

UNITED NATIONS

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Adopts Conclusions on Reports from Brazil, Botswana, Croatia, Kyrgyzstan, Equatorial Guinea, Angola and Antigua and Barbuda

The Committee on the Rights of the Child concluded today its thirty-seventh session and issued its conclusions and recommendations on the situation of children in Brazil, Botswana, Croatia, Kyrgyzstan, Equatorial Guinea, Angola and Antigua and Barbuda whose reports on efforts to comply with the Convention on the Rights of the Child were considered this session.

The conclusions and recommendations were contained in the Committee's final report for the three-week session, which was adopted today by the 18-member Committee.

After reviewing the report of **Brazil**, the Committee welcomed the establishment of the National Council on the Rights of Children and Adolescents and of a system of Councils of Rights at federal, state and municipal level and Guardianship Councils with the aim to promote and protect the rights of children and adolescents. It remained extremely concerned about the number of children murdered in Brazil as reported by the Special Rapporteur on extrajudicial, summary or arbitrary executions in her report and urged the State party to take as a matter of the highest priority all necessary measures to prevent the killing of children. Moreover, the Committee was deeply concerned at the high number of children victims of violence, abuse and neglect, including sexual abuse, and recommended that the State party take the necessary measures to prevent child abuse and neglect.

Concerning the report of **Botswana**, the Committee welcomed the adoption of a National Programme of Action for the Children of Botswana for the period 1993-2003 and took note with appreciation of the establishment of the National AIDS Council chaired by the President and of the recently revised National Policy on HIV/AIDS. Among its concerns was the situation of girls, in particular adolescent girls who, as acknowledged by the State party, suffered marginalization and gender stereotyping compromising their educational opportunities and were more vulnerable to sexual violence, abuse and HIV/AIDS. The Committee shared the serious concern of the State party at the still exceedingly high prevalence rate of HIV/AIDS, especially among women of child-bearing age. Consequently, it urged the State party to strengthen its efforts in combating the spread and effects of HIV/AIDS.

After having considered the report of **Croatia**, the Committee welcomed the adoption of the Act on the Ombudsperson for Children in 2003 and the withdrawal of the State party's reservation on article 9.1 of the Convention in 1998. The Committee remained concerned about the de facto discrimination against ethnic and national minorities, Roma and foreign children and at incidents of harassment and hatred that had a negative effect on the development of children. Among other things, the Committee remained concerned about the lack of systematic research on the situation of children affected by armed conflict, including follow up monitoring measures, and recommended that the State party undertake a comprehensive study on children affected by armed conflict in order to assess the extent, scope and population affected and to identify its consequences and needed recovery and remedy.

With regards to the report of **Kyrgyzstan**, the Committee welcomed the adoption of a National Programme and Plan of Action on the realization of children's rights and the establishment of a section for children's rights issues within the Office of the Ombudsman. The Committee was concerned over the reports of children being injured as a consequence of existing landmines on the borders of the State party. The Committee urged the State party to continue its efforts to achieve a bilateral agreement for the de-mining and demarcation of the border areas, including the ratification and full implementation of the Ottawa Convention on Anti-Personnel Landmines. The Committee was also concerned with the high level of dropout rates in schools, especially among girls, due to forced marriages.

Responding to the report of **Equatorial Guinea**, the Committee noted with appreciation the establishment of a National Plan of Action for Children and a National Children's Rights Committee. Given the significant growth rate of the gross domestic product in the State party, the Committee was deeply concerned about the persistence of widespread poverty in the State party and the still high number of children who did not enjoy the right to an adequate standard of living, including adequate housing and other basic services. The Committee was also concerned about the lack of juvenile courts and about the detention of persons below 18 with adults in very poor conditions, without access to basic services, and recommended that the State party ensure setting up juvenile courts and their independent and effective functioning.

Concerning the report of **Angola**, the Committee welcomed the Peace Accord of Luena of 2002 which ended 27 years of civil war and the efforts made by the State party to promote the reintegration of returning refugees as well as the measures taken to regularize the status of refugee children born in Angola. Moreover, the Committee noted that the many years of armed conflict, which ended in 2002, had had a very negative impact on children in Angola and the implementation of their rights. Among other things, the Committee was concerned at the discrimination faced by children with disabilities, girls, and children belonging to the San communities and about the growing cases of abuse and violence against children, including sexual abuse in their homes, in schools and other institutions.

And with regards to the report of **Antigua and Barbuda**, the Committee welcomed the information that the State party had raised the age of majority from 16 to 18 and the establishment of the National Committee on the Rights of the Child in 2000 to facilitate the implementation of the Convention on the Rights of the Child. The Committee, aware of the economic difficulties facing the State party, was nevertheless concerned at the lack of sufficient budget allocation for children and the implementation of their rights. It was concerned that corporal punishment was still widely practised in the family, in schools and in other institutions and recommended that the State party consider immediate repeal of, or amendment to, the Corporal Punishment Act and the Education Act.

During the session, the Committee held a day of general discussion on "Implementing child rights in early childhood", which was attended by representatives of several United Nations agencies and non-governmental organizations. In response to the discussion, the Committee issued recommendations in which it called on States parties to ensure that all children were guaranteed access to early childhood development programmes, especially the most vulnerable and recommended that donor institutions, including the World Bank, other United Nations institutions and bilateral donors support these programmes, among other things. The Committee decided to devote the general day of discussion at its next session to the theme "Children deprived of parental care".

The Committee also adopted a decision recommending that the United Nations Commission on Human Rights consider establishing at its sixty-first session next year a Working Group to prepare draft United Nations guidelines for the protection and alternative care of children without parental care by 2008. Moreover, on the last day of the session, it approved the nomination of Alison Anderson of Jamaica who will replace Committee Expert Marjorie Taylor, also of Jamaica, who left the Committee due to health reasons.

The Committee was originally scheduled to consider the initial report of the Bahamas during this session, but postponed the meeting with the State party until its next session.

The Committee's next session will be held from 10 to 28 January 2005 at the Palais Wilson in Geneva. Scheduled for consideration are reports of Sweden, Albania, Luxembourg, Austria, Belize, Bolivia, Iran, Nigeria, Togo and the Bahamas.

FINAL OBSERVATIONS AND RECOMMENDATIONS ON REPORTS PRESENTED

BRAZIL

After considering the initial report of Brazil, the Committee welcomed the adoption of the 1988 Constitution, which included human rights principles and gave absolute priority to children's rights. The Committee noted the adoption of the Statute of the Child and Adolescent Law of 1990, which included the rights provided for in the Convention. The Committee also welcomed the establishment of the National Council on the Rights of Children and Adolescents and of a system of Councils of Rights at federal, state and municipal level and Guardianship Councils with the aim to promote and protect the rights of children and adolescents. Moreover, the Committee welcomed the ratification of the Hague Convention No. 33 on the Protection of Children and Cooperation in Respect of Inter-country Adoption, the ratification of ILO Convention No. 138 concerning Minimum Age for Admission to Employment and ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

While the Committee noted that the right to life, survival and development was integrated in the internal legislation of Brazil, it remained extremely concerned about the number of children murdered in Brazil as reported by the Special Rapporteur on extrajudicial, summary or arbitrary executions in her report which stated that the perpetrators of those crimes were mainly military policemen or former policemen (E/CN.4/2004/7/Add.3). The Committee urged the State party to take as a matter of the highest priority all necessary measures to prevent the killing of children, to fully investigate each of those serious violations of children rights, to bring the perpetrators to justice and to provide the family of the victims with adequate support and compensation.

The Committee was deeply concerned at the high number of children victims of violence, abuse and neglect, including sexual abuse, in schools, in institutions, in public places and in the family and recommended that the State party carry out preventive public education campaigns about the negative consequences of ill-treatment of children and take the necessary measures to prevent child abuse and neglect. The Committee was further concerned about the low quality of education in many schools to the extent that there were many children who after several years of school attendance, could not read or write and do basic calculations. It therefore recommended that the State party strengthen its efforts to improve the quality of education, inter alia, by revising school curricula, introducing child-centered and active teaching and learning methods and integrating human rights education. The Committee also recommended that the State party develop a comprehensive strategy to address the high number of street children, with the aim of reducing and preventing this phenomenon.

The Committee recommended that the State party continue its efforts to improve the system of juvenile justice in all states of the Federation in line with the Convention and that it provide the means. It also encouraged that persons below eighteen in conflict with the law were treated, as far as possible, without resorting to judicial proceedings. The Committee was deeply concerned by the low standard of living of indigenous children, low educational opportunities and quality of health services, and malnutrition.

The Committee urged the State party to pursue measures to effectively address the gap in life opportunities of indigenous children.

BOTSWANA

Concerning the initial report of Botswana, the Committee welcomed the adoption of a National Programme of Action for the Children of Botswana for the period 1993-2003, the establishment of the District Child Welfare Committees and of a National Child Welfare Committee. The Committee took note with appreciation of the establishment of the National AIDS Council chaired by the President and of the recently revised National Policy on HIV/AIDS. The Committee welcomed the State party's ratification of ILO Convention No. 138 on Minimum Age and ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2000. The Committee also welcomed the ratification of the African Charter on the Rights and Welfare of the Child.

The Committee reaffirmed the fact that the various ages defined in the current legislation were not in conformity with the Convention and recommended that the State party expedite the necessary legislative reform in order to establish a definition of the child in conformity with the Convention. The Committee was also concerned that societal discrimination persisted against vulnerable groups of children, including children with disabilities, street and rural children, children born out of wedlock, orphans and fostered children and children affected or infected by HIV/AIDS. The Committee was deeply concerned at the situation of girls, in particular adolescent girls who, as acknowledged by the State party, suffered marginalization and gender stereotyping which compromised their educational opportunities and made them more vulnerable to sexual violence, abuse and HIV/AIDS. The Committee recommended that the State party prioritize and target social services for children belonging to the most vulnerable groups and pay special attention to the situation of girls through education campaigns, participation, support and protection of girls. The Committee was concerned that children with disabilities were still discriminated against and were often considered "an embarrassment" by their parents, and recommended that the State party continue to strengthen its efforts to combat discriminatory attitudes towards children with disabilities, particularly amongst children and parents, and promote their participation in all aspects of social and cultural life.

The Committee shared the serious concern of the State party at the still exceedingly high prevalence rate of HIV/AIDS, especially among women of child bearing age. Consequently, it urged the State party to strengthen its efforts in combating the spread and effects of HIV/AIDS by, among other things, training professionals, conducting education campaigns on prevention, improving the prevention of mother to child transmission programme, providing free and universal anti retroviral medication, and improving protection and support for AIDS orphans. The Committee was also concerned that primary education was not compulsory and was worried about the high drop-out rates, in particular of girls in secondary schools, partly due to pregnancies. The Committee recommended that the State party take all necessary measures to ensure that primary education was free and compulsory as required in the Convention and continue and strengthen the activities providing pregnant girls with ongoing access to education (before and after giving birth). It was especially concerned at the fact that the age of criminal responsibility, fixed at 8 years, was too low and recommended that the State party raise the age of criminal responsibility to an internationally accepted standard.

CROATIA

The Committee, having considered the second periodic report of Croatia, welcomed the adoption of the Act on the Ombudsperson for Children in 2003; the amendments to the Family Act, the Criminal Code and the Criminal Procedure Act in 2003 and the withdrawal of Croatia's reservation on article 9.1 of the Convention in 1998. The Committee welcomed the State Party's ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography in 2002. The Committee further welcomed the State party's ratification of the ILO Convention no. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour in 2001 and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in 2003.

The Committee acknowledged the various efforts undertaken by the State party to follow up its previous recommendations but remained concerned about the de facto discrimination against ethnic and national minorities, Roma and foreign children and at incidents of harassment and hatred that had a negative effect on the development of children. The Committee noted with concern the relatively high number of deaths and injuries among children due to traffic and domestic accidents despite the various measures taken by the State party to address this problem. It was also concerned with the lack of adequate measures to encourage the mass media to disseminate information which would promote the spirit of understanding of differences. The Committee recommended that the State Party pursue its efforts to protect children from information and material injurious to his or her well-being.

The Committee recommended that the State Party ensure the effective implementation of the new Asylum Law and that it ensure that refugee and asylum-seeking children had access to basic services such as education and health and that there was no discrimination in benefit entitlements for asylum-seeking families that could negatively affect children. The Committee remained concerned about the lack of a systematic research on the situation of children affected by armed conflict, including follow up monitoring measures, and recommended that the State party undertake a comprehensive study on children affected by armed conflict in order to assess the extent, scope and population affected and to identify its consequences and needed recovery and remedy.

The Committee recommended that the State party further strengthen its efforts to identify, prevent and combat trafficking in children for sexual and other exploitative purposes. The Committee also remained concerned about the quality of institutions and the reports of incidents of violence in detention centres and that persons below 18 in detention or custody were placed with those up to the age of 27 years. Consequently, it recommended that the State party protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment.

KYRGYZSTAN

With regard to the second periodic report of Kyrgyzstan, the Committee welcomed the adoption of a National Programme and Plan of Action on the realization of children's rights, New Generation, adopted in pursuance to the Convention and the concluding observations of the Committee on the Rights of the Child following the examination of the State Party's initial report. The Committee noted with appreciation the adoption of the law on the People's Rights Defenders (Ombudsmen), the election of the first Ombudsman in November 2002, and the establishment of a section for children's rights issues within the Office of the Ombudsman. The Committee also welcomed the State party's ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; and the 1999 ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

The Committee was concerned that the new Children Code might not be in compliance with the Convention on the Rights of the Child, especially in the areas of reproductive health and adoption. The Committee welcomed the adoption of the New Generation State Programme for the Realization of Children's Rights for the period up to 2010. However, it expressed its concern that there was no permanent mechanism set up to coordinate the policies and activities on children's rights that were being carried out by the various government ministries, civil society organizations as well as international agencies. The Committee was also concerned that assistance to families with children with disabilities or children with HIV/AIDS was being provided only to children under the age of 16 and that children in special institutions for psychological care were being transferred to adult psychiatric hospitals at the age of 16. The Committee recommended that the State party take the necessary legal measures to ensure that all persons under 18 year of age were guaranteed by law the special protection they were entitled to under the Convention.

The Committee was concerned over the reports of children being injured as a consequence of existing landmines on the borders of the State party. The Committee urged the State party to continue its efforts to achieve a bilateral agreement for the de-mining and demarcation of the border areas, including the ratification and full implementation of the Ottawa Convention on Anti-Personnel Landmines. The Committee was concerned with the high level of dropout rates in schools, especially among girls, due to forced marriages. It was also concerned about the increasing practice of requesting parents to pay unofficial monthly and/or one-time enrolment fees as well as to pay for textbooks and school repairs which constituted obstacles for children to access educational institutes. The Committee remained concerned about certain practices that did not allow for persons under 18 to have their own documentation and with reports that in some cases asylum-seekers were not being allowed to register their claims for refugee status because of their ethnic background.

EQUATORIAL GUINEA

Among the positive developments in the initial report of Equatorial Guinea, the Committee noted with appreciation the establishment of a National Plan of Action for Children (1992) and a National Children's Rights Committee (1997); the adoption of the Education Law (1995) establishing a compulsory, free and guaranteed primary school and the Labour Act regulating child labour (1990); and the adoption and implementation of a National Plan on Education for All, which resulted in some improvements in education. It also noted with appreciation the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in February 2003; ILO Convention No. 182 on Worst Forms of Child Labour, in 2001; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, in 2003; and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, in 1997.

While the Committee welcomed the State party's commitment made in 1997 to allocate 40 per cent of all its oil revenues to the social sector, it regretted that this commitment had not yet been fully met with the necessary measures. The Committee was concerned that budgetary allocations were insufficient to respond to national and local priorities for the protection and promotion of children's rights and urgently recommended the State party to meet as soon as possible its commitment made in 1997 and to spend 40 per cent of all its revenues on the social sector. The Committee was concerned that societal discrimination and cultural practices persisted against vulnerable groups of children, in particular girls and children from poor and rural families, among others. The Committee was also concerned at the weakening of the family support for children, which was also demonstrated by the fact that less than 50 per cent of children lived with both parents due to various factors including urbanization, very large scale poverty, the increase of HIV/AIDS, a deterioration of traditional solidarity and a high level of promiscuity.

Given the significant growth rate of the gross domestic product in the State party, the Committee was deeply concerned about the persistence of widespread poverty and the still high number of children who did not enjoy the right to an adequate standard of living, including adequate housing and other basic services. In accordance with the Convention, the Committee recommended that the State party develop and implement, as a matter of high priority, an effective national plan for the reduction of poverty. The Committee remained concerned at the significant number of children working on the street and as domestic servants, especially girls, and recommended that the State party undertake raising-awareness campaigns to prevent and combat the economic exploitation of children and strengthen cooperation with countries from which cross-border child labour originated in order to combat their economic exploitation. The Committee was also concerned about the lack of juvenile courts and about the detention of persons below 18 with adults in very poor conditions, without access to basic services and recommended that the State party ensure setting up juvenile courts and their independent and effective functioning.

ANGOLA

After having considered the initial report of Angola, the Committee welcomed the Peace Accord of Luena of 2002 which ended 27 years of civil war; the efforts made by the State party to promote the reintegration of returning refugees as well as the measures taken to regularize the status of refugee children born in Angola; the commitments made to strengthen the protection of the rights of the young child by the State party in the context of the first National Forum on Early Childhood Care and Development, held in Luanda from 14 to 16 June 2004; and the accession in July 2004 to the African Peer Review Mechanism under the African Union's New Partnership for Africa's Development (NEPAD) programme, among other things.

The Committee noted that the many years of armed conflict, which ended in 2002, had had a very negative impact on children in Angola and the implementation of their rights. In particular, it noted that as a consequence of the conflict, more than 4 million people were internally displaced; many children were separated from their parents; schools, health services and the infrastructure of many communities were destroyed, or severely damaged; and children suffered serious physical, psychological and other traumas.

Among other things, the Committee was concerned at the discrimination faced by children with disabilities, girls, and children belonging to the San communities in the State party and about the unacceptably high number of unregistered children in the State party and the consequences of non-registration on children's access to education and other services. It recommended that the State party undertake all necessary measures to ensure that all children were registered at birth, including by providing such registration free of charge. The Committee expressed its deep concern at the re-emergence of the phenomenon of persecution of children accused of witchcraft and the very negative consequences of such accusations, including cruel, inhumane and degrading treatment, and even murder of the accused child. It therefore urged the State party to take immediate measures to eliminate the practice of witchcraft accusations and the maltreatment of children in that regard, including through appropriate prosecution of the perpetrators of this maltreatment and intensive education campaigns including local leaders.

The Committee was concerned about the growing cases of abuse and violence against children, including sexual abuse in their homes, in schools and other institutions and recommended that the State party ensure that adequate protection to child victims of abuse in their homes was provided and that its national plan of action to combat sexual abuse of minors was effectively implemented. Moreover, the Committee expressed its deep concern at the alarming levels of mortality among children, with 25 per cent of children dying before they reached the age of five. It noted that the main causes of child mortality were related to malaria, diarrhoeal diseases, acute respiratory diseases and vaccine preventable diseases. The Committee also expressed its concern about the high and growing incidence of HIV/AIDS in the State party, and the high number of children who were infected with HIV or had become AIDS orphans.

ANTIGUA AND BARBUDA

The Committee found among positive developments in the initial report of Antigua and Barbuda the adoption of laws aimed at enhancing the implementation of the Convention, including the Sexual Offences Act in 1995 ensuring protection of children from incestuous relationships and the Domestic Violence Act in 1999. The Committee welcomed the information that the State party had raised the age of majority from 16 to 18 and the establishment of the National Committee on the Rights of the Child in 2000 to facilitate the implementation of the Convention on the Rights of the Child. The Committee also noted with appreciation the establishment of the Alliance for the Well-being of Children.

The Committee acknowledged challenges faced by the State party, namely the increasing debt burden and the vulnerability to natural disasters including hurricanes and droughts, which impeded progress to the full realization of children's rights enshrined in the Convention. The Committee, aware of the economic difficulties facing the State party, was nevertheless concerned at the lack of sufficient budget allocation for children and the implementation of their rights. The Committee was also concerned that some groups of children, in particular girls, children with disabilities, children living in poverty, children born out of wedlock and informally adopted children suffered from discriminatory attitudes and disparities in accessing basic services. Given the information that some 50 per cent of all households in the State party were headed by women, the Committee expressed its concern that the establishment of a legal paternity, in case the biological father did not want to legally recognize the child, was time consuming and expensive, which constituted an impediment to the right of the child to identity and/or to know both parents.

The Committee was concerned that corporal punishment was still widely practised in the family, in schools and in other institutions and recommended that the State party consider immediate repeal of, or amendment to, the Corporal Punishment Act and the Education Act and that it expressly prohibit corporal punishment by law in the family, schools and other institutions. Moreover, the Committee remained concerned that domestic laws of the State party only provided for obligations of fathers towards their children, and did not fully reflect article 18 of the Convention, which stipulated that both parents had common responsibilities for the upbringing and the development of the child. In turn, the Committee recommended that the State party amend or adopt legislation so that both parents had equal responsibilities in the fulfilment of their obligations towards their children.

The Committee was seriously concerned that no safe houses or places of alternative care existed for boys who suffered from parental neglect or who needed to be removed from their family environment, and that they were generally placed in the facility for boys in conflict with the law. It was further concerned that there were no officially designated places of safety for children victims of abuse, where they could stay until their cases were heard by a magistrate and that in practice, children were usually held at the police station, which raised serious alarm. The Committee therefore recommended that the State party take the necessary measures to prevent child abuse and neglect.

RECOMMENDATIONS BY COMMITTEE FOLLOWING GENERAL DISCUSSION ON IMPLEMENTING CHILD RIGHTS IN EARLY CHILDHOOD

The Committee recommended that States parties undertake all necessary measures to ensure that all children were registered at birth by making birth registration free of charge and employing mobile registration units, among other things. In view of the crucial importance of early childhood programmes for the sound development of children, the Committee called on States parties to ensure that all children were guaranteed access to these programmes, especially the most vulnerable. To underline the importance of education as part of early childhood development, the Committee recommended that States parties considered making early childhood education an integral part of basic/primary education as a tool to nurture the child's evolving capacities in a stress-free environment. Moreover, in light of article 29 of the Convention and the Committee's General Comment No. 1 on the aims of education, the Committee recommended that States parties include human rights education in pre- and primary school programmes.

States parties must take all appropriate measures to ensure that the concept of children as rights-holders was anchored in the child's daily life from the earliest stage, at home, at school, in day care facilities and in his or her community. The Committee recommended that States parties support early childhood development programmes, including home- and community-based pre-school education programmes, in which parents' empowerment and education were main features. The Committee also recommended that donor institutions, including the World Bank, other United Nations institutions and bilateral donors supported early childhood development programmes financially and technically, as one of their main targets to assist sustainable development in countries benefiting from international assistance.

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[Source] The "child-rights" mailing list provided by Human Rights Education Associates (HREA). Archives of "child-rights" messages, as well as instructions on how to (un)subscribe to the list, can be found at:
<http://www.hrea.org/lists/child-rights/markup/maillist.php>