaping of a proper environment within all States to lift taboos, provoke constructive dialogue, and promote and protect all the rights of the child living in a world with AIDS. The main objectives of the theme day will therefore be as follows:

- (a) To strengthen the identification and understanding of all the human rights of children living in a world with AIDS and evaluate their status at the national level;
- (b) To promote the general principles of the Convention in the context of HIV/AIDS, including the rights of the child to be protected from discrimination and to have his or her views taken into account;
- (c) To identify measures and good practices to increase the level of implementation by States of rights related to the prevention of HIV/AIDS and the care and protection of children infected with or affected by the virus; to develop appropriate models of advocacy to promote the rights of the child in the context of HIV/AIDS at all levels (governmental, intergovernmental, non-governmental, professional groups, etc.), and in all sectors of society, including in the family and at school;
- (d) To contribute to the formulation and promotion of child-oriented policies, strategies and programmes to prevent and combat HIV/AIDS at the national level;
- (e) To promote at the national level the adoption of guidelines on HIV/AIDS and child rights, in the light of the Guidelines on HIV/AIDS and Human Rights jointly issued by the Office of the United Nations High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS.

In this framework, the Committee on the Rights of the Child invites written contributions on all the issues and topics mentioned above, which should be sent before 15 August 1998 to:

Committee on the Rights of the Child
Secretariat
Office of the High Commissioner for Human Rights
Palais des Nations, 1211 Geneva 10 - Switzerland

Summary of Discussion

General discussion on children living in a world with HIV/AIDS

UN Document CRC/C/80

210. In the light of rule 75 of its provisional rules of procedure, the Committee on the Rights of the Child has decided periodically to devote one day of general discussion to a specific article of the Convention or to a theme in the area of the rights of the child in order to enhance understanding of the contents and implications of the Convention.

211. At its seventeenth session, the Committee decided to devote its next day of general discussion, to be held on 5 October 1998, to the issue of “Children living in a world with HIV/AIDS”.

212. In an outline prepared to guide the general discussion, the Committee pointed out that the HIV/AIDS epidemic had drastically changed the world in which all children lived. Millions of children had been infected and died worldwide since the beginning of the epidemic. Later research had pointed out that women and children, initially considered to be only marginally affected, were increasingly becoming infected; the majority of new infections in many parts of the world concerned young people between the ages of 15 and 24. Younger children were predominantly infected by HIV-positive mothers who were not aware of their infection and transmitted the virus to their children before or during birth or through breastfeeding. Adolescents were also highly vulnerable to HIV/AIDS, and more so because their early sexual experiences often took place without access to proper information. The epidemic had also increased victimization of children living in particularly difficult circumstances, who were at greater risk of infection, which in turn led to stigmatization and greater discrimination. The Committee stressed the relevance of the rights contained in the Convention on the Rights of the Child to prevention efforts, recalling that HIV/AIDS was often seen primarily as a medical problem, while the holistic, rights-centred approach required to implement the Convention was more appropriate to the much broader range of issues which must be addressed by prevention and care efforts.

213. The Committee identified five main areas to be considered during the day of general discussion:

- (i) Identifying and understanding the rights of children living in a world with HIV/AIDS and evaluating their status at the national level;
- (ii) Promoting the general principles of the Convention in the context of HIV/AIDS, including non-discrimination and participation;
- (iii) Identifying best practices in the implementation of rights related to the prevention of HIV/AIDS infection, and the care and protection of children infected or affected by the epidemic;
- (iv) Contributing to the formulation and promotion of child-oriented policies, strategies and programmes to prevent and combat HIV/AIDS;
- (v) Promoting the adoption at the national level of approaches inspired by the international guidelines on HIV/AIDS and human rights jointly issued by the Office of the United Nations High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS.

214. As for previous thematic discussions, the Committee invited representatives of United Nations organs, bodies and specialized agencies, as well as other competent bodies, including non-governmental organizations, research and academic organizations, individual experts and children, to contribute to the discussion.

215. Several organizations and individual experts submitted contributions and other relevant documents on this theme. The list of these contributions is contained in annex VI.

216. Representatives of the following organizations and bodies participated in the day of general discussion:

Governmental bodies

Permanent Mission of Germany to the United Nations Office at Geneva, Permanent Mission of Sweden to the United Nations Office at Geneva, Swedish International Development Agency (SIDA).

United Nations entities and specialized agencies

Food and Agriculture Organization of the United Nations, International Labour Organization, the Joint United Nations Programme on HIV/AIDS (UNAIDS), the NGO Liaison Office of the United Nations Office in Geneva, the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the World Health Organization.

Non-governmental organizations

Association François-Xavier Bagnoud (FXB) Uganda, Arab Organization for Human Rights, Casa Alianza, Children's Forum 21, Children's Rights Office (UK), Coalition Against Trafficking in Women, Defence for Children International (DCI), DCI Israel, Enfants du monde-Droits de l'homme, Federation for the Protection of Children's Human Rights (Japan), FXB Centre for Health and Human Rights, International Baby Food Action Network, International Council of Women, International Federation of Social Workers, International Inner Wheel, International Women's Anthropology Conference, International Women's Rights Action Watch (IWRAW), New Humanity, NGO Group on the Convention on the Rights of the Child, NGO Group/Focal Point on Sexual Exploitation, NGO Working Group on Nutrition, Save the Children International Alliance, Save the Children UK, Save the Children USA, Swedish Save the Children, World Federation of Methodist Women, World Association of Girl Guides and Girl Scouts, World Vision International.

217. The meeting was opened by Ms. Sandra Mason, Chairperson of the Committee, who welcomed participants and expressed the hope that the discussion would be a source of useful information, facilitate understanding of the relevant issues and lead to the formulation of recommendations that would assist the Committee, States parties, and other partners in their promotion of the implementation of the Convention on the Rights of the Child. She reminded participants of the key objectives set by the Committee for the day of discussion.

218. The first half of the morning session was dedicated to the statements by the High Commissioner for Human Rights, Mrs. Mary Robinson, by the Executive Director of the Joint United Nations Programme on HIV/AIDS (UNAIDS), Mr. Peter Piot, by the Rapporteur of the Committee on the Rights of the Child, Mrs. Nafsiah Mboi, and by four young representatives of the Children's Forum of Nepal.

219. The High Commissioner for Human Rights welcomed the holding of a discussion day on the theme of children living in a world with HIV/AIDS. Infants, young children and adolescents were all confronted with a serious challenge to the enjoyment of their rights as a result of the pandemic. The Convention on the Rights of the Child and in particular the four general

principles that it enunciated, provided a powerful framework for efforts to reduce the negative impact of the disease on the lives of children. She emphasized the limits on a child's capacity to influence his or her own behaviour or that of others to prevent HIV infection, often compounded by the denial of access to information. She drew the attention of participants to the relevance of the international guidelines on HIV/AIDS and human rights, elaborated jointly by her Office and UNAIDS.

220. Mr. Piot highlighted the need to find ways to ensure that the needs of children were fully considered in HIV/AIDS prevention and care strategies and the potential of the Convention on the Rights of the Child, and human rights treaties in general, in work on HIV and AIDS. He recalled that UNAIDS has already used the theme of “Children living in a world with AIDS” to raise awareness about the integration of the needs of children into activities that were mainly being targeted at adults. Mr. Piot pointed out that millions of children were now infected by HIV, while even more were affected by the epidemic as it spread through their families and communities. UNAIDS was concentrating on the potential of young people to help change the course of the epidemic, as prevention efforts could work spectacularly well among young people. He shared with participants the four main lessons that UNAIDS had learnt: first, that adolescents were effective peer educators for HIV prevention; second, that schools must teach “life-skills education”, that was to say, skills in communicating on sexuality and healthy living; third, the need for youth friendly health services; and fourth, that children needed to be active participants in the search for a response to the epidemic. The key objective for HIV/AIDS policies dealing with children must be to empower children to protect themselves. In addition, efforts to confront the epidemic must deal with structural factors which made it impossible for people to protect themselves, including generalized attitudes which served as barriers to education and the provision of health services. The process of reporting to the Committee on the Rights of the Child provided an ideal opportunity for all partners at the national level to assess progress in prevention and care, and to map out future courses of action. He concluded by reminding participants that the bottom line in HIV prevention was the need to apply what is known to work, even when it required tough and unpopular political choices. That included investing resources in putting young people at the centre of the response to the epidemic and empowering them to be forces for change.

221. Mrs. Mboi said that the Committee on the Rights of the Child was looking for ways to increase its effectiveness in helping to mobilize global awareness and action on behalf of the children who now faced a special risk in a world with AIDS. She reminded participants that what had initially been seen as a health problem had increasingly been recognized as a highly complex phenomenon where many different factors came into play. The Convention on the Rights of the Child, with its comprehensive approach, was particularly relevant to the experience of children with HIV/AIDS. It was explicit, for example, about the right of children to protection against poverty, sexual abuse or sexual exploitation, and equally clear about the right to education, access to information, or adequate health care. The indivisible and interdependent nature of the Convention's articles made it a uniquely appropriate tool to promote a child's empowerment. The protection of rights could save a life, or ensure an acceptable quality of life for a child infected and/or affected by HIV and AIDS. She then pointed out the interrelation between the three topics of discussion chosen for the morning session, non-discrimination, prevention and care. In conclusion, Mrs. Mboi emphasized that while Governments had a primary responsibility in promoting and protecting children's rights, experience had taught the Committee that the larger the role played by civil society, the greater the likelihood that rights would be well reflected in local and national agendas. Of course, the role that young people could and should play in HIV/AIDS matters was even more essential.

222. Four young representatives of the Children's Forum of Nepal also made brief statements. Tejman Raika described the activities of the Forum, which had allowed him to learn about the Convention on the Rights of the Child, and to request and receive information on HIV/AIDS which could be passed on to other members of the Forum through peer education. Radhika Mishra mentioned early marriage as a particularly important problem, as it interrupted education, in particular that of young girls, who were then cut off from access to information and become more vulnerable to HIV/AIDS, which could be transmitted to them by their own husbands. Unfortunately, some older men held the mistaken belief that their infection could be cured through sexual contact with young girls. Sandesh Koirala said that reluctance to talk about sex was a strong characteristic of national culture that limited access to information about safe sex. Infected children lost their right to survival, while those affected through the infection of their parents might see their right to education and development compromised. Ganga Rimal explained that young people active in the Children's Forum had sought to increase knowledge about HIV/AIDS among their peers, to discuss those issues with them, to give lectures in their schools and to conduct competitions among other students. The children pointed out that their own education efforts were more relevant to other children, and that they needed adults to allow them to carry out those activities and to support their initiatives, giving equal weight to children's and adult's rights. They would like to see HIV/AIDS education integrated into the school curricula, health services made more youth friendly, increased support provided to street children and, in general, better education and opportunities made available to children.

223. UNICEF presented a CD-Rom projection on “Children living in a world with HIV/AIDS: new challenges, new choices”, which described graphically the impact that the pandemic was having on the lives of children around the world.

224. After the introductory statements, Mrs. Sofia Gruskin, from the François-Xavier Bagnoud Centre for Health and Human Rights, emphasized that although the three discussion groups would focus on non-discrimination, prevention and care issues, in practice prevention and care were increasingly recognized as being part of the same continuum, and as complementary rather than distinct strategies to address the epidemic, while the issue of non-discrimination was also a key component of prevention and care strategies. Addressing the issue of non-discrimination would start the discussion from the point of view of rights, while prevention and care often started their analysis of HIV/AIDS problems from the point of view of public health strategies, although in fact they required a much more comprehensive approach.

225. The participants then divided into three groups for the rest of the morning session. Discussion Group I, on “Non-discrimination” was chaired by Mrs. Lisbeth Palme; Mr. Mark Connolly and Mrs. Miriam Maluwa, both of UNAIDS, served as facilitators for the discussion and the rapporteur was Mrs. Cecilia Thompson, of the Office of the High Commissioner for Human Rights. Discussion Group II, on “Prevention” was chaired by Mrs. Queenie Mokhuane, with Mrs. Sofia Gruskin, of the FXB Centre for Health and Human Rights serving as facilitator and Mrs. Gerison Lansdown, of the Children's Rights Office (UK) as rapporteur. Discussion Group III, on “Care” was chaired by Mrs. Nafsiah Mboi; Mr. Bertil Linblad, of UNICEF, was the facilitator and Mr. Markus Stalhöffer, of the World Health Organization, served as rapporteur. Mr. Bruce Abramson, a consultant for UNAIDS, served as rapporteur for the day of discussion.

226. During the afternoon session, the rapporteurs of the three discussion groups presented to the plenary meeting the main issues of concern that had been identified by each group. The presentation of the results of the group discussions was followed by a general discussion. At the

end, Mr. Abramson, rapporteur for the day of discussion, presented a summary of the main issues raised during the day.

227. The discussions emphasized the interconnection between HIV/AIDS-related strategies and a rights-centred approach to the child. It was suggested that HIV/AIDS was similar to other problems faced by children, in that the same factors that compromised the enjoyment of other rights increased the vulnerability of children in the context of the HIV/AIDS epidemic. They included, for example, poverty, gender discrimination and the difficulties faced by children in need of special protection, whether institutionalized, living in the streets, involved in armed conflicts or substance abuse, exploited and abused, etc. The holistic approach enshrined in the Convention on the Rights of the Child meant that promoting its implementation could be a powerful tool in addressing the needs of children suffering from the tragic consequences of the epidemic. Further dissemination of and training on the Convention was needed in the context of HIV/AIDS efforts. However, a point that attracted attention was the need to avoid singling out HIV/AIDS for special attention that ignored similar problems faced by other children. For example, strategies designed to provide care for the growing number of orphans that the epidemic was causing must be targeted to all orphans in the community; focusing solely on those orphaned by AIDS must be avoided.

228. Participants referred to the need to make more and better use of existing and new international legal instruments that would assist in the effort to improve HIV/AIDS prevention and care. While repeated reference was made to the international guidelines on HIV/AIDS and human rights, other instruments could also be of use. For example, the new ILO standards were intended to prevent the worst forms of child “labour” that contributed to increased vulnerability, including the sale and trafficking of children, child prostitution, involvement of children in the production and trafficking of drugs, etc.

229. The discussion identified several areas in which States should be encouraged to review existing laws or enact new legislation: to fully implement article 2 of the Convention on the Rights of the Child and in particular to prohibit discrimination based on real or perceived HIV status; to guarantee inheritance rights and security of tenure for children, irrespective of their gender; to regulate the minimum age for access to health counselling, care and welfare benefits; to guarantee the right of children to have access to HIV-related information and to voluntary testing, as well as to protection against mandatory testing; to protect children against sexual abuse and provide for rehabilitation of victims and the prosecution of perpetrators; and to recognize the specific rights of the child to privacy and confidentiality with respect to HIV/AIDS.

230. Participants agreed on the need to recognize that children were holders of rights and had a right to participate, in accordance with their evolving maturity, in the development of policies and programmes related to HIV/AIDS information and education. Children had a right to express their opinion and have it taken into account. The children from Nepal requested that the programmes and policies prepared by States, international agencies and NGOs provide the support that would allow children to participate fully and actively in the planning and implementation of strategies designed to provide HIV/AIDS prevention and care in a non-discriminatory manner. The participation of children and adolescents, and in particular girls, as peer educators, both within and outside of schools should be actively promoted. Young people should, in particular, be involved in the design and development of health-care policies and programmes, including comprehensive adolescent reproductive health policies. The natural solidarity of young people should be the basis for encouraging children to participate as care givers according to their evolving capacity. Participants pointed out that it was important to

address the barriers that existed to effective participation of children, often rooted in the attitudes of adults.

231. It became apparent from the discussion that the information available was not reaching all those who needed to have access to it, as was evidenced by the persistence of fears and myths relating to HIV/AIDS. For example, participants commented on the connection between child prostitution and HIV/AIDS: the dangerously mistaken myth that younger prostitutes were less likely to transmit the virus was dragging more and ever younger girls and boys into prostitution. When appropriate information/education/communication campaigns were carried out, they could work, but strategies must go beyond the provision of information to a search for effective ways to change attitudes. Access to information was identified as a fundamental human right, which should become the key element of prevention strategies; denial of the child's right to information compromised the enjoyment of many other rights. Information on HIV/AIDS should be made available through age-appropriate media, and should also reach adults with influence over children's lives, including parents, teachers and health professionals, to enable them to support children in the exercise of their rights. States should emphasize the provision of adequate training in HIV/AIDS-related children's issues to persons employed in child-care agencies and institutions. Information campaigns should be regularly evaluated to ascertain their effectiveness and carefully targeted to reach different groups, in order to reduce fear and misperceptions concerning HIV/AIDS and its transmission. Participants mentioned the conflict between the need to promote policies and programmes to raise awareness about the serious risks posed by the epidemic and the danger of dramatizing the disease in ways that contributed to the discrimination suffered by those infected and affected by HIV/AIDS. In that context, several references were made to the need to use language carefully and avoid terminology that referred, for example, to children with HIV/AIDS as "victims" or to children orphaned by AIDS as "AIDS orphans".

232. States should develop HIV/AIDS and children's rights education programmes for the media to ensure that the rights to privacy and confidentiality of children affected by HIV/AIDS were protected in reporting on HIV issues.

233. The children from Nepal raised the question of the need to identify the best strategies for channelling information about HIV/AIDS to different groups of children. States should incorporate in the school curricula material relating to the rights of the child, reproductive health and HIV/AIDS. Participants also referred to alternatives that had been proved to work in different situations, including involving young people in the programming of community radio stations; the use of "question books" in which children identified the questions they wanted answered; the use of focus group discussions or, when possible, individual counselling for each child; disseminating information on television and so reaching children who did not attend school; or focusing on the training of trainers. The children pointed out that different media could and must be used to reach different groups, and that while peer education was probably the most effective system to disseminate information to older children, no single strategy could reach all children. HIV/AIDS information and the channels used to disseminate it must be adapted to the social, cultural and economic context, and strategies for the dissemination of information must take into account the diversity of audience groups and be structured accordingly.

234. Improved access to information was also a crucial issue in the provision of care. The need to increase and disseminate knowledge of community-based HIV/AIDS prevention and care strategies which had positive outcomes was emphasized. Participants agreed that States must reassess HIV/AIDS data collection and analysis to ensure that they covered children as defined in the Convention on the Rights of the Child (persons under 18 years of age). There was an urgent

need for States to collect sex and age disaggregated data, which must inform the development of effective prevention strategies.

235. The discussion suggested that, while outright discrimination based on HIV/AIDS had been always highlighted as a problem, there was now a need to broaden the fight to include all forms of discrimination that contributed to increasing the impact of the epidemic. States, international agencies and NGOs should attempt to provide a supportive and enabling environment to address underlying prejudices and discrimination through the promotion of community dialogue and through specially designed social and health services. They should also promote education and training programmes explicitly designed to change attitudes of discrimination and stigmatization associated with HIV/AIDS. The Committee on the Rights of the Child should search for creative strategies to encourage the international community, as well as States, to pay special attention to children who were particularly powerless and thus more vulnerable to discrimination and HIV infection.

236. Participants emphasized the dramatic impact, in terms of HIV/AIDS vulnerability, of the particularly severe discrimination faced by girls. Lack of control over their own lives increased their level of risk; when young girls had older men as sexual partners, that powerlessness was increased. Raising the age of legal consent could help to prevent that imbalance, but increased the danger that public strategies would be based on false assumptions, as the average age of first sexual experience was very often much lower than the age of legal consent. Specific targeting of young women for access to services, information and participation was underlined as an urgent priority, while the gender-based roles predominant in each situation should be carefully considered when planning strategies for specific communities. Reference was also made to the particular problems posed by discrimination against HIV-infected people, which disproportionately affected girls and women when associated with judgemental attitudes about sexual activity. Participants pointed out that discrimination based on sexual orientation was also of particular relevance in the context of HIV/AIDS, as homosexual boys and girls, as well as belonging to a particularly vulnerable group, often faced acute discrimination.

237. There were repeated references to the need to see children as a non-homogeneous group, and to take into account the different needs of children of different ages, of girls, of children living in urban or rural settings, of substance abusers, of sexually exploited or abused children, of those involved in armed conflict, of disabled children, etc. Preventive strategies and decisions on care strategies should be relevant to the social, economic, cultural and political context in which children lived. While the best approach to care to children living in many rural or urban settings might be through support to families, children living and/or working in the streets, exploited children, or children living in abusive families might require alternative forms of care.

238. States, international agencies and NGOs should ensure that health, care and counselling services met the needs of children and young people. The aim of all care policies and programmes must be to provide child/youth oriented, child/youth appropriate, and child/youth friendly services, and efforts were needed to identify barriers to the provision of such youth friendly services. A rights-centred approach recognized the child's status as a subject of rights, and the right of children to request health services autonomously, including in the area of sexually transmitted diseases or the prevention of teenage pregnancies.

239. Groups whose needs must be considered in HIV/AIDS-related care included children born with HIV, children orphaned by AIDS, those whose rights were threatened as a result of the epidemic's impact on health and other public services, and traditional care givers (including

family members and communities). Adequate care must include the periodic review of the situation of children in foster care or in need of such care.

240. Participants discussed at length the need for additional research and for strategies that minimized the risk of mother-to-child transmission of HIV without automatically promoting the use of bottle-fed formula. Alternatives such as warming mother's milk to destroy the virus, or establishing breast-milk banks, recurring to wet-nurses, etc., needed to be better explored, and health-care workers must be trained on the availability of such alternatives and on the need to support the mother's decisions, with primary consideration given to the best interests of the child.

241. The discussion suggested that NGOs could be a source of innovative approaches and that they played a fundamental role in the provision of care to many groups of children not reached by more conventional services, but they could not be expected to provide the broad coverage required for the entire population of children. NGOs should explore the possibilities for new partnerships which could bring together organizations that deal with human rights, children-centred ones and AIDS-focused NGOs to look together for ways to respond to the epidemic.

242. Words of thanks to all the participants were delivered in the name of the Committee by Mrs. Awa Ouedraogo. Representatives of UNAIDS thanked the Committee for choosing the theme for the discussion day; with most of the co-sponsors of UNAIDS having participated actively in the discussions, the main recommendations emanating from the day would become a useful reference for their work on the epidemic, as well as for the Committee on the Rights of the Child.

243. On the basis of the recommendations of the discussion groups and the general discussion that followed on the various issues, the following recommendations were formulated by the Committee:

- (a) States, programmes and agencies of the United Nations system and NGOs should be encouraged to adopt a children's rights-centred approach to HIV/AIDS. States should incorporate the rights of the child in their national HIV/AIDS policies and programmes and include national HIV/AIDS programme structures in national mechanisms for monitoring and coordinating children's rights;
- (b) States should adopt and disseminate the International Guidelines on HIV/AIDS and Human Rights and ensure their implementation at the national level. Programmes and agencies of the United Nations system, as well as NGOs, should contribute to the dissemination and implementation of the guidelines;
- (c) The right of children to participate fully and actively in the formulation and implementation of HIV/AIDS strategies, programmes and policies should be fully recognized. A supportive and enabling environment should be provided, in which children are allowed to participate and receive support for their own initiatives. The proven effectiveness of peer education strategies, in particular, should be recognized and taken into account for its potential contribution to the mitigation of the impact of the HIV/AIDS epidemic. The key objective of HIV/AIDS policies should be to empower children to protect themselves;
- (d) Access to information as a fundamental right of the child should become the key element in HIV/AIDS prevention strategies. States should review existing laws or

enact new legislation to guarantee the right of children to have access to HIV/AIDS-related information, including to voluntary testing;

- (e) Information campaigns targeting children should take into account the diversity of audience groups and be structured accordingly. Information on HIV/AIDS should be adapted to the social, cultural and economic context, and it should be made available through age-appropriate media and channels of dissemination. In the selection of target groups, attention should be given to the special needs of children who experience discrimination or who are in need of special protection. Information strategies should be evaluated for their effectiveness in leading to changes of attitude. Information on the Convention on the Rights of the Child and on HIV/AIDS issues, including the teaching of life-skills, should be incorporated in school curricula, while different strategies should be designed to distribute such information to children who cannot be reached through the school system;
- (f) HIV/AIDS data collected by States, and by programmes and agencies of the United Nations system, should reflect the Convention's definition of a child (human beings under 18 years of age). Data on HIV/AIDS should be disaggregated by age and gender and reflect the situation of children living in different circumstances and of children in need of special protection. Such data should inform the design of programmes and policies targeted to address the needs of different groups of children;
- (g) More information should be collected and disseminated on best practices, in particular on community-based approaches to HIV/AIDS which have positive outcomes;
- (h) More research should be carried out on mother-to-child transmission, and in particular on the risks of and alternatives to breastfeeding;
- (i) Information designed to raise awareness about the epidemic should avoid dramatizing HIV/AIDS in ways that can lead to further stigmatization for those affected by the epidemic;
- (j) States should review existing laws or enact new legislation to implement fully article 2 of the Convention on the Rights of the Child, in particular to prohibit expressly discrimination based on real or perceived HIV status and to prohibit mandatory testing;
- (k) Urgent attention should be given to the ways in which gender-based discrimination places girls at higher risk in relation to HIV/AIDS. Girls should be specifically targeted for access to services, information and participation in HIV/AIDS-related programmes, while the gender-based roles predominant in each situation should be carefully considered when planning strategies for specific communities. States should also review existing laws or enact new legislation to guarantee inheritance rights and security of tenure for children irrespective of their gender;
- (l) Prevention and care strategies designed to deal with the epidemic should focus on children in need of special protection, including those living in institutions (whether social welfare ones or detention centres), those living or working in the streets, those suffering from sexual or other types of exploitation, those suffering from

sexual or other forms of abuse and neglect, those involved in armed conflict, etc. States should, in particular, review existing laws or enact new legislation to protect children against sexual exploitation and abuse and to ensure rehabilitation of victims and the prosecution of perpetrators. Particular attention should also be given to discrimination based on sexual orientation, as homosexual boys and girls often face acute discrimination while being a particularly vulnerable group in the context of HIV/AIDS;

- (m) HIV/AIDS care should be defined broadly and inclusively to cover not only the provision of medical treatment, but also of psychological attention and social reintegration, as well as protection and support, including of a legal nature;
- (n) Barriers to the provision of youth friendly health services should be identified and removed. States should review existing laws or enact new legislation to regulate the minimum age for access to health counselling, care and welfare benefits. The formulation of comprehensive adolescent reproductive health policies should be based on the right of children to have access to information and services, including those designed to prevent sexually transmitted diseases or teenage pregnancy;
- (o) States should review existing laws or enact new legislation to recognize the specific rights of the child to privacy and confidentiality with respect to HIV/AIDS, including the need for the media to respect these rights while contributing to the dissemination of information on HIV/AIDS;
- (p) States, programmes and agencies of the United Nations system, and NGOs should explore the possibilities for new partnerships which could bring together organizations that deal with human rights, children-centred ones and AIDS-focused ones to look together for ways to respond to the epidemic and to work together in reporting to the Committee on the Rights of the Child.

List of Documents Submitted

LIST OF BACKGROUND PAPERS, DOCUMENTS AND CONTRIBUTIONS SUBMITTED FOR THE GENERAL DISCUSSION ON THE RIGHTS OF CHILDREN LIVING IN A WORLD WITH HIV/AIDS, HELD ON 5 OCTOBER 1998

UN Document CRC/C/75, Annex VI

By members of the Committee on the Rights of the Child

- Introductory statement by Mrs. Nafsiah Mboi, Rapporteur, Committee on the Rights of the Child
- General discussion on “Children living in a world with AIDS” - Outline of the Committee on the Rights of the Child

By the Office of the High Commissioner for Human Rights

- Statement of the High Commissioner for Human Rights

- HIV/AIDS and Human Rights: International Guidelines - OHCHR and UNAIDS, Geneva, 23-25 September 1996

By the Joint United Nations Programme on HIV/AIDS (UNAIDS)

- Statement by Mr. Peter Piot, Executive Director, UNAIDS, October 1998
- Children confronting HIV/AIDS: charting the confluence of rights and health - UNAIDS, 1998
- Non-discrimination as a human rights and public health strategy - UNAIDS, 1998
- Prevention as a public health and human rights strategy - UNAIDS, 1998
- Rapport sur l'épidémie mondiale de VIH/SIDA, WHO, UNAIDS, June 1998
- Integrating HIV/STD prevention in the school setting: a position paper - UNAIDS, August 1997
- HIV and infant feeding: a policy statement - UNAIDS, WHO and UNICEF, May 1997
- Learning and teaching about AIDS at school - UNAIDS, October 1997
- Mother-to-child transmission of HIV - UNAIDS, November 1997

By the World Health Organization

- HIV and infant feeding: guidelines for decision-makers - WHO, UNAIDS and UNICEF, June 1998
- By the United Nations Children's Fund
- Working paper: Care and protection of children and young people affected by HIV/AIDS - UNICEF, New York
- New challenges, new choices - CD-ROM on HIV/AIDS by UNICEF, New York

By the Food and Agriculture Organization of the United Nations

- Rural children living in farm systems affected by HIV/AIDS - Jacques du Guerny, FAO, Rome

By the International Labour Office

- The sex sector: the economic and social bases of prostitution in South-East Asia - Lin Lean Lim, ILO, Geneva 1998
- Fighting against prostitution of children and other forms of child labour: from community action to the provisional plan in the north of Thailand - IPEC, September 1998
- Questionnaire on projects/activities on trafficking in women and children in the ESCAP Region - IPEC, February 1998

By the United Nations Development Programme

- The impact of HIV/AIDS on children, families and communities: risks and realities of childhood during the HIV epidemic (Issues paper 30) - UNDP, New York, 1998

By the International Federation of Red Cross and Red Crescent Societies

- Preventing the spread of HIV/AIDS among children and adolescents - International Federation of Red Cross and Red Crescent Societies, Geneva

By non-governmental organizations, research institutions and individual experts

- Children confronting HIV/AIDS: charting the confluence of rights and health - Daniel Tarantola and Sofia Gruskin, in Health and Human Rights, vol. 1, No. 1, 1998, François-Xavier Bagnoud Centre for Health and Human Rights, Harvard School of Public Health
- Children living in a world with AIDS: submission based on Uganda's experience - Musisi Geoffrey, Association François-Xavier Bagnoud, Luweero, Uganda
- Summary report on the Consultation Workshop on Child Labour and HIV/AIDS - Dr. Dusit Duangsa, Chiangmai University, 28 January 1998
- NGO programmes and projects on child sexual abuse and exploitation and HIV/AIDS - Focal Point on Sexual Exploitation of Children, Geneva
- Issues of concern - William Duncan, Hague Conference on Private International Law, The Hague, 1 September 1998
- Working with children affected by AIDS: World Vision Uganda experience - Jane Mijumbi, World Vision Uganda, 1998
- HIV/AIDS and the nutrition rights of infants - George Kent, University of Hawai'i, 7 September 1998
- Forum for culture and human development submission, Bangladesh
- Health and Adolescent Refugees Project (HARP): Information Sheet No. 1 - World Association of Girl Guides and Girl Scouts
- Report of the work of Casa Alianza's Luna project - Ann-Louise Birch, Casa Alianza
- HIV prevention, children's rights and homosexual youth - Defence for Children International-Israel
- HIV/AIDS prevention, care and discrimination: the barriers to putting children and young people on the agenda - Lyn Elliot, Save the Children International Alliance, September 1998
- Community mobilization to address the impacts of AIDS: a review of the COPE II programme in Malawi - Jill Donahue and John Williamson, 17-30 January 1998
- Coping with crisis: mobilizing community response to the impacts of AIDS in Malawi - Save the Children (USA)
- NGO summary of the International Guidelines on HIV/AIDS and Human Rights - International Council of AIDS Service Organizations (ICASO)

**10th Anniversary Commemorative Meeting, 22nd Session,
30th September 1999, 1st October 1999**

Introduction

UN Document CRC/C/87, Annex IV

**TENTH ANNIVERSARY MEETING OF THE COMMITTEE ON THE
RIGHTS OF THE CHILD: ACHIEVEMENTS AND CHALLENGES**

Introduction

On 20 November 1999, the international community will celebrate the tenth anniversary of the adoption of the Convention on the Rights of the Child by the United Nations General Assembly. To mark this anniversary, the High Commissioner for Human Rights suggested to the Committee on the Rights of the Child at the opening of its twentieth session in January 1999 that a meeting be organized, within the framework of the twenty-second session of the Committee, to assess the impact of the Convention and to elaborate recommendations to improve its implementation. In view of this suggestion, the Committee exceptionally decided, during its twentieth session in January 1999, to postpone its next thematic debate to 2000 and instead agreed to co-organize, with the Office of the High Commissioner for Human Rights, a two-day workshop entitled "The Convention on the Rights of the Child: a decade of achievements and challenges".

The meeting to celebrate the tenth anniversary of the Convention will take place in Geneva on Thursday, 30 September and Friday, 1 October 1999.

General information

The meeting will have two main objectives: to celebrate the tenth anniversary of the Convention and to highlight major achievements and constraints in its implementation. The meeting will review the impact of the Convention, following the approach favoured by the Committee, with the main focus on the lessons learned from implementation efforts at the national level. The discussions will keep a clear focus on the needs to:

- (a) Identify achievements and examples of best practice;
- (b) Identify challenges for the future and examples of constraints;
- (c) Formulate recommendations for future improvements.

A draft agenda for the meeting has been prepared (see below) by the Office of the High Commissioner for Human Rights which emphasizes the role of "general implementation measures" in the review of the implementation of the Convention. The draft agenda will be adopted by the High Commissioner and the Committee on the Rights of the Child during its twenty-first session.

The format of the meeting will be as follows:

- (a) A high-level segment will discuss implementation of the Convention at the international level in the morning of the first day, bringing together the Committee on the Rights of the Child, heads of United Nations agencies and bodies (OHCHR, UNICEF, ILO, UNHCR, WHO, UNESCO) and an NGO (chair of the NGO Group) to commemorate the tenth anniversary of the Convention;
- (b) “General measures of implementation” will be discussed in three different clusters, with round-table sessions held concurrently during the afternoon of the first day and the morning of the second day. The round tables will reach final agreement on the formulation of recommendations and present them to a closing plenary session during the afternoon of the second day;
- (c) Round tables will be based on a discussion paper (detailed outline) drafted by OHCHR in consultation with Committee members and traditional partners (UNICEF, NGO Group);
- (d) Each round table will be chaired by a member of the Committee on the Rights of the Child;
- (e) Draft proposed recommendations on measures needed to improve implementation of the Convention will be prepared by each round table, for adoption by the Committee at the end of its twenty-second session;
- (f) In addition to a formal reception, to be held on the evening of the first day of the meeting, plans are being prepared to stage a musical performed by a group of Filipino former street children, in collaboration with the Stairway Foundation.

Participation at the meeting is proposed to be the following:

- (a) High-level segment: it is suggested that the meeting involve a high-level plenary session, hosted jointly by the Committee on the Rights of the Child and the High Commissioner for Human Rights, bringing together the heads of key United Nations programmes and agencies and an NGO (Chair of the NGO Group for the Convention on the Rights of the Child), to discuss the impact of the Convention at the international level;
- (b) Government involvement: formal invitations will go out to all Governments, encouraging them to participate actively in both segments of the meeting;
- (c) United Nations agencies, NGOs and individual experts: the meeting will be open to the public, with information distributed to United Nations programmes and agencies, NGOs and other interested individuals and organizations in the manner already in use for the thematic debates held yearly by the Committee. In addition, individual agency officials, experts and NGOs will be included among panellists invited to prepare brief presentations on the different topics to be addressed during the round-table sessions chaired by Committee members;
- (d) Children: different possibilities are being explored for involving children in the meeting, either from among those participating in the Committee reporting process under a UNICEF project or those performing in the musical organized to mark the event.

Expected results

The outcome of the meeting is expected to be:

- (a) Commemoration of the tenth anniversary of the Convention on the Rights of the Child by the High Commissioner for Human Rights and the Committee on the Rights of the Child, in cooperation with traditional partners (UNICEF and the NGO Group);
- (b) Adoption of a set of recommendations by the Committee for future implementation of the Convention, which can be of use for the United Nations and other partners in connection with the celebrations organized for 20 November 1999;
- (c) A report containing useful information regarding examples of best practices and a discussion of shortcomings and future challenges faced in the effort to implement the Convention at the international and national levels, to be included in the report on the twenty-second session of the Committee;
- (d) Depending on the quality of the papers and other materials submitted, possible publication of a collective volume within the publications programme of OHCHR.

Proposed agenda

Day I - Morning - Plenary

- | | |
|-------------|--|
| 10.00-10.15 | Opening: brief welcome by CRC Chairperson and Mrs. Robinson (5 minutes) |
| 10.15-13.00 | Plenary session: the Convention and the international community |
| 10.15-11.30 | Child rights - a priority on the international agenda <ul style="list-style-type: none">• Statements by heads of agencies (10 minutes each): OHCHR, UNICEF, WHO, UNESCO, international NGOs• Questions and discussion (20 minutes) |
| 11.30-12.15 | Impact of the Convention on standard-setting <ul style="list-style-type: none">• Statements by heads of agencies (10 minutes each): ILO, UNHCR• Questions and discussion (20 minutes) |
| 12.15-13.00 | The Convention's success and its challenges <ul style="list-style-type: none">• Statements (10 minutes each): CRC Chairperson and founding CRC member• Questions and discussion (20 minutes) |

Day I - Afternoon session (15.00-18.00) - round tables I, II and III - chaired by CRC member

Round table I: Translating international law into reality

Reservations to the Convention

Status of the Convention in national legislation

Legislative review

Practice in courts

Round table II. Putting child rights on the agenda

Dissemination and awareness-raising

Training

Resource mobilization (budgetary aspects)

International cooperation and technical assistance

Round table III. Building partnerships for the realization of rights

The reporting process as a catalyst for domestic review and debate

Coordination and independent monitoring

Involvement of civil society

Child participation

Day I - Evening (18.00-20.00)

18.15-19.00 Reception hosted by CRC and High Commissioner for Human
(approx.) Rights

19.15-20.30 “Goldtooth, a Street Children's Musical”
(approx.)

Day II - Morning session (10.00-13.00) - round tables I, II and III - chaired by CRC member

Day II - Afternoon

15.00-16.30 Round tables I, II and III

Summary and discussion

16.30-17.30 Plenary

Reports and recommendations from round tables I, II and III
(10 minutes each)

Comments and discussion

17.30-18.00 Plenary closing - CRC, OHCHR, UNICEF, NGO Group
(5 minutes each)

Summary

UN Document CRC/C/90

Commemoration of the tenth anniversary of the Convention

263. In the light of rule 75 of its provisional rules of procedure, the Committee on the Rights of the Child has decided to devote periodically one day of general discussion to a specific article of the Convention or to a theme in the area of the rights of the child in order to enhance understanding of the contents and implications of the Convention.

264. On 20 November 1999, the international community will celebrate the tenth anniversary of the adoption of the Convention on the Rights of the Child (CRC) by the UN General Assembly. To mark this anniversary, the High Commissioner for Human Rights suggested to the Committee on the Rights of the Child at its twentieth session that a special meeting be organised, within the framework of its twenty-second session, to assess the impact of the Convention and to elaborate recommendations to improve its implementation. Accordingly, at its twenty-first session, the Committee decided to devote its next general discussion to a meeting organised jointly with the Office of the High Commissioner for Human Rights which would have as its theme **“Tenth anniversary of the Convention on the Rights of the Child commemorative meeting: achievements and challenges”**, to be held on 30 September and 1 October 1999.

265. In view of the substantial amount of information that was prepared and submitted for this meeting, and of the number and diversity of participants and the richness of the discussions, OHCHR would prepare and distribute a special report on the meeting, which will include the most relevant documents and a more detailed account of the presentations and discussions that took place in the plenary and roundtable sessions. The present report is intended only to provide summary information on the meeting and highlight the recommendations that the Committee has adopted to guide and inspire its future work and that of States parties, OHCHR, other United Nations agencies and bodies, and other competent bodies in their future efforts to implement the Convention on the Rights of the Child.

266. The main objective of the meeting was defined:- its agenda as to highlight major achievements and constraints in the implementation of the Convention on the Rights of the Child and identify measures needed to improve implementation in the future. The meeting was expected to review the impact of the Convention, with the main focus on the lessons learnt from implementation efforts at the national level. The discussions were to keep a clear focus on the need to:

- (a) Identify achievements and examples of best practice;
- (b) Identify challenges for the future and examples of constraints;
- (c) Formulate recommendations for future improvements.

267. The agenda for the meeting included a plenary session to discuss implementation of the Convention at the international level and the extent to which child rights have become a priority

in the international agenda, with participation from United Nations bodies and the specialized agencies (ILO, UNDP, UNHCR, UNICEF and WHO) and from the NGO Group for the Convention on the Rights of the Child (represented by the International Save the Children Alliance and the World Organisation against Torture). The Chairperson of the Committee on the Rights of the Child and one of its founding members would discuss the Convention's success and its challenges.

268. The outline for the rest of the meeting, to be divided into three simultaneous roundtables, focused on the general measures needed to implement the Convention at the national level, including:

Roundtable I: Translating Law into Reality

269. After the adoption of an international treaty, implementation faces two initial challenges: the translation of the international legal obligations enshrined in the Convention into domestic legal obligations, and the translation of domestic laws into reality by means of their day-to-day implementation. The discussion was expected to address four themes: (a) reservations to the Convention on the Rights of the Child; (b) status of the Convention in national legislation; (c) legislative review to ensure compatibility with the provisions of the Convention; and (d) practice in courts, including court cases making formal reference to the Convention.

Roundtable II: Putting Child Rights on the Agenda

270. Implementation of the Convention at the national level requires an enormous and systematic effort to ensure that its principles and provisions inform the attitudes and activities that affect the enjoyment of rights by all groups of children. For the adoption of the Convention to bring about change, the concept of child rights must be understood and adopted by the general public, and in particular by professionals working with or for children and by decision-makers who allocate economic resources at the national and international levels. The discussion was expected to address four themes: (a) dissemination and general awareness-raising; (b) training of professional groups; (c) resource mobilization, including the issues of budgetary allocations or macroeconomic policies; and (d) international cooperation and technical assistance.

Roundtable III: Building partnerships for the realization of rights

271. Implementation of the Convention is a process that requires participation by many different actors. The international reporting process should be the catalyst for national reflection and review; but national implementation requires the permanent involvement of institutions at the national level, including Government and independent bodies. A key role in ensuring implementation at every level is played by non-governmental institutions and, even more crucially, by the involvement of children themselves. The discussion was expected to address four themes: (a) the reporting process as a catalyst for domestic review and debate of the implementation of the Convention; (b) coordination and independent monitoring structures; (c) involvement of civil society, focusing on the role played by NGOs in the implementation of the Convention; and (d) child participation, including participation in the formulation of government decisions and policies.

272. As has been the case for previous thematic discussions, the Committee and the OHCHR invited representatives of States, United Nations organs, bodies and specialized agencies, as well as other competent bodies, including NGOs, research and academic organizations, individual experts and children, to contribute to the discussion.

273. Twelve individual experts were invited to prepare written presentations to launch the discussion of the individual themes in the roundtable sessions (the discussion on the theme of child participation, in the third roundtable, was launched by a group of children and no written presentation was prepared for this theme). The list of individual experts and their presentations, distributed as background documents for the meeting together with three “Guides to the Discussion” prepared by OHCHR, is contained in annex VI. Several States, United Nations agencies and bodies, NGOs and individual experts submitted contributions and other relevant documents on the themes to be discussed. The list of these contributions is contained in annex VII.

274. Representatives of the following organizations and bodies participated in the day of general discussion:

Governmental bodies

Mrs. Mairam Akayeva, First Lady of the Kyrgyz Republic; Ministry of Human Resources (India); Knesset (Israel); Ministry for Child and Family Promotion (Mali); Ministry of Youth Affairs (New Zealand); Ministry for Foreign Affairs (Poland); Ministry for Foreign Affairs, Ministry of Health and Social Affairs and Swedish International Development Cooperation Agency (Sweden); Federal Ministry for Foreign Affairs, Federal Office of Social Security, and Federal Statistical Office (Switzerland).

Permanent Missions to the United Nations Office at Geneva

Albania, Australia, Bahrain, Belarus, Brunei Darussalam, Croatia, Democratic People’s Republic of Korea, El Salvador, Estonia, Finland, France, Germany, Holy See, India, Iraq, Israel, Jordan, Kenya, Kyrgyzstan, Mali, Netherlands, New Zealand, Pakistan, Paraguay, Poland, Portugal, Spain, Slovenia, Sweden, Switzerland, Trinidad and Tobago, Uruguay, Yemen, and Yugoslavia.

United Nations entities and specialized agencies

Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Development Programme (UNDP), Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Children’s Fund (UNICEF), International Labour Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), and World Health Organization (WHO).

Non-governmental organizations

Action for Sick Children, Alianza para el Desarrollo Juvenil Comunitario, Amnesty International, Anti-Slavery International, Association pour l’Amélioration des Conditions d’Hospitalisation des Enfants, Association Presse Jeune, Associazione Volontari per il Servizio Internazionale (AVSI), Boston College Law School, Center for Reproductive Law and Policy, Centre for Child and the Law, Centre of Concern for Child Labour, Centro de Estudios e Investigación sobre la Infancia, CHANGE, Child Advocacy International, Child Rights International Research Institute, Children and Armed Conflict Unit (Univ. of Essex), Children’s Rights Alliance, Children’s Rights Office, Coalition to Stop the Use of Child Soldiers, Commission of the Churches on International Affairs of the World Council of Churches, Congress of Racial Equality (CORE), Conseil International des Femmes,

CRIN/Save the Children, Defence for Children International, Dutch Children's Rights Shops, *Enfant Droit*, European Association for Children in Hospital (EACH), European University Institute, Federation for the Protection of Children's Human Rights, Focal Point on Sexual Exploitation of Children, German National Coalition for the Convention on the Rights of the Child, German National Committee for UNICEF, Human Rights Advocates, Human Rights Commission of Belize (NGO), *Il Telefono Azzurro*, Institute for Democracy in South Africa (IDASA), International Baby Food Action Network (IBFAN), International Association of Youth and Family Judges and Magistrates, International Bureau for Children's Rights (BIDE-IBCR), International Catholic Child Bureau, International Federation of Social Workers, International Federation *Terre des Hommes*, International Movement ATD Fourth World, International Save the Children Alliance, International School Psychology Association (ISPA), International Social Service, Irish Committee for UNICEF, Leaders of Tomorrow Foundation, Netherlands Institute of Human Rights (SIM)/Utrecht University, New Humanity, NGO Group for the Convention on the Rights of the Child, Oak Foundation, Office for the Study of the Psychological Rights of the Child (Indiana-Purdue University), Ombudsoffice for Children and Youth (Upper Austria), One World Media, Pak Environment Education Society, PLAN International, Poor and Progress Assistance, Presswise UK, Raoul Wallenberg Institute of Human Rights and Humanitarian Law, Rights for the Children Registered Association, Rural Environmental Development Network, Save the Children (Norway), Save the Children (Sweden), Soroptimist International, TOWDA Foundation, Universiteit Gent, VOICE, WAO Afrique, Women's World Summit Foundation, World Association of Girl Guides and Girl Scouts, World Council of Churches International Ecumenical Children's Network, World Federation of Methodist and Uniting Church Women, World Federation of United Nations Associations, World Organization against Torture (OMCT), World Vision International, Young Media Partners, and Zonta International.

275. The meeting was opened by Ms. Nafsiah Mboi, Chairperson of the Committee on the Rights of the Child, who welcomed all participants. The plenary session, held on the morning of Thursday, 30 September 1999, was chaired by Mr. Bertrand Ramcharan, Deputy High Commissioner for Human Rights, and addressed the implementation of the Convention at the international level. Invited speakers included: Ms. A. Ouédraogo, Director for Policy, Development and Advocacy, International Programme on the Elimination of Child Labour (IPEC/ILO), Ms. O. Sorgho-Moulinier, Director, UNDP Office in Geneva, Mr. K. Kalumiya, Deputy Director, Department of International Protection, UNHCR, Ms. M. Santos Pais, Director, Division of Evaluation, Policy and Planning, UNICEF, Dr. J. Tulloch, Director, Department for Child and Adolescent Health, WHO, Mr. B. Gnärig, CEO, International Save the Children Alliance (NGO Group for the Convention on the Rights of the Child), Mr. E. Sottas, Director, World Organization against Torture (NGO Group for the Convention on the Rights of the Child), Ms. N. Mboi, Chairperson, Committee on the Rights of the Child, and Mr. T. Hammarberg, Special Representative of the Secretary-General for human rights in Cambodia and founding member of the Committee on the Rights of the Child.

276. Among other issues, Ms. Ouédraogo (ILO) referred to the work of IPEC and the adoption of the new ILO Convention (No. 182) on the Worst Forms of Child Labour, and requested the Committee on the Rights of the Child to continue its involvement in this area. Ms. Sorgho-Moulinier (UNDP) noted the adoption by UNDP in 1998 of a policy “integrating human rights with sustainable human development” and referred to current efforts to strengthen the organization’s capacity in the field of human rights and its relation to development. Mr. Kalumiya (UNHCR) expressed concern at the high number of children among refugees and displaced persons and at the increasing “targeting” of children in ethnically based and intra-State conflicts;

he also stressed that the root causes of refugee displacements were invariably linked to the denial of human rights. Ms. Santos Pais (UNICEF) emphasized the broad ratification of the Convention on the Rights of the Child by Governments. She welcomed the abandonment of the false dichotomy between development and human rights, cast aside with the adoption - as part of the reform process - of human rights as a cross-cutting theme for the work of the United Nations. Mr. Tulloch (WHO) stressed the impact of ill-health and poverty on the right of children to survival and development. He reiterated his organization's full commitment to placing the basic right to health and the health care of children and adolescents more prominently on the international and national human rights agendas, using the Convention on the Rights of the Child as a tool for advocacy and a conceptual framework for programmes. He also referred to efforts to increase awareness of child rights within WHO as well as the organization's input to the reporting process of the Committee on the Rights of the Child.

277. Mr. Sottas (OMCT/NGO Group) recalled the apprehension, at the time the Convention was adopted, regarding the potential for conflict with existing international standards. The Convention had instead made a remarkable contribution, partly owing to its almost universal ratification, but also by foreseeing from the beginning a very strong role for non-governmental organizations, which had forced them to re-examine their own work; he emphasized the need to increase the age for recruitment into the armed forces and participation in hostilities. Mr. Gnärig (International Save the Children Alliance/NGO Group) suggested that the Convention had had some impact in persuading States parties to review their legal frameworks, while much remained to be done to raise awareness about the Convention at the level of regional and local institutions. He highlighted discrimination (against children working or living in the streets, children with disabilities, refugee children, children belonging to ethnic minorities, etc.) as a critical area and encouraged children to claim their own rights. He also suggested that NGOs needed to improve their coordination efforts (and with Governments and international agencies) and to give higher priority to child rights.

278. Ms. Mboi (Chairperson of the Committee) highlighted seven key areas where, in the experience of the Committee, progress had been made but where major challenges remained. She stressed the need for an inclusive approach in all aspects of work related to the Convention by Governments and civil society, adults and children; the importance of working on all rights, with increased attention given to prosecution of violations of child rights; and improvements in the mechanisms and quality of child participation in affairs affecting their own lives. She referred to the Committee's commitment to addressing the backlog of reports while maintaining, and if possible improving, the relevance and practical applicability of concluding observations and recommendations. Finally, she announced the Committee's decision to begin adopting general comments as a contribution to the jurisprudence of human rights. Mr. Hammarberg (founding member of the Committee) outlined four key challenges for the future. In taking child rights "from lip service to political action", there was a need to (a) explore the implications of article 3 (bests interests of the child), including the need to assess the impact of decision-making on child rights, and (b) implement article 4 by allocating the maximum extent of available resources to the implementation of child rights, including the need for appropriate budgetary processes at the national level and for international financial institutions to give increased attention to child rights; in going "from charity to solidarity", there was a need to look more seriously (c) at article 19 and the prevention of child abuse, including the resistance to banning corporal punishment, and (d) at article 12 and how to encourage child participation, not only through one-off events or symbolic gestures but also at the local level, for every decision and on an everyday basis.

279. Mr. Huhtaniemi (Finland) presented a statement, on behalf of the States members of the European Union and supported by many other European States, welcoming the new willingness

to accept children as the subjects of rights, emphasizing the need to increase protection for children involved in armed conflict or victims of exploitation, and reiterating their opposition to the death penalty particularly when applied to juvenile offenders. The statement also expressed full support for the work of the Committee on the Rights of the Child, which faced a heavy workload, for the involvement of NGOs and for the efforts of United Nations bodies and agencies, including the attention given by the Office of the High Commissioner for Human Rights to child rights in the context of its work on national human rights institutions and macroeconomic policies. Mr. Iakubowski (Poland) recalled that Poland had submitted in 1978 the draft for the proposed new convention, and urged that child rights be placed at the heart of all activities. Ms. Orkan (Sweden) emphasized the need to focus on child participation, to introduce a child-rights impact assessment for policy-making (including on budgetary matters), and to give greater priority to child rights in development policies. Mr. Hassan (Iraq) referred to the suffering of Iraqi children under the economic embargo. Ms. Rao (India) pointed out the complexity involved in ensuring that all the provisions of the Convention are eventually translated into justiciable rights, and referred to current efforts to promote child participation at the village level and to establish a National Commission for Children in India.

280. The plenary session was informal and dynamic, and many of the children present (from Albania, Belgium, Canada, Mali, Mexico, the Netherlands, Peru, the Philippines, and the United Kingdom) took the floor to respond to the statements made by various speakers. The children asked questions regarding child rights with respect to armed conflict in Africa, street children in Asia, and discrimination against foreign children in European countries, among other issues. Many of their interventions insisted on the need for international agencies and Governments to consult and involve children more actively in decision-making. There were repeated calls for the creation of a “World Parliament for Children”, with one child mentioning that such initiatives should be preceded by increased support for child participation at the local, regional and national levels.

281. OHCHR and the Committee on the Rights of the Child hosted a reception for all participants, with the support of the Permanent Mission of Germany to the United Nations Office at Geneva, on the evening of the first day. It was followed by a performance of "Goldtooth", a musical created and performed by a group of street children from the Philippines, attended by over 200 participants, United Nations staff and invited guests from the local community, including children of all ages.

282. For the afternoon session on Thursday, 30 September 1999 and the morning session of Friday, 1 October 1999, participants divided into three Roundtables which met simultaneously to discuss different aspects of the implementation of the Convention at the national level.

283. Roundtable I was chaired by Mr. Jaap Doek (Rapporteur, Committee on the Rights of the Child), with Ms. Marta Santos Pais serving as facilitator and rapporteur. The meeting started by addressing the subject of reservations to the Convention. Ms. Santos Pais noted that the paper submitted by Ms. Marie-Françoise Lückner-Babel drew attention to the various reservations entered by States parties to the Convention and in particular to the need to clarify whether any should be seen as “contrary to the object and purpose of the Convention”. The topic “Status of the Convention on the Rights of the Child in National Legislation” was presented by Ms. Sharon Detrick who highlighted the difference between States where international treaties were considered “self-executing”, those that adopted an intermediate approach requiring the “incorporation” of the Convention, and those that relied on a “dualistic” approach based on harmonization of national legislation to give legal effect to the provisions of the Convention. Mr. Emilio García Méndez led the discussion on the subject “Legislative Review”, pointing out that

the ratification of the Convention had led to a shift from legislation based on children in “irregular situations” to legislation based on full protection and covering all children. The last subject to be discussed was “Practice in Courts”, presented by Mr. Jeff Wilson who focused on the difficulties involved in invoking the Convention in court cases and on the measures that could enhance the legitimacy of the Committee on the Rights of the Child and thus the position of the Convention before the States parties’ courts. Roundtable I was attended by 30-40 participants, including legal scholars, representatives of NGOs, governmental delegates, and one child. A full account of the perspectives and points of view presented during the discussions at all the Roundtables will be contained in a more detailed report.

284. Roundtable II was chaired by Ms. Mboi (Chairperson, Committee on the Rights of the Child), with Mr. Hammarberg serving as facilitator and Mr. Rakesh Rajani as rapporteur. On Thursday afternoon, the meeting was addressed by Mrs. Mairam Akayeva, First Lady of the Kyrgyz Republic and founder of the Meerim International Charitable Foundation for the Support of Childhood and Maternity, who raised the issue of access to education as a basic right of children. Mr. Rajani presented the theme “Dissemination and Awareness-Raising”, drawing attention to the need to adopt participatory approaches to awareness-raising and to acknowledge that the purpose of such dissemination was to bring about social change. The theme “Training of Professional Groups” was introduced by Mr. Yitahew Alemayehu who focused on the need to integrate child rights and human rights in the formal and non-formal training of professionals and to the need for such training to focus on the provision of relevant technical skills. The theme “Resource Mobilization” was introduced by Ms. Shirley Robinson, who referred to the South African “Children’s Budget Project” as an example of how to address the need to increase awareness regarding the impact of budgetary decisions and macroeconomic policies on the implementation of child rights. The roundtable concluded with a discussion of “International Cooperation and Technical Assistance” presented by Mr. Jan Vandemoortele, who drew attention to the decline in levels of international assistance during the decade since the adoption of the Convention and to the need to give increased attention to capacity-building and to the provision of basic social services. Roundtable II was attended by 50-60 participants, including individual experts, representatives of NGOs, and a substantial number of governmental delegates and child participants.

285. Roundtable III was chaired by Ms. Marilia Sardenberg (Vice Chair, Committee on the Rights of the Child), with Mr. Nigel Cantwell serving as facilitator and rapporteur. The discussion on “The Reporting Process as a Catalyst for Domestic Review and Debate” was launched by Ms. Lisa Woll, who emphasized the need to make the report-preparation process more participatory and to increase the usefulness of the recommendations of the Committee and the efforts to follow up on their implementation. This was followed by a discussion on “Coordination and Independent Monitoring”, with a presentation by Mr. Peter Newell, who addressed the need for comprehensive national strategies and for governmental mechanisms for implementation, coordination and monitoring, and for child-impact analyses and data collection. Ms. Ankie Vandekerckhove then discussed the requirements of “ombudswork” for children, with a special emphasis on the need for independence. Ms. Virginia Murillo introduced the discussion on “Involvement of Civil Society”, highlighting the role that NGOs played in the reporting process, in the review of legislation and of public policies and programmes, and in some cases also in the provision of services to children. Mr. Ben Schonveld added remarks regarding the need for NGOs to review their roles with regard to child rights. A group of children from Albania, Belgium, Mali, Mexico, the Netherlands, the Philippines and the United Kingdom launched the discussion on “Child Participation”. Among other proposals, the children suggested the establishment of a “World Parliament for Children” and requested that consideration be given

to including children among the members of the Committee on the Rights of the Child. Roundtable III was attended by 50-60 participants; numerous children took a very active part.

286. On 1 October, in the presence of Mrs. Mary Robinson, United Nations High Commissioner for Human Rights, UNICEF launched its new "Making Children Count" project. The project is setting up an Internet-based electronic database to compile positive examples of general measures - new laws, structures, policies and processes - taken to implement the human rights of children around the world.

287. The three Roundtables met again to discuss the adoption of recommendations, which were presented at the all participants final plenary session by the rapporteurs of the three Roundtables, after which Ambassador Catherine von Heidenstam (Sweden), Chair of the working group of the Commission on Human Rights drafting an optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, briefly addressed the meeting.

288. Some of the children present at the meeting complained that the language of the recommendations had been extremely hard to follow and that some of their key proposals had not been included. Ms. Sardenberg and Ms. Ouédraogo replied that some of those proposals would require changes to the Convention itself (for example, that children be included among the expert members of the Committee) and that there had been conflicting opinions during the discussion of other proposals (for example, calling for the establishment of a permanent World Parliament of Children). Another child participant expressed appreciation for the opportunity to participate in the meeting, and the hope that in future participation of children would be open to a larger spectrum of groups and that greater emphasis would be given to participation at the local and national levels.

289. The High Commissioner made a closing statement, thanking the children for their remarks and acknowledging that the recommendations, which reflected very hard and productive work and which would be extremely useful to guide the future work of the Office, were indeed complex and difficult to absorb during an oral presentation. She emphasized that encouraging child participation would require adults and children alike to learn how to interact. She also pointed out that the United Nations was only starting to think of ways to consider the views of children and that improvements were being made, while further efforts would be needed to find ways to make child participation more effective. She referred briefly, among other issues, to the involvement of children in armed conflict; to the special dialogue on child rights held during the 55th session of the Commission on Human Rights (on 14 April 1999) and its focus on economic, social and cultural rights (including the impact of macroeconomic policies); to the generous support from donors and the effective cooperation and involvement in the implementation of child rights of other United Nations agencies and bodies; and to the key role played by NGOs. She also noted the need for business to pay attention to child rights.

290. A reception was held immediately afterwards to commemorate the twentieth anniversary of the founding of Defence for Children International, the NGO set up exclusively to promote and protect the rights of children.

291. The Committee on the Rights of the Child acknowledges that it would be impossible to reflect the full complexity of the differing perspectives and rich debates that took place during the commemorative meeting in a comprehensive manner. On the basis of the recommendations presented by the rapporteurs of the Roundtables and the discussions held during the two-day meeting, the Committee decided to note and endorse the following conclusions:

- (a) The Committee on the Rights of the Child wishes to restate that it represents the values and provisions of the Convention and is guided in its work by the general principles of the Convention.
- The Committee has a decisive role to play in monitoring the implementation of the Convention and progress made by States parties in the realization of children's rights. This monitoring role includes the assessment of measures undertaken to ensure full compatibility of law and practice with the Convention as well as to remove obstacles to its implementation.
 - Democratic participation and public pressure, facilitated by public awareness and training, are critical in bringing about the commitment and political will necessary for the achievement of child rights. In the same way that optimal implementation of the Convention requires the involvement of governments, civil society, children, and international cooperation, each component of the implementation process - including reporting - requires this broad involvement.
 - Child rights must be viewed as the human rights of children. The experience of general human rights activities over recent decades should be analysed and used to promote respect for the rights of the child, and to avoid the perseverance of the charity mentality and paternalistic approaches to children's issues.
- (b) The Committee has a decisive role to play in the assessment of the validity and impact of reservations made by States parties, and will continue to systematically raise this issue with States parties.
- The Committee will continue to encourage the review of reservations by States parties, as well as their withdrawal with a view to achieving the highest level of implementation of the Convention, and will consider adopting a General Comment on the subject of reservations.
 - The Committee will raise with States parties the compatibility of reservations with the "object and purpose of the Convention", clarify the situations where a lack of compatibility exists and reservations may be invalid, and suggest specific steps to reverse such situations.
 - The Committee encourages the provision of technical assistance to assist States parties in their effort to review reservations with a view to their withdrawal.
- (c) The Committee will request that a detailed study be carried out on existing reservations, including on the experience of the Committee, follow up given to its recommendations for withdrawal, comparison with reservations entered by the same States parties to other human rights treaties, and potential implications of the alternative approaches the Committee could adopt.
- (d) The Committee will give increased and detailed attention to the need for a systematic approach to the issue of the legal status of the Convention during its examination of reports, both initial and periodic. Of particular importance in this regard are the need to clarify the extent of applicability of the Convention in States where the principle of "self-execution" is applicable, and the precise meaning of statements indicating that the Convention "has

constitutional status” or “has been incorporated” in the national legal order. The request that States parties take appropriate measures, as required by article 4, to ensure that the provisions of the Convention are given legal effect within their domestic legal systems should be considered of fundamental importance for the implementation of the Convention. These measures should include effective remedies for the children, their parents and other relevant individuals or groups, and be in accordance with Article 27 of the Vienna Convention on the Law of Treaties.

- (e) The Committee points out that giving primacy to the Convention in their domestic legal orders does not preclude the need for States to take action to harmonize fully their national legislation with the provisions of the Convention, and to adopt complementary legislation and enforcement mechanisms, including in particular judicial and administrative remedies, to ensure its full implementation.
- (f) The Committee recommends to States parties that they set up a mechanism to ensure that all proposed and existing legislative and administrative measures are systematically reviewed to ensure compatibility with the Convention on the Rights of the Child. Such reviews should be carried out by considering all the provisions of the Convention, and be guided by its general principles; they should also give adequate attention to the need to ensure appropriate consultation with and involvement of civil society during the review process.
- (g) The Committee encourages non-governmental organizations, and legal professionals and scholars, to give priority attention to providing legal analyses of existing legislation and its compatibility with the Convention to the Committee, so they can be of use in its examination of reports presented by States parties, including in areas not usually scrutinised with regard to their compatibility with the provisions of the Convention on the Rights of the Child.
- (h) The Committee encourages non-governmental organizations, academics and other individual experts to carry out more detailed and systematic studies of court cases on the interpretation or application of the provisions of the Convention on the Rights of the Child, in all types of legal systems, and in all areas of the Convention. Information obtained from such studies should, if possible, be provided to the Committee, as an input for examination of reports from specific States parties.
- (i) The Committee will continue to provide improved guidance and illustrations on the interpretation of the provisions of the Convention, including in the form of General Comments, and will attempt to do so in particular for the aspects that render provisions of the Convention justiciable. The Committee will give increased attention to the aspects of the examination of reports which most clearly affect the impact of the provisions of the Convention on the legal and judicial systems of States parties. The Committee encourages legal professionals and non-governmental organizations to make increased use of the Convention in bringing cases to national and international courts.
- (j) The Committee will consider initiating discussions on an Optional Protocol to the Convention providing a mechanism for individual communications, to ensure the availability of legal remedies at the international level with regard to the Convention on the Rights of the Child. The Committee encourages States parties to support its efforts in this respect.
- (k) The Committee recalls 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.

- (l) 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.
- (m) The Committee calls attention to the fact that economic policies are never child-rights neutral. The Committee calls on civil society to assist it in seeking the support of key international leaders, and in particular the High Commissioner for Human Rights, the Executive Director of UNICEF, and the President of the World Bank, to examine how macro-economic and fiscal policies impact on children's rights, and how these policies can be reformed so as to make them more beneficial to the implementation of the rights of the child.
- (n) With regard to article 4 of the Convention, the Committee calls for action to promote and disseminate evidence that demonstrates that investing in children and basic social services makes excellent economic sense, and that their neglect undermines economic and social development. State parties and civil society actors need to make budget documentation and processes more transparent and accessible to as many people as possible, and invest in raising the "economic literacy" of the public.
- (o) The Committee reminds States parties that resource allocation for basic social services has the greatest impact on the realization of child rights. This means that 'the maximum extent of available resources' as emphasized in article 4, should prioritise children in resource allocation, facilitating universal provision of quality basic social services for children. Investment in children today is the best guarantor of equitable and sustainable development tomorrow. Universal access to an integrated package of basic social services is within the financial reach of the world community, though it will often require early and steep debt relief and greater reductions in military spending. In particular, State parties should provide free primary education for all children, in accordance with article 28 of the Convention, and strive for the enjoyment of the highest attainable standard of health for all children, in line with article 24 of the Convention.
- (p) The Committee requests States parties to give increased attention to the provision of information regarding fiscal commitment to children, which should be transparent and adequately reported (including national and sub-national government commitment to children). In this respect, the Committee wishes to call attention to its guidelines regarding the form and content of periodic reports.
- (q) The Committee requests that attention be given to the inclusion of the review of the "20/20 initiative" and its implementation at the "Special Session of the General Assembly in the year 2000 for the overall review and appraisal of the implementation of the outcome of the World Summit for Social Development", and at the "Special Session of the General Assembly on the Follow Up of the World Summit for Children in 2001".

- (r) The Committee reminds States parties that they should take all necessary measures to ensure that wide consultation takes place during the preparation of reports, and that the report preparation process serves to stimulate public debate and awareness regarding the implementation of the Convention.
- (s) The Committee will give increased consideration to looking for ways in which the reporting burden on States could be reduced to facilitate improvements in the report preparation process. The Committee may, if necessary and on a case-by-case basis, consider identifying priorities in reporting or reducing expectations in that regard, while ensuring continuous monitoring of the rights of the child. Any efforts in this respect will be carefully considered to ensure co-ordination with approaches used by other treaty bodies monitoring the implementation of international human rights treaties.
- (t) The Committee points out that every national, as well as state and local, level of government, must place coordinating responsibility for child rights within a senior level of government. It recommends that these coordinating bodies be at the appropriate level, such as in the office of the President or similar executive levels in state and local governments. Each coordinating body should be vested with the status and financial and human resources to enable it to carry out its duties and to obtain or demand cooperation from all government departments in implementing children's rights.
- (u) The Committee recalls that coordination of implementation efforts should be accompanied by provision for effective review and monitoring of achievement. The Committee considers that permanent structures and mechanisms that exist for the promotion of human rights - such as ombudspersons or national human rights commissions - can be effectively used for the human rights of children, provided sufficient importance is in practice given to this population group, for example through a specific focal point within the structure concerned. The establishment of independent monitoring mechanisms, whether specifically for child rights or within the functions of national human rights institutions is thus particularly encouraged. The establishment of such mechanisms should build on the requirements of the Convention, the "Paris Principles", and the practical experiences of existing institutions. Guidelines should be developed for the effective promotion of the human rights of children by national human rights institutions.
- (v) The Committee recommends that the relationship between governments, NGOs, children and other actors, in the implementation of child rights be continuously reviewed, so as to ensure the avoidance of negative impacts on children's rights of reduced financial support for programmes, in accordance with the spirit of the Convention. The Committee recommends that States parties ensure:
- that they do not devolve responsibility for the implementation of children's rights to non-governmental organisations without the necessary provision of resources, including training, and that the involvement of non-governmental organizations in implementation efforts does not lead to the abdication of responsibility by the States parties;
 - that the provision of financial or other resources by States or others does not threaten the independent role of civil society;
 - that in any decentralisation or privatisation process, the Government retains clear responsibility and capacity for ensuring respect of its obligations under the Convention.

- (w) The Committee will consider adopting, as a priority, a comprehensive general comment on child participation as envisaged in the Convention (and more particularly in articles 12 through 17) bearing in mind that participation includes, but is not limited to, consultation and proactive initiatives by children themselves. The Committee reminds States parties of the need to give adequate consideration to the requirements of these provisions. Such attention should include:
- taking appropriate measures to support the right of children to express their views;
 - ensuring that schools, as well as other bodies providing services for children, establish permanent ways of consulting with children in all decisions concerning their functioning, the content of the curriculum or other activities;
 - increased consideration to the creation of space, channels, structures and/or mechanisms to facilitate the expression by children of their views, in particular with regard to the formulation of public policies from local up to national level, with appropriate support from adults, including in particular support regarding training. This requires investment to *institutionalize* effective spaces and opportunities for children to express their views and to engage with adults, especially through schools, community organisations, NGOs, and the media;
 - encouraging and facilitating the creation of structures and organisations run by and for children and youth.
- (x) The Committee encourages States parties, non-governmental organizations, and others preparing reports, to include the views of children, in particular on the status of children's rights and the impact of the Convention on their lives, in monitoring and reporting on the implementation of the Convention.
- (y) The Committee will give careful consideration to the need to ensure the most appropriate approach to the participation of children in its own work.

Documents Submitted

UN Document CRC/C/90, Annex VI, VII

TENTH ANNIVERSARY OF THE CONVENTION ON THE RIGHTS OF THE CHILD COMMEMORATIVE MEETING: ACHIEVEMENTS AND CHALLENGES

List of background documents (in original language(s) only)

1. OHCHR, "Guide to the Discussion" for Roundtable I: "Translating Law into Reality".
2. Marie-Françoise Lückner-Babel (Docteur en droit, Genève), "Les réserves à la Convention des Nations Unies relative aux droits de l'enfant et la sauvegarde de l'objet et du but du traité international", published in *European Journal of International Law*, Vol. 8(1997), No. 4, pp. 664-682.

3. Sharon Detrick (Children's Rights Consultancy International (Voorschoten)), "Status of CRC in National Legislation".
4. Emilio García Méndez (UNICEF, Bogotá), "Legislative Review: Child Legislation in Latin America, Models and Trends".
5. Jeffery Wilson (Barrister, Toronto), "A tale of a court that does not like children and one that does, and how an international convention may make no difference".
6. OHCHR, "Guide to the Discussion" for Roundtable II: "Putting Child Rights on the Agenda".
7. Rakesh Rajani (Harvard University), "The Politics of Raising Awareness for Child Rights: Lessons from Tanzania".
8. Yitayew Alemayehu (Action Professionals' Association for People - APAP, Addis Ababa), "Professional Training and the CRC - Reflections on the Ethiopian Experience".
9. Shirley Robinson and Mastoera Sadan (Children's Budget Project, Institute for Democracy in South Africa), "General Measures of Implementation: Mobilisation of Resources for Children".
10. Jan Vandemoortele (Chief, Policy Analysis, UNICEF), "International cooperation and technical assistance".
11. OHCHR, "Guide to the Discussion" for Roundtable III: "Building Partnerships for the Realization of Rights".
12. Lisa Woll (Director, The Convention on the Rights of the Child Impact Study, Washington, D.C.), "The Reporting Process as a Catalyst for Domestic Review and Debate".
13. Peter Newell (Chair, Council of the Children's Rights Development Unit and Coordinator of End Physical Punishment of Children - EPOCH, London), "Making Governments Work for Children".
14. Ankie Vandekerckhove (Commissioner for Children's Rights, Flemish Community (Belgium)), "Quality Requirements for Ombudswork for Children".
15. OHCHR, "Role of National Human Rights Institutions in the Protection and Promotion of the Human Rights of Children" (Manila, 9-10 September 1999).
16. Virginia Murillo Herrera (Presidenta Ejecutiva, Defensa del Niño Internacional DNI (Costa Rica)), "El involucramiento de la sociedad civil en la implementación de la la Convención sobre los Derechos del Niño".

List of submissions received (original language(s) only)

1. Ann Birch (Casa Alianza), “The Tenth Anniversary of the Adoption of the United Nations Convention on the Rights of the Child - Success and Challenges”, 7 pp.
2. André Dunant, “Mineurs en prison: Pourquoi si peu d’alternatives?”, 6 pp.
3. Yuji Hirano (Federation for the Protection of Children’s Human Rights), “The Roles Played by Japanese NGOs in the Initial Reporting Process”, 9 pp.
4. Associazione Volontari per il Servizio Internazionale, “Contribution of the AVSI’s Scientific Committee on the best practices in the implementation of the Rights of the Child”, 11 pp.
5. Cynthia Price-Cohen (Childrights International Research Institute), “Child Rights Jurisprudence - Its Relevance for Advocates and Practitioners”, 2 pp.
6. Human Rights Commission of Belize (NGO), “The Current Situation in Belize”, 2 pp.
7. Ellen Mouravieff-Apostol and Jaap van der Straaten (NGO Committee on UNICEF and PLAN International), “The Unregistered Children Project: towards full implementation of article 7 of the UN Convention on the Rights of the Child”, 7 pp.
8. Sarah McNeill (PressWise), “Child Rights and the Media: Representing Lost Childhood - International Media Awareness Project”, 2 pp.
9. UNESCO, “Translating Law into Reality - Reservations”, 1 p.
10. European Association for Children in Hospital, “Report: Implementation of Children’s Rights in Health Care Services in Europe”, 6 pp.
11. International Baby Food Action Network, “Translating the Convention into law and law into reality”, 2 pp.
12. Kathy H. Martinez (Centre for Reproductive Law and Policy), “Implementing Adolescent Reproductive Rights through the Convention on the Rights of the Child”, 29 pp.
13. Archana Mehendale and Babu Mathew (Centre for the Child and the Law), “Child Rights in the Indian Context”, 10 pp.
14. David Southall (Child Advocacy International), “To the Secretary-General of the United Nations”, 2 pp.
15. Claudia Stangl-Taller, “The Constitutional Translation of the UN Convention on the Rights of the Child in Austria”, 4 pp.
16. Claudia Stangl-Taller, “Austria - Draft of a Federal Constitutional Law for the Protection of the Rights of Children and Youth”, 6 pp.

17. International School Psychology Association, "Respectful School Communities: Laying the Foundations of Peace and Tolerance in the New Millennium", 2 pp.
18. International School Psychology Association, "Cross-National Research on the Perspectives of Children and Adults about the Status of Children's Rights", 3 pp.
19. International School Psychology Association, "Child Rights Education-International: An International Distance Learning Program for Professionals and Policy Makers", 3 pp.
20. International School Psychology Association, "Experimental Reporting System for the Education Articles of the Convention on the Rights of the Child", 4 pp.
21. International School Psychology Association, "1st and 2nd International Conferences on Children's Rights in Education", 3 pp.
22. Pax Christi International, "Child Labour in India", 4 pp.
23. Ritva Salunen and Jali Raita, "Rights for the Children Registered Association - Finland", 10 pp.
24. Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva, "Message of the Federal Ministry of Justice of the Federal Republic of Yugoslavia on the Occasion of the Tenth Anniversary of the Adoption of the Convention on the Rights of the Child", 3 pp.
25. Permanent Mission of the Republic of Trinidad and Tobago to the United Nations Office at Geneva, "Submission by the Republic of Trinidad and Tobago to the twenty-second session of the Committee on the Rights of the Child", 4 pp.
26. Patricia Cruzado Muñoz (Commission on International Affairs of the World Council of Churches), "Contribución a las discusiones que se llevarán a cabo en la Reunión de Conmemoración del Décimo Aniversario de la Convención sobre los Derechos del Niño", 3 pp.
27. Unit for Research and Education on the Rights of the Child of the University of Victoria (British Columbia, Canada), "International Child Rights Education Institute: A Program of Instruction, Discussion and Debate on the Human Rights of Children for Professionals and Policy Makers", 2 pp.
28. UNICEF, "Reservations to the Convention on the Rights of the Child", 16 pp.
29. UNICEF, "Status of the Convention on the Rights of the Child in the Domestic Legal Order", 18 pp.
30. UNICEF, "Translating Law into Reality: Practice in Courts", 18 pp.
31. OHCHR, "Macro-economic Policies and the Rights of the Child", 5 pp.

State Violence against Children, 25th Session, 22nd September 2000

Introduction

OUTLINE FOR THE DAY OF GENERAL DISCUSSION (22 SEPTEMBER 2000) ON “STATE VIOLENCE AGAINST CHILDREN” CRC/C/97

In accordance with rule 75 of its provisional rules of procedure, the Committee on the Rights of the Child has decided to devote periodically one day of general discussion to a specific article of the Convention or to a child rights theme.

The Committee believes that there is a need to increase further the attention given to violations of the right of children to be protected from all forms of torture, mistreatment and abuse. At its twenty-third session, in January 2000, the Committee decided to devote two annual days of general discussion (in September 2000 and September 2001) to the theme of Violence against children.

The purpose of the general discussions is to foster a deeper understanding of the contents and implications of the Convention as they relate to specific topics. The discussions are public. Government representatives, United Nations human rights mechanisms, as well as United Nations bodies and specialized agencies, non-governmental organizations and individual experts are invited to take part.

Background

The Committee has already held several discussion days on issues of relevance to this topic, including:

- in 1992 on children in armed conflict,
- in 1993 on economic exploitation of children,
- in 1994 on the role of the family in the promotion of the rights of the child,
- in 1995 on the administration of juvenile justice.

The Committee decided to divide the additional discussion of this topic into two different sessions, in order to permit more in-depth analysis. This division does not imply any conceptual distinction and should not be seen as negating the many aspects shared by all forms of violence against children, and in particular the fact that the root causes of such violence are often the same wherever it occurs. In order to have time for more detailed consideration, the Committee decided to focus the discussion on Violence against children in 2000 on State violence suffered by children living in institutions managed, licensed or supervised by the State, and in the context of “law and public order” concerns. In 2001, the focus will be on the problems of violence suffered by children in schools and within the family.

Theme for the day of general discussion on 22 September 2000: “State violence against children”

The Committee will explore the different aspects of the violence suffered by children at the hands of the State. The Convention on the Rights of the Child (in particular articles 37 and 40 and article 19, but taking also into account the general principles contained in articles 2, 3, 6 and 12) establishes high standards for the protection of children against violence. Additional international instruments offer detailed guidance on the implementation of these provisions of the Convention. Yet, too often, children in the most vulnerable circumstances are the victims of unjustifiable violence at the hands of State officials.

The Convention enshrines the principle that parents and guardians bear the primary duty and responsibility for the upbringing of children, with the necessary support of the State (arts. 5 and 18). In addition, article 20 clearly states that “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”. Unfortunately, it is often children deprived of family protection who are most commonly victims of the worst forms of mistreatment and abuse, and too often such abuse takes place either at the hands of State agents or is made possible by their approval, tolerance or neglect. Thus, the Committee would like to study in detail the violence suffered by particularly vulnerable groups of children who are temporarily or permanently deprived of a family environment, which renders them more vulnerable to abuse.

Subthemes for discussion by working groups

The division of this issue into two subthemes for in-depth discussion by working groups will unavoidably lead to a certain amount of overlap between the working groups, while other relevant issues may receive less attention. The Committee is aware, in particular, that issues such as the impact of armed conflict on children, or the treatment of refugee and asylum-seeking children, have not been included. The Committee acknowledges their relevance to the discussion of State violence against children, but considers that such issues have already been the focus of attention during previous discussion days. They are also themes that receive specialized attention from other United Nations bodies and mechanisms, while the subthemes chosen have received less sustained attention from a child-rights perspective in the context of United Nations human rights activities. The working groups will concentrate on the following issues.

1. Mistreatment, abuse and neglect of children in the care of the State

The State has a particular obligation to protect from all forms of abuse those children deprived of a family environment who have been entrusted to its care (art. 20). This duty of special protection extends to children who have been placed for adoption or in foster care. However, the State can most easily take direct action to prevent violence against children placed in institutions which are managed by the State, either directly (public institutions) or through licensing and supervision systems (private institutions).

Violence committed against children living in institutions because they have been separated from their parents for the protection of their best interests (art. 9) or who have been placed in an institution by their own families because of disability (art. 23) is thus particularly unacceptable. Children are entitled to live in institutions that meet minimum standards for safety, health, number and suitability of staff, and supervision (art. 3 (3)). They have the right to be protected

from high and unjustified mortality rates (art. 6). They are entitled to State protection from all forms of abuse by those who care for them (art. 19 (1)) and to live in conditions which respect their dignity, promote self-reliance and facilitate active participation in the community (art. 23 (1)).

2. Violence against children in the context of “law and public order” concerns

The Convention on the Rights of the Child excludes the imposition of capital punishment or life imprisonment sentences for offences committed by persons under 18 years (art. 37 (a)), yet such sentences persist in some States which have ratified the Convention.

At all stages of the juvenile justice process, children who are alleged to have committed offences are entitled to be treated “in a manner consistent with the promotion of the child’s sense of dignity and worth” (art. 40 (1)). Children have the right to be protected from all forms of torture and cruel, inhuman or degrading treatment or punishment (art. 37 (a)) and any other form of abuse (art. 19). Protection from violence should also cover violent treatment allowed under domestic law (e.g. flogging as a penalty, violent disciplinary measures, etc.). The right of children to be protected from such violence must extend to their contacts with police officers, as well as to custodial institutions and any other place of detention, and to children participating in any “diversionary” programme or subject to “alternative” measures.

Street children have been among the most vulnerable victims of the most extreme forms of violence, including extrajudicial or summary execution, in many countries. Such violence too often takes place at the hands of agents of the State, or at least with their encouragement or tolerance. Homeless children are particularly vulnerable to such violence, though children working in the streets are at great risk even if they are still living with their families. Violence against this group of children represents a particularly egregious violation of their rights (arts. 6 and 37), as it follows upon the failure of the State to offer protection and care to children whose rights are already under attack. Children living and/or working in the street are often deprived of a family environment (art. 20). They are often the subject of unacceptable economic exploitation (art. 32) and abuse (art. 19), including sexual abuse and exploitation (art. 34). In addition, many of these children are also in need of special protection against use and involvement in production and trafficking of narcotic drugs and psychotropic substances (art. 33).

Approach and objectives for the day of general discussion

The subject “State violence against children” is of particular relevance to a number of other United Nations human rights mechanisms. One objective of the discussion will be to facilitate the exchange of information and of the experience accumulated by different mechanisms in identifying the most productive approaches to the prevention and monitoring of human rights violations of this type.

The discussion may include issues such as the definitions of torture or abuse within the meanings of article 37 (a) and article 19 (1) of the Convention, or the position and roles of the perpetrators of violence and abuse and the legal approach to punishment and prosecution of violations. Both working groups will be expected to identify forms of violence allowed by domestic legislation and norms (and the resulting need for legislative reform) as well as violence committed in violation of existing domestic rules.

The Committee wishes to explore broader aspects of these themes, and the key objectives of the meeting will be:

- 1 To present, analyse and discuss the nature, extent, causes and consequences of violence against children as described above.
- 2 To present and discuss policies and programmes (including legislative and other measures) at the national and international levels to prevent and reduce these types of violence against children and to treat and rehabilitate victims of such violence.
- 3 To present recommendations focusing on concrete measures which should and could be taken by States parties to the Convention on the Rights of the Child to reduce and prevent violence against children in these circumstances.

Particular attention will be paid under all these aspects to the position and special vulnerability of girls, of children belonging to ethnic minorities and indigenous peoples, and of socio-economically marginalized children.

Participation in the day of general discussion

United Nations programmes and agencies are always invited to participate in the days of general discussion organized by the Committee on the Rights of the Child. Governments are also invited to attend and encouraged to participate actively. The meeting will be open to the public, with information on participation distributed to United Nations programmes and agencies, NGOs and other interested individuals and organizations.

The meeting will be held during the twenty-fifth session of the Committee, at the Office of the High Commissioner for Human Rights (Palais Wilson, Geneva) on Friday, 22 September 2000.

The Committee on the Rights of the Child invites written contributions on the issues and topics mentioned, within the framework outlined above. Contributions should be sent before 25 August 2000 (if possible in electronic version) to:

Secretariat, Committee on the Rights of the Child
Office of the High Commissioner for Human Rights, UNOG-OHCHR
CH-1211 Geneva 10
Switzerland
e-mail <mbustelo.hchr@unog.ch> or <pdavid.hchr@unog.ch>

For security reasons and due to limited space, participants at the meeting will be required to register. Participants should send their full name, organization and contact details (preferably by e-mail), before 6 September 2000, to the above address.

Summary of Discussion

THEMATIC DISCUSSION DAY

UN Document CRC/C/100

666. In the light of rule 75 of its provisional rules of procedure, the Committee on the Rights of the Child has decided periodically to devote one day of general discussion to a specific article of the Convention or to a theme in the area of the rights of the child in order to enhance understanding of the contents and implications of the Convention.

667. At its twenty-third session, in January 2000, the Committee decided to devote two annual days of general discussion (in September 2000 and September 2001) to the theme “Violence against children”.

668. In an outline prepared to guide the general discussion (for the full text of the outline, see CRC/C/97, annex VI), the Committee pointed out that:

(a) The Committee has already held several discussion days on issues of relevance to this topic, including:

- in 1992 on children in armed conflict;
- in 1993 on economic exploitation of children;
- in 1994 on the role of the family in the promotion of the rights of the child;
- in 1995 on the administration of juvenile justice;

(b) In order to have time for more detailed consideration, the Committee decided to focus the discussion of “Violence against children” in 2000 on State violence suffered by children living in institutions managed, licensed or supervised by the State, and in the context of “law and public order” concerns. In 2001, the focus will be on the problems of violence suffered by children in schools and within the family. This division does not imply any conceptual distinction and should not be seen as negating the many aspects shared by all forms of violence exerted against children;

(c) Article 20 of the Convention clearly states that “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”. Unfortunately, it is often children deprived of family protection who are the most common victims of the worst forms of mistreatment and abuse, and too often such abuse takes place either at the hands of State agents or is made possible by their approval, tolerance or neglect;

(d) The division of the discussion of State violence into two subthemes for in-depth discussion by working groups during the day of general discussion will unavoidably lead to a certain amount of overlap. The two working groups will concentrate on the following issues:

- I. Working Group I, on “Mistreatment, abuse and neglect of children in the care of the State”: the State has a particular obligation to protect from all

forms of abuse those children deprived of a family environment who have been entrusted to its care (Convention, art. 20). This duty of special protection extends to children who have been placed for adoption or in foster care. However, the State can most easily take direct action to prevent violence against children placed in institutions which are managed by the State, either directly (public institutions) or through licensing and supervision systems (private institutions),

- II. Working Group II, on “Violence against children in the context of ‘law and public order’ concerns”: at all stages of the juvenile justice process, children who are alleged to have committed offences are entitled to be treated “in a manner consistent with the promotion of the child’s sense of dignity and worth” (art. 40.1). Children have the right to be protected from all forms of torture, cruel, inhuman or degrading treatment or punishment (art. 37 (a)) and any other form of abuse (art. 19). Street children have been among the most vulnerable victims of the most extreme forms of violence, including extrajudicial or summary execution, in many countries. Homeless children are particularly vulnerable to such violence. Violence against this group of children represents a particularly egregious violation of their rights (arts. 6 and 37), as it follows upon the failure of the State to offer protection and care to children whose rights are already under attack;
- (e) The discussion may include issues such as the definitions of torture or abuse within the meanings of article 37 (a) and article 19 (1) of the Convention. However, the Committee wants to explore broader aspects of these themes, and the key objectives of the meeting will be:
- I. To present, analyse and discuss the nature, extent, causes and consequences of violence against children as described above;
 - II. To present and discuss policies and programmes (including legislative and other measures) at the national and international level to prevent and reduce these types of violence against children and to treat and rehabilitate victims of such violence;
 - III. And, in particular, to present recommendations focusing on concrete measures which should and could be taken by States parties to the Convention to reduce and prevent violence against children in these circumstances.

669. As for previous thematic discussions, the Committee invited representatives of United Nations organs, bodies and specialized agencies, as well as other competent bodies, including non-governmental organizations, research and academic organizations and individual experts, to contribute to the discussion. Several organizations and individual experts submitted contributions and other relevant documents on this theme. The list of these contributions is contained in annex VIII.

670. Representatives of the following organizations and bodies participated in the day of general discussion:

Governmental bodies

Ministry of Foreign Affairs of Sweden, Permanent Mission of Costa Rica to the United Nations Office at Geneva.

United Nations entities and specialized agencies

International Narcotics Control Board, UNICEF, UNHCR, OHCHR, ILO, WHO (and its European Regional Office).

Non-governmental organizations

Association for Down's Syndrome (Russia), All-Age Development Centre, Amnesty International, Association François-Xavier Bagnaud, Casa Alianza, Center for Protection on the Rights of the Children Foundation (Thailand), Children's Human Rights Centre of Albania, Children's Rights Centre of Ghent University (Belgium), Christian Children's Europe Fund, Coalition Against Trafficking in Women, Consortium for Street Children (United Kingdom), Corporación Opción (Chile), Defence for Children International (DCI), Dignité en Détention, EPOCH-Worldwide, Fédération internationale de l'action des chrétiens pour l'abolition de la torture, Federation for the Protection of Children's Human Rights (Japan), Focal Point on Sexual Exploitation of Children, Foundation of Aboriginal and Torres Strait Islander Research Action (Australia), Human Rights Internet (Canada), Human Rights Watch, Humanitarian Law Project of International Educational Development, Inc., Institut international des droits de l'enfant (Switzerland), International Association for the Child's Right to Play, International Association of Youth and Family Judges and Magistrates, International Federation Terre des Hommes, Mouvement international ATD Quart Monde, Mouvement suisse contre l'enlèvement des enfants, NGO Group for the Convention on the Rights of the Child, Penal Reform International, Quakers United Nations Office, Radda Barnen Ethiopia, Radda Barnen Sweden, Save the Children UK, South African Human Rights Commission (NGO), TAPORI, University of Lincolnshire and Humberside (United Kingdom), University of Luton (United Kingdom), University of Hull Law School (United Kingdom), World Citizen's Movement to Protect Innocence in Danger, World Vision International.

Other organizations

International Committee of the Red Cross

671. Sir Nigel Rodley and Mr. Bruce Abramson also participated.

672. The meeting was opened by Ms. Ouedraogo, Chairperson of the Committee, who welcomed participants and guests and called attention to the serious problems of violence suffered by children. She mentioned inappropriate legislation, and reminded participants that the discussion was only the first of two, with the 2001 day of general discussion dealing with other forms of violence against children. She expressed the hope that the discussion would lead to the formulation of recommendations that would assist the Committee, States parties and other partners in the implementation of the Convention.

673. The first part of the morning session (see CRC/C/SR. 649) was devoted to statements by the High Commissioner for Human Rights, Mr. Antonio Silva Henriques Gaspar, the Rapporteur of the Committee on the Rights of the Child, and a member of the Committee against Torture (CAT). The High Commissioner welcomed the holding of a discussion day on the theme of State

violence against children. She recalled the impact that Committee's discussions had had in the past, referring to the 1992 discussion on the involvement of children in armed conflict and the adoption by the General Assembly on 25 May 2000 of the Optional Protocol to the Convention on that subject. She also welcomed the participation of CAT and of the Special Rapporteur of the Commission on Human Rights on the question of torture in the discussion. The High Commissioner described her own experiences witnessing the abuses suffered by children and the requests for assistance that States formulate in trying to improve the implementation of the rights of children in that regard. She reminded participants that the recommendations emerging from the discussion should keep in mind the importance of action at the national level, and welcomed the participation of United Nations bodies and agencies in the discussion. In conclusion, she reminded participants that nothing could be more harmful to the full development of a child than violent victimization by those that child should have a right to trust, and that States should ensure that such victimization does not take place at its own hands.

674. Mr. Doek described the problem of social acceptance of violence used against children as a form of discipline. He underlined the harmful impact of violence on children, and reminded participants of the objectives of the discussion identified by the Committee in its outline, and in particular the emphasis on the identification of concrete measures to address in the most effective way the prevention of, protection from, and rehabilitation for violence against children. Mr. Henriques Gaspar underlined the useful assistance that could be obtained for the implementation of the Convention from other international human rights instruments. He suggested that the mechanisms and criteria established by the Convention against Torture, in particular, could be particularly relevant in the protection of children against State violence. Mr. Henriques Gaspar pointed out that the conditions under which children are placed in institutions, the use and conditions of detention, the use of force by staff of institutions, or the failure to provide appropriate care are all matters that the Committee against Torture could and should scrutinize. Article 1 of the Convention against Torture contains the most detailed definition of the concept to be found in international instruments. Article 16 contains an essential reference to the concept of "cruel, inhuman and degrading treatment" that has been developed into a useful additional framework for the prevention of and protection of children from State violence. In addition, articles 10, 12, 13 and 14 of the Convention against Torture provide useful guidance on how to implement the provisions of article 37 of the Convention on the Rights of the Child. The mechanism for the examination of individual complaints established under article 22 of the former Convention provides an additional possibility for enforcing international human rights standards to protect children.

675. After the introductory statements, the themes for the discussion in the two working groups were introduced by Ms. Smeranda Popa (UNICEF-Romania) and Sir Nigel Rodley (Special Rapporteur of the Commission on Human Rights on the question of torture).

676. Ms. Popa introduced the subject of discussion for Working Group I, "Mistreatment, abuse and neglect of children in the care of the State". She emphasized the special responsibility of States for the protection of children deprived of a family environment, and suggested that institutionalization should be considered a measure of last resort. The best interests of the child should guide placement decisions, and support to families should be encouraged as well as the provision of alternative forms of care, judicial oversight and periodic review of placements. Among the harmful impacts of mistreatment, abuse and neglect, Ms. Popa identified physical injuries, stunted development, emotional and behavioural disorders, inadequate social skills, and loss of contact with family and community. She called for action to be taken in the fields of legislation, monitoring, research, training, complaints mechanisms, promoting attitudinal and behavioural change, and allocation of resources.

677. Sir Nigel pointed out that in his mandate he deals with issues affecting children. He drew attention in particular to his 1996 and 2000 reports to the Commission and to the General Assembly, which focused in particular on the conditions of detention of children and on children subjected to cruel, inhuman or degrading treatment in non-penal institutions. In introducing the subject of discussion for Working Group II, “Violence against children in the context of ‘law and order’ concerns”, Sir Nigel referred to violent attacks on street children, and to the torture and ill-treatment suffered by juvenile offenders during interrogation, pre-trial detention and in detention once convicted. He called for an emphasis on identifying examples of effective measures, policies and programmes to implement article 1 of the Convention against Torture and articles 37 and 19 of the Convention on the Rights of the Child. He emphasized in particular the need for alternative sentences, review of legislation, bringing to justice perpetrators of torture and providing compensation and rehabilitation to victims, and for efforts to be made for sensitization, education and training. Finally, Sir Nigel pointed out that, based on his own experience, the discussion should seek to avoid calling for the creation of new international human rights mechanisms, and should instead focus on how to improve the existing mechanisms and the capacity to deal with the subject of State violence against children. In a context of limited United Nations resources, there was a risk that creating new mechanisms without providing additional resources would only further constrain the effectiveness of the existing ones.

678. The participants then divided into two working groups for the rest of the morning session. Working Group I was chaired by Mr. Doek; Ms. Jo Becker, of Human Rights Watch, served as Rapporteur. Working Group II, was chaired by Ms. Karp, with Mr. Bill Bell, of Save the Children UK, serving as Rapporteur.

679. The discussion in Working Group I concentrated heavily on the identification of useful implementation measures that would improve the prevention of, protection from and rehabilitation for child victims of State violence. Most of the issues discussed are reflected in the recommendations adopted by the Committee. More particularly, participants explored in more depth two issues. The first was the extent to which an appropriate balance needs to be kept between recognizing the specific elements that characterize State violence against children while at the same time acknowledging that all forms of violence against children are manifestations of the same problem and must be addressed together.

680. The second issue was the need to be careful in promoting alternatives to institutionalization as a way to prevent violence against children in the care of the State. Most participants agreed that preventing the placement of children in institutions was one of the most effective measures to prevent violence against children and to ensure the best possible environment for children in need of care, and that emphasis must be placed on providing support to parents to obviate the need to remove children from their families. Some participants acknowledged the provisions of articles 3, 5, 9 and 18 of the Convention but pointed out the need to avoid excessive emphasis on the dangers of institutionalization.

681. Participants pointed out that there is a risk that placement in families may come to be considered as automatically preferable to placement in institutions, without due attention to the characteristics of the families and the institutions being considered. Thus, placement in an institution that incorporates all the necessary safeguards and can provide an appropriate environment for the fullest development of a child can be preferable to allowing a child to remain or to be placed in a harmful family environment. In any case, the particular circumstances of each child and of the family, cultural and national context should be taken into account. The child should be given, in accordance with his or her age and maturity, the possibility to express

his or her views on the preferred options for placement. Decisions should be taken giving the best interests of each child more weight than any predetermined preferences for a given placement setting.

682. Finally, the discussion in Working Group I emphasized repeatedly the need to pay particular attention to the situation of children with disabilities.

683. The discussion in Working Group II followed four broad themes: legislation, prevention and protection, awareness raising and monitoring. Like for Working Group I, most of the issues identified during the discussion are fully reflected in the recommendations adopted by the Committee. On legislation, participants repeatedly referred to the extensive failure in most cases to apply thoroughly the relevant provisions of the Convention on the Rights of the Child to the juvenile justice system. Even States that can provide an adequate level of resources without great difficulty often fail to implement all the relevant international standards. The discussion underlined the need for legislation to be reviewed in a comprehensive manner. Participants also emphasized the problem posed by laws criminalizing children for “status” offences that should be seen as the result of failure to implement fully the economic and social rights of children and to give them the necessary protection. Such criminalization broadens the range of children who are placed at risk of being subjected to State violence.

684. Discussion of traditional methods of justice as a possible alternative to involving children in the formal criminal law system emphasized the need for such traditional methods to respect fully international human rights standards on the treatment of children alleged to have or recognized as having committed criminal offences. Such methods, and the sense of their “ownership” by the community, can help to promote respect for human rights and to prevent violence against children as well as unnecessary detention.

685. The often low professional status, poor working conditions and inadequate training of law enforcement officials were amongst the most serious obstacles to effective prevention of violence against children and to the appropriate protection and rehabilitation of children within the juvenile justice system.

686. During the afternoon session, the two working groups met again to discuss the draft recommendations prepared by the Rapporteurs for each group, in consultation with the Chairpersons. At a closing plenary session (see CRC/C/SR. 650), Ms. Becker and Mr. Bell presented to the plenary meeting the recommendations that had been identified by each group. The High Commissioner said that her Office would study with interest the recommendations adopted by the Committee. She also pointed out that some of the recommendations proposed for implementation at the international level would require decisions to be taken by other United Nations bodies.

687. Closing statements were made by Ms. Karp, Mr. Henriques Gasper, Sir Nigel Rodley and Mrs. Ouedraogo.

688. On the basis of the recommendations of the two working groups, the following recommendations were adopted by the Committee:

AT THE INTERNATIONAL LEVEL

- 1 The Committee recommends that the Secretary-General be requested, through the General Assembly, to conduct an in-depth international study on the issue of violence against

children, as thorough and influential as the 1996 report of the expert of the Secretary-General, Mrs. Graça Machel, on the impact of armed conflict on children (A/51/306). Such a study should:

- (a) Explore the different types of violent treatment of which children are victims (including State violence, as well as violence in the home and in schools), identify their causes, the extent of such violence and its impact on children;
 - (b) Explore the links between different provisions of the Convention on the Rights of the Child and other international human rights treaties in relation to violence against children;
 - (c) Collect information on the activities of different human rights mechanisms and United Nations bodies and agencies and the extent to which the problem of violence against children is addressed in those activities from a human rights perspective;
 - (d) Put forward recommendations regarding actions to be taken, including effective remedies and preventative and rehabilitation measures.
- 2 The Committee will consider the preparation of a set of general comments on different forms of violence against children.
 - 3 The Committee urges all States, concerned United Nations agencies and bodies and non-governmental organizations to give priority attention to violence against children at the United Nations General Assembly Special Session on Children in 2001, and to include steps to eliminate such violence in its resulting plan of action.
 - 4 The Committee recommends that efforts be made by United Nations human rights mechanisms with a mandate to consider individual complaints concerning violations of human rights to identify ways to respond more effectively to individual complaints concerning violence against children. It encourages non-governmental organizations to disseminate information about the existence and functioning of relevant mechanisms, including those under the Optional Protocol to the International Covenant on Civil and Political Rights, under article 22 of the Convention against Torture, and under the new Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Information should also be disseminated about other United Nations human rights mechanisms for urgent action, particularly by the Special Rapporteurs on the question of torture and on extrajudicial, summary or arbitrary executions and by the Working Groups on Enforced or Involuntary Disappearances and on Arbitrary Detention. The Committee also encourages non-governmental organizations and others to consider ways in which they can provide legal and other assistance for bringing individual complaints related to violations of the right of children to be protected against torture and other forms of violence before the relevant United Nations and regional human rights mechanisms.
 - 5 The Committee recommends that effective measures be sought in order to strengthen existing United Nations human rights mechanism to ensure that violence against children and the situation of children living and/or working in the streets is adequately addressed. The Committee encourages the Office of the High Commissioner for Human Rights to organize a special workshop for all relevant treaty bodies, special procedures, and United Nations bodies and agencies to examine:

- (a) Violence against children;
- (b) The effectiveness of existing United Nations mechanisms in addressing this phenomenon;
- (c) The need for improving and possible ways to improve such effectiveness, including consideration of the need to review the application of the existing definition of torture in order to take into account more adequately the special characteristics of children;
- (d) The possible need for either an optional protocol to the Convention to establish a procedure for individual complaints, or the establishment of a new “special procedure” of the Commission on Human Rights; and
- (e) Consideration that could be given to providing from within existing United Nations voluntary funds, assistance for the rehabilitation of child victims of violence.

REVIEW OF LEGISLATION

- 6 The Committee urges States parties to repeal, as a matter of urgency, any legislation that allows the imposition of unacceptable sentences (death or life imprisonment) for offences committed before the age of 18, contrary to the provisions of the Article 37 (a) of the Convention.
- 7 The Committee recommends that States parties review all provisions of criminal legislation, including on criminal procedure, dealing with children under 18 (including any special legislation applying to armed forces) so as to ensure that it reflects appropriately the provisions of the Convention on the Right of the Child (arts. 37 and 40). It also recommends that States parties consider incorporating into all relevant domestic laws and regulations (including, where appropriate, those dealing with children in care) the provisions of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”, adopted by General Assembly resolution 40/33 of 29 November 1985), of the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines, adopted by General Assembly resolution 45/112 of 14 December 1990), of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (adopted by General Assembly resolution 45/113 of 14 December 1990), and of the Guidelines for Action on Children in the Criminal Justice System (the Vienna Guidelines, annexed to Economic and Social Council resolution 1997/30 of 21 July 1997). In particular, the Committee recommends that penal legislation applicable to juveniles be reviewed so as to ensure that courts are not restricted to custodial sentences disproportionate to the offence.
- 8 The Committee recommends that States parties review all relevant legislation to ensure that all forms of violence against children, however light, are prohibited, including the use of torture, or cruel, inhuman or degrading treatment (such as flogging, corporal punishment or other violent measures), for punishment or disciplining within the child justice system, or in any other context. The Committee recommends that such legislation incorporate appropriate sanctions for violations and the provision of rehabilitation for victims.
- 9 The Committee recommends that States parties review all relevant legislation to ensure that children under 18, who are in need of protection are not considered as offenders (including

legislation dealing with abandonment, vagrancy, prostitution, migrant status, “truancy”, runaways, etc.) but are dealt with under child protection mechanisms.

- 10 The Committee recommends that States parties review emergency and/or national security legislation to ensure that it provides appropriate safeguards to protect the rights of children and prevent violence against them, and that it is not used inappropriately to target children (for example, as threats to public order or in response to children living or working on the streets).
- 11 The Committee recommends, in particular, that States parties give urgent consideration to the need to provide appropriate safeguards to guarantee the security, protection and rehabilitation of children held in custody, including through measures such as the imposition of strict limits on pre-trial detention, that would reduce the number of children held in detention.
- 12 The Committee recommends that States parties review legislation dealing with children deprived of a family environment to ensure that placement decisions are subject to periodic judicial review, including at the request of children themselves. Such legislation should also be reviewed so as to ensure that relevant rules and regulations set out detailed standards of care for all institutions (public and private) caring for children, including the prohibition of the use of violence.
- 13 The Committee recommends that the effective implementation of all such legislation be carefully monitored, including for the provision of necessary resources.

AWARENESS-RAISING, SENSITIZATION AND TRAINING

- 14 The Committee encourages States parties, NGOs, United Nations human rights mechanisms, United Nations agencies and other bodies to give priority to raising awareness about the problem of violence against children:
 - (a) The Committee urges the launching of public information campaigns to raise awareness and sensitize the public about the severity of human rights violations in this domain and their harmful impact on children, and to address cultural acceptance of violence against children, promoting instead “zero tolerance” of violence;
 - (b) The media should be encouraged to play an active role in educating the public and raising awareness. Negative reporting (blaming categories of children for individual incidents) should be avoided and positive reporting (calling attention to the violations) encouraged;
 - (c) In raising awareness, children’s views and experiences of violence should be publicized and heard;
 - (d) Accurate, up-to-date and disaggregated data should be collected on the numbers and condition of children living in institutions or in the care of the State, held in pre-trial detention or in police stations, serving custodial sentences or subject to diversionary or alternative measures, etc.;

- (e) States parties should translate appropriate information on violence against children into its national and local languages, and ensure that it is disseminated to all relevant professional groups, to children and to the general public.
- 15 The Committee recommends that minimum standards be set for the professional qualification and training of individuals working in institutions caring for children, in alternative systems, in the police, and in juvenile penal institutions, including the condition that they not have a prior record of violence. The professional status, rewards and career incentives for such workers should ensure that appropriate qualifications can be requested for these professional groups.
- 16 The Committee recommends that States parties, in partnership with relevant NGOs and seeking international technical assistance where appropriate, ensure training in child rights for all relevant professional groups including, but not limited to, care and social workers, health professionals, lawyers, the judiciary, members of police and other security forces, staff of penal institutions, etc. Such training should follow interdisciplinary methods promoting collaborative approaches, include relevant human rights standards and non-violent methods of discipline, promote alternatives to institutionalization, and provide information on child development, and on the background, rights and needs of specially vulnerable groups of children (those from minority groups, children with disabilities, etc.).

PREVENTION, INCLUDING ALTERNATIVES TO INSTITUTIONALIZATION

- 17 The Committee recommends that States parties develop the use of alternative measures in order to avoid long-term placement of children in institutions that do not provide the type of setting children need, not only for survival, but also for development, including psychological, mental, spiritual, moral, psychological and social development, in a manner compatible with human dignity and to prepare the child for an individual life in a free society, in accordance with article 6 of the Convention.
- 18 The Committee also recalls to the attention of States parties the provisions of paragraphs 3 (b) and 4 of article 40 of the Convention, which call on State parties to deal with children alleged to have infringed or recognized as having infringed penal law without resorting to judicial proceedings, whenever appropriate, and by ensuring the availability of a variety of alternatives to institutional care to deal with such children in a manner appropriate for their well-being and proportionate to their circumstances as well as to the offence.
- 19 The Committee recommends that efforts be made to implement fully the provisions of article 18 (2) of the Convention, providing appropriate assistance to parents and legal guardians in their child-rearing responsibilities. The Committee notes that home visits by case workers with workloads small enough to allow for them can be effective in reducing the need for institutionalization.
- 20 In particular, the Committee points out that, in accordance with the provisions of article 23 of the Convention, special care as well as access to education, training, health care and rehabilitation services, preparation for employment and recreation opportunities should be provided in a manner “conducive to the child’s achieving the fullest possible social integration and individual development”. The Committee encourages States parties to make every effort to provide assistance for children with disabilities and support services for their families, to the maximum extent possible on an out-patient or community basis, thereby

avoiding removal of children with disabilities from their families for placement in institutions.

- 21 The Committee recommends that States parties make every effort to implement fully the provisions of article 20 (3) of the Convention; that special protection provided to children deprived of a family environment include as preferable options providing for the placement of children with suitable families, including members of their own families (including, where appropriate, child-headed families), foster families or adoptive families, whenever appropriate, and providing such families with the necessary support and supervision; and that regularly temporary placements be monitored and reviewed. In developing such alternatives, States should consider the special needs of children affected by HIV/AIDS. Efforts should be made to involve children and their parents in decisions regarding the most appropriate care and placement alternatives for the child.
- 22 The Committee recommends that, for children placed in institutions, consideration be given to the following:
 - (a) Small institutions caring for children in home-type settings often have a better record of caring for children;
 - (b) Smaller institutional settings, or the delivery of care and assistance to children and support to their families can be less costly and preferable for the full enjoyment of the human rights of children than institutionalization in large, sometimes impersonal institutions;
 - (c) A lesser number of better trained professionals can deliver more appropriate care to children than a large number of poorly trained or untrained workers;
 - (d) Efforts should be made to ensure contact between the child and his or her family (when appropriate) and to avoid the isolation of children in institutions (for example, by ensuring that education, recreation, or health services are provided outside the institution).
- 23 The Committee recommends that States parties consider the introduction of schemes for judges and magistrates to work with probation and social work staff to assess non-custodial alternatives. The Committee also encourages consideration of alternatives to pre-trial detention such as conditional release and bail schemes. Consideration should also be given to the use of traditional and local level mechanisms - where they are compatible with international human rights principles and rules - as a means of diverting children from contact with the more formal criminal justice system.
- 24 The Committee recommends that States parties make every effort to ensure, in recruiting staff to care for children in all types of institutions, that due attention is given to the need to ensure the capacity of staff to make effective use of non-violent methods of discipline. Institutions should adopt anti-bullying and anti-violence strategies and policies, and provide training for staff in their implementation.
- 25 The Committee recommends that special training be given to encourage direct dialogue between police and children living or working in the streets. It also recommends that States parties develop community-based support systems for such children, provide access to social

workers and promote education or employment training opportunities without requiring institutionalization.

MONITORING AND COMPLAINT MECHANISMS

- 26 The Committee recommends that urgent attention be given to ensuring the establishment and effective functioning of systems to monitor the treatment received by children deprived of a family or alleged or recognized to have infringed penal law, and to provide advice to improve their care and condition. Such monitoring should:
- (a) Ensure full access to facilities and records, and inspection of all institutions (both public and private, and including police stations and penal institutions);
 - (b) Permit unannounced visits, and include the holding of private consultation with children and staff;
 - (c) Monitor the status and condition of the children and their development, rather than focus only on the state of the facilities or the provision of services;
 - (d) Provide input for the regular review of placements;
 - (e) Make adequate provision for reporting or complaints to be received from the institution, staff, children themselves, their parents or legal guardians, and from NGOs or other institutions of civil society, while providing appropriate protection from reprisals, particularly for children and staff;
 - (f) Include mandatory reporting by staff of incidences of violence;
 - (g) Ensure that children are informed and aware about the existence and functioning of complaints mechanisms, that they are involved in the design of appropriate mechanisms, and that their special needs are taken into account (for example, by avoiding the need for children to repeat their statements unless absolutely necessary), including those with disabilities, different linguistic abilities, etc;
 - (h) Provide full guarantees of independent and thorough investigation of any complaints, including judicial investigation for any deaths or cases of grievous bodily harm, and ensure that the perpetrators of violence are appropriately disciplined, including, when warranted, the possibility of dismissal and the bringing of criminal charges;
 - (i) Ensure that full reports on any investigations are made public (while maintaining the rights of the child to privacy) and made known to relevant government officials and policy makers.
- 27 The Committee recommends that medical and psychological services and rehabilitation provided to children in care or in detention be provided independently of the authorities running such institutions, and that provision be made to ensure that children can participate in the monitoring of the conditions of care.

- 28 The Committee recommends that consideration be given to the establishment of services to provide counselling, advice and support for child victims of violence including, for example, telephone hotlines or similar mechanisms.

Resources

- 29 The Committee draws the attention of States parties, United Nations bodies and agencies, organizations of civil society and other bodies to the need to ensure that adequate resources are allocated to the protection and rehabilitation of children in care and of children alleged or recognized to have infringed penal law, so as to ensure effective prevention of all forms of violence.
- 30 The Committee reminds States parties that under the provisions of article 4 of the Convention, only “economic, social and cultural rights” are subject to implementation to the “maximum extent of available resources” while States parties “shall undertake all appropriate legislative, administrative and other measures” for the implementation of all other rights, including the right of children to be free from torture, and cruel and inhuman or degrading treatment (in accordance with art. 37 (a)) and the right to be protected from all forms of violence and abuse (art. 19).
- 31 The Committee encourages States parties and donors of international technical assistance to allocate resources to programmes and measures designed to improve prevention, protection and rehabilitation mechanisms for children exposed to all forms of State violence.
- 32 The Committee recommends that States parties ensure that additional resources are allocated to improve the conditions under which children are cared for or held, including by improving the professional status of those working for or in contact with children. It urges States parties and others to ensure that available resources are used in the manner most conducive to preventing and protecting children from all sorts of violence. The Committee calls attention to the need to consider the allocation of resources as part of the effort to review the relevant legislation.

Role of non-governmental organizations

- 33 The Committee encourages non-governmental organizations to devote increased attention to the prevention of and protection of children from State violence. It urges NGOs to consider providing legal assistance to children and their advocates and assisting Governments to formulate appropriate prevention, protection and rehabilitation measures, in addition to monitoring the situation of children in vulnerable circumstances.
- 34 The Committee encourages NGOs in particular to support States parties and children in efforts to ensure that children’s views and experiences of violence are heard and taken into account in public debate and policy.
- 35 The Committee points out that NGOs in their provision of services to children should ensure that the State does not avoid its own obligations by delegating NGOs to provide services and care to children without providing both the necessary resources and appropriate supervision.
- 36 In accordance with the provisions of article 45 (a) of the Convention, the Committee encourages NGOs to prepare and present to it information regarding all forms of violence against children, including culturally “acceptable” forms.

