Child's right to health and health services

Text of Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, *the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution;*

(d) To ensure appropriate prenatal and postnatal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international cooperation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Summary

Article 24 of the Convention on the Rights of the Child builds on and develops the right to life and to survival and development to the maximum extent possible that is set out in article 6. Applying the Convention's non-discrimination principle (article 2) requires States to recognize the right of all children without discrimination to "the highest attainable standard of health" as well as to "facilities for the treatment of illness and rehabilitation of health". And States Parties must strive to ensure "that no child is deprived of his or her right of access to such health care services". Paragraph 2 provides a non-exclusive list of appropriate measures that States must take in pursuing full implementation of the right, including "to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care". The holistic nature of the Convention and the Committee's interpretation stress the obvious connections between realizing the child's health rights and the child's right to an adequate standard of living (article 27) and to education (article 28) as well as to protection from all forms of physical or mental violence (article 19).

Respect for the views of the child needs to be built into health care and into the design of health services, and respect for evolving capacities (article 5, page 85) underlines the need for full consideration of adolescent health issues.

Article 24, paragraph 3, requires action to abolish traditional practices "prejudicial to the health of children", drafted because of particular concern over female genital mutilation and requiring a review of all potentially harmful practices. Paragraph 4 asserts the importance of international cooperation (reflecting the general provision found in article 4) in achieving full realization of the right to health and health care services.

The Convention's health provisions developed from provisions in the Universal Declaration of Human Rights and the two International Covenants – on Civil and Political Rights and on Economic, Social and Cultural Rights – and from the formulation of definitions and principles by international organizations, in particular the World Health Organization (WHO) and UNICEF. The broad definition of health adopted by the WHO in its Constitution – a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity – emphasizes again the holistic nature of the Convention and links to the broad definition of child development the Convention promotes. Healthy development of the child is of basic importance. The World Summit for Children Declaration and Plan of Action defined detailed goals for improving child health by the year 2000, derived from goals already agreed upon by UNICEF and WHO. The 2002 special session on Children of the United Nations General Assembly will review these and develop a new Plan of Action. The World Summit for Social Development (Copenhagen, 1995) and its follow-up special session of the United Nations General Assembly (Geneva, 2000) reaffirmed and added to the World Summit goals. The International Conference on Population and Development (Cairo, 1994), the Fourth World Conference on Women (Beijing, 1995) and its follow-up special session of the General Assembly in 2000, as well as the Millennium Summit of the United Nations (2000), have important detailed recommendations on health, including particularly adolescents' health rights. ■

Extracts from Committee on the Rights of the Child Guidelines for Reports to be submitted by States Parties under the Convention

For full text of *Guidelines for Periodic Reports*, see Appendix 3, page 674.

Guidelines for Initial Reports

"Basic health and welfare

Under this section States Parties are requested to provide relevant information, including the principal legislative, judicial, administrative or other measures in force; the institutional infrastructure for implementing policy in this area, particularly monitoring strategies and mechanisms; and factors and difficulties encountered and progress achieved in implementing the relevant provisions of the Convention, in respect of:

...
(c) Health and health services (art. 24);
..."
(CRC/C/5, para. 19)

Guidelines for Periodic Reports

"VI. BASIC HEALTH AND WELFARE

B. Health and health services (art. 24)

Please indicate the measures adopted pursuant to articles 6 and 24:

To recognize and ensure the right of the child to the enjoyment of the highest attainable standard of health and to facilities for treatment and rehabilitation;

To ensure that no child is deprived of his or her right of access to such health care services;

To ensure respect for the general principles of the Convention, namely non-discrimination, the best interests of the child, respect for the views of the child and the right to life, and survival and development to the maximum extent possible.

Reports should also provide information about the measures adopted to identify changes which have occurred since the submission of the State Party's previous report, their impact on the life of children, as well as the indicators used to assess the progress achieved in the implementation of this right, the difficulties encountered and any targets identified for the future, including in relation to child mortality and child morbidity, service coverage, data collection, policies and legislation, budget allocation (including in relation to the general budget), involvement of non-governmental organizations and international assistance.

Please also provide information on the measures undertaken in particular:

To diminish infant and child mortality, indicating the average rates and providing relevant disaggregated data, including by gender, age, region, rural/urban area, ethnic and social origin.

To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care, including:

The distribution of both general and primary health care services in the rural and urban areas of the country and the balance between preventative and curative health care;

Information on the children having access to and benefiting from medical assistance and health care, as well as persisting gaps, including by gender, age, ethnic and social origin, and measures adopted to reduce existing disparities;

The measures adopted to ensure a universal immunization system.

To combat disease and malnutrition, including in the framework of primary health care, through inter alia *the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into account the risks and dangers of environmental degradation and pollution; reports should indicate the overall situation, persisting disparities and difficulties, as well as policies to address them, including priorities identified for future action, and information should also be provided, including by gender, age, region, rural/urban, and social and ethnic origin on:*

The proportion of children with low birth weight;

The nature and context of the most common diseases and their impact on children;

The proportion of the child population affected by malnutrition, including of a chronic or severe nature, and lack of clean drinking water;

The children provided with adequate nutritious food;

The risks from environmental pollution and the measures adopted to prevent and combat them.

To ensure appropriate prenatal and postnatal health care for mothers, indicating the nature of services provided, including appropriate information given, the coverage ensured, the rate of mortality and its main causes (average and disaggregated, inter alia, *by age, gender, region, urban/rural area, social and ethnic origin), the proportion of pregnant women who have access to and benefit from pre- and postnatal health care, trained personnel and hospital care and delivery;*

To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents; in this regard, information should also be provided on:

Campaigns, programmes, services and strategies and other relevant mechanisms developed to provide basic knowledge, information and support to the general population, in particular to parents and children;

The means used, particularly in relation to the areas of child health and nutrition, the advantages of breastfeeding and the prevention of accidents;

The availability of safe sanitation;

The measures adopted to increase food production to ensure household food security;

The measures adopted to improve the system of education and training of health personnel;

Disaggregated data, including by age, gender, region, rural/urban area, social and ethnic origin.

To develop preventive health care, guidance for parents and family planning education and services; in this regard, reports should also provide information on:

The policies and programmes developed, as well as services available;

The population covered, including in rural and urban areas, by age, gender, social and ethnic origin;

The measures adopted to prevent early pregnancy and to take into consideration the specific situation of adolescents, including provision of appropriate information and counselling;

The role played by the education system in this regard, including in the school curricula;

Disaggregated data on the incidence of children's pregnancy, including by age, region, rural/urban area, and social and ethnic origin.

Please indicate the prevalence of HIV/AIDS and the measures adopted to promote health information and education on HIV/AIDS among the general population, special groups at high risk and children, as well as:

The programmes and strategies developed to prevent HIV;

The measures adopted to assess the occurrence of HIV infection and AIDS, among both the general population and children, and its incidence inter alia *by age, gender, rural/urban area;*

The treatment and management provided in case of HIV infection and AIDS among children and parents, and the coverage ensured nationwide, in urban and rural areas;

The measures adopted to ensure an effective protection and assistance to children who are orphans as a result of AIDS;

The campaigns, programmes, strategies and other relevant measures adopted to prevent and combat discriminatory attitudes against children infected by HIV or with AIDS, or whose parents or family members have been infected.

Please provide information on the measures adopted pursuant to article 24, paragraph 3, with a view to abolishing all traditional practices prejudicial to the health of children, particularly girls, or otherwise contrary to the principles and provisions of the Convention (for example genital mutilation and forced marriage). Reports should also indicate any assessment made of traditional practices persisting in society that are prejudicial to children's rights.

Information should also be provided on the measures adopted pursuant to article 24, paragraph 4, to promote and encourage international cooperation with a view to achieving progressively the full realization of the right recognized in this article, and the particular consideration given to the needs of developing countries. Reports should inter alia *indicate the activities and programmes developed in the framework of international cooperation, including at the bilateral and regional levels, the areas addressed, the target groups identified, the financial assistance provided and/or received and the priorities considered, as well as any evaluation made of the progress achieved and of the difficulties encountered. Mention should be made, whenever appropriate, of the involvement of United Nations organs and specialized agencies and non-governmental organizations."*

(CRC/C/58, paras. 93-98. The following paragraphs of the *Guidelines for Periodic Reports* are also relevant to reporting under this article: 24, 32, 40-41, 46, 86-87, 108, 143, 166; for full text of *Guidelines*, see Appendix 3, page 674.)

Health rights in the International Bill of Human Rights

The Universal Declaration of Human Rights includes the right to care as part of everyone's right to "a standard of living adequate for the health and well-being of himself and of his family", adding: "Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection" (article 25).

The International Covenant on Economic, Social and Cultural Rights, in article 12, provides:

"1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness."

Article 11 of the Covenant sets out the right of "everyone" to an adequate standard of living, including adequate food, clothing and housing. The Committee on Economic, Social and Cultural Rights has adopted General Comments on the right to adequate housing and the right to adequate food (see article 27, page 396 and below, page 354).

Both instruments also assert the right to life (for further discussion see article 6, page 95). The Convention on the Rights of the Child goes further in establishing a right of access to health care services, and providing a non-exclusive list of appropriate measures States should take.

Declaration on Primary Health Care

The World Health Organization includes in its Constitution (adopted at the International Health Conference in New York in 1946) a broad definition of "health", and the same definition was used in the Declaration of Alma-Ata on Primary Health Care – the result of the 1978 International Conference on Primary Health Care, which met in Alma-Ata, (jointly sponsored by the WHO and UNICEF). The Declaration reaffirmed that health, "which is a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity, is a fundamental human right and that the attainment of the highest possible level of health is a most important worldwide social goal whose realization requires the action of many other social and economic sectors in addition to the health sector".

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The Declaration of Alma-Ata defines primary health care, promoted as a priority in article 24 of the Convention on the Rights of the Child, as "essential health care based on practical, scientifically sound and socially acceptable methods and technology made universally accessible to individuals and families in the community through their full participation and at a cost that the community and country can afford to maintain at every stage of their development in the spirit of self-reliance and self-determination. It forms an integral part both of the country's health system, of which it is the central function and main focus, and of the overall social and economic development of the community. It is the first level of contact of individuals, the family and community with the national health system bringing health care as close as possible to where people live and work, and constitutes the first element of a continuing health care process" (Declaration of Alma-Ata, paras. I and VI. For further details, see box on page 348).

The Declaration urges all governments to formulate national policies, strategies and plans of action to launch and sustain primary health care as part of a comprehensive national health system (Declaration of Alma-Ata 1978, paras. I, VI, VII and VIII). The Declaration was endorsed by the United Nations General Assembly in a resolution – "Health as an integral part of development" – that reiterated WHO's appeal to the international community "to give full support to the formulation and implementation of national, regional and global strategies for achieving an acceptable level of health for all" (General Assembly resolution 34/58, 29 November 1979).

More recently, in 1998, the World Health Assembly reaffirmed the Alma-Ata principles in its policy paper "Health for all in the twenty-first century" (A51/5).

Declaration of Alma-Ata

The following is the text of the Alma-Ata Declaration on Primary Health Care:

"Primary health care:

1. reflects and evolves from the economic conditions and sociocultural and political characteristics of the country and its communities and is based on the application of the relevant results of social, biomedical and health services research and public health experience;

2. addresses the main health problems of the community, providing promotive, preventive, curative and rehabilitative services accordingly;

3. includes at least: education concerning prevailing health problems and the methods of preventing and controlling them; promotion of food supply and proper nutrition; an adequate supply of safe water and basic sanitation; maternal and child health care, including family planning; immunization against the major infectious diseases; prevention and control of locally endemic diseases; appropriate treatment of common diseases and injuries; and provision of essential drugs;

4. involves, in addition to the health sector, all related sectors and aspects of national and community development, in particular agriculture, animal husbandry, food, industry, education, housing, public works, communications and other sectors; and demands the coordinated efforts of all those sectors;

5. requires and promotes maximum community and individual self-reliance and participation in the planning, organization, operation and control of primary health care, making fullest use of local, national and other available resources; and to this end develops through appropriate education the ability of communities to participate;

6. should be sustained by integrated, functional and mutually supportive referral systems, leading to the progressive improvement of comprehensive health care for all, and giving priority to those most in need;

7. relies, at local and referral levels, on health workers, including physicians, nurses, midwives, auxiliaries and community workers as applicable, as well as traditional practitioners as needed, suitably trained socially and technically to work as a health team and to respond to the expressed health needs of the community."

(Declaration of Alma-Ata, 1978, para. VII)

The Committee on the Rights of the Child has reinforced the Convention's emphasis on primary health care in its examination of reports from States Parties (see below, page 353).

World Summit for Children Declaration and Plan of Action

The World Declaration on the Survival, Protection and Development of Children and the Plan of Action for implementing it, adopted at the World Summit for Children on 30 September 1990, provided both general and specific commitments for child health, related to the Convention's standards, which the Committee on the Rights of the Child has referred to in its examination of States Parties' reports.

The special session on Children of the United Nations General Assembly to be held in May 2002 will review and build on the World Summit Declaration and Plan of Action.

The Committee has urged States consistently to fulfil World Summit for Children goals. For example:

"The Committee welcomes the State Party's efforts to fulfil the goals set by the World Summit for Children. However, it remains concerned about regional inequalities in access to health services, as well as in immunization coverage and infant mortality rates. The Committee recommends that the State Party continue taking effective measures to ensure access to basic health care and services for all children." *(Costa Rica 2RCO, Add.117, para. 21)*

In 2000 a special session of the United Nations General Assembly reviewed progress since the World Summit for Social Development (Copenhagen, 1995). It adopted a detailed res-

olution on further initiatives for social development (A/RES/S-24/2): "Five years have passed since the World Summit for Social Development, which marked the first time in history that heads of State and Government had gathered to recognize the significance of social development and human well-being for all and to give these goals the highest priority into the twenty-first century. The Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development established a new consensus to place people at the centre of our concerns for sustainable development and pledged to eradicate poverty, promote full and productive employment, and foster social integration to achieve stable, safe and just societies for all." (para. 1)

The resolution urges the use of health policies as an instrument for poverty eradication, along the lines of the World Health Organization strategy on poverty and health, including the development of "sustainable and effectively managed pro-poor health systems which focus on the major diseases and health problems affecting the poor, achieving greater equity in health financing, and also taking into account the provision of and universal access to high-quality primary health care throughout the life cycle, including sexual and reproductive health care, not later than 2015, as well as health education programmes, clean water and safe sanitation, nutrition, food security and immunization programmes…" It urges detailed, multisectoral action at the national level to challenge HIV/AIDS (commitment 2, para. 27(u) and commitment 7, para. 97)

Progressive implementation of health rights

As with other economic, social and cultural rights, article 4 of the Convention on the Rights of the Child requires States Parties to implement article 24 "to the maximum extent of their available resources and, where needed, within the framework of international cooperation". The right to life (article 6, paragraph 1) is a principle which must be respected in all circumstances, and is included in both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (see page 97). Article 24 stresses the progressive nature of implementation: States Parties "shall strive to ensure" that no child is deprived of his or her right of access to health care services, "shall pursue full implementation of this right" (paragraph 2), and shall promote and encourage international cooperation "with a view to achieving progressively" full realization of the right (paragraph 4).

Similarly, article 2(1) of the International Covenant on Economic, Social and Cultural Rights indicates that each State Party undertakes to take steps "to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means".

The Committee on the Rights of the Child has not yet commented in detail on the interpretation of article 24 and the obligations of States Parties. But in a key General Comment on the nature of States Parties' obligations under the International Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights notes that the concept of progressive realization is, on the one hand, a necessary flexibility device, reflecting the realities of the real world. "On the other hand, the phrase must be read in the light of the overall objective, indeed the *raison d'être* of the Covenant which is to establish clear obligations for States Parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources...

"... the Committee is of the view that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State Party. Thus, for example, a State Party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, *prima facie*, failing to discharge its obligations under the Covenant ... even where the available resources are demonstrably inadequate, the obligation remains for a State Party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances. Moreover, the obligations to monitor the extent of the realization, or more especially of the non-realization, of economic, social and cultural rights, and to devise strategies and programmes for their promotion, are not in any way eliminated as a result of resource constraints." (Committee on Economic, Social and Cultural Rights, General Comment 3, 1990, HRI/GEN/1/Rev.5, pp. 20 and 21. For further discussion, see article 4, page 56.)

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The Committee frequently expresses general concern at lack of access, and lack of free access, to health services, in particular for disadvantaged groups. It has commented on low investment, shortages and high cost of drugs. For example:

"The Committee wishes to reiterate the concerns expressed by the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.39) with regard to the deterioration in the health of the Armenian people, especially women and children, and decreasing budgetary allocations in this sector. The Committee's concerns include the deterioration in the quality of care; inadequate prenatal and neonatal care; poor nutrition; that the cost of care is a barrier to access to health care for poor households; and that abortion is the most commonly used means of family planning.
"The Committee recommends that the State Party increase allocation of resources towards an effective primary health care system. The Committee recommends that the State Party continue its efforts to distribute food to the poorest sections of society; expand use of iodized salt; and establish family planning programmes. The State Party is encouraged to continue cooperation with and seek assistance from, inter alia*, UNICEF, WHO, the World Food Programme and civil society."* (Armenia IRCO, Add.119, paras. 36 and 37)

"The Committee is deeply concerned at low immunization rate, high levels of malnutrition and micro-nutrition deficiencies and extremely poor health conditions among children in general and particularly in camps. Further, the Committee is concerned at high mortality rates among children, high maternal mortality rates, at low investment in health care, the limited number of hospitals and health centres that are operational, the limited drug supply and relatively high cost of medicines, including generic drugs, and the concentration of medical professionals in Bujumbura city.
"The Committee urges the State Party to make significant increases in the health budget, to make every effort to improve public health, including primary health care, and to ensure adequate access for all children to health services, with particular regard to those living in rural communities and in camps. The Committee recommends that the State Party implement integrated policies and programmes for the management of childhood illnesses and measures to improve child and maternal health. The Committee recommends that the State Party seek the assistance of UNICEF and WHO in this regard." (Burundi IRCO, Add.133, paras. 54 and 55)

"The Committee is concerned at the very high mortality rate among young children and the high maternal mortality rate, the high level of serious illnesses, problems related to malnutrition among children and mothers, low immunization rates and poor access to safe drinking water. The Committee is concerned, in addition, that the charging of fees for basic health care, and particularly prenatal and maternal care, may limit the access of disadvantaged children and their mothers to health services. Further, the Committee is concerned at weaknesses in the health information system and the lack of health statistics in particular.
"The Committee urges the State Party to make every additional effort to address urgently health concerns among children and adults and to improve access for the whole population, including poor families, to health services. The Committee urges the State Party in particular to consider and apply means through which charges for health services can be removed or reduced for disadvantaged children and mothers and to improve the decentralization of effective health services. The Committee recommends that the State Party make free medical assistance available to pregnant women, including the assistance of trained professionals during childbirth. The Committee urges the State Party to continue to seek international cooperation in this regard, including from UNICEF, WHO and others." (Central African Republic IRCO, Add.138, paras. 54 and 55)

Discrimination in access to health/health care

Article 24 stresses that the State Party must recognize the right of the child to the enjoyment of the highest attainable standard of health and it must strive to ensure that no child is deprived of access to health care services. Article 24 read with article 2 requires that no child in the jurisdiction suffers discrimination in the implementation of the article – "irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth or other status". According to the Alma-Ata Declaration: "The existing gross inequality in the health status of the people particularly between developed and developing countries as well as within countries is politically, socially and economically unacceptable and is, therefore, of common concern to all countries." (Declaration, para. II)

The Committee has linked concerns about health to discrimination issues in many cases. In particular, it has highlighted discrimination against children living in poverty, girls, disabled chil-

dren, children living in rural areas and different regions of a State, ethnic groups, children of indigenous communities, asylum-seeking and refugee children and illegal immigrants (see also article 2, page 19). For example:

"In the light of article 24 of the Convention, the Committee notes that the State Party has already focused and placed priority on the main health issues by establishing several national programmes. Nevertheless, the Committee is concerned at high maternal mortality, and very high levels of low birth weight and malnutrition among children, including micronutrient deficiencies, linked to the lack of access to prenatal care and, more generally, limited access to quality public health care facilities, insufficient numbers of qualified health workers, poor health education, inadequate access to safe drinking water and poor environmental sanitation. This situation is exacerbated by the extreme disparities faced by women and girls, especially in rural areas.

"The Committee recommends that the State Party take all necessary steps to adapt, expand and implement the Integrated Management of Child Illness strategy, and to pay particular attention to the most vulnerable groups of the population. The Committee also recommends that the State Party undertake studies to determine the socio-cultural factors which lead to practices such as female infanticide and selective abortions, and to develop strategies to address them. The Committee recommends continued allocation of resources to the poorest sections of society and continued cooperation with and technical assistance from, inter alia*, WHO, UNICEF, the World Food Programme and civil society."* *(India IRCO, Add.115, paras. 48 and 49. See also, for example, Peru 2RCO, Add.120, para. 24; South Africa IRCO, Add.122, para. 29)*

Disability

Article 23 of the Convention on the Rights of the Child requires recognition of "the right of the disabled child to special care"; assistance provided "shall be designed to ensure that the disabled child has effective access to and receives ... health care services, rehabilitation services ... in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development."

According to the Standard Rules on the Equalization of Opportunities for Persons with Disabilities , "States should ensure that persons with disabilities, particularly infants and children, are provided with the same level of medical care within the same system as other members of society." (rule 2.3; see article 23, page 338)

Among the recommendations adopted by the Committee following its October 1997 General Discussion on "The rights of children with disabilities" (see article 23, page 322) were proposals to review laws which deny disabled children an equal right to life, survival and development and which segregate disabled children in separate institutions. In general, the Committee recommended:

"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 tragedy". *(Report on the sixteenth session, September/October 1997, CRC/C/69, para. 338(e))*

Girls

In the report of its General Discussion on "The girl child" (January 1995), the Committee noted that

"...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..." *(Report on the eighth session, CRC/C/38, p. 49)*

The Platform for Action of the Fourth World Conference on Women states: "Existing discrimination against the girl child in her access to nutrition and physical and mental health services endangers her current and future health. An estimated 450 million adult women in developing countries are stunted as a result of childhood protein-energy malnutrition... " (para. 266). The Platform for Action proposes that all barriers be eliminated to enable girls without exception to develop their full potential and skills through equal access to education and training, "nutrition, physical and mental health care and related information" (para. 272).

In the political declaration and further action and initiatives to implement the Beijing Declaration and Platform for Action (A/RES/S-23/3) adopted at the Special Session of the General Assembly (2000), there are substantial sections summarizing achievements and obstacles since 1995 (paras. 11 and 12) and making detailed recommendations for States on health services generally (para. 72) and for adolescents in particular (para. 79, see page 363).

The Committee on the Elimination of Discrimination against Women adopted a General Recommendation in 1999 on women

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and health (relating to article 12 of the Convention on the Elimination of All Forms of Discrimination against Women). It provides detailed recommendations relating to women's health rights, including reproductive and sexual health rights and emphasizes that for the purposes of the recommendation, "'women' includes girls and adolescents". It stresses that "unequal power relationships between women and men in the home and workplace may negatively affect women's nutrition and health. They may also be exposed to different forms of violence which can affect their health. Girl children and adolescent girls are often vulnerable to sexual abuse by older men and family members, placing them at risk of physical and psychological harm and unwanted and early pregnancy. Some cultural or traditional practices such as female genital mutilation also carry a high risk of death and disability". The recommendation proposes that States should implement a "comprehensive national strategy to promote women's health throughout their lifespan". (General Recommendation 24, 1999, Committee on the Elimination of Discrimination against Women, HRI/GEN/1/Rev.5, pp. 246, 247 and 251)

Participation in relation to health rights

Article 12 requires that children's right to express their views and have them given due consideration, and to be heard in any judicial or administrative proceedings, is implemented in relation to health and health services. Consideration of participation is required both in relation to the overall planning, delivery and monitoring of health services relevant to the child, and also in relation to treatment of the individual child, and the child's right to consent or refuse consent to treatment (see article 12, page 179 for further discussion). The *Guidelines for Periodic Reports* seeks information on any legal minimum age defined in legislation for medical counselling without parental consent and also for medical treatment or surgery without parental consent. The Convention does not support the setting of a particular age but rather requires respect for the "evolving capacities" of the child to make decisions for him or herself (see article 1, definition of the child, page 8).

"States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures...": article 24(2)

The wording indicates that the list of measures in paragraph 2 is not exclusive; other measures may be required to implement the right.

"(a) To diminish infant and child mortality"

Article 6 requires recognition that "every child has the inherent right to life"; States must ensure "to the maximum extent possible" the survival of the child (see page 95). The infant mortality rate is the probability of dying between birth and exactly one year of age, expressed per 1,000 live births; the term child mortality rate is the probability of dying between birth and exactly five years of age, expressed per 1,000 live births. But in the context of the Convention, "child" means every human being below the age of 18, and thus the concern to diminish mortality extends to 18.

The under-five mortality rate is chosen by UNICEF as its single most important indicator of the state of a nation's children. In 2000, under-five mortality rates varied from 316 per 1,000 live births (Sierra Leone) to 4 per 1,000 live births (Iceland, Japan, Norway, Singapore, Sweden and Switzerland). (*The State of the World's Children 2002, Official Summary*, UNICEF, p. 11).

The Committee on the Rights of the Child has congratulated States that have made progress in reducing rates, and has expressed grave concern wherever rates have risen and also at situations in which rates vary in a discriminatory way:

"The Committee is deeply concerned at the extremely high infant mortality rates and low life expectancy in the State Party. The Committee is concerned, in particular, at the high incidence of malaria and tuberculosis and their effects upon children, at the fragile health infrastructure, limited health awareness among the public and the limited implementation of the 1993 Health Policy and the 1994 Social Policy. The Committee is deeply concerned that implementation of health policies has been slow and that only limited progress has been achieved in this area.

"The Committee urges the State Party to ensure that access to primary health care services is increased, that national health infrastructure is strengthened and that public health education programmes are used to lower infant mortality rates and raise life expectancy in the State Party. The Committee recommends that the State Party seek assistance from the World Health Organization, UNICEF and the United Nations Development Programme in this regard."
(Ethiopia 2RCO, Add.144, paras. 52 and 53)

It has noted the connection between education of mothers and infant mortality:

"Noting the correlation, identified by studies, between low education among mothers and high infant mortality, and between the incidence of such mortality and certain regions, the Committee urges the State Party to continue its efforts to address this concern, inter alia, *through the effective provision of adequate health education to mothers. The Committee recommends that the State Party seek technical assistance from UNICEF and WHO in this regard."* (The Former Yugoslav Republic of Macedonia IRCO, Add.118, para. 37)

There are diverse causes of infant and child mortality, acknowledged in the World Summit for Children Declaration and other statements.

The obligations of States to respond to these causes of child deaths is pursued in the following subparagraphs of article 24(2), and in other articles of the Convention on the Rights of the Child – for example to provide appropriate support for parenting (article 18) and to protect children from various forms of violence, exploitation and abuse (articles 19, 32-38).

In its *Guidelines for Periodic Reports*, the Committee acknowledges the importance of the adequate investigation of and reporting on the deaths of all children and the causes of death, and the registration of deaths and causes (para. 41). Adequate investigation is vital to inform preventive strategies to reduce infant and child mortality rates (see also article 6, page 103).

"(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care"

Here again, emphasis is on "all children". The Committee's general concerns have focused on a lack of priority given to primary health care, reflecting the Declaration of Alma-Ata (see above, page 348). For example:

"The Committee recommends that the primary health care system be improved regarding the effectiveness of, inter alia, *antenatal care, health education, including sex education, family planning and immunization programmes. As regards problems relating specifically to the immunization programme, the Committee suggests that the Government should look to international cooperation for support in the procurement and manufacturing of vaccines."* (Russian Federation IRCO, Add.4, para. 20)

When it examined the Russian Federation's Second Report, the Committee expressed concern at the persistence of a high infant mortality rate and the deteriorating health infrastructure and services. It recommended

Celebrating infant life

"In addition to [a] constitutional mandate, the survival and development of children are also supported by tradition. The Marshallese infant receives extraordinary support from the traditional extended family, which represents a reservoir of experience in raising children and readily available assistance with child care. One of the greatest feasts of Marshallese tradition is the kamem, observed on the first birthday of a child. The ceremony has its origins in the pre-Contact era when few infants survived the first year of life. The tradition has continued into the present-day, with the parents and grandparents of the child hosting large evening meals, sometimes with hundreds of guests.

"This commitment to children, along with improved clinical care funded by the United States, has resulted in a dramatic increase in the number and percentage of children over the past 50 years. Since the close of the Second World War the population has increased fivefold, from 11,000 to over 55,000. Today, over 60 per cent of the population is 18 years of age or younger. Thus, a relatively small number of adults must support and supervise a far larger number of children."

(Marshall Islands IR, paras. 90 and 91)

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"…that the State Party consider seeking technical assistance to continue its efforts to reverse the deterioration in primary health care…" (Russian Federation 2RCO, Add.110, para. 46)

The Committee commented to Kyrgyzstan:

"Noting efforts to strengthen the primary health sector, the Committee is nevertheless concerned by the deterioration in the health of the most vulnerable groups, especially women and children. In particular, the Committee notes the increase in the incidence of communicable diseases, including vaccine-preventable diseases, and in childhood malnutrition. Moreover, the Committee is concerned that because of distant facilities and insufficient numbers of personnel and medication, children in rural regions suffer most.

"The Committee recommends that the State Party ensure that its commitment to primary health care, including implementation of the Integrated Management of Childhood Illnesses strategy, is met by adequate allocation of resources, both human and

financial, and that all children, especially from the most vulnerable groups, have access to health care. The Committee recommends that the State Party undertake awareness-raising campaigns to ensure that families, especially refugee families, are adequately informed of the need to be registered in polyclinics. The Committee recommends that the State Party establish comprehensive family planning programmes, as well as measures to ensure that abortion is not perceived as a method of contraception. The State Party is encouraged to continue cooperation with and seek assistance from, among others, UNICEF and WHO." (Kyrgyzstan IRCO, Add.127, paras. 43 and 44. See also, for example, Tajikistan IRCO, Add.136, paras. 38 and 39)

"(c) To combat disease and malnutrition, including within the framework of primary health care, through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution"

Again, this subparagraph emphasizes the framework of primary health care; the Committee's comments have highlighted the basic issues of nutrition and clean water and the dangers of environmental pollution. Discrimination in provision and access to primary health care is often mentioned, particularly affecting children in rural areas and children living in poverty.

Nutrition. Nutrition is also mentioned in subparagraph (e) of article 24(2): States should ensure dissemination of basic knowledge of nutrition, particularly to parents and children. Article 27 of the Convention (adequate standard of living) requires States Parties in cases of need to provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing (see also article 27, page 389).

In the 1969 Declaration on Social Progress and Development, the "elimination of hunger and malnutrition and the guarantee of the right to proper nutrition" (article 10(b)) are listed as among the "main goals". The Universal Declaration of Human Rights states that "everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services..." (article 25), and the International Covenant on Economic, Social and Cultural Rights similarly recognizes the right of everyone to an adequate standard of living... "including adequate food" and the fundamental right of everyone to be free of hunger (article 11(1)).

In 1999 the Committee on Economic, Social and Cultural Rights issued a General Comment on the right to adequate food – "of crucial importance for the enjoyment of all rights". "Fundamentally, the roots of the problem of hunger and malnutrition are not lack of food but lack of access to available food, *inter alia* because of poverty, by large segments of the world's population." The "core content" of the right to adequate food implies "the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture". Accessibility must be "in ways that are sustainable and that do not interfere with the enjoyment of other human rights". The Committee defines the right to adequate food as being realized when "every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients. The right to adequate food will have to be realized progressively. However, States have a core obligation to take the necessary action to mitigate and alleviate hunger… even in times of natural or other disasters."

The General Comment also notes that "Any person or group who is a victim of a violation of the right to adequate food should have access to effective juridical or other appropriate remedies at both national and international levels. All victims of such violations are entitled to adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition, National Ombudsmen and human rights commissions should address violations of the right to food". (Committee on Economic, Social and Cultural Rights, General Comment 12, 1999, HRI/GEN/1/Rev.5, pp. 66-68 and 72)

The Committee on the Rights of the Child often expresses concern at malnutrition and emphasizes the need for a multisectoral approach to ending it:

"…Nevertheless, concern is expressed that the State Party's infant mortality and under-five mortality rates remain among the highest in the region. Child malnutrition is also an area of concern.

"The Committee recommends that the State Party address the issue of childhood morbidity and mortality by taking a multisectoral approach recognizing the critical role of illiteracy, lack of clean water supplies and food insecurity in the current pattern of childhood illnesses. Priority areas must be identified on the basis of baseline data collected by careful and comprehensive research. Such a strategy must take into account that most health care takes place outside health facilities and outside State control; it must also recognize the needs of particularly isolated communities." (Cambodia IRCO, Add.128, paras. 44 and 45)

"The Committee, while noting that the State Party has implemented a food and nutrition programme, expresses its concern at the increasing number of cases of malnutrition, due also to overcrowding in urban areas and the importation of food having high levels of sugar and fat, and at the low levels of breastfeeding.
"The Committee recommends that the State Party strengthen its nutrition programme in order to prevent and combat malnutrition and assess the impact of the programme on those affected with a view eventually to improving its effectiveness, in particular by encouraging healthier nutritional habits." (Marshall Islands IRCO, Add.139, paras. 46 and 47)

It has noted obesity as a threat to children's health:

"…The Committee notes with concern the increasingly poor nutrition practices and food choices, including within the school lunch programme, as well as the high incidence of overweight and obesity among children, especially those living in urban areas…
"The Committee recommends that the State Party take all appropriate measures to promote and encourage healthy nutritional practices to prevent and address overweight and obesity among children." (Palau IRCO, Add.149, paras. 46 and 47)

The International Conference on Nutrition (Rome, December 1992) prepared the World Declaration and Plan of Action for Nutrition, which recognizes that "access to nutritionally adequate and safe food is a right of each individual". The Declaration also affirmed "in the context of international humanitarian law that food must not be used as a tool for political pressure. Food aid must not be denied because of political affiliation, geographic location, gender, age, ethnic, tribal or religious identity." (Declaration, paras. 1 and 15)

Environmental pollution. The Committee has begun to highlight the damaging effects on the realization of children's rights of environmental pollution, both in general and from specific incidents. It has mentioned contamination of water supplies, sea pollution, and air pollution. For example:

"In light of article 24 of the Convention, the Committee recommends that particular attention be given to the impact of environmental pollution on children and that a study be undertaken on this subject. International cooperation in this field should be considered." (Democratic People's Republic of Korea IRCO, Add.88, para. 31)

"The Committee expresses its concern at the high incidence of environmental threats, including to the health of children, in particular in oil exploitation areas of the Amazonia region. In the light of article 24(2)(c) of the Convention, the Committee recommends that the State Party take all appropriate measures, including seeking international cooperation, to prevent and

Protection from pollution in Norway

"People living in densely populated areas, particularly in larger cities, are exposed to unhealthy levels of air pollution and noise. Children and adolescents are among the groups which are specially vulnerable to air pollution. To reduce these problems the Norwegian Government introduced regulations pursuant to the Pollution Control Act with binding threshold limit values for local air quality and noise on 30 May 1997. Transport is the most important source of local air pollution and noise, and the new regulations apply to transport pollution as well as other kinds of pollution.

"This is the first example in Norwegian environmental policy of binding threshold limit values for environmental pollution. In order to gain more knowledge about the air quality in local environments, the polluters in the most polluted areas are being required to register their contributions to air pollution and noise. This will be an important contribution to surveys of children's and adolescents' physical environment, especially in cities and other densely populated areas. Several municipalities already have systems for controlling air pollution, which now can be further developed."

(Norway 2R, paras. 254 and 255)

combat the damaging effects of environmental degradation, including pollution, on children." (Ecuador IRCO, Add.93, para. 24)

"While noting the State Party's intention to improve the situation of environmental health services through, inter alia*, the establishment of a Solid Waste Management Authority and the expansion of the collection areas from 55 per cent to approximately 95 per cent, the Committee remains concerned at the poor environmental health conditions. In this connection, the Committee notes the continued widespread use of pit-latrines, increasing sea pollution, and the inadequate solid waste disposal programme. The Committee recommends that the State Party intensify its efforts to address environmental health concerns, particularly as regards solid waste management."* (Grenada IRCO, Add.121, para. 24)

"Concern is expressed at the increase in environmental degradation, especially as regards air pollution. The Committee recommends that the State Party increase its efforts to facilitate the implementation of sustainable development programmes to prevent environmental degradation, especially as regards air pollution." (South Africa IRCO, Add.122, para. 30)

"The Committee also expresses its concern at the problems of environmental degradation in the State Party, including very limited access to drinkable water, and at the precarious conditions of housing facilities for families. "In the light of article 24(2)(c) of the Convention, the Committee recommends that the State Party take all appropriate measures, including through international cooperation, to prevent and combat the damaging effects of environmental degradation on children, including pollution and contamination of water supplies. The Committee also recommends that the State Party take effective measures, including through international cooperation, to improve housing facilities for families." (Comoros IRCO, Add.141, paras. 41 and 42. See also, for example, Armenia IRCO, Add.119, paras. 40 and 41; Jordan 2RCO, Add.125, paras. 49 and 50; Dominican Republic IRCO, Add.150, paras. 35 and 36)

"(d) To ensure appropriate prenatal and postnatal health care for mothers"

The World Summit for Children Plan of Action notes: "... The causes of the high rates of infant mortality, especially neonatal mortality, are linked to untimely pregnancies, low birth weight and pre-term births, unsafe delivery, neonatal tetanus, high fertility rates, etc..." (para. 16). Almost a fifth of under-five deaths are due to perinatal causes.

Sufficient health personnel, adequately trained and supervised, should be provided to assist all who need them. The Committee has emphasized the importance of training for everyone involved in supporting birth, including traditional birth attendants.

The Committee has noted the particular threats to mortality rates and health early motherhood poses (see further discussion under article 24(2)(f) below – family planning education and services).

To some States it has promoted paid maternity leave:

"The Committee encourages the State Party to review its legislation and make paid maternity leave mandatory for employers in all sectors, in the light of the principle of the best interests of the child and articles 18(3) and 24(2) of the Convention." (Australia IRCO, Add.79, para. 31)

"(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents"

This paragraph of article 24 underlines the key importance of health education and information, and support, to achieving the child's right to health and access to health care services, an idea echoed in the World Summit Declaration and Plan of Action, and the Platform for Action of the Fourth World Conference on Women. The link between health and access to basic education and achievement of literacy is acknowledged and reflected in goals in these and other plans. Article 17 of the Convention on the Rights of the Child promotes the potential role of the mass media in disseminating information of benefit to children (see article 17, page 235). Article 18 requires States to render appropriate assistance to parents in the performance of their child-rearing responsibilities, and the Committee on the Rights of the Child has frequently called for parenting and family education (see also article 18, page 243).

Breastfeeding. There are two aspects to the promotion of breastfeeding: the need for positive information, education and promotion of its advantages, and the need to challenge the negative impact of the commercial marketing of substitutes. A widely used standard for positive education is the 1989 WHO/UNICEF *Ten steps to successful breastfeeding*. These steps form the

backbone of the worldwide Baby-Friendly Hospital Initiative, launched in 1991 by the WHO and UNICEF.

In 1981 the International Code of Marketing of Breastmilk Substitutes was adopted by the World Health Assembly (WHA resolution 34.22, 1981). The Code aims "to contribute to the provision of safe and adequate nutrition for infants, by the protection and promotion of breastfeeding, and by ensuring the proper use of breastmilk substitutes, when these are necessary, on the basis of adequate information and through appropriate marketing and distribution" (Code, para. 1). In 1990, the Innocenti Declaration on the Protection, Promotion and Support of Breastfeeding included national action to implement the Code as one of its four operational targets for 1995. The World Health Assembly (WHA) has repeatedly reiterated its recommendation to Member States to adopt the Code and subsequent WHA resolutions in their entirety. The Code specifies that Member States "shall communicate annually to the Director-General information on action taken to give effect to the principles and aim of the Code". The Director-General of WHO is required to report to the World Health Assembly in even years on the status of implementation of the Code, and to provide technical support on request to Member States (paras. 11.6 and 11.7).

The Committee has recognized that implementation of the Code by States Parties is a concrete measure towards the realization of parents' right to objective information on the advantages of breastfeeding and, thus, to fulfilling the obligations of article 24:

"The Committee recommends that the ban of the commercial marketing of infant formula be implemented and that breastfeeding be promoted among mothers in health facilities..." (Lebanon IRCO, Add.54, para. 34)

"The Committee expresses its concern at the noticeable reduction in the rate of breast-feeding following the first month of birth. It is further concerned by the short maternity leave period and that the International Code for Marketing of Breast Milk Substitutes is not fully implemented.
"The Committee recommends that the State Party undertake a comprehensive study to identify reasons for the drop in breast-feeding after the first month. It also recommends the extension of the period of maternity leave, serious efforts to educate the public – especially new parents – on the benefits of breastfeeding and the adoption of other measures, as necessary, to counteract any negative impact on employment of women who wish to continue breastfeeding their children for a longer period of time. Finally, the Committee recommends that the State Party increase its efforts to promote compliance with the International Code for Marketing of Breast Milk Substitutes." (Luxembourg IRCO, Add.92, paras. 18 and 36)

"Concern is expressed at the State Party's low breastfeeding rate…
"The Committee recommends that the State Party take effective measures to increase and promote the use of breastfeeding practices…and promote a healthy lifestyle among children." (Malta IRCO, Add.129, paras. 35 and 36)

The Committee has noted the importance of informing mothers to the risk of HIV transmission through breastfeeding:

"...The Committee recommends that effective measures be taken to provide information and support to HIV-infected mothers to prevent HIV transmission, in particular by providing safe alternatives to breastfeeding. The Committee recommends that the State Party address the social factors preventing vulnerable groups (including women and children) from seeking health care, and that particular efforts be made to reach refugee and displaced children and those living on the streets. The Committee urges the State Party to develop effective partnerships with NGOs and civil society groups, and to seek the technical assistance of United Nations agencies such as WHO and UNICEF in this respect." (Djibouti IRCO, Add.131, para. 42)

In 1997, UNAIDS, and two of the six cosponsoring agencies, WHO and UNICEF, issued a joint policy statement on HIV and infant feeding, and initiated the development of guidelines to help national authorities to implement the policy. These include a review of transmission of HIV through breastfeeding, guidelines for decision makers, as well as a guide for health care managers and supervisors. A Technical Consultation on HIV and Infant Feeding was convened by WHO in Geneva in April 1998 to discuss their implementation, and a broad consensus on a public health approach based on universally recognized human rights standards was reached.

Accident prevention. Few Initial Reports have given much information on accident prevention, and there has been little comment from the Committee. Under article 3(2), States undertake to provide the protection and care necessary for children's welfare. While accident prevention is clearly part of parental responsibilities, there are aspects of it which can only be promoted adequately through State action (transport and environmental policies, provision of appropriate advice, financial support for domestic safety aids

Excerpts from Declaration of Commitment on HIV/AIDS

The Declaration of Commitment, adopted at the 2001 special session on HIV/AIDS, defines several goals to address the HIV/AIDS crisis:

"Prevention

Prevention must be the mainstay of our response

By 2003, establish time-bound national targets to achieve the internationally agreed global prevention goal to reduce by 2005 HIV prevalence among young men and women aged 15 to 24 in the most affected countries by 25 per cent and by 25 per cent globally by 2010, and intensify efforts to achieve these targets as well as to challenge gender stereotypes and attitudes, and gender inequalities in relation to HIV/AIDS, encouraging the active involvement of men and boys…

By 2005, ensure that at least 90 per cent, and by 2010 at least 95 per cent of young men and women aged 15 to 24 have access to the information, education, including peer education and youth-specific HIV education, and services necessary to develop the life skills required to reduce their vulnerability to HIV infection, in full partnership with young persons, parents, families, educators and health-care providers;

By 2005, reduce the proportion of infants infected with HIV by 20 per cent, and by 50 per cent by 2010, by ensuring that 80 per cent of pregnant women accessing antenatal care have information, counselling and other HIV-prevention services available to them, increasing the availability of and providing access for HIV-infected women and babies to effective treatment to reduce mother-to-child transmission of HIV, as well as through effective interventions for HIV-infected women, including voluntary and confidential counselling and testing, access to treatment, especially anti-retroviral therapy and, where appropriate, breast-milk substitutes and the provision of a continuum of care…

Reducing vulnerability

The vulnerable must be given priority in the response
Empowering women is essential for reducing vulnerability

By 2003, develop and/or strengthen strategies, policies and programmes which recognize the importance of the family in reducing vulnerability, *inter alia*, in educating and guiding children and take account of cultural, religious and ethical factors, to reduce the vulnerability of children and young people by ensuring access of both girls and boys to primary and secondary education, including HIV/AIDS in curricula for adolescents; ensuring safe and secure environments, especially for young girls; expanding good-quality, youth-friendly information and sexual health education and counselling services; strengthening reproductive and sexual health programmes; and involving families and young people in planning, implementing and evaluating HIV/AIDS prevention and care programmes, to the extent possible…

Children orphaned and made vulnerable by HIV/AIDS

Children orphaned and affected by HIV/AIDS need special assistance

By 2003, develop and by 2005 implement national policies and strategies to build and strengthen governmental, family and community capacities to provide a supportive environment for orphans and girls and boys infected and affected by HIV/AIDS, including by providing appropriate counselling and psychosocial support, ensuring their enrolment in school and access to shelter, good nutrition and health and social services on an equal basis with other children; and protect orphans and vulnerable children from all forms of abuse, violence, exploitation, discrimination, trafficking and loss of inheritance;

Ensure non-discrimination and full and equal enjoyment of all human rights through the promotion of an active and visible policy of de-stigmatization of children orphaned and made vulnerable by HIV/AIDS;

Urge the international community, particularly donor countries, civil society, as well as the private sector, to complement effectively national programmes to support programmes for children orphaned or made vulnerable by HIV/AIDS in affected regions and in countries at high risk and to direct special assistance to sub-Saharan Africa" (paras. 65, 66 and 67).

(Declaration of Commitment on HIV/AIDS "Global Crisis – Global Action"; resolution adopted by the United Nations General Assembly, twenty-sixth special session, 25-27 June 2001, A/RES/S-26/2, pp. 7-10)

and so forth). As noted above (page 353), the Committee has stressed in its *Guidelines for Periodic Reports* the importance of investigating causes of death (para. 41). Accidents are a major cause of child death and injury in many States. According to a WHO fact sheet, road traffic accidents killed an estimated 1,171,000 people in 1998, making it the tenth leading cause of death worldwide; young adults are the most vulnerable group (*Facts about injuries: road traffic injuries*, WHO, 2000). Investigation is a vital part of accident prevention:

"The Committee also recommends that all appropriate measures be taken to prevent traffic accidents, such as teaching traffic rules at school." (Lao People's Democratic Republic IRCO, Add.78, para. 47)

"While noting that the National Health Programme runs until the year 2005, the Committee expresses its concern at the high rates of child morbidity, in particular the increase in cases of tuberculosis, and the low rates of breastfeeding. Further, it notes that there is a high rate of child deaths due to traumas and accidents, in particular motor vehicle accidents…
"The Committee recommends that the State Party allocate appropriate resources and develop comprehensive policies and programmes to improve the health situation of all children, including measures aiming at a safe and healthy environment. Further, measures to raise awareness about and prevent deaths from accidents and suicide among children and youth should be taken and enforced." (Lithuania IRCO, Add.146, paras. 35 and 36)

The challenge of HIV/AIDS

The grave threat which HIV/AIDS poses to the realization of children's rights has been highlighted by the Committee, which held a General Discussion in 1998 on "Children living in a world with AIDS". Following the General Discussion, it formulated detailed recommendations (see box, page 360). The Committee resolved in 2001 to develop a General Comment on HIV/AIDS and children's rights. In 2000 a special session of the United Nations General Assembly reviewed progress since the World Summit for Social Development (Copenhagen, 1995). It adopted a detailed resolution on further initiatives for social development (Twenty-fourth special session, A/RES/S-24/2). The resolution focuses in detail on strengthening political commitment and efforts at the international and national levels against HIV/AIDS, with a focus on developing countries and countries with economies in transition (see, for example, paras. 97 and 98 of commitment 6).

In June 2001 a special session of the United Nations General Assembly was convened to review and address the problem of HIV/AIDS in all its aspects as well as to secure a global commitment to enhancing coordination and intensification of national, regional and international efforts to combat it in a comprehensive manner (for excerpts, see box opposite).

HIV/AIDS is threatening to reverse the progress made in reducing death and disease in many countries. Every day 1,000 children around the world die from AIDS (*The Progress of Nations 1997*, UNICEF, p. 23). UNICEF's report *The Progress of Nations 2000* predicted that 10.4 million children would be orphans by the end of 2000 because of AIDS. In Botswana 1 in 3 young women and 1 in 7 young men aged 15 to 24 are infected with HIV, as are 1 in 4 young women and 1 in 10 young men in Lesotho, South Africa and Zimbabwe (p. 4).

The Joint United Nations Programme on HIV/AIDS (UNAIDS), established in 1996, is a co-sponsored programme that brings together seven agencies: UNICEF, UNDP, UNFPA, UNDCP, UNESCO, WHO and the World Bank. It develops the priorities to be pursued in country programmes. In 1997, UNAIDS published a guide to United Nations human rights machinery, summarizing the relationship between human rights and HIV/AIDS, giving a general overview of the main United Nations human rights bodies and including in an annex (annex 5(d), p. 87) "Possible issues to be addressed by the Committee on the Rights of the Child" (*The UNAIDS Guide to the United Nations Human Rights Machinery*, UNAIDS, 1997). As a follow-up to the Committee on the Rights of the Child 1997 General Discussion, it was reported to the Committee in January 2000 that UNAIDS had collaborated with the Harvard School of Public Health to develop a publication entitled *Human Rights and the Prevention and Care of HIV/AIDS in Children and Young People*, including papers submitted to the discussion and the recommendations.

The Committee has increasingly focused on adolescent health issues, among them the importance of reproductive health education and counselling to combat the increasing incidence of HIV/AIDS (see below, page 363).

The Committee has noted that armed conflict and population displacement can increase the incidence of HIV/AIDS:

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Recommendations following General Discussion day on "Children living in a world with AIDS"

The Committee chose as the theme for its General Discussion during the nineteenth session, on 5 October 1998, "Children living in a world with AIDS".

Following the General Discussion, the Committee formulated detailed recommendations:

"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) 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.

(Committee on the Rights of the Child, Report on the nineteenth session, September/October 1998, CRC/C/80, para. 243)

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"The Committee is deeply concerned that the incidence of HIV/AIDS in the State Party is likely to have risen significantly during the period of armed conflict and population displacement.
"The Committee recommends that the State Party urgently develop mechanisms to effectively monitor the incidence and spread of HIV/AIDS. The Committee further recommends that the State Party rapidly develop and implement a strategy for prevention, including through the use of information campaigns, and for care of people who are victims of HIV/AIDS, including for alternative care of their children. In this regard, the Committee urges the State Party to seek assistance from the World Health Organization." *(Sierra Leone IRCO, Add.116, paras. 59 and 60)*

"(f) To develop preventive health care, guidance for parents, and family planning education and services"

Programmes of preventive health care, health promotion and guidance exist in all countries and are promoted by the WHO, UNICEF and other agencies.

The Committee has promoted education for parenthood, including education on health matters. The Committee's *Guidelines for Periodic Reports* asks for information on family counselling and parental education programmes, and also asks how knowledge and information on child development is transmitted to parents and other responsible adults (para. 63). Article 18 requires States to render "appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities" and to ensure "the development of institutions, facilities and services for the care of children" (see article 18, page 232).

Immunization. Immunization is one particular aspect of preventive health care. The Committee on the Rights of the Child has expressed grave concern where immunization rates have fallen and has congratulated States that have achieved significant increases in their rates. Here again, discrimination is an issue. For example:

"While the Committee notes that the State Party is receiving technical assistance for the immunization campaign, it is concerned that vaccines continue to be unavailable and that negative social attitudes towards vaccinations have resulted in a resurgence of preventable diseases such as diphtheria.
"The Committee recommends that the State Party allocate appropriate resources for the implementation of the National Health Policy and, where appropriate, develop additional policies and programmes to improve the health situation of children, especially those living in mountainous regions and conflict zones; facilitate greater access to and quality of primary health services; ensure the availability of vaccines…" *(Georgia IRCO, Add.124, paras. 44 and 45)*

Compulsory immunization

Initial Reports from some States Parties note that immunization is compulsory: for example, it is obligatory in Croatia to immunize children against tuberculosis (tuberculosis activa), diphtheria, tetanus, whooping cough (pertussis), poliomyelitis, measles, mumps, German measles and hepatitis B (Croatia IR, para. 293). In Italy, vaccination against tuberculosis is compulsory for children between 5 and 15 years of age who have a negative cuti-reaction or have been exposed to tuberculosis. The Italian Constitutional Court found the refusal of parents to allow their child to be subjected to compulsory vaccination to be "conduct prejudicial to the child". (Italy IR, para. 149)

In 1996, WHO and UNICEF jointly published *State of the world's vaccines and immunization, a review of progress, constraints and challenges.* Worldwide nearly 80 per cent of children under one year old are immunized, but at the same time millions of children are not fully vaccinated, especially those in remote and marginalized areas. UNICEF's report *The Progress of Nations 2000* suggests that, in the developing world, immunization saves 2.5 million children every year. It reports that 40 developing countries have attained the 90 per cent coverage goal set at the World Summit for Children in 1990. The world average is 77 per cent. A new Global Alliance for Vaccines and Immunization (GAVI) has been created to assist developing countries to reach at least 80 per cent DPT3 (diphtheria, pertussis and tetanus) and measles coverage in all districts (pp. 22-25).

Family planning education and services. Some States Parties made declarations or reservations with reference to subparagraph (f) of article 24. For example, "... the Argentine Republic considers that questions relating to family planning are the exclusive concern of parents in accordance with ethical and moral principles and understands it to be a State obligation, under this article, to adopt measures providing guidance for parents and education for responsible parenthood." The Holy See's reservation states "that it interprets the phrase 'family planning education and services' in article 24(2) to mean only those methods of family planning which it considers morally acceptable, that is, the natural methods of family planning". And Poland's reservation said "With respect to article 24, paragraph 2(f), of the Convention, the Republic of Poland considers that family planning and education services for parents should be in keeping with the principles of morality." (CRC/C/2/Rev.8, pp. 13, 23, 36)

Family planning is of importance not only to prevent early or unwanted pregnancy but also to space and limit numbers of children, to enable mothers to meet the needs of existing children and to protect maternal health. Family planning issues should be of equal concern to boys and young men as to girls and young women.

The Report of the International Conference on Population and Development (Cairo, 1994) proposed as a Principle that "Reproductive health care should provide the widest range of services without any form of coercion..." (A/CONF.171/13, Principle 8). Special emphasis should be placed on men's shared responsibility and active involvement in sexual and reproductive behaviour, including family planning, prenatal, maternal and child health, prevention of sexually transmitted diseases, including HIV and prevention of unwanted and high-risk pregnancies (A/CONF.171/13, paras. 4.26 and 4.27).

The Report also stressed that youth should be actively involved in the planning, implementation and evaluation of programmes: "This is especially important with respect to information, education and communication activities and services concerning reproductive and sexual health, including the prevention of early pregnancies, sex education and the prevention of HIV/AIDS and other sexually transmitted diseases. Access to, as well as confidentiality and privacy of, these services must be ensured with the support and guidance of their parents and in line with the Convention on the Rights of the Child. In addition, there is a need for educational programmes in favour of life planning skills, healthy lifestyles and the active discouragement of substance abuse" (para. 6.15).

The Report urged support for "integral sexual education and services for young people, with the support and guidance of their parents and in line with the Convention on the Rights of the Child, that stress responsibility of males for their own sexual health and fertility and that help them exercise those responsibilities...".

One of the agreed objectives of the Cairo Conference was to substantially reduce all adolescent pregnancies. (A/CONF.171/13, paras. 7.37 and 7.45)

The Platform for Action of the Fourth World Conference on Women states: "More than 15 million girls aged 15 to 19 give birth each year. Motherhood at a very young age entails

complications during pregnancy and delivery and a risk of maternal death that is much greater than average. The children of young mothers have higher levels of morbidity and mortality. Early child-bearing continues to be an impediment to improvements in the educational, economic and social status of women in all parts of the world...” In addition: “Sexual violence and sexually transmitted diseases, including HIV/AIDS, have a devastating effect on children’s health, and girls are more vulnerable than boys to the consequences of unprotected and premature sexual relations...” (Platform for Action, paras. 268 and 269)

The United Nations General Assembly special session follow-up to Beijing (2000) has similar detailed proposals for development of services for adolescents. It suggests that governments should “Design and implement programmes with the full involvement of adolescents, as appropriate, to provide them with education, information and appropriate, specific, user-friendly and accessible services, without discrimination, to address effectively their reproductive and sexual health needs, taking into account their right to privacy, confidentiality, respect and informed consent, and the responsibilities, rights and duties of parents and legal guardians to provide in a manner consistent with the evolving capacities of the child appropriate direction and guidance in the exercise by the child of the rights recognized in the Convention on the Rights of the Child…” (A/RES/S-23/3, para. 79(f))

The Committee on the Rights of the Child has frequently expressed concern at high rates of teenage pregnancy, and has proposed health education and family planning programmes.

Adolescent health services. Responding to the recommendations of the various global conferences and United Nations agencies, the Committee has placed an increasing emphasis on development of appropriate health services for adolescents in its examination of States Parties’ reports and almost invariably comments in detail. It often expresses concern at a lack of research and proposes a comprehensive study to develop policies. For example:

“With regard to adolescent health, the Committee is concerned at the high and increasing rate of teenage pregnancies, and the consequent high rate of abortions among girls under 18, especially illegal abortions; and the rise in rates of STDs and spread of HIV. Although parents play the most important role in this regard, nevertheless cultural attitudes, and lack of personal knowledge and communication skills on the part of parents are barriers to accurate reproductive health information and counselling.
“The Committee recommends that the State Party undertake a comprehensive study on the nature and extent of adolescent health problems, to be used as a basis for formulating adolescent health policies. In the light of article 24, the Committee recommends that adolescents have access to and be provided with reproductive health education, and child-friendly counselling and rehabilitation services.” (Armenia IRCO, Add.119, paras. 38 and 39)

While reproductive and sexual health and the dangers of HIV/AIDS and sexually transmitted diseases is the overwhelming focus, the Committee also expresses concerns at often rising rates of youth suicide (for further discussion,

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The Ottawa Charter on Health Promotion

In 1986, the first International Conference on Health Promotion, meeting in Ottawa, Canada, adopted a Charter on Health Promotion “for action to achieve Health for All by the year 2000 and beyond”. The Charter describes health promotion “as the process of enabling people to increase control over, and to improve, their health ... Health is a positive concept emphasizing social and personal resources, as well as physical capacities. Therefore, health promotion is not just the responsibility of the health sector, but goes beyond healthy lifestyles to well-being.

“Health promotion focuses on achieving equity in health. Health promotion action aims at reducing differences in current health status and ensuring equal opportunities and resources to enable all people to achieve their full health potential. This includes a secure foundation in a supportive environment, access to information, life skills and opportunities for making healthy choices. People cannot achieve their fullest health potential unless they are able to take control of those things which determine their health. This must apply equally to women and men.”

(Health Promotion – the Ottawa Charter, adopted at an International Conference on Health Promotion, November 1986, Ottawa, Canada; co-sponsored by the Canadian Public Health Association, Health and Welfare Canada, and the World Health Organization.)

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see article 6, page 102) and increasing use of tobacco, alcohol and drugs:

"The Committee is particularly concerned with the high and increasing incidence of teenage pregnancy and HIV/AIDS and sexually transmitted diseases (STDs). The Committee notes with concern that the 1920 law continues to prohibit the use of contraceptives, including for health purposes, and to impede the full implementation of family planning programmes, including the safe motherhood initiative. The Committee recommends that the State Party increase its efforts in promoting adolescent health policies, particularly with respect to accidents, suicide and violence, and in strengthening reproductive health education and counselling services. In this regard, the Committee also recommends the inclusion of men in all training programmes on reproductive health. The Committee further suggests that a comprehensive and multidisciplinary study be undertaken to understand the scope of adolescent health problems, including the negative impact of early pregnancy as well as the special situation of children infected with, affected by or vulnerable to HIV/AIDS and STDs. Additionally, it is recommended that the State Party undertake further measures, including the allocation of adequate human and financial resources, to develop youth-friendly counselling, care and rehabilitation facilities for adolescents that would be accessible, without parental consent, where in the best interests of the child. The Committee recommends that the State Party repeal the 1920 law concerning family planning and the use of contraceptives." (Benin IRCO, Add.106, para. 25)

"The Committee expresses its concern with respect to the limited availability of programmes and services and the lack of adequate data in the area of adolescent health, including accidents, violence, suicide, mental health, abortion, HIV/AIDS and STDs. The Committee is particularly concerned with the high incidence of teenage pregnancy and the situation of teenage mothers, especially in relation to their late attendance at antenatal clinics as well as their generally poor breast-feeding practices. The Committee is concerned that most of the current cases of infant and maternal mortality are related to teenaged mothers. The Committee recommends that the State Party increase its efforts in promoting adolescent health policies and counselling services, as well as strengthening reproductive health education, including the promotion of male acceptance of the use of contraceptives. The Committee further suggests that a comprehensive and multi-disciplinary study be undertaken to understand the scope of adolescent health problems, including the special situation of children infected with, affected by or vulnerable to HIV/AIDS and STDs. Additionally, it is recommended that the State Party undertake further measures, including the allocation of adequate human and financial resources, and making efforts to increase the number of social workers and psychologists, to develop youth-friendly care, counselling and rehabilitation facilities for adolescents." (Grenada IRCO, Add.121, para. 22)

The Committee has emphasized that services must be user-friendly and confidential and that their design must involve adolescents:

"The Committee urges the State Party to address the sexual and reproductive health-care needs of older children, including those married at a young age and those in vulnerable situations. It recommends that the State Party provide access to information about sexual and reproductive health, and that services in this area be user friendly and address the concerns and need for confidentiality of adolescents. The Committee recommends that the State Party seek technical assistance from WHO and UNICEF, among others, to develop a comprehensive strategy that can address the needs of young people, and that it encourage civil society and adolescents to participate in the design, implementation and evaluation of such a strategy." (Djibouti IRCO, Add.131, para. 46)

"It is also recommended that the State Party undertake further measures, including the allocation of adequate human and financial resources, to evaluate the effectiveness of training programmes in health education, in particular reproductive health, and to develop youth-friendly counselling, care and rehabilitation facilities that are accessible, without parental consent when in the best interests of the child." (Marshall Islands IRCO, Add.139, para. 51)

The Committee resolved in 2001 to develop a General Comment on adolescent health.

Mental health. The Committee has commented on the lack of mental health services in various States. For example:

"The Committee is concerned at the lack of mental health assistance for children and at the situation of mental health among children and adolescents, particularly in the context of widespread family instability and the armed mutinies.
"The Committee recommends that the State Party ensure the availability of mental health assistance to children, taking into consideration the developmental needs of children and addressing in particular those children affected by family instability,

HIV/AIDS and the armed mutinies." (Central African Republic IRCO, Add.138, paras. 62 and 63)

When it examined Norway's Second Report, it was concerned about various adolescent mental health problems, and a lack of appropriate services:

"The Committee is concerned at the high incidence of anorexia nervosa and bulimia and by the prevalence of alcohol consumption among adolescents. The Committee also expresses its concern at the continuing incidence of suicide by children, especially boys.
"The Committee encourages the State Party to continue its efforts to address cases of anorexia nervosa and bulimia which are both medical and psychological problems. In addition, the Committee notes the efforts made by the State Party to reduce the level of alcohol consumption among adolescents and recommends that the State Party continue to promote a healthy lifestyle among adolescents. Further, recognizing that it can be difficult to identify all cases of suicide by children and in accordance with its recommendation in paragraph 17 of its 1994 concluding observations (CRC/C/15/Add.23), the Committee recommends that the State Party continue its research into the incidence and causes of child suicide, including by children under the age of 10, and to use the results of this research to inform and further develop the State Party's 1994 suicide prevention programme…
"The Committee joins the State Party in expressing concern at the long waiting list and delayed access to mental health services and professionals for children which are due to an insufficient number of psychologists and psychiatrists.
"The Committee encourages the State Party to explore ways of providing children with more timely access to mental health services, and to address in particular the shortage of psychiatrists and psychologists." (Norway 2RCO, Add.126, paras. 36, 37, 40 and 41)

"States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children": article 24(3)

Article 24(3) – together with article 19 (which requires protection from all forms of physical or mental violence, see page 257) and the non-discrimination principle in article 2 – requires a review in all States of any traditional practices that involve violence and/or are prejudicial to the health of children.

The health risks of practices which involve some invasion of the child's bodily integrity may be intensified by their performance by people with no medical training, and in unhygienic conditions. The lack of appropriate anaesthesia intensifies the suffering of children.

Traditional practices often take place when the child is very young and unable to consent. The degree to which a mature child can, him or herself, give an informed consent to a practice that involves violence or is prejudicial to his or her own health is a distinct issue from invasive practices without consent. But article 24(3) states unequivocally that appropriate measures should be taken with a view to abolishing traditional practices prejudicial to health. Presumably, mature children should have the same rights, if any, as adults have under the law in each society to consent to practices that involve a degree of violence but are not significantly prejudicial to health.

The proposal that the Convention should protect children from traditional practices harmful to health was made by the *ad hoc* NGO group during the drafting of the Convention (E/CN.4/1986/39, pp. 10-11; Detrick, p. 350). Various country representatives proposed that the provision should refer in particular or for example to the practice of female circumcision (genital mutilation of girls and young women), which was opposed on the grounds that it would be wrong to single out one practice. One other specific practice, that of preferential care of male children, was referred to during the drafting discussions of the Working Group on the Convention (E/CN.4/1987/25, pp. 8-10; Detrick, p. 351).

Several representatives concurred that the term traditional practices would include all those outlined in the 1986 Report of the Working Group on Traditional Practices affecting the Health of Women and Children (E/CN.4/1986/42). The Report refers to female circumcision, other forms of mutilation (facial scarification), forced feeding of women, early marriage, the various taboos or practices that prevent women from controlling their own fertility, nutritional taboos and others. There was also discussion of other traditional practices, including dowries in certain regions of the world, crimes of honour and the consequences of preferential treatment for male children (E/CN.4/1986/42, para. 18).

The Working Group decided that female circumcision, preferential treatment for male children, and traditional birth practices should be given priority consideration. It reports that in Africa alone the practice of female circumcision (more

accurately described as female genital mutilation) "exists in at least 28 African countries and continues to menace the health of about 75 million women and children". The Working Group makes detailed recommendations for action, in particular, that "with a view to attaining the goal of health for all by the year 2000, national health policies should include among their priorities strategies aimed at the eradication of female circumcision in their primary health care programmes" (E/CN.4/1986/42, para. 127).

"Son preference" is defined as "the preference of parents for male children which often manifests itself in neglect, deprivation or discriminatory treatment of girls to the detriment of their mental and physical health" (E/CN.4/1986/42, para.143). The Working Group found the practice prevalent in many parts of the world. It notes a World Fertility Survey, which as part of its inquiry into fertility motivations, asked women to state their preference as to the sex of their next child. The results revealed that in 23 of the 39 countries studied, women showed a preference for sons ("daughter preference" was found in only two countries). The Report states that "abnormal sex ratios in infant and young child mortality rates, in nutritional status indicators and even population sex ratios show that discriminatory practices are widespread and have serious repercussions" (paras. 149 and 150). When linked to neglect and discrimination towards female children, "it leads to serious health consequences which account for between 500,000 to one million deaths among female children".

The Working Group notes that the availability of amniocentesis and other techniques which enable the sex of the foetus to be determined are leading to selective abortion on grounds of gender in some areas of the world. Its Report also notes that "excess female mortality in childhood is an indicator of serious external influences against the normal biological advantages with which nature has endowed the female. Male infants have an inherently greater vulnerability than female infants for many causes of death... male mortality in childhood is higher than female mortality. The greater the proportion of deaths due to infections and malnutrition, the larger the expected difference becomes" (para. 164). Thus, the report emphasizes the importance of recording and analyzing infant and child mortality rates by gender.

The third priority for study by the Working Group is traditional birth practices, which include dietary restrictions affecting pregnant women, and unhygienic and harmful practices during labour and childbirth, including inappropriate treatment of obstructed labour, and during the period following delivery (paras. 193 et seq.).

The Committee on the Elimination of Discrimination against Women, in a General Recommendation, in 1990, expresses concern at the continuation of "the practice of female circumcision and other traditional practices harmful to the health of women", and proposes that States Parties should "take appropriate and effective measures with a view to eradicating the practice of female circumcision".

The General Recommendation also proposes that States Parties "include in their national health policies appropriate strategies aimed at eradicating female circumcision in public health care. Such strategies could include the special responsibility of health personnel including traditional birth attendants to explain the harmful consequences of female circumcision." (Committee on the Elimination of Discrimination against Women, General Recommendation 14, 1990, HRI/GEN/ 1/Rev.5, p. 212)

In 1999, the General Assembly adopted a resolution on traditional or customary practices affecting the health of women and girls (A/RES/54/133). It received a report from the Secretary-General (A/54/341) which provides examples of national and international developments.

The General Assembly special session follow-up to the Fourth World Conference on Women noted that efforts towards the eradication of harmful traditional practices had received national, regional and international policy support: "Many Governments have introduced educational and outreach programmes, as well as legislative measures criminalizing these practices." The Report welcomes the appointment of the Special Ambassador for the Elimination of Female Genital Mutilation by the United Nations Population Fund. It proposes that Governments should: "Develop, adopt and fully implement laws and other measures, as appropriate, such as policies and educational programmes, to eradicate harmful customary or traditional practices, including female genital mutilation, early and forced marriage and so-called honour crimes, which are violations of the human rights of women and girls and obstacles to the full enjoyment by women of their human rights and fundamental freedoms…" (A/RES/S-23/3, paras. 13 and 69(e))

Practices which should be reviewed in the light of the Convention's principles include:

- all forms of genital mutilation and circumcision;

- binding, scarring, burning, branding, coin-rubbing, tattooing, piercing;
- initiation ceremonies involving, for example, forced holding under water;
- deliberate discriminatory treatment of children involving violence and/or prejudicial to health – for example, preferential feeding and/or care of male children; lack of care for disabled children or children born on certain days; food taboos; etc.;
- forms of discipline which are violent and/or prejudicial to health;
- early marriage and dowries.

The Committee has expressed grave concern about persisting harmful traditional practices and recommended various actions in the Concluding Observations on Initial Reports and Second Reports from many States Parties. For example:

"The Committee remains concerned at the persistence of traditional attitudes and harmful practices, such as female genital mutilation, early marriages, teenage pregnancies and Trokosi (ritual enslavement of girls)...
"The Committee shares the view of the State Party that serious efforts are required to address harmful traditional practices such as early marriage, female genital mutilation and Trokosi. The Committee recommends that all legislation be reviewed to ensure its full compatibility with children's rights and that public campaigns involving all sectors of society be developed and pursued with a view to changing attitudes. All appropriate action in this regard should be taken on a priority basis." (Ghana IRCO, Add.73, paras. 21 and 42)

"The Committee is very concerned at the widespread practice of female genital mutilation.
"In the light of article 24.3 of the Convention, the Committee urges the State Party to pass legislation prohibiting practices of female genital mutilation, to ensure that such legislation is enforced in practice and to undertake preventive information campaigns. The Committee further recommends that the State Party benefit from the experience of other States in this area and consider, inter alia*, adopting alternative practices of a purely ceremonial nature, which do not involve any physical acts."* (Sierra Leone IRCO, Add.116, paras. 61 and 62)

"Recognizing that there has been some improvement, the Committee, nevertheless, remains deeply concerned at reports from the National Committee on Traditional Practices in Ethiopia (NCTPE) (September 1998) indicating that 72.7 per cent of the female population undergoes some form of female genital mutilation. The Committee is concerned, further, at other practices reported by the NCTPE, including uvulectomy, milk-teeth extraction and forced marriage.
"The Committee urges the State Party to continue and strengthen its current efforts to end practices of female genital mutilation, early and forced marriage and other harmful traditional practices, and recommends that the State Party take advantage of the experience gained by other countries." (Ethiopia 2RCO, Add.144, paras. 64 and 65)

"Taking note of the Government's 1996 decision to prohibit female genital mutilation and the 1997 ministerial decree banning this practice in Ministry of Health service outlets, as well as various efforts to educate the public about the harm caused by this practice, including campaigns in the media and in the curricula, the Committee is concerned that the practice is still widespread.
"The Committee, concurring with the Committee on Economic, Social and Cultural Rights, recommends that the State Party address the issue of female genital mutilation as a matter of priority. In addition, the State Party is urged to design and implement effective education campaigns to combat traditional and family pressures in favour of this practice, particularly among those who are illiterate." (Egypt 2RCO, Add.145, paras. 45 and 46. See also, for example, Sudan Prelim. Obs. Add.6, para. 4; Sudan IRCO, Add.10, para. 22; Burkina Faso IRCO, Add.19, paras. 3, 5 and 14; Senegal IRCO, Add.44, paras. 18 and 24; Lebanon IRCO, Add.54, paras. 16 and 38; Cyprus IRCO, Add.59, para. 16; Nigeria IRCO, Add.61, paras. 15 and 36; Lao People's Democratic Republic IRCO, Add.78, paras. 18 and 42; Togo IRCO, Add.83, para. 48; Djibouti IRCO, Add.131, paras. 43 and 44)

It has proposed extraterritorial legislation:

"The Committee welcomes the efforts made and understands the difficulties faced by the State Party in protecting girls within its jurisdiction from female genital mutilation carried out outside its territory. Nevertheless, the Committee urges the State Party to undertake strong and effectively targeted information campaigns to combat this phenomenon, and to consider adopting legislation with extraterritorial reach which could improve the protection of children within its jurisdiction from such harmful traditional practices." (Netherlands IRCO, Add.114, para. 18)

The Committee has expressed concern at male circumcision carried out in unsafe or unhygienic conditions:

"The Committee is concerned that male circumcision is carried out, in some instances,

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in unsafe medical conditions… The Committee recommends that the State Party take effective measures, including training for practitioners and awareness-raising, to ensure the health of boys and protect against unsafe medical conditions during the practice of male circumcision." (South Africa IRCO, Add.122, para. 33)

"The Committee also recommends that the State Party address health risks associated with male circumcision." (Lesotho IRCO, Add.147, para. 44)

The Committee has expressed concern at virginity testing in South Africa:

"The Committee is also concerned about the traditional practice of virginity testing which threatens the health, affects the self-esteem, and violates the privacy of girls…The Committee also recommends that the State Party undertake a study on virginity testing to assess its physical and psychological impact on girls. In this connection, the Committee further recommends that the State Party introduce sensitization and awareness-raising programmes for practitioners and the general public to change traditional attitudes and discourage the practice of virginity testing in light of articles 16 and 24 (3) of the Convention." (South Africa IRCO, Add.122, para. 33)

"States Parties undertake to promote and encourage international cooperation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries": article 24(4)

WHO, UNICEF and various other United Nations and UN-related agencies are particularly engaged in promoting international cooperation. Cooperation includes aid, advice and technical assistance, collaboration on research, and so on (see also article 4, page 79).




Implementation Checklist

article 24

General measures of implementation

Have appropriate general measures of implementation been taken in relation to article 24, including:

- ☐ identification and coordination of the responsible departments and agencies at all levels of government (article 24 is particularly relevant to **departments of health, welfare, education, planning and environment**)?
- ☐ identification of relevant non-governmental organizations/civil society partners?
- ☐ a comprehensive review to ensure that all legislation, policy and practice is compatible with the article, for all children in all parts of the jurisdiction?

adoption of a strategy to secure full implementation

- ☐ which includes where necessary the identification of goals and indicators of progress?
- ☐ which does not affect any provisions which are more conducive to the rights of the child?
- ☐ which recognizes other relevant international standards?
- ☐ which involves where necessary international cooperation?

(Such measures may be part of an overall governmental strategy for implementing the Convention as a whole.)

- ☐ budgetary analysis and allocation of necessary resources?
- ☐ development of mechanisms for monitoring and evaluation?
- ☐ making the implications of article 24 widely known to adults and children?
- ☐ development of appropriate training and awareness-raising (in relation to article 24 likely to include the training of **health workers, social workers and teachers, and also parenting education and health promotion for children and adolescents)**?

Specific issues in implementing article 24

- ☐ Has the State undertaken measures to implement article 24 to the maximum extent of available resources?

Does legislation in the State provide for the respect for article 12 (1) and (2) (the views of the child) in relation to

- ☐ the planning and development of all health care services?
- ☐ decision-making in relation to individual health treatment of the child?

How to use the checklists, *see page XVII*

Do all children in the jurisdiction

- ☐ have the right to enjoyment of the highest attainable standard of health?
- ☐ have access to facilities for the treatment of illness and the rehabilitation of health?

☐ Do all disabled children have the right to the same level of health care in the same system as other children?

☐ Do girls have equal rights to health care?

Is adequate information collected

to ensure accuracy of

- ☐ infant mortality rates?
- ☐ under-five mortality rates?
- ☐ mortality rates for older children?

☐ to provide disaggregated data in order to consider issues of discrimination?

☐ Is there a consistent and continuing reduction in the infant and child mortality rates in the State?

☐ Has the State developed a definition of necessary medical assistance and health care for the child?

☐ Do all children in the jurisdiction have access to necessary medical assistance and health care?

☐ Do children have access to appropriate confidential health services, including information, counselling and supplies?

☐ Are adolescents directly engaged in the design of health services for their use?

☐ Is the development of primary health care adopted as a priority?

Has the State set appropriate targets for the full attainment of the child's right under article 24 in relation to

- ☐ infant, under-five, under-18 and maternal mortality rates?
- ☐ access by all women to prenatal care, trained attendants during childbirth and referral facilities for high-risk pregnancies and emergencies?
- ☐ access by all couples to information and services to ensure that pregnancies are not too early, too closely spaced, too late or too many?
- ☐ reduction of severe and moderate malnutrition among children?
- ☐ reduction of rate of low birth weight?
- ☐ reduction of iron-deficiency anaemia?
- ☐ elimination of vitamin A deficiency?
- ☐ access to safe drinking water?

How to use the checklists, *see page XVII*

Reminder: **The Convention is indivisible and its articles are interdependent. Article 24 should not be considered in isolation.**

Particular regard should be paid to: The general principles

Article 2: all rights to be recognized for each child in jurisdiction without discrimination on any ground
Article 3(1): the best interests of the child to be a primary consideration in all actions concerning children
Article 6: right to life and maximum possible survival and development
Article 12: respect for the child's views in all matters affecting the child; opportunity to be heard in any judicial or administrative proceedings affecting the child

Closely related articles

Articles whose implementation is related to that of article 24 include:

Article 5: parental guidance and the child's evolving capacities
Article 17: access to appropriate information and role of the media
Article 18: parental responsibilities and State assistance
Article 19: protection from all forms of violence
Article 23: rights of disabled children
Article 25: right to periodic review of treatment
Article 27: right to adequate standard of living
Article 28: right to education
Article 29: aims of education
Articles 32-36: protection from various forms of exploitation
Article 39: recovery and reintegration for child victims

- ☐ access to sanitary means of excreta disposal?
- ☐ elimination of guinea worm disease?
- ☐ protection from environmental pollution?
- ☐ eradication of poliomyelitis?
- ☐ elimination of neonatal tetanus?
- ☐ elimination of measles?
- ☐ maintenance of high levels of immunization coverage?
- ☐ reduction in deaths due to diarrhoea and the diarrhoea incidence rate?
- ☐ reduction in deaths due to acute respiratory infections?

(this list is based on World Summit Plan of Action goals)

How to use the checklists, *see page XVII*

Has the State ensured adequate access to health education, health promotion and support to the public and in particular to parents and children on

- ☐ child health and nutrition?
- ☐ advantages of breastfeeding?
- ☐ hygiene and environmental sanitation?
- ☐ prevention of accidents?
- ☐ preventive health care?
- ☐ family-planning education and services, including appropriate services for adolescents?
- ☐ HIV/AIDS-related prevention education and information?

☐ Has the State taken appropriate action to ensure implementation of the Inter-Agency Guidelines for Breastfeeding in areas affected by HIV/AIDS?

☐ Has the State taken appropriate action to ensure implementation of the International Code of Marketing of Breastmilk Substitutes?

☐ Has the State reviewed all traditional practices involving children in all sectors of the population to ensure that none is prejudicial to health or incompatible with other articles in the Convention (in particular articles 3, 6, and 19)?

☐ Has the State taken effective and appropriate measures to abolish all traditional practices prejudicial to the health of children or incompatible with other provisions of the Convention?

☐ Is the State involved in international cooperative exercises to exchange information and improve capacity and skills in relation to realizing the health rights of children?

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