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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-ninth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Malawi

1. The Committee considered the initial report of Malawi (CRC/C/8/Add.43), received on 1 August 2000, at its 765th and 766th meetings (see CRC/C/SR.765-766), held on 24 January 2002 and adopted at the 777th meeting, held on 1 February 2002, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of the State party, which followed the established guidelines. However, the Committee regrets the late submission of the written replies to its list of issues (CRC/C/Q/MALA/1), which nevertheless allowed for a clearer understanding of the situation of children in the State party. The Committee acknowledges that the presence of a high-ranking delegation directly involved in the implementation of the Convention allowed for an informative and constructive dialogue and a fuller assessment of the rights of children in the State party.

B. Positive aspects

3. The Committee notes with appreciation that the 1995 Constitution includes a specific section (sect. 23) on the rights of the child.

4. The Committee welcomes the adoption of the 1993 Programme of Action for the Survival and Development of Children; the 1996 National Youth Council Act; the 1998 National Early Childhood Development Policy, and the creation of the Children Affairs Division in the Ministry of Gender, Youth and Community Services, and of the Child Rights Unit within the Malawi Human Rights Commission. In addition, the Committee welcomes the ratification of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and the creation of the Children's Parliament and the Young Voices Movement.

C. Factors and difficulties impeding the implementation of the Convention

5. The Committee acknowledges that the fact that the State party is a landlocked country and that it is extremely poor have had and still have a negative impact on the situation of children and have impeded the full implementation of the Convention. In particular it notes the impact of high external debt payments, pressures exerted by structural adjustment, extremely high annual inflation, the recent declining economic conditions and rampant corruption, especially on children belonging to the most vulnerable groups, and the impact of the HIV/AIDS pandemic.

D. Subjects of concern and recommendations of the Committee

1. General measures of implementation

Legislation

6. While noting that the adoption in 1995 of a new constitution was the first step for the protection of the rights of the child, the Committee remains concerned that its provisions do not always comply with the Convention. In addition, the Committee notes that the State party is planning to harmonize the existing legislation with the Convention and welcomes the establishment of the Law Commission, which is in charge of reviewing laws to determine if they conform to international human rights standards and which has formulated several recommendations for amending laws with regard to children. However, the Committee remains concerned that domestic legislation, including customary law, still does not fully reflect the principles and provisions of the Convention.

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

   (a) **Undertake all steps, notably through the Law Commission, to harmonize existing legislation, including the Constitution and customary law, with the Convention on the Rights of the Child;**

   (b) **Consider the adoption of a comprehensive children's code which will reflect the general principles of the Convention on the Rights of the Child;**

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

Coordination

8. The Committee notes that owing to the capacity limitations of the Children Affairs Division within the Ministry of Gender, Youth and Community Services, the Child Rights Unit within the Human Rights Commission has taken over responsibility for coordinating children's policy. The Committee is concerned however at the risk of duplication between those two bodies and at potential problems emerging from the various roles of the Human Rights Commission.

9. **The Committee recommends that the State party set up an effective coordination mechanism for the implementation of the Convention and take all measures to strengthen the resources (financial and human) allocated to the Children Affairs Division within the Ministry of Gender, Youth and Community Services to facilitate effective coordination and implementation of the Convention on the national and local levels.**

Data collection

10. The Committee is concerned that there is almost no systematic collection of disaggregated data on all aspects of the Convention to be used in monitoring and evaluating legislation, policies and programmes adopted with respect to children.

11. **The Committee recommends that the State party, as a priority, systematically collect disaggregated data incorporating all the areas covered by the Convention and covering all children below the age of 18 years, with specific emphasis on those who are in need of special protection. The State party should also develop indicators to effectively monitor and evaluate progress achieved in the implementation of the Convention and assess the impact of policies that affect children. In this context, the Committee recommends that the State party seek technical assistance from, among others, UNFPA, UNDP and UNICEF.**

Monitoring mechanisms

12. The Committee welcomes the existence of an ombudsman with a mandate to receive complaints from children. In addition, the Committee notes that the State party established a Human Rights Commission in 1998 and that a Child Rights Unit has been created in 1999 within this institution. The Committee is concerned, however, at the confusion relating to the role of this Unit (see above) as it is responsible for both coordination and monitoring of children's rights and policies. The Committee is also concerned that insufficient resources have been allocated to allow the Child Rights Unit to function effectively.

13. **The Committee suggests that the State party review the status, role and functions of the Human Rights Commission and its Child Rights Unit in order to establish an independent national human rights institution in accordance with the Paris Principles (General Assembly resolution 48/134), which should be competent to monitor and evaluate progress in the implementation of the Convention at the national and, if appropriate, at the local levels and to receive and investigate complaints of violations of child rights in a child-sensitive manner, and address them effectively. The Committee also recommends that the State party allocate adequate financial and human resources to the Human Rights Commission and its Child Rights Unit to ensure its effective functioning. The Committee further suggests that the State party conduct an awareness-raising campaign about the Human Rights Commission and its Child Rights Unit to facilitate its effective use by children. Finally, the Committee suggests that the State party seek technical assistance from OHCHR, and UNICEF, among others.**

Allocation of resources

14. The Committee is aware of the economic and social challenges facing the State party, including high and increasing poverty levels as well as high debt payments and corruption, and welcomes in that regard the 1995 Policy Framework for Poverty Alleviation programme, the 2000 Interim Poverty Reduction and Growth Strategy Paper and the setting up of the anti-corruption bureau. It remains concerned, however, that in light of article 4 of the Convention, not enough attention has been paid to allocating budgetary resources, at both the national and local levels, "to the maximum extent of ... available resources" for the implementation of the Convention.

15. **In light of articles 2, 3, and 6 of the Convention, the Committee encourages the State party to pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, especially those belonging to economically and geographically disadvantaged groups, to the maximum extent of available resources (at the national and local levels) and, where needed, within the framework of international cooperation.**

Dissemination of the Convention

16. The Committee notes with appreciation the initiatives of the State party to promote awareness of the principles and provisions of the Convention, and welcomes the translation of the Convention into some of the country's major national languages. The Committee also welcomes the involvement of children and youth in the dissemination of the Convention (e.g. the Young Voices Movement). However, the Committee is concerned that professional groups, children, parents and the general public are still not sufficiently aware of the Convention and the rights-based approach enshrined therein. In addition, the Committee is concerned that the Convention is not sufficiently disseminated at the local level and among illiterate people.

17. The Committee recommends that the State party strengthen its efforts to ensure that the principles and provisions of the Convention are widely known and understood by adults and children alike, in particular in rural areas. In this regard, the Committee recommends the reinforcement of adequate and systematic training and/or sensitization of professional groups working with and for children, such as judges, lawyers, law enforcement personnel, teachers, school administrators, health personnel, including psychologists and social workers, personnel of childcare institutions, and traditional or community leaders, including village chiefs. The Committee recommends that the State party also use creative tools for the dissemination of the Convention, notably with regard to illiterate people, and continue its efforts to translate the Convention into all the major national languages. In addition, the Committee recommends that the State party incorporate human rights, especially the Convention on the Rights of the Child, into the school curricula at all levels. The Committee suggests that the State party seek technical assistance from, among others, the Office of the High Commissioner for Human Rights, UNESCO and UNICEF.

2. Definition of the child

18. The Committee is concerned about the various legal minimum ages, which are inconsistent, discriminatory and/or too low. In particular, the Committee is concerned that the Constitution defines a child as any person below the age of 16 years, at the too low minimum age of criminal responsibility (7 years), and the absence of a clear minimum age for employment.

19. The Committee recommends that the State party take the necessary legislative measures:

(a) To establish a clear definition of the child in accordance with article 1 and other related principles and provisions of the Convention;

(b) To increase the legal age of criminal responsibility in accordance with the best interests of the child;

(c) To establish clear minimum ages for marriage and correct the discrimination between boys and girls;

(d) To set a clear minimum age for access to employment in accordance with international standards; and

(e) To review more generally its legislation which sets minimum ages which do not comply with article 1 and other relevant provisions of the Convention on the Rights of the Child.

3. General principles

20. The Committee is concerned that the general principles are not fully integrated in the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children at both national and local levels.

21. The Committee recommends that the State party appropriately integrate the general principles of the Convention, in particular the provisions of articles 2, 3, 6 and 12, in all relevant legislation concerning children and apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children. These principles should guide planning and policy-making at every level, as well as actions taken by social and health welfare institutions, courts of law and administrative authorities.

Non-discrimination

22. The Committee notes that the 1995 Constitution enshrines a general provision against discrimination although further legislation and policies are not in line with this principle. The Committee is concerned, however, that the principle of non-discrimination is not adequately implemented with respect to children belonging to the most vulnerable groups such as girls, children with disabilities, orphans, poor children, and child refugees.

23. The Committee recommends that the State party:

(a) Take all effective measures to enact and implement laws, policies and programmes to guarantee the principle of non-discrimination and full compliance with article 2 of the Convention, particularly as it relates to vulnerable groups of children (such as girls, orphans and children with disabilities) and traditional tribal customs, practices and rituals;

(b) Expedite the implementation of the National Platform of Action on Gender and Development; and

(c) Strengthen its technical cooperation with, among others, UNICEF, UNAIDS, UNDP and WHO.

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

Best interests of the child

25. While noting that many policies take into consideration the best interests of the child and that the Constitutional Technical Review has recommended that the principle of the best interests of the child should be provided for in the Constitution, the Committee is concerned that this principle is not fully taken into consideration in domestic law. The Committee also regrets that customary law and social traditions are an impediment to the implementation of this principle.

26. The Committee recommends that the State party take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated in all legislation, as well as judicial and administrative decisions and in projects, programmes and services which have an impact on children. The Committee also encourages the State party to take all necessary measures to ensure that customary law does not impede the implementation of this general principle, notably through raising awareness among community leaders.

Right to life, survival and development

27. While welcoming the adoption of the National Programme of Action for the Survival and Development of Children, and noting that the right to life is included in the Constitution, the Committee remains concerned that the programme has not been sufficiently implemented and that the impact of HIV/AIDS, mounting economic challenges and other socio-economic difficulties, as well as traditional practices and witchcraft, continue to threaten the right to life, survival and development of children within the State party.

28. The Committee encourages the State party to reinforce its efforts to provide greater protection and support to children whose right to life, survival and development are unduly threatened by the difficult socio-economic realities of the State. In this connection, the Committee recommends that

the State party take the necessary measures to set clear priorities for a new programme of action and take all effective measures to strengthen its technical cooperation with, among others, UNICEF, UNAIDS, UNDP and WHO.

Respect for the views of the child

29. The Committee welcomes the introduction of the principle of respect of the views of the child in several laws such as the Children and Young Persons Act, the Adoption Act and the establishment of the Children's Parliament, but it remains concerned that, inter alia, traditional attitudes still limit the full implementation of article 12 of the Convention.

30. **The Committee recommends that the State party develop a systematic approach to increasing public awareness of the participatory rights of children in the best interests of the child, particularly at the local levels and in traditional communities, with the involvement of community and village leaders, and ensure that the views of the child are heard and taken into consideration in accordance with their age and maturity in families, communities, schools, care institutions, and the judicial and administrative systems. In that regard, the Committee recommends that the State party launch campaigns to change the traditional attitude and values which do not allow children to express their views.**

4. Civil rights and freedoms

Birth registration

31. The Committee is concerned that domestic legislation does not provide for compulsory registration of all births but only for children whose parents are of non-African origin, which explains the very low rate of registration. The Committee is further concerned at the practice of derogatory names being assigned to some children such as children born out of wedlock.

32. **In light of articles 7 and 8 of the Convention, the Committee recommends that the State party:**

(a) **Make birth registration compulsory for all children and carry out awareness campaigns among government officers, midwives, community and religious leaders, and parents themselves, to ensure that all children are duly registered at birth;**

(b) **Make the birth registration procedure accessible and free or at a low cost; and**

(c) **Abolish the practice of derogatory names assigned to some children.**

Corporal punishment

33. The Committee welcomes section 19 of the Constitution which provides that "No person shall be subject to corporal punishment in connection with any judicial proceedings or in any other proceedings before any organ of the State". While noting that the Head of State made a statement on the radio against corporal punishment within the family and that corporal punishment is banned at schools, it remains concerned that corporal punishment is still widely accepted and practised in schools, within the family and in the justice system. The Committee is further concerned that some legal acts contain provisions which allow corporal punishment.

34. **The Committee recommends that the State party take legislative measures, including amending existing acts that violate the Constitution, to prohibit all forms of physical and mental violence, including corporal punishment within the juvenile justice system, schools and care institutions as well as within the family. The Committee also recommends that the State party monitor the ban**

on corporal punishment in schools. The Committee encourages the State party to reinforce its public awareness campaigns, including among community leaders, to teach on the harmful effects of corporal punishment and to promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society.

5. Family environment and alternative care

Parental responsibilities

35. The Committee is concerned that a large number of families are headed by single parents, mostly women, many of them facing financial and other kinds of difficulties which negatively affect the upbringing and development of the child. The Committee is concerned at the lack of involvement of fathers in the upbringing and development of children.

36. The Committee recommends that the State party:

(a) Take all necessary measures to provide assistance to single-parent families in order to support them in bringing up their children, in light of article 18 (2) of the Convention;

(b) Take the necessary measures for the promotion of higher levels of involvement of fathers in the upbringing and development of their children.

Recovery of children's maintenance allowance

37. While domestic legislation includes provisions for maintenance allowance (Affiliation Act (cap. 26:02); Maintenance Orders Enforcement Act and the Divorce Act (cap. 25:04)), the Committee is concerned at the lack of implementation of these provisions mainly because of widespread ignorance of the law, limited enforcement of maintenance orders and the small amounts of the orders which cannot cover the basic needs of the child.

38. The Committee recommends that the State party:

(a) Make widely known the provisions of domestic legislation concerning maintenance allowance, especially among mothers who are illiterate, and to support them if necessary in understanding legal actions;

(b) Ensure that professional groups dealing with this issue are adequately trained and courts more strictly implement the provisions regarding the recovery of allowances, particularly in case of solvent parents who refuse to pay; and

(c) Take the necessary measures to ensure, to the extent possible, that the maintenance ordered covers the basic needs of the child.

Alternative care

39. While noting the creation of an Orphan Care Programme in 1996, the creation of a National Task Force on Orphans, and the proposed bill on wills and inheritance, the Committee expresses concern at the increasing number of children deprived of a family environment, notably due to the spread of HIV/AIDS, the Committee welcomes the policy of the State party to use institutional facilities as a last resort but remains concerned that the role of the extended family is decreasing, that there is no legislation on foster care, and that the Adoption of Children Act does not fully take into consideration the best interests of the child and other relevant provisions of the Convention.

Finally, the Committee remains concerned that insufficient financial and human resources are allocated for alternative care.

40. The Committee recommends that the State party:

(a) Urgently adopt a programme to strengthen and increase alternative care opportunities for children including, inter alia, the introduction of effective legislation, the reinforcement of existing structures, the improved training of staff and the allocation of increased resources to relevant bodies;

(b) Enact the bill on wills and inheritance;

(c) Provide for regular periodic review of the placement of children in institutions, in conformity with article 25 of the Convention;

(d) Review and, if necessary, change its legislation on adoption in order to guarantee that the best interests of the child are fully taken into account as well as other relevant articles of the Convention;

(e) Ratify the Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption adopted in 1993 at The Hague; and

(f) Seek technical assistance from UNICEF and other international organizations, including non-governmental organizations.

Protection from abuse and neglect

41. While welcoming the situation analysis of child abuse in Malawi conducted by the National Task Force on Children and Violence, the Committee is deeply concerned at the high incidence of all forms of violence and abuse within family and in schools in the State party, the lack of statistical data, the lack of a comprehensive plan of action, and insufficient infrastructures.

42. The Committee recommends that the State party:

(a) Adopt and implement a comprehensive plan of action with effective measures and policies in conformity with article 19 of the Convention, including the adoption of the bill on family violence, in order to contribute to changing attitudes;

(b) Properly investigate cases of violence, through a child-sensitive judicial procedure, impose sanctions on perpetrators with due regard to the right to privacy of the child;

(c) Provide services for physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention, and take measures to prevent the criminalization and stigmatization of victims;

(d) Take into consideration the recommendations of the Committee adopted at its days of general discussion on children and violence (CRC/C/100, para. 688 and CRC/C/111, paras. 701-745);

(e) Seek technical assistance from, among others, UNICEF and WHO.

6. Basic health and welfare

Right to health and access to health services

43. The Committee notes the efforts of the State party to improve health care for children through, inter alia, the Community-Based Child Care Programme, the National Policy on Early Childhood

Development and the mobile health services. However, the Committee is concerned about the insufficient numbers of trained medical personnel, the weakness of family planning services, the high maternal, child and infant mortality rates, the increasing incidence of HIV/AIDS, the high incidence of malaria and acute respiratory infections, the very low rate of breastfeeding, and poor sanitation and limited access to safe drinking water, especially in rural areas. It is also noted with concern that the State party's cost-sharing system leads to limited access to basic health care, especially for poor families.

44. The Committee recommends that the State party:

(a) Reinforce its efforts to allocate appropriate resources and develop and implement comprehensive policies and programmes to improve the health situation of children, particularly in rural areas;

(b) Facilitate greater access to free primary health services; reduce the incidence of maternal, child and infant mortality; prevent and combat malnutrition, especially among vulnerable and disadvantaged groups of children; promote proper breastfeeding practices; reinforce family planning services; and increase access to safe drinking water and sanitation;

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

Adolescent health

45. The Committee remains concerned that insufficient attention has been given to adolescent health issues, including developmental, mental and reproductive health concerns, and substance abuse.

46. The Committee recommends that the State party:

(a) Undertake a comprehensive study to assess the nature and extent of adolescent health problems and, with the full participation of adolescents, use this study as a basis to formulate adolescent health policies and programmes with particular attention to the prevention of sexually transmitted diseases (STDs) and early pregnancies; and

(b) Strengthen sex education and reproductive and mental health counselling services and make them sensitive and accessible to adolescents.

HIV/AIDS

47. While noting the existence of the National AIDS Control Programme, the National Task Force on Orphans and the Orphan Care Programme, the Committee remains extremely concerned at the high incidence and increasing prevalence of HIV/AIDS amongst adults and children and the resulting high and increasing number of children orphaned by HIV/AIDS. In this regard, the Committee is concerned at the lack of alternative care for these children.

48. The Committee recommends that the State party:

(a) Increase its efforts to prevent HIV/AIDS and take into consideration the recommendations of the Committee adopted on its day of general discussion on children living in a world with HIV/AIDS (CRC/C/80, para. 243) as well as the Guidelines on HIV/AIDS and Human Rights adopted in 1996;

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

(c) Involve children in formulating and implementing preventive and protective policies and programmes; and

(d) Seek further technical assistance from, among others, UNAIDS.

Harmful traditional practices

49. The Committee is concerned at the persistence of harmful traditional practices, including early and forced marriages.

50. The Committee recommends that the State party take legislative and awareness-raising measures to prohibit and eradicate traditional practices harmful to the health, survival and development of children, boys as well as girls. The Committee urges the State party to introduce sensitization programmes with the involvement of community leaders for practitioners and the general public to change traditional attitudes and discourage harmful practices, in particular in rural areas.

Children with disabilities

51. While noting that the Constitution provides for protection from non-discrimination based on disability and that its section 13 (g) is devoted to the rights of the disabled, the Committee is concerned at the lack of a comprehensive policy for disabled children, the lack of statistical data and the existence of discrimination, which is still widespread. Concern is also expressed at the limited facilities and services for children with disabilities and at the limited number of trained teachers to work with children with disabilities, as well as the insufficient efforts made to facilitate their inclusion into the educational system and generally within society. The Committee also notes with concern that inadequate resources have been allocated to special education programmes for children with disabilities.

52. In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee at its day of general discussion on the rights of children with disabilities (CRC/C/69), it is recommended that the State party:

(a) Establish a comprehensive policy for children with disabilities;

(b) Take effective measures to collect adequate and disaggregated statistical data on children with disabilities and ensure the use of such data in the development of policies and programmes to prevent disabilities and to aid disabled children;

(c) Reinforce its efforts to develop early detection programmes to prevent and remedy disabilities;

(d) Establish special education programmes for disabled children and include them in the regular school system as much as possible;

(e) Undertake awareness-raising campaigns to sensitize the public, parents in particular, about the rights and special needs of children with disabilities as well as children with mental health concerns;

(f) Increase resources (financial and human) allocated to special education, including vocational training, and enhance the support given to families of children with disabilities;

(g) Seek technical cooperation for the training of professional staff, including teachers, working with and for children with disabilities from, among others, WHO.

Right to an adequate standard of living

53. While noting the challenging socio-economic situation, the Committee remains concerned at the increasingly high number of children who do not enjoy their right to an adequate standard of living, including children belonging to poor families, AIDS orphans, street children and children living in remote rural areas. In addition, the Committee is concerned at the lack of a social security system that would ensure access to health services for children.

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

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

(b) Pay particular attention to the rights and needs of children in the finalization and implementation of the Poverty Reduction Strategy and all other programmes aimed at improving the standard of living in the country;

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

(d) Undertake the creation of a social security system for better access to health by children.

7. Education, leisure and cultural activities

Right to and aims of education

55. While noting that the Constitution provides for free primary education (sect. 13 (f)), that efforts have been made to increase the enrolment of girls in school (the GABLE project) and that the budget allocated to education has increased, the Committee remains concerned that primary education is free only for a few grades and that it is not compulsory. The Committee is also concerned at the gender and regional disparities in enrolment in schools, absenteeism, the high drop out and repeat rates, the low quality of education, the insufficient numbers of trained teachers, insufficient schools and classrooms, and the lack of relevant learning material. In light of article 29 (1) of the Convention, the Committee is also concerned about the quality of education within the State party. The Committee notes with concern the reported incidents of sexual abuse and exploitation of children within the school environment.

56. The Committee recommends that the State party:

(a) Make primary education compulsory;

(b) Extend the period of free primary education;

(c) Progressively ensure that girls and boys, as well as children from urban, rural and least developed areas, have equal access to educational opportunities;

(d) Take the necessary measures to improve the quality of education and to improve internal efficiency in the management of education;

(e) Build better infrastructure for schools and provide appropriate training for teachers;

(f) Extend resources to help children to go to secondary education;

(g) Orient education towards the aims stated in article 29 (1) of the Convention and the Committee's General Comment No. 1 on the aims of education and introduce human rights, including children's rights, into the school curricula;

(h) Raise awareness about the importance of early childhood education and introduce it into the general framework of education;

(i) Provide children with a safe school environment by, inter alia, taking all necessary steps to prevent abuse and exploitation of children by school personnel, taking effective disciplinary measures against school personnel who have committed those offences and reporting these incidences to the competent authorities, notably through child-sensitive structures for complaints;

(j) Encourage participation by children at all levels of school life; and

(k) Seek assistance from UNICEF and UNESCO.

8. Special protection measures

Refugee, asylum-seeking children, unaccompanied and internally displaced children

57. The Committee, acknowledging the efforts made to ameliorate the situation of child refugees, is concerned at the delays in issuing and the lack of clarity of the grounds for the decisions taken by the National Eligibility Committee. The Committee also is concerned at the fact that access to education is not always guaranteed to refugee children.

58. The Committee recommends that the State party:

(a) Consider ratifying the 1961 Convention on the Reduction of Statelessness and the 1954 Convention relating to the Status of Stateless Persons;

(b) Speed up the decision-making process of the National Eligibility Committee and make clearer the legal grounds for its decisions;

(c) Guarantee access to education to child refugees;

(d) Continue and expand its cooperation with international agencies such as UNHCR and UNICEF.

Economic exploitation

59. While noting that the Constitution provides for the protection of children below the age of 16 years from economic exploitation and from any work which is hazardous, interferes with education or is harmful to the health or the physical, mental or spiritual or social development of the child, the Committee is concerned that the Employment of Children and Young Persons Act does not establish a clear minimum age for employment. While welcoming the fact that the State party was the second State to ratify ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, the Committee remains concerned at the large number of children engaged in labour and the lack of information and adequate data on the situation of child labour and economic exploitation within the State party.

60. The Committee recommends that the State party:

(a) Establish a minimum age for employment in line with international standards;

(b) Undertake an in-depth study on child labour with a view to adopting and implementing the national plan of action to prevent and combat child labour;

(c) Undertake a review of the legislation on employment with a view to ensuring that legislation complies fully with the relevant provisions of the Convention and other international instruments ratified by the State party;

(d) Provide adequate human and other resources and training to the labour inspectorate and other law enforcement agencies in order to further strengthen their capacity to monitor the implementation of child labour legislation effectively;

(e) Continue to seek assistance from ILO/IPEC and UNICEF.

Sexual exploitation and sexual abuse

61. The Committee is concerned at the lack of knowledge about sexual exploitation and abuse of children and at the increasing number of child victims of commercial sexual exploitation, including prostitution and pornography. Concern is also expressed at the insufficient programmes for the physical and psychological recovery and social reintegration of child victims of such abuse and exploitation.

62. In light of article 34 and other related articles of the Convention, the Committee recommends that the State party undertake studies with a view to assessing the scope of commercial sexual exploitation of children, including prostitution and pornography; and implement appropriate policies and programmes for their prevention and for the rehabilitation and recovery of child victims in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children.

Sale, trafficking and abduction

63. The Committee is also concerned at information on alleged instances of trafficking in children and at the possible use of intercountry adoption for the purpose of trafficking.

64. The Committee recommends that the State party:

(a) Take measures such as a comprehensive programme to prevent and combat the sale and trafficking of children, and conduct an awareness-raising campaign and educational programmes, particularly for parents;

(b) Facilitate, inter alia, the reunification of child victims with their families and provide adequate care and reintegration for them;

(c) Ratify the Convention on the Civil Aspects of International Child Abduction adopted in 1980 at The Hague.

Street children

65. The Committee expresses its concern at the increasing number of street children and at the lack of specific policies and programmes to address this situation and to provide those children with adequate assistance.

66. The Committee recommends that the State party:

(a) Ensure that street children are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development;

(b) Ensure that these children are provided with recovery and reintegrative services when they are victims of physical, sexual and substance abuse, protection from police brutality and services for reconciliation with their families and community;

(c) Undertake a study on the causes and scope of this phenomenon and establish a comprehensive strategy to address the large and increasing number of street children with the aim of protecting street children and of preventing and reducing this phenomenon;

(d) Collaborate with non-governmental organizations working with street children in the State party and seek technical assistance from, among others, UNICEF.

Administration of juvenile justice

67. While noting that section 42 (2) (g) of the Constitution provides for special protection of children in conflict with the law, the Committee remains deeply concerned at the generally poor quality of the juvenile justice system, including the too-low age of criminal responsibility, the non-respect of the rights of children during the penal procedure, the overuse and length of pre-trial detention, the appalling conditions of detention conducive to all forms of abuse, the very limited number of skilled personnel, the lack of access to assistance towards the rehabilitation and reintegration of juveniles following justice proceedings, and the sporadic training of judges, prosecutors and prison staff.

68. The Committee recommends that the State party take the necessary steps to reform the legislation and the system of juvenile justice in line with the Convention, in particular articles 37, 40 and 39, and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System; and in light of the Committee's day of general discussion on juvenile justice (CRC/C/46, paras. 203-238).

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

(a) Increase the minimum age of criminal responsibility;

(b) Undertake all necessary measures to ensure the establishment of juvenile courts and the appointment of trained juvenile judges in all regions of the State party;

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

(d) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, notably by establishing special prisons for children with conditions suitable to their age and needs and by ensuring the presence of social services in all detention centres in the country, and in the meantime by guaranteeing separation from adults in all prisons and in pre-trail detention places all over the country;

(e) Provide children with legal and other assistance at a early stage of the procedure;

(f) Ensure that children remain in regular contact with their families while in the juvenile justice system;

(g) Introduce regular medical examination of children by independent medical staff and address issues of individual health care in prisons, including with regard to HIV/AIDS;

(h) Establish an independent child-sensitive and accessible system for complaints for children;

(i) Strengthen diversion programmes and alternative measures to punishment, such as community service and family group conferences to involve families in the process;

(j) Introduce all over the country training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

(k) Make every effort to establish a programme of social reintegration for juveniles following justice proceedings; and

(l) Request technical assistance in the area of juvenile justice and police training from, among others, the Office of the High Commissioner for Human Rights, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

9. Optional Protocols to the Convention on the Rights of the Child and amendment to article 43 (2) of the Convention

70. The Committee notes that the State party has not ratified the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict, and has not yet accepted the amendment to article 43 (2) of the Convention for an expansion of the Committee from 10 to 18 members.

71. The Committee recommends that the State party ratify the two Optional Protocols to the Convention on the Rights of the Child and encourages the State party to accept the amendment to article 43 (2) of the Convention.

10. Dissemination of documentation

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