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# Ultra Vires Acts by the UN Committee on the Rights of the Child

## Baseline Report – 2014

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## Executive Summary

The present Report deals with issues around the actions of the UN Committee on the Rights of the Child charged with overseeing the implementation of the Convention on the Rights of the Child.

Particular attention is given to past *ultra vires* (beyond its authority) acts by the Committee. The Report notes with concern that many CRC acts can be viewed as being:

- contrary to the principle of sovereign equality of UN member States (Article 2 of the UN Charter);
- beyond the mandate of the Committee;
- contrary to or not based on intergovernmental consensus.

In particular, its acts included:

- pressuring states to change their abortion laws irrespective of intergovernmental consensus and with no foundation in international human rights instruments;
- indirectly promoting controversial concepts with no established intergovernmental consensus behind them (legalising same-sex sexual relationships, legal recognition of same-sex marriages and partnerships, decriminalisation of prostitution);
- demanding that states should give children sexuality education regardless of and access to reproductive health services regardless of and without parental consent and knowledge, with no basis in the UNCRC or other international human rights instruments whatsoever and contrary to the Cairo Programme of Action and the Beijing Platform for Action (both showing a degree of intergovernmental recognition at the UN level);
- using an *ultra vires* (beyond its authority) interpretation of the UNCRC to unlawfully introduce a new 'obligation' for the states parties (to outlaw any parental corporal punishment of children) not following from the UNCRC itself, and then demanding compliance, up to the point of changing their national legislation;
- demanding of states (contrary to the principle of the sovereign equality of states and with no basis in the UNCRC) ratification of international agreements hitherto not signed by them.
- unlawfully interfering in religious freedoms.

All these acts (documented in the Appendix), regardless of their ethical assessment, are shown to be *ultra vires* and must be recognised as violating the principle of sovereign equality and exceeding the treaty monitoring body mandate. The Committee's *ultra vires* acts, though not directly legally binding, seriously affect the legal regime in the states parties to the UNCRC. They affect national law enforcement practice, changes to national legislation, and influence legally binding decisions by other international bodies.

Such *ultra vires* acts by the Committee must, nevertheless, be recognised as internationally illicit and, therefore, null and void.

*Ultra vires* acts by the Committee can seriously threaten the sustainability of international human rights framework, the sovereignty of the states parties, the cultural identity of their peoples, and the standing of the family, which is ‘the natural and fundamental group unit of society and is entitled to protection by society and the State’ (Article 16(3) of the Universal Declaration of Human Rights), and, therefore, by the international community.

In these circumstances it is deemed inappropriate and dangerous for the states parties to grant the Committee new powers by signing and ratifying the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (A/RES/66/138).

A special section of the Report highlights specific problems inherent the Protocol, such as:

- procedural flaws in its development;
- its undermining of domestic legislation and judicial systems;
- its erosion of the exhaustion of domestic remedies rule;
- its potential belittlement of the value of the family.

The Report points out that to remedy the situation created by the Committee’s *ultra vires* acts, legitimately concerned states parties can employ a number of means, such as:

- exercising their right to issue interpretative declarations on the UNCRC;
- exercising their right to point out the limits of the Committee’s mandate in replying to its requests for additional information related to periodic reports, as well as in other kinds of official statements;
- warning the Committee of the possibility of their denunciation of the UNCRC in case a relevant reform of its activities does not take place;
- refusing to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure until a relevant reform of the Committee is taken place;
- actively participating in reforming UN treaty bodies to bring their activities into strict conformity with their mandates, to give it greater transparency, and to bring it under more effective states parties’ control.

These means can, after due assessment of the consequences of their implementation, be employed at the discretion of states to protect the rights of their sovereign peoples, the family, and their cultural, religious, and moral identity.

Apart from containing additional information on the Committee’s activities post-2012 (including its 65<sup>th</sup> session), the present revised version of the Report has been substantially restructured for improved readability and expanded with new sections on various issues, miscellaneous addenda, as well as a special Appendix containing excerpts from CRC documents published in 2012-2014.

## 1. Preface

United Nations treaty monitoring bodies have an important role within the international human rights framework. Its sustainability depends on them performing their functions adequately. It depends on these bodies enjoying the confidence of both the states parties to the relevant treaties and the wider public, and wielding the necessary authority.

If actions of a treaty monitoring body are overstepping the limits of the mandate issued to them by the states parties to the relevant treaty, such actions become *ultra vires*. *Ultra vires* actions by treaty bodies can seriously threaten the sustainability and development of the international human rights framework. In certain cases such actions can amount to a de-facto usurpation of some of the sovereign nations' rights without the consent of their peoples, calling the legitimacy and the very continuing existence of such international human rights institutions into question.

It is, therefore, most necessary for UN treaty monitoring and other international bodies to act in the most proper way, acting well within the limits of their mandates. Unfortunately, in practice this essential requirement is far from being consistently complied with.

Some of the actions by the CRC, in particular, have on numerous occasions provoked criticism from both the states parties to the Convention and the wider public, including NGOs advocating the rights and the unique role of the family, the 'natural and fundamental group unit of society' (Article 16(3) UDHR).

The present Report aims to scrutinise those actions and statements by the UN Committee on the Rights of the Child that are provoking well-founded doubts regarding their legitimacy.

Published by the *FamilyPolicy.RU* Advocacy Centre (Russian Federation), the original 2012 Report has been presented at various national and international forums on family and human rights.

The present revised version has been expanded with additional information on the Committee's activities in 2012-2014 (including its 65<sup>th</sup> session) and new sections on specific issues such as:

- the consequences of *ultra vires* interpretations of international treaties (Subsection 2(d));
- issues of general nature relating to CRC's activities (Subsection 3(a));
- unlawful interference by the CRC in religious freedoms (Subsection 3(g)).

The Report was substantially restructured for improved readability, and is now including a new Appendix (Appendix II) containing excerpts from CRC documents published in 2012-2014<sup>1</sup>.

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<sup>1</sup> Appendix I contains a selection of excerpts from UNCRC's *General Comments* and *Concluding Observations* from up to 2011 inclusive, organised by subject. The selection is far from exhaustive and serves only to illustrate the points made in the Report.

Appendix II contains a selection of excerpts from UNCRC's *General Comments* and *Concluding Observations* published in 2012-2014 (including its 65<sup>th</sup> Session). Though not claiming to be comprehensive, this particular selection seeks to encompass all the documents containing the issues highlighted by the Report.

## 2. General principles applicable to assessing the work of the CRC

Analysing the legal propriety of the Committee's acts, a number of basic norms and principles of international law must be taken into account:

### ***a) The principle of the sovereign equality of states (UN Charter)***

Each and every UN act must comply with the principle of the sovereign equality of states explicitly set forth in Article 2 of the UN Charter, of which for the purpose of this analysis Paragraphs 1 and 7 are of particular importance:

#### **Article 2**

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

#### *UN Charter*

As a result, under the United Nations system member states retain full sovereignty in all matters within their domestic jurisdiction. Intervention in internal affairs of member states is allowed only if explicitly provided under or directly following from international treaties to which they are parties. This applies to international human rights law, too. Any acts by UN bodies or parties in breach of this principle are to be regarded as being *ultra vires* (beyond their authority), *internationally illicit*, and, therefore, *null and void*.

### ***b) The intergovernmental consensus and the interpretation of international treaties***

It readily follows from the principle of sovereign equality that UN bodies and parties are not authorised to create any regulation or obligation legally binding upon its member states. This also applies to UN treaty monitoring bodies.

Considering international human rights treaties by which they are authorised, UN treaty bodies, including the CRC, can interpret them solely by referring to the texts of such treaties, and also to the applicable basic principles and norms of international law on interpretation of international treaties (in particular, the provisions of the 1969 Vienna Convention on the Law of Treaties). Such interpretations, however, cannot be legally binding (unless explicitly stipulated otherwise in the treaties themselves).

Interpreting the text of an international treaty, they can also make references to documents showing definite and universal intergovernmental consensus. Any interpretation of international treaties not following from their texts and failing to comply with or contrary to intergovernmental consensus must be regarded as unlawful<sup>2</sup>. At the same time, the consensus itself can, of course, only be regarded as

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<sup>2</sup> Speaking of intergovernmental consensus, it should be noted that recently attempts have been made to redefine this term narrowing it down from the general consensus to the consensus of the majority of parties. This raises serious concerns and can threaten the stability of the whole United Nations framework.

legitimate if it was reached on the basis of reliable information, without fraud, bribery, coercion, or any other instance of unlawful pressure perpetrated against the parties.

The question to what extent documents such as the *Cairo Programme of Action* (1994 Cairo International Conference on Population and Development) and the *Beijing Platform for Action* (1995 Beijing Fourth World Conference on Women) can be regarded as showing intergovernmental consensus remains somewhat debatable<sup>3</sup>. The following analysis makes use of these documents because they are the only international documents on so-called *reproductive rights* having some intergovernmental recognition at the UN level<sup>4</sup>. Referring to them, reservations and statements made by UN member states during the adoption of these documents by the corresponding conferences must, of course, also be taken into account.

Likewise, referring to both of these documents one should always take into account the fact that they are not legally binding and are only to be implemented at the discretion of each sovereign state, with full consideration of its cultural heritage and moral and religious values of its peoples. Therefore, these documents give no justification for exerting any kind of pressure on a sovereign state or interfering in affairs within its domestic jurisdiction.

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Although there is currently no clear unified definition of the term given at the UN level, its apparent meaning implies the absence of parties explicitly refusing to adopt a decision in question. In 1987 the following legal opinion was given by the Office of Legal Affairs of the United Nations Secretariat:

‘There is no established United Nations definition of consensus. However, in United Nations practice, consensus is generally understood to mean adoption of a decision without formal objections and vote; this being possible only when no delegation formally objects to a consensus being recorded, though some delegations may have reservations to the substantive matter at issue or to a part of it.

The fact that consensus is recorded does not necessarily mean that there is "unanimity", namely, complete agreement as to substance and a consequent absence of reservations. For example, there are numerous occasions where States make declarations or reservations to a matter at issue while not objecting to a decision being recorded as taken by consensus' (United Nations Juridical Yearbook, 1987, p. 174 ISBN: 92-1-133509-4 UN Sales No. 96.V.60)

It was followed in 2003 by another legal opinion given by same Office:

‘As Member States are aware, however, it is the long-established practice of the General Assembly and its Main Committees to strive for consensus whenever possible. This means that, in the absence of an objection or a specific request for a vote, draft resolutions and decisions are adopted without a vote.

<...>

Thus, when the Chairman announces that, in the absence of any objection, may he take it that the Committee wishes to adopt the proposal without a vote, any delegation may block a consensus by lodging an objection or by specifically requesting a vote on the proposal as a whole. It is for the objecting delegation to formulate the grounds for its objection which, in any event, has the same effect as requesting a vote on the proposal as a whole' (United Nations Juridical Yearbook, 2003, p. 533 United Nations Juridical Yearbook, 2003 ISBN: 978-92-1-133767-9 UN Sales No. E.07.V.1)

In this respect great concern is caused by situations like the one that took place at the 2010 Cancún Climate Change Conference where the final document was adopted by ‘consensus’ disregarding formal objections by Bolivia. Its representative rightly pointed out that ‘this will set a dangerous precedent of exclusion. It may be Bolivia tonight, but it could be any country tomorrow’ (cf. <http://ictsd.org/i/news/bridgesweekly/99004/>). Doubts regarding the legitimacy of such a ‘consensus’ look entirely justified.

<sup>3</sup> See, for example: Cornides Jacob, J.D., *Natural or Un-Natural Law*, Catholic Family and Human Rights Institute, 2010, p. 14 ([http://www.c-fam.org/docLib/20100420\\_Un-Natural\\_Law\\_FINAL.pdf](http://www.c-fam.org/docLib/20100420_Un-Natural_Law_FINAL.pdf) - retrieved 21.03.2012).

<sup>4</sup> Regarding the *Cairo Programme of Action*, see UN General Assembly resolution A/RES/49/128, regarding the *Beijing Platform for Action* see UN General Assembly resolutions A/RES/5042, A/RES/50/203, and A/RES/51/69.

As a result, endorsing the Cairo Programme of Action in its resolution (A/RES/49/128), the UN General Assembly explicitly stated that it does so

‘Recognizing that the implementation of the recommendations contained in the Programme of Action of the International Conference on Population and Development 4/ is the sovereign right of every country, in accordance with its national laws and development priorities, with full respect for the various religious and ethical values and cultural backgrounds of its peoples and in conformity with universally recognized international human rights’.

The Beijing Platform for Action itself explicitly refers to this principle in Paragraph 9:

‘The implementation of this Platform, including through national laws and the formulation of strategies, policies, programmes and development priorities, is the sovereign responsibility of each State, in conformity with all human rights and fundamental freedoms, and the significance of and full respect for various religious and ethical values, cultural backgrounds and philosophical convictions of individuals and their communities should contribute to the full enjoyment by women of their human rights in order to achieve equality, development and peace’.

### **c) The CRC mandate**

In its activities, UN treaty bodies, including the CRC, can only exercise the authority granted to them by the states parties. Such an authority, or the mandate of a treaty body, is, as a rule, defined by the respective treaty or by its optional protocols. Treaty bodies cannot assume authority beyond their respective mandates.

The UNCRC defines the Committee’s mandate relevant to its goals in its Articles 43-45. A number of important points should be emphasised:

- *The Committee has no right to make legally binding decisions*<sup>5</sup>. Interacting with the states parties, it can only request additional information relevant to their implementation of the UNCRC (art. 44 (4)) and relate to them its ‘suggestions and general recommendations’ (art. 45 (d)). It should be noted that these suggestions and recommendations must be based on ‘information received pursuant to articles 44 and 45 of the present Convention’ (ibid.). Strictly speaking, they must not exceed its limits.
- *The CRC has no right to interfere in internal affairs of a state party*. It follows from neither the UNCRC nor other universally accepted intergovernmental treaties that the Committee is authorised to demand of a state actions not explicitly following from UNCRC provisions. Nor does it follow from the intergovernmental consensus. Similarly, it does not follow from them that the Committee is authorised to interfere in matters of the state’s ratification of new international agreements or of introducing changes to the national legislation not explicitly following from UNCRC provisions.

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<sup>5</sup> Neither, it should be noted, is the Committee entitled to such a right by the Optional Protocol to the Convention on the Rights of the Child on a communications procedure itself.

- *The Committee is not authorised to issue legally binding UNCRC interpretations.* Neither UNCRC provisions nor the intergovernmental consensus provide for such an authority.

This raises serious questions with the Committee, in its *General comments*, in fact, giving general interpretation of UNCRC norms not based on information received from its parties' reports. Questions of even more serious nature are raised by the Committee's practice of criticising state parties, citing its own interpretations contained in said *General comments*.

The notion that its authority to interpret the UNCRC is implied by the text itself does not stand up to criticism. Should states signing an international agreement wish to confer to the respective treaty body the authority to interpret its text, there is nothing preventing them from explicitly making the necessary provision, as was the case with the European Court of Human Rights under the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (arts. 30; 32 (1)). The states parties to the UNCRC, however, did not choose to make a similar provision granting the CRC similar authority.

One might, perhaps, concur that for the Committee to carry out its duties under Articles 44 and 45 of the UNCRC (analysing states parties' reports and other sources of information indicated by the Convention, preparing its 'suggestions and general recommendations' as per Article 45(d), etc.) it is entitled to interpret of the relevant treaty document insofar as it is provided for under the 1969 Vienna Convention on the Law of Treaties and other universally recognised international instruments. Interpretations like these, however, should be regarded as purely technical, devoid of any binding authority whatsoever, and open to criticism and objections from the states parties.

In any case, it is clear that the CRC is not authorised to interpret the Convention in a way that oversteps the principles of international treaty documents interpretation contained in the VCLT and other universally recognised international instruments, or deviates from the express international consensus on the relevant issues.

It is even more obvious that the Committee is not authorised to interpret the UNCRC in a way that introduces new human rights and the corresponding obligations for the states parties that are neither provided under nor following from it.

An entirely justified declaration was made in this respect in Article 6 of the *San Jose Articles*, an international expert document<sup>6</sup>:

'Treaty monitoring bodies have no authority, either under the treaties that created them or under general international law, to interpret these treaties in ways that create new state obligations or that alter the substance of the treaties.

Accordingly, any such body that interprets a treaty to include a right to abortion acts beyond its authority and contrary to its mandate. Such *ultra vires* acts do not create any legal obligations for states parties to the treaty, nor should states accept them as contributing to the formation of new customary international law'.

This is true for matters beyond 'a right to abortion'. In this respect serious concerns are raised by UN treaty bodies attempting to introduce into the sphere of international law (by means of 'general

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<sup>6</sup> Hereinafter quoted from the official website [www.sanjosearticles.com](http://www.sanjosearticles.com)

comments' and 'concluding observations') new controversial categories and notions (such as *sexual orientation*, or *gender identity*) or new state obligations not following from international treaties and definite intergovernmental consensus. Such acts are clearly being *ultra vires* and must be recognised as a serious abuse of the mechanisms of international law, internationally illicit and, therefore, null and void.

Even greater concern is raised by UN treaty bodies acting as some sort of 'global government', imposing new top-down norms and standards, alleging them to be already established, using misinformation or illegal pressure to force states to adopt them. Such acts can rightly be regarded as a violation of the principle of sovereign equality expressed in Article 2 of the UN Charter, and as a way of seizing the power from the sovereign peoples.

As a result, the following acts by UN treaty bodies must definitely be recognised as being *ultra vires*:

- exerting on states any kind of pressure aimed at them changing the national legislation or ratifying new international agreements, unless directly following from the respective treaty;
- interpreting international treaties in a way inconsistent or contrary to their texts, the norms of international treaty law, or intergovernmental consensus;
- attempting to present their interpretation of international treaties as a binding norm;
- attempting to introduce new 'human rights' and the corresponding state obligations not following from the respective treaty and definite intergovernmental consensus;
- directly or indirectly introducing into the sphere of international law notions and concepts with no established intergovernmental consensus behind them.

Unfortunately, as is shown below, the CRC has been committing acts possessing all of the aforesaid qualities of being *ultra vires*. The Report views many of these actions as being contrary to the spirit of the basic norms of international law and intergovernmental consensus documents on the family. This raises serious concerns, given that 'the family is the natural and fundamental group unit of society and is entitled to protection by society and the State' (Article 16(3) UDHR), and, therefore, by intergovernmental bodies.

These actions bring the Committee's credibility into question and are threatening the sustainability of the whole international human rights framework.

#### ***d) Consequences of ultra vires interpretation of international human rights treaties by their respective monitoring bodies***

Although recommendations and interpretations issued by treaty monitoring bodies lack binding authority and constitute the so-called soft law, they can seriously affect the legal regime in the states parties. They can be used by intergovernmental agencies (i.e. the UNICEF) and NGOs, both international and national, to exert serious pressure on the respective governments, which can lead to introduction of corresponding measures, and even changes to national legislation.

In particular, recommendations and decisions by UN treaty bodies, though not legally binding themselves, are employed by international bodies with authority to make legally binding decisions in their practice<sup>7</sup>.

There is, however, another, even more serious problem with *ultra vires* interpretations of international treaties given by their monitoring bodies.

In international law, the principle of *pacta sunt servanda* (Latin for 'agreements must be kept') is only logical and just insofar as it is balanced by the principle of consensuality, that is, freely given consent.

'By its very definition, the law of treaties is consensual . . . States are bound by treaties *because* they have undertaken - *because* they have consented - so to be bound. They are free to make this commitment or not, and they are bound only by obligations which they have accepted freely, with full knowledge of the consequences.'<sup>8</sup>

It follows from this that a state cannot be bound by international obligations it had not explicitly undertaken, unless such obligations follow from the customary international law<sup>9</sup>.

No priority right to issue legally binding interpretations of the Convention is given to either treaty monitoring bodies (the CRC included) or other institutions. Therefore giving such interpretations should rest primarily with the states parties to the UNCRC, in accordance with universally recognised norms of international law (primarily those stipulated in Part III Section 3 of the 1969 Vienna Convention on the Law of Treaties). Correspondingly, any disputes concerning the interpretation of the UNCRC should be resolved in accordance with the provisions contained in Article 66 VCLT.

It follows from this that interpretations given to the UNCRC by bodies other than the states parties themselves, including UN treaty monitoring bodies and the Committee on the Rights of the Child in particular, cannot be legally binding on the states parties. It is especially evident that an interpretation cannot be regarded as binding if it does not follow from the Convention's provisions and is arbitrary, contrary to the principles of interpretation given by the Vienna Convention on the Law of Treaties, or is proving to be *ultra vires* by creating new 'obligations' for the states parties.

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<sup>7</sup> For example, under Article 46 (1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms states parties to it are legally bound by judgments of the European Court of Human Rights. Moreover, Article 32 (1) of ECPHR extends its jurisdiction to 'to all matters concerning the interpretation and application of the Convention and the protocols thereto which are referred to it'. However, recommendations, observations, and decisions made by UN treaty monitoring bodies, of no legally binding character themselves, have increasingly been referred to in its judgments by ECHR. A whole number of its recent judgments contain such references, for example *Soltysyak v. Russia*, no. 4663/05, 10.02.2011, para. 24; *Kiyutin v. Russia*, no. 2700/10, 10.03.2011, paras. 28-29; *Giuliani and Gaggio* [GC], no. 23458/02, 24.03.2011, para. 154; *R.R. v. Poland*, no. 27617/04, 26.05.2011, paras. 85-86; *Stummer v. Austria* [GC], no. 37452/02, 7.07.2011, para. 47; *Bayatyan v. Armenia* [GC], no. 23459/03, 7.07.2011, paras. 58-65; *V.C. v. Slovakia*, no. 18968/07, 8.11.2011, para. 83; *Ergashev v. Russia*, no. 12106/09, 20.12.2011, para. 99; *Finogenov and others v. Russia*, nos. 18299/03 and 27311/03, 20.12.2011, paras. 162-163; *Gorovenky and Bugara v. Ukraine*, nos. 36146/05 and 42418/05, 12.01.2012, para. 22; *Fetisov and others v. Russia*, nos. 43710/07 et al., 17.01.2012, para. 65; *C.A.S. and C.S. v. Romania*, no. 26692/05, 20.03.2012, para. 53; *Konstantin Markin v. Russia* [GC], no. 30078/06, 22.03.2012, para. 51.

<sup>8</sup> A/CN.4/477/Add.1 para. 95

<sup>9</sup> One particular inference from this principle is the norm contained in Article 34 of the Vienna Convention on the Law of Treaties, according to which '[a] treaty does not create either obligations or rights for a third State without its consent'.

Whenever states party to the Convention are faced with an allegedly or quasi-binding interpretation issued by its monitoring body, they have a right to inform the said body that its actions are *ultra vires*, and demand they should be stopped.

Nevertheless, even when the states parties fail to exercise this right, persistent abuse of CRC's powers, even if unopposed, neither makes an arbitrary interpretation binding nor changes its *ultra vires* status. Such an interpretation, even if, for some reason or other (e.g., erringly), complied with by some of the states parties, cannot be regarded as contributing to customary international law. Otherwise it would have been possible to, effectively, create new norms of customary international law or new states parties obligations through fraud.<sup>10</sup>

Contrary to the principles of states parties' sovereignty and consensuality is acknowledging a treaty monitoring body's right to issue legally binding interpretations of the relevant treaty not explicitly following from a good faith reading of the its text and the application of the relevant universally recognised principles of interpretation of such documents. Such a right would have effectively authorised it to change the contents and the meaning of the treaty at will and without the consent of the states parties, as the parties assented to be bound by the treaty could not have in good faith envisioned such interpretations.

Moreover, acknowledging a new interpretation of an international treaty not following from the text itself, and therefore not envisioned by the states parties assenting to be bound by it, in fact, constitutes a change in its substance.

The effect of such a change 'is radically to transform the extent of obligations still to be performed under the treaty', which, according to Articles 62(1)(b) and 62(3) of the 1969 Vienna Convention on the Law of Treaties, must be regarded as the sort of 'fundamental change of circumstances' a party may invoke as a lawful ground for terminating or withdrawing from a treaty or suspending the operation of the treaty.<sup>11</sup>

Applied to international human rights instruments, such interpretations by treaty bodies are invariably either diminishing the authority and sustainability of the international human rights framework or undermining the same, running the risk of the states parties abandoning their obligations altogether.

Actions by the Committee on the Rights of the Child, as will be demonstrated below, are providing sufficient grounds for anticipating such consequences.

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<sup>10</sup> This is contrary to the spirit of the Vienna Convention on the Law of Treaties, and its Article 49 in particular.

<sup>11</sup> Cf. the well-grounded invocation of the Vienna Convention found in para. 20(e) of the Holy See's Second Report to the Committee on the Rights of the Child (CRC/C/VAT/2): 'Interpretations which depart from the original spirit of the Convention would constitute an unforeseen and fundamental change of circumstances, which in turn, would have the effect of "radically" transforming the extent of the Holy See's "obligations still to be performed under the Treaty" within the meaning of art. 62 (1)(b), VCLT. According to art. 62 (3) VCLT, the Holy See would, as a result, be permitted to invoke such a fundamental change of circumstances as a ground for "terminating or withdrawing" from the treaty or from "suspending the operation" of the same.'

### 3. *Ultra vires* acts by the CRC

#### a) *Issues of general nature*

The following section of the Report is to scrutinise of the actions of the Committee on the Rights of the Child's that can be justifiably viewed as *ultra vires* and which concern a number of specific subjects.

However, prior to it, a number of serious issues of general nature should be raised with regard to the Committee's *Concluding observations* on periodic reports from the states parties to the UNCRC and some other documents of the same.

The CRC mandate, as was noted earlier (Subsection 2(c)), does not authorise it to give legally binding interpretations of the text of the Convention. Unambiguously, the document itself seems to grant the Committee only the right to make technical interpretations of its text required for the CRC to perform its treaty monitoring functions. Such interpretations have no binding authority and are, by their nature, open to criticism and objections from the states parties.

Nevertheless, in reality CRC's actions are far overstepping these indisputable limits. Its *General comments* contain sweeping reinterpretations of UNCRC provisions, cited afterwards to justify concrete demands with regard to the structure and contents of state parties' reports. Its *Concluding observations* on the same then go on to issue rather specific and detailed recommendations, based on the same interpretations, often of rather demanding character. Strictly speaking, such an approach falls outside the Committee's mandate and is raising a number of questions with regard to its legitimacy.

#### i) *Issuing General comments*

There are serious questions concerning the legitimacy of the Committee issuing its so-called *General comments*, given the fact that the UNCRC does not mention the possibility of their issuing by its monitoring body, speaking only of 'suggestions' and 'general recommendations' (Art. 45(d)) instead.

However, Rule 77 of the current Rules of procedure adopted by the Committee (CRC/C/4/Rev.3) unambiguously distinguishes such general comments from 'suggestions and general recommendations' (which, unlike the former, are explicitly mentioned in the Convention).

Said 'suggestions and general recommendations on a State party's report' and 'other general recommendations' are dealt with under Rule 75 and 76, respectively, and with explicit referenced to UNCRC Articles 44 and 45 providing for the possibility of issuing such suggestions and recommendations.

In contrast to them, 'general comments on the Convention' are treated entirely separately under Rule 77, with no reference to the text of the Convention whatsoever. The grounds on which the CRC is assuming the right to issue general comments remain vague, making the practice legally dubious.

It should be noted here that the view that the Committee is not obliged to confine its powers to the mandate set for it by the Convention and other relevant authoritative international norms is entirely untenable. It is the will and consent of the states parties expressed in the Convention that is both the sole reason for CRC's existence and the source of each and every one of its powers. The Committee has no right to claim powers not conferred to it by UNCRC states parties and cannot create new ones *ex nihilo*. Neither can such powers be justified by an established practice. A practice that is itself legally groundless, *ultra vires*, and unlawful cannot be legitimised by the very fact of its repeated perpetration,

however long-running. Repeated *ultra vires* and unlawful acts cannot be seen as in any way contributing to customary international law.

If CRC's right to issue general comments does not explicitly follow from the Convention, the practice of issuing them should be recognised as *ultra vires*, and the interpretations and recommendations contained therein legally null and void.

*ii) Giving states parties specific detailed recommendations*

In its *Concluding observations* the Committee regularly suggests that states parties should follow certain rather concrete recommendations urging them to rewrite specific norms of domestic law, sign and ratify particular international treaties, establish specific institutions, etc.

The legitimacy of such a practice, however, is raising a number of questions. The aforementioned UNCRC Article 45(d) grants the Committee the power to make 'suggestions' (*sugerencias* in Spanish, *suggestions* in French) and 'general recommendations' (*recomendaciones generales* in Spanish, *recommandations d'ordre général* in French). There is a certain difference of meaning between the two terms: a *recommendation* implies a greater degree of authority and weight than a *suggestion*.

The CRC, we believe, has a right to recommend or urge only in matters of general nature. It is the *suggestions*, that is, something submitted for the states parties to consider and, subsequently, freely adopt or reject, that may afford to be more specific.

The power to issue concrete detailed recommendations, or even 'urge' the states parties to adopt certain practical measures, with words like 'immediately' or 'without further delay' is highly questionable.

Recommendations of that kind, we believe, can only be treated as 'suggestions', which, although supposed to be considered by a state party, do not entail any particular obligations on its part.

*iii) Expanding the scope of information requested from states parties and their assumed general obligations*

UNCRC Article 44 stipulates that the states parties undertake to submit to the Committee initial and periodic 'reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights' (Art. 44(1)). Reports made under the present article 'shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention', while also containing 'sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned' (Art. 44(2)). In addition to that, the Committee 'may request from States Parties further information relevant to the implementation of the Convention' (Art. 44(3)).

Therefore it follows from the text of the UNCRC that reports submitted by the states parties are to contain only the kind of information immediately relevant to the Convention and its implementation. The states parties are not obliged to submit (nor does the Committee have a right to request) any information not pertaining to or over and above their obligations under the UNCRC. Any interpretation imposing on the states parties additional obligations to that effect should be regarded as not following from the Convention and untenable.

Notwithstanding that, the Committee in its actions is failing to conform to such limitations.

For example, lately, CRC's *Concluding observations* to states parties' reports almost invariably follow the same pattern. Namely, they always include a section titled *General measures of implementation*, which, in turn, includes subsections like *The Committee's previous recommendations*, *Legislation*, *Comprehensive policy and strategy*, *Coordination*, *Allocation of resources*, *Data collection*, *Independent monitoring*, and *Dissemination and awareness-raising*.

However, recommendations contained in some of these subsections are not grounded in the Convention and do not follow from either its text or other documents showing intergovernmental consensus. Similarly groundless are both the demands for information contained in its *General guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention* (CRC/C/58) and the justification thereof presented in its *General comment No. 5* (2003).

Here are but some examples of such demands.

*The Committee's previous recommendations:*

*General guidelines* (CRC/C/58) instructs that

'Periodic reports should include information on the consideration given to the concluding observations adopted by the Committee in relation to the previous report...' (para. 6)

*General comment No. 5* informs that

'In its concluding observations issued following examination, the Committee provides specific recommendations relating to general measures. It expects the State party to describe action taken in response to these recommendations in its subsequent periodic report.' (para. 2)

However, these instructions and expectations are unknown to the UNCRC. The latter does not require the states parties to pay CRC's suggestions and recommendations any special attention, submit official replies to them, much less report on the steps they are taking in implementing them. There is no obligation for the states parties to implement CRC's recommendations unless they believe them following from the Convention itself.

*Legislation:*

This subsection of CRC's *Concluding observations* often contains calls for the states parties to conduct a systematic review of their legislation to improve its compliance with the UNCRC. From time to time it goes on to recommend specific changes to national legislation (i.e. to introduce into domestic law the concept of 'a child's best interests').

*General comment No. 5* instructs that

'The Committee believes a comprehensive review of all domestic legislation and related administrative guidance to ensure full compliance with the Convention is an obligation.' (para 18)

However, this is an excessively broad interpretation not following from the UNCRC text itself. The latter only mentions that the states parties 'undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention' (Art. 4), without defining the specific nature of said measures or the criteria for judging their appropriateness.

In assuming the obligations imposed by the UNCRC, the states parties must fulfil them because of the principle of *pacta sunt servanda* (agreements must be kept). However the states parties and their legislative and executive organs are free to choose their own ways and means of fulfilling such obligations, organisational obligations among them, including means of implementing them within their domestic law. Naturally, such policy decisions can or, rather, must take into account their cultural, ethical, and religious traditions and values, and do not need to follow a single template.

Therefore it is for the states parties to decide what specific policies the implementation of the Convention requires.

*Comprehensive policy and strategy:*

CRC recommendations often demand the states parties adopt a comprehensive national policy or strategy of implementing the UNCRC. For example, in its *Concluding observations* on Andorra's 2<sup>nd</sup> periodic report (CRC/C/AND/CO/2) the CRC notes:

'11. The Committee notes with concern the lack of a national policy and strategy on children to ensure the full implementation of the Convention in the State party and the information provided in its written replies that it has decided not to develop a national plan of action for children despite the initiation of the process in 2006.

**12. The Committee recommends that the State party urgently develop and adopt a national policy on children detailing a clear vision with strategies, objectives and specific benchmarks and indicators to address children's interest and concerns and to ensure adequate investment on children for the realization of their rights. It further recommends that such policy be developed based on systematic information on children and consultation with children themselves, NGOs, international organizations, and professionals working with children, including teachers and social workers.'**

Its *General comment No. 5* tells that

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

However, such recommendations by the CRC are not founded on the Convention. Neither is the demand to report 'any steps taken or envisaged to adopt a comprehensive national strategy for children in the framework of the Convention, such as a national plan of action on children's rights' contained in para. 17 of its *General guidelines* (CRC/C/58).

The UNCRC does not indicate the need to create such national strategies or plans of action.

There are, of course, 'national plans of action' mentioned in a number of documents showing various degrees of intergovernmental recognition<sup>12</sup>. Nevertheless, not one of these documents is charging the

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<sup>12</sup> For example: the World Summit for Children *World Declaration on the Survival, Protection and Development of Children* and *Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s* (CF/WSC/1990/WS-001) mentions 'national plans of action'; the 14-25 June 1993 Vienna World Conference on Human Rights *Vienna Declaration and Programme of Action* (A/CONF.157/23) calls on states 'to integrate the Convention on the Rights of the Child into their national action plans' for human rights (para. II(47) of the *Programme of Action*); the 2002 United Nations General Assembly special session on children

CRC with overseeing the development and implementation of such plans or granting the CRC any power pertaining to it.

Therefore, the Committee's demands and recommendations to that effect are not following from the Convention, exceeding its mandate.

Similar criticism applies to virtually any other aspect of interpretations and recommendations given by the CRC in relation to 'general measures of implementation' of the UNCRC.

*iv) Giving broad interpretation of terms employed by the UNCRC*

There are other serious questions around CRC's interpretative activities.

In particular, some of its *General comments* offer detailed interpretation of the meaning of specific terms and expressions employed by the UNCRC. For example, *General comment No. 8* (2006) (CRC/C/GC/8) interprets the concept of 'cruel, inhuman or degrading treatment or punishment', expanding it to include corporal punishment of children<sup>13</sup>. *General comment No. 14* presents the Committee's interpretation of the concept of 'best interests of the child'.

The power to give such detailed broad interpretation to terms employed by the UNCRC, however, is highly questionable.

The 1969 Vienna Convention on the Law of Treaties specifies that the terms employed by international instruments 'shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose' (Art. 31(1)), while '[a] special meaning' could only be given to a term if 'it is established that the parties so intended' (Art. 31(4)).

In cases where there is no settled intergovernmental consensus or a well-established practice by all the states parties concerning the ordinary meaning of a term, said parties are free to interpret the latter following their particular legal traditions and the general principles of interpretation of international treaties, with any attendant conflicts resolved according to the procedure outlined in Article 66 VCLT and other binding international instruments.

Should parts of the text of the Convention lack a generally accepted interpretation, the Committee on the Rights of the Child cannot authoritatively step in to fill this gap, because its mandate does not grant it the authority required. Nevertheless, should the right to offer its discretionary interpretation, disputable as it is, ever be granted to the CRC, its interpretations would still be lacking any special authority, because, according to the UNCRC, they can only be treated as 'suggestions' (cf. Art. 44(d)), no more authoritative than those of the states parties themselves.

In any case, using such interpretations to impose demands on the states parties can hardly be justified. And yet, oftentimes this is precisely what the CRC is doing in its *Concluding observations*.

Of particular concern is the fact that the Committee goes as far as reinterpreting the Convention in direct contradiction to the original interpretative declarations officially issued by the states parties when signing, ratifying, and acceding to same. Such interpretations by the CRC, when not following from a

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outcome document *A World Fit for Children* refers to the need to develop 'national and, where appropriate, regional action plans' containing goals and objectives based on the plan of action contained in it (para. 59).

<sup>13</sup> The unlawfulness of which will be shown below (Subsection 3(e)).

good faith reading of the UNCRC text itself, run contrary to the 1969 Vienna Convention on the Law of Treaties, and cannot be recognised as authentic. Notwithstanding that, the Committee has repeatedly been using them to justify its recommending the states parties to withdraw the very detailed declarations of interpretation they made. For example, its *Concluding observations* to the 2th and 3<sup>rd</sup> periodic report by the Republic of Singapore suggest that it should withdraw its interpretative declarations on the UNCRC, claiming they ‘constitute an obstacle to the full and effective implementation of the State party’s obligation under the Convention’ (CRC/C/SGP/CO/2-3, para. 6).

This renders the remark made by one UNCRC state party in its official report ever more just: in its *General comments* and *Concluding observations* the Committee, it says, ‘often’ makes attempts at ‘redefinition or creation of new terms and/or rights and/or principles, which do not . . . present a good faith interpretation of the Convention’s text’, and which ‘certainly do not enjoy international consensus’.<sup>14</sup>

Whether the general issues accompanying the Committee on the Rights of the Child’s activities in each and every case amount to said activities becoming *ultra vires* is open to discussion. Nevertheless, they are raising serious questions regarding the permissibility of such actions, the degree to which acts and decisions based such practices can be viewed as authoritative, and the risk they are posing to the sustainability of international human rights framework.

#### **b) Pressuring states concerning the liberalisation of abortion law**

The UNCRC does not provide for a right to abortion. It does not employ the term *reproductive rights*. Moreover, its Preamble cites the *Declaration of the Rights of the Child* (Resolution 1386 (XIV), third paragraph of the Preamble) indicating that children have a right to legal protection before birth:

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

The *San Jose Articles*, an international expert document, in its Article 5 rightly notes that

‘There exists no right to abortion under international law, either by way of treaty obligation or under customary international law. No United Nations treaty can accurately be cited as establishing or recognizing a right to abortion.’

Likewise in Article 7 it says:

‘There is no international legal obligation to provide access to abortion based on any ground, including but not limited to health, privacy or sexual autonomy, or non-discrimination.’

It should be emphasised that it follows from relevant documents of some intergovernmental standing at the UN that deciding on the legal status of abortion is the prerogative of national governments. As a result, the International Conference on Population and Development in its definition of *reproductive health* (art. 7 (2) of its *Programme of Action*) makes no reference to abortions. Moreover, Article 8 (25) of same Programme clearly specifies that

‘Any measures or changes related to abortion within the health system can only be determined at the national or local level according to the national legislative process.’

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<sup>14</sup> 2<sup>nd</sup> periodic report of the Holy See to the CRC (CRC/C/VAT/2), para. 18.

As norms of international law do not contain a right to abortion, UN treaty bodies have no authority to impose upon state parties changes to relevant national laws. Speaking of UN treaty bodies in its Article 6, the experts behind the *San Jose Articles* certify that

‘...any such body that interprets a treaty to include a right to abortion acts beyond its authority and contrary to its mandate’.

Nonetheless, the CRC, as well as other UN treaty bodies, repeatedly exerted pressure on states aimed at forcing them to review their respective national legislation concerning abortion.

For example, commenting on the 2001 Palau report, the Committee notes (CRC/C/103):

465. ... The Committee recommends that the State party review its legislation concerning abortion, with a view to guaranteeing the best interests of child victims of rape and incest. ...

Commenting on the 2007 Kenya report, the Committee notes (CRC/C/KEN/CO/2):

49. The Committee ... is concerned at the high rates of teenage pregnancies, the criminalization of the termination of pregnancies in cases of rape and incest...

Similar calls for reviewing national legislation concerning abortion were contained in concluding observations on reports by Uruguay (2007, CRC/C/URY/CO/2, para. 51-52), Mozambique (2009, CRC/C/MOZ/CO/2, para. 64), Nigeria (2010, CRC/C/NGA/CO/3-4, para. 62 (e)), Burkina Faso (2010, CRC/C/BFA/CO/3-4, para. 57), Sri Lanka (2010, CRC/C/LKA/CO/3-4, para. 55), El Salvador (2010, CRC/C/SLV/CO/3-4, para. 61 (d)), et al. (see Appendix I).

This trend was continued in CRC documents published in 2012-2014, becoming, of anything, even more ambitious.

For example, where the 2003 General comment No. 4<sup>15</sup> *Adolescent health and development in the context of the Convention on the Rights of the Child* calls upon the states parties to ‘develop and implement programmes that provide access to sexual and reproductive health services, including . . . safe abortion services where abortion is not against the law’, the 2013 document no longer refers to compliance with domestic law as a prerequisite.

The 2013 *General comment No. 15*<sup>16</sup> repeatedly calls for unconditional legalisation of adolescent abortion (emphasis added):

‘States should review and consider allowing children to consent to certain medical treatments and interventions without the permission of a parent, caregiver, or guardian, such as ... sexual and reproductive health services, including education and guidance on ... safe abortion’ (para. 31).

‘The interventions that should be made available across this continuum include, but are not limited to: ...; safe abortion services and post-abortion care’ (para. 54).

‘The Committee recommends that States ensure access to safe abortion and post-abortion care services, irrespective of whether abortion itself is legal’ (para 70).

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<sup>15</sup> CRC/GC/2003/4

<sup>16</sup> CRC/C/GC/15

In its *Concluding observations* on states parties' reports published in 2012-2014 (sessions 59-65), the CRC has on no less than seven occasions called on the states parties to amend their laws, legalising abortion or liberalising the relevant legislation (Cook Islands, CRC/C/COK/CO/1, paras. 49 and 50(f); Andorra, CRC/C/AND/CO/2, para. 42; Liberia, CRC/C/LBR/CO/2-4, para. 67(b); Namibia, CRC/C/NAM/CO/2-3, paras. 57(a) and 58(a); Malta, CRC/C/MLT/CO/2, paras. 49 and 50(b); Kuwait, CRC/C/KWT/CO/2, paras. 59 and 60; the Holy See, CRC/C/VAT/CO/2, paras. 54 and 5 – see Appendix II)

These CRC acts were *ultra vires* and going beyond its mandate and the intergovernmental consensus. Its respective recommendations must be recognised as internationally illicit and, therefore, null and void.

**c) Indirectly promoting concepts not backed by intergovernmental consensus**

The Committee has repeatedly been seen promoting concepts, notions, and measures not following from UNCRC provisions and with no established intergovernmental consensus behind them.

In particular, this concerns referring in its documents to the so-called *International Guidelines on HIV/AIDS and Human Rights* (E/CN.4/1997/37). This non-binding expert document contains a commentary wherein a whole number of controversial concepts and measures not following from the UNCRC or other international agreements and with no established intergovernmental consensus behind them are promoted ostensibly for the purpose of protecting human rights and preventing HIV/AIDS infection:

'A right to abortion', absent from international law (Guideline 5 (f)):

'Laws should also be enacted to ensure women's reproductive and sexual rights, including the right of independent access to reproductive and STD health information and services ... including safe and legal abortion ...'.

Same-sex sexual relationships and legitimisation of same-sex marriages or partnerships (Guidelines 4 (b) and 5 (h)):

'Criminal law prohibiting sexual acts (including adultery, sodomy, fornication and commercial sexual encounters) between consenting adults in private should be reviewed, with the aim of repeal' (Guideline 4 (b)).

'Anti-discrimination and protective laws should be enacted to reduce human rights violations against men having sex with men ... These measures should include providing penalties for vilification of people who engage in same-sex relationships, giving legal recognition to same-sex marriages and/or relationships and governing such relationships with consistent property, divorce and inheritance provisions. ... Laws and police practices relating to assaults against men who have sex with men should be reviewed to ensure that adequate legal protection is given in these situations' (Guideline 5 (h)).

Decriminalisation of prostitution (Guideline 4 (c)):

'With regard to adult sex work that involves no victimization, criminal law should be reviewed with the aim of decriminalizing ...'

These principles and norms are not following from international human rights instruments, and the relevant decisions lie at the discretion of the sovereign states.

Nevertheless, in its concluding observations the CRC has repeatedly made references to this controversial document as the basis for its recommendations, which implies its regulatory character and indirectly promotes controversial norms and provisions contained therein. Such references were made in concluding observations on reports by Uganda (2005, CRC/C/UGA/CO/2, para. 52), Mexico (2006, CRC/C/MEX/CO/3, para. 53), Benin (2006, CRC/C/BEN/CO/2, para. 58), Ethiopia (2006, CRC/C/ETH/CO/3, para. 56), Thailand (2006, CRC/C/THA/CO/2, para. 58), Lebanon (2006, CRC/C/LBN/CO/3, para. 60), Tanzania (2006, CRC/C/TZA/CO/2, para. 49), et al. (see Appendix I).

In 2012, too, there was at least one occasion on which the CRC referred to the controversial document, in its Concluding observations on the report by Uzbekistan (CRC/C/UZB/CO/3-4, para. 56).

It has also repeatedly directly referred to a number of controversial concepts regarding which there is no established intergovernmental consensus<sup>17</sup>, and the use of which in various circumstances had repeatedly provoked objections from the states parties, such as *sexual orientation* and *gender identity*<sup>18</sup>.

Namely, the CRC made references to the concept of *sexual orientation* in its General comment No. 3 (2003)<sup>19</sup> *HIV/AIDS and the rights of the child* (para. 8) and No. 4 (2003)<sup>20</sup> *Adolescent health and development in the context of the Convention on the Rights of the Child* (para. 6).

In General comment No. 14(2013)<sup>21</sup> *On the right of the child to have his or her best interests taken as a primary consideration* the Committee writes:

'The identity of the child includes characteristics such as sex, sexual orientation, national origin, religion and beliefs, cultural identity, personality' (para. 55).

In General comment No. 15 (2013)<sup>22</sup> *On the right of the child to the enjoyment of the highest attainable standard of health* it writes:

'A number of grounds on which discrimination is proscribed are outlined in article 2 of the Convention.... These also include sexual orientation, gender identity and health status, for example HIV status and mental health' (para. 8).

In 2012-2014 (sessions 59-65), in making its general comments, the Committee has on less than five occasions employed the controversial terms *sexual orientation* and/or *gender identity* (Australia, CRC/C/AUS/CO/4, paras. 29 and 30; Guyana, CRC/C/GUY/CO/2-4, paras. 24 and 25; Slovenia,

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<sup>17</sup> The concepts of *sexual orientation* and *gender identity* lack generally accepted international legal definition recognised by the states parties to UNCRC. With no actual legal basis, this extension of the list of grounds on which discrimination is proscribed provides an example of UN treaty monitoring bodies arbitrarily interpreting international human rights instruments. Being a glaring example of an *ultra vires* action by the CRC, these interpretations were met with objections on the part of some of the states parties.

<sup>18</sup> See, for example: 2<sup>nd</sup> report by the Holy See to the CRC, indicating that 'There are no clear and agreed upon definitions of these . . . terms in international law' (CRC/C/VAT/2, para. 36(b)); Russian Deputy Foreign Minister Gennadiy Gatilov saying in an interview that 'The term 'sexual orientation' has no international legal definition and is open to all kind of interpretations . . . In general, Russia will oppose including any references to sexual orientation in international instruments, including UN bodies' resolutions' ([http://www.mid.ru/BDOMP/Brp\\_4.nsf/arh/OFF05613060B198A44257C3C005C01FD?OpenDocument](http://www.mid.ru/BDOMP/Brp_4.nsf/arh/OFF05613060B198A44257C3C005C01FD?OpenDocument)), etc.

<sup>19</sup> CRC/GC/2003/3

<sup>20</sup> CRC/GC/2003/4

<sup>21</sup> CRC/C/GC/14

<sup>22</sup> CRC/C/GC/15

CRC/C/SVN/CO/3-4, para. 26; the Holy See, CRC/C/VAT/CO/2, para. 26; Russia, CRC/C/RUS/CO/4-5, para. 25 – see Appendix II).

Besides that, in its concluding observations on the 4<sup>th</sup> and 5<sup>th</sup> report by Russia submitted in 2014 (CRC/C/RUS/CO/4-5, paras. 24 and 25), the CRC made use of the controversial term *LGBTI-families*. This was done notwithstanding the fact that there is no established international consensus as regards to recognising same-sex unions as *families*, and that the legal tradition and laws of Russia as a UNCRC state party and the addressee of these comments do not recognise them as such.

Based on these controversial and devoid of international consensus notions and ideas, the Committee ventured to issue to the states parties its recommendations on amending their national legislations.

In particular, in its aforementioned concluding observations to the 4<sup>th</sup> and 5<sup>th</sup> report by Russia (CRC/C/RUS/CO/4-5), the CRC ‘recommends that the State party repeal its laws prohibiting propaganda of homosexuality’ among children (para. 25). This recommendation is neither valid nor legitimate because there is no right to homosexual propaganda among children following from legally binding international norms. And, given the sound scientific research linking homosexual lifestyle to increased risks to physical and mental health, this recommendation by the Committee sounds particularly ambiguous. The CRC is, in effect, recommending Russia not to protect its children from this dangerous lifestyle and sexual behaviour<sup>23</sup>.

These acts can be described as an unreasonable attempt by the Committee to indirectly impose on sovereign states norms exceeding intergovernmental consensus, and must be recognised as being *ultra vires*, and the recommendations in question as internationally illicit and, therefore, null and void.

***d) Exerting pressure aimed at the belittlement of the rights of the parents regarding sexual health and education of their children***

The UNCRC does not include norms for education of children and adolescents on subjects of sexual and reproductive health. Although Article 13 provides for ‘freedom to seek, receive and impart information and ideas of all kinds’, it can be subject to restrictions by law, in particular, ‘for respect of the rights ... of others’. Furthermore, Article 5 clearly documents the connection between the exercise by the child of the rights provided under the UNCRC and the rights of their parents:

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

Authors of the present Report regard Article 5 as implying that the child has a right to direction and guidance by their parents or legal guardians<sup>24</sup>. Said right must be considered in view of the fact,

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<sup>23</sup> For more information about the aims and legality of the laws in question and their compliance with norms of international human rights law see the *Memorandum to the Venice Commission* submitted by Russian and Ukrainian NGOs: <http://en.familypolicy.ru/read/256>

<sup>24</sup> A view endorsed by the CRC itself in its General comment No. 12 (2009): ‘Article 5 of the Convention states that States parties shall respect the responsibilities, rights and duties of parents, legal guardians, or members of the extended family or community as provided for by local custom, to give direction and guidance to the child in her or his exercise of the rights recognized in the Convention. Consequently, the child has a right to direction and

acknowledged both in the Convention and in the Declaration on the Rights of the Child (Resolution 1386 (XIV), third paragraph of the Preamble), that

‘...the child, by reason of his physical and mental immaturity, needs special safeguards and care...’

As a result, depriving the child of the direction and guidance of their parents or legal guardians can be regarded as a violation of the right of the child provided under Article 5 UNCRC.

It should be noted that the *Cairo Programme of Action* and the *Beijing Platform for Action* are the only international documents directly dealing with issues of reproductive health promotion and sexuality education of children that have some intergovernmental recognition at the UN level. The necessity to respect the corresponding rights of the parents is explicitly recognised therein.

Specifically, the ICPD Programme of Action notes that

‘Support should be given to integral sexual education and services for young people, with the support and guidance of their parents ...’ (7.37).

‘Recognizing the rights, duties and responsibilities of parents and other persons legally responsible for adolescents to provide, in a manner consistent with the evolving capacities of the adolescent, appropriate direction and guidance in sexual and reproductive matters, countries must ensure that the programmes and attitudes of health-care providers do not restrict the access of adolescents to appropriate services and the information they need, including on sexually transmitted diseases and sexual abuse’ (7.45).

‘Sexually active adolescents will require special family-planning information, counselling and services, and those who become pregnant will require special support from their families and community during pregnancy and early child care. Adolescents must be fully involved in the planning, implementation and evaluation of such information and services with proper regard for parental guidance and responsibilities’ (7.47).

‘To be most effective, education about population issues must begin in primary school and continue through all levels of formal and non-formal education, taking into account the rights and responsibilities of parents and the needs of children and adolescents’ (11.9).

Similar instructions are contained in the *Beijing Platform for Action*:

‘Prepare and disseminate accessible information, through public health campaigns, the media, reliable counselling and the education system, designed to ensure that women and men, particularly young people, can acquire knowledge about their health, especially information on sexuality and reproduction, taking into account the rights of the child to access to information, privacy, confidentiality, respect and informed consent, as well as 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...<sup>25</sup> (107 (e))

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guidance, which have to compensate for the lack of knowledge, experience and understanding of the child and are restricted by his or her evolving capacities, as stated in this article.’ (CRC/C/GC/12, para. 84)

<sup>25</sup> A clear reference to Article 5 of the UNCRC.

‘Recognize the specific needs of adolescents and implement specific appropriate programmes, such as education and information on sexual and reproductive health issues and on sexually transmitted diseases, including HIV/AIDS, taking into account the rights of the child and the responsibilities, rights and duties of parents as stated in paragraph 107 (e) above’ (107 (g)).

‘Design specific programmes for men of all ages and male adolescents, recognizing the parental roles referred to in paragraph 107 (e) above, aimed at providing complete and accurate information on safe and responsible sexual and reproductive behaviour, including voluntary, appropriate and effective male methods for the prevention of HIV/AIDS and other sexually transmitted diseases through, inter alia, abstinence and condom use’ (108 (l)).

Hereby both the *Cairo Programme of Action* and the *Beijing Platform for Action* explicitly note the need in these matters to respect and observe the rights of the parents, in particular the rights of the parents (and the child) as provided under Article 5 UNCR. Moreover, as was already mentioned (Subsection 2(b)), these documents are only to be implemented at the discretion of each sovereign state, with full consideration of its cultural heritage and moral and religious values of its peoples and communities<sup>26</sup>.

It should also be noted that the right of the parents to guide their children in matters of their education is a fundamental right recognised in the Universal Declaration of Human Rights (Art. 26(3)):

‘Parents have a prior right to choose the kind of education that shall be given to their children’.

Education on sexual and reproductive health ventures far into the area of cultural, religious, and moral values. As a result, the rights of the parents in this area provided under relevant UN human rights treaties should also be respected:

‘The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions’ (International Covenant on Civil and Political Rights, Art. 18.4).

‘The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions’ (International Covenant on Economic, Social and Cultural Rights, Art. 13.3).

It follows from neither international human rights instruments, nor the intergovernmental consensus that the states have an obligation or, indeed, a right to educate the children on subjects of sexual and reproductive health without parental consent. Moreover, such acts can violate both the aforementioned fundamental rights of the parents and the right to parental direction and guidance in the exercise by the child of the right to education and freedom to receive information.

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<sup>26</sup> Said principle, in its turn, inevitably implies the necessity in helping the children to exercise their respective rights to fully respect the rights of their parents as provided under Article 26 (3) of the Universal Declaration Of Human Rights, Article 18 (4) of the International Covenant on Civil and Political Rights, and Article 13 (3) of the International Covenant on Economic, Social and Cultural Rights, referred to below.

Nonetheless, the Committee has been explicitly demanding that state parties provide children with access to both confidential sexual health counselling and services and sexuality education without the need for parental consent.

For example, in its General comment No. 3 *HIV/AIDS and the Rights of the Child* (CRC/GC/2003/3) it recommends establishing health services that are ‘... confidential and non-judgemental, do not require parental consent ...’ (para. 20) and specifies, contrary to the legal principles of a number of states (including Russia), that ‘information on the HIV status of children may not be disclosed to third parties, including parents, without the child’s consent’ (para. 24).

In its General comment No. 4 *Adolescent health and development in the context of the Convention on the Rights of the Child* (CRC/GC/2003/4) the Committee continues with this policy demanding that

‘... States parties should provide adolescents with access to sexual and reproductive information, including on family planning and contraceptives ... In addition, States parties should ensure that they have access to appropriate information, regardless of their marital status and whether their parents or guardians consent’. (para. 28)

It further goes on to ‘urge’ the states parties ‘to develop effective prevention programmes, including measures ... addressing cultural and other taboos surrounding adolescent sexuality’ (para. 30), in effect, promoting free and irresponsible sexual behaviour.

These CRC recommendations cause particular anxiety in view of its UN-backed sexuality education programmes often proving highly controversial and causing serious concern, in particular, by:

- leading to early sexualisation of children;
- belittling parental and family authority;
- promoting sexual freedom and risky sexual behaviour linked to increased health hazards;
- making false claims about ‘a right to abortion’ being a human right provided for by international law;
- implanting into the minds of the children controversial notions and ideas with no intergovernmental consensus behind them aimed at accepting as a norm all kinds of ‘sexual orientation’ and ‘gender identity’, and also the so-called ‘sexual rights’ with no basis in international human rights agreements<sup>27</sup>.

Said programmes, promoted with the assistance of UN bodies, have met serious objections from sovereign states. For example, during the 56<sup>th</sup> session of the UN General Assembly the Russian Federation, criticising the reference to UNICEF’s *International Technical Guidance on Sexuality Education* made by a UN Special Rapporteur in his report, stated that

‘As justification for his conclusions, he had cited numerous documents which had not been agreed to at the intergovernmental level, and which therefore could not be considered as authoritative expressions of the opinion of the international community. In particular, he

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<sup>27</sup> See, in particular, Special Report by Family Watch International *Comprehensive Sexuality Education: Sexual Rights vs. Sexual Health* [http://www.familywatchinternational.org/fwi/documents/Special\\_Report\\_CSE\\_Revised\\_1\\_12.pdf](http://www.familywatchinternational.org/fwi/documents/Special_Report_CSE_Revised_1_12.pdf) (retrieved 21.03.2012)

referred to the Yogyakarta Principles and also to the International Technical Guidance on Sexuality Education. Implementation of various provisions and recommendations of the latter document would result in criminal prosecution for such criminal offences as corrupting youth' (A/C.3/65/SR.29, Para. 23).

To give another example of controversial concepts promoted within so-called 'sexuality education programmes', one can point out the so-called 2010 Cologne *Standards for sexuality education in Europe: a framework for policy makers, educational and health authorities and specialists* issued by the WHO Regional Office for Europe and the Federal Centre for Health Education<sup>28</sup>.

Page 12 of this document reads: 'In this document, it was deliberately decided to call for an approach in which sexuality education starts from birth'. Ibid., page 31 notes that '[s]exuality education is based on a (sexual and reproductive) human rights approach' despite the fact that the notion of 'sexual rights' is absent in generally recognised binding international treaties. Ibid., page 38 demands that children aged 0 to 4 be provided with information about 'enjoyment and pleasure when touching one's own body, early childhood masturbation'. Page 45 demands that children aged 9 to 12 be given information about their 'sexual rights, as defined by IPPF and by WAS'. A footnote refers to *Sexual rights: an IPPF declaration* by the International Planned Parenthood Federation (London, 2008) and the *Declaration of Sexual Rights* by the World Association for Sexual Health (Hong Kong, 1999). Notably, Principle 4 of the IPPF *Declaration*<sup>29</sup> states (p. 14) that '[s]exuality, and pleasure deriving from it, is a central aspect of being human, whether or not a person chooses to reproduce'. Provision 5 of the WAS *Declaration* describes 'the right to sexual pleasure': 'The right to sexual pleasure. Sexual pleasure, including autoeroticism, is a source of physical, psychological, intellectual and spiritual well being'<sup>30</sup>.

Such recommendations explicitly contradict cultural, religious, and moral values of many families from various nations<sup>31</sup>. Imposing the use of such programmes without parental consent contradicts their rights provided under fundamental international instruments cited above, the rights of the children provided under UNCRC Article 5, and the intergovernmental consensus. It is no accident that the promotion of so-called 'comprehensive sexuality education' causes public, indeed, already international outrage<sup>32</sup>.

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<sup>28</sup> <http://www.bzgawhocc.de/pdf.php?id=061a863a0fdf28218e4fe9e1b3f463b3>

<sup>29</sup> <http://www.ippfwhr.org/sites/default/files/files/SexualRightsIPPFdeclaration.pdf> (retrieved 21.03.2012)

<sup>30</sup> [http://www2.hu-berlin.de/sexology/ECE5/was\\_declaration\\_of\\_sexual\\_righ.html](http://www2.hu-berlin.de/sexology/ECE5/was_declaration_of_sexual_righ.html) (retrieved 21.03.2012)

<sup>31</sup> In the context of Russian culture, educating on these 'sexual rights' children aged 9 to 12 can be regarded as a form of molestation. Article 135 (3) of the Criminal Code of the Russian Federation specifies imprisonment for a period of 5 to 12 years as punishment for committing lecherous actions towards a person known to be under 12 years of age, while legal commentary explains that such actions may be both physical and intellectual (indecent talk, etc.). See, inter alia: Commentary on the Criminal Code of the Russian Federation, ed. by V. Tomin and V. Sverchlov, 6th ed., Moscow, 2010, p. 445 (Комментарий к Уголовному кодексу РФ, под ред. В.Т. Томина, В.В. Сверчкова, 6-е изд., М.: 2010, с. 445).

<sup>32</sup> For instance, in February 2012 a parallel international youth meeting backed by a number of NGOs took place in UN Headquarters in New York, resulting in the Coalition for Protecting the Health and Innocence of Children being formed and the launch of the worldwide *STOP the Sexualization of Children!* Petition calling to cease the promotion and funding of 'comprehensive sexuality education' programmes. Cf. <http://www.stopsexualizingchildren.org/ssc/petition.cfm> (retrieved 21.03.2012).

It is echoed by negative expert assessment. For example, Dr. Krisztina Morvai, LL. M, Ph.D., a legal expert and, between 2003-2006, a member of the UN Women's Anti-discrimination Committee, in her briefing given at 6 September 2006 in UN Headquarters stated her preoccupation with

‘...The promotion of “sex education” for young teenagers, instead of education for moral responsibility for themselves and their partners; in other words, responsible partnerships, parenthood and family life. “Sex education” reduces human sexuality to a mere technicality – through the separation of “sex” from other elements of human relationships. While this has a damaging impact on both sexes, the damage is considerably larger in the lives of women and girls’<sup>33</sup>.

It should be especially noted that Paragraph 198(l) of the *Beijing Platform for Action* speaks of ‘abstinence and condom use’, showing abstinence-oriented sexual education to be part of intergovernmental consensus. However, the Committee’s concluding observations make no reference to abstinence, speaking of condom use only (CRC/GC/2003/4, para. 30; CRC/C/BEN/CO/2, para. 58(h); CRC/C/THA/CO/2, para. 58(e), et al., see Appendix I).

A whole number of states were recommended to by the CRC to incorporate sexuality education programmes in the school curriculum and introduce confidential sexual health counselling with reference to its *General comment No. 3* and, therefore, implying that they should do so regardless of parental consent. Such recommendations are found in its concluding observations on reports by, to name but a few examples, the Russian Federation (2005, CRC/C/RUS/CO/3, para. 56), Uganda (2005, CRC/C/UGA/CO/2, para. 52(c)), Jordan (2006, CRC/C/JOR/CO/3, para. 65), Trinidad and Tobago (2006, CRC/C/TTO/CO/2, para. 54(c)), Saudi Arabia (2006, CRC/C/SAU/CO/2, para. 58), Hungary (2006, CRC/C/HUN/CO/2, para. 44), Columbia (2006, CRC/C/COL/CO/3, para. 71), et al. (see Appendix I).

A whole number of states were also recommended to by the CRC to review their respective national legislation to provide the children access to reproductive health services without the need for parental consent, which likewise has no basis in the UNCRC and the intergovernmental consensus (see, for example, its concluding observations on reports by Bulgaria (2008, CRC/C/BGR/CO/2, para. 48 (d)) and Georgia (2008, CRC/C/GEO/CO/3, para. 47-48)).

The present line of action was continued in 2012-2014.

For example, General comment No. 15 (2013)<sup>34</sup> *On the right of the child to the enjoyment of the highest attainable standard of health* reads:

‘In accordance with their evolving capacities, children should have access to confidential counselling and advice without parental or legal guardian consent, where this is assessed by the professionals working with the child to be in the child’s best interests . . . States should review and consider allowing children to consent to certain medical treatments and interventions without the permission of a parent, caregiver, or guardian, such as HIV testing and sexual and

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<sup>33</sup> Dr. Krisztina Morvai, LL.M, Ph.D., *Respecting National Sovereignty and Restoring International Law: The Need to Reform UN Treaty Monitoring Committees*, September 6, 2006 – Briefing\* at United Nations Headquarters, New York, <http://fota.cdnetworks.net/pdfs/Krisztina-Morvai-statement-final.pdf> (retrieved 21.03.2012).

<sup>34</sup> CRC/C/GC/15

reproductive health services, including education and guidance on sexual health, contraception and safe abortion.’ (para. 31)

This recommendation is in clear conflict with the aforesaid rights of the parents, especially in case of families where abortion, the use of contraceptives, and exposing children to sexually-charged material is regarded as unacceptable on grounds of religious or philosophic convictions.

CRC’s concluding observations likewise continued making references to its *General comments Nos. 3 and 4*. In particular, in 2012-2014 (sessions 59-65) there were no less than seven instances of the Committee using its concluding observations to recommend that the states parties should include sexual education in their school and other curricula, citing its own *General commentary No. 4* that predicates access thereto regardless of the consent of parents or guardians, or even explicitly calling this consent irrelevant (Azerbaijan, CRC/C/AZE/CO/3-4, para. 63; Australia, CRC/C/AUS/CO/4, para. 67; Greece, CRC/C/GRC/CO/2-3, para. 57; Namibia, CRC/C/NAM/CO/2-3, para. 58(c); Guinea-Bissau, CRC/C/GNB/CO/2-4, para. 55(a); the Holy See, CRC/C/VAT/CO/2, para. 57(a); Portugal, CRC/C/PRT/CO/3-4, para. 52 – see Appendix II).

In its Concluding observations on the country’s report (CRC/C/UZB/CO/3-4, para. 56(a)) the Committee recommended Uzbekistan to include ‘information on contraception and safe sex’ ‘as part of the mandatory school syllabus for children in addition to its current education on reproductive health’. CRC’s Concluding observations on the report by Lithuania (CRC/C/LTU/CO/3-4, para. 42) recommended the latter to introduce a ‘mandatory subject on sexual and reproductive health in school curriculum’.

The same period witnessed no less than ten instances of the Committee using its concluding observations to recommend granting adolescents the right to access ‘confidential’ (that is, including without their parents’ or guardians’ consent) sexual and/or reproductive counselling and/or services (Cook Islands, CRC/C/COK/CO/1, paras. 34 and 50(d); Australia, CRC/C/AUS/CO/4, para. 67; Greece, CRC/C/GRC/CO/2-3, para. 57; Andorra, CRC/C/AND/CO/2, para. 42; Namibia, CRC/C/NAM/CO/2-3, para. 58(b); Guinea-Bissau, CRC/C/GNB/CO/2-4, para. 55(b); Rwanda, CRC/C/RWA/CO/3-4, para. 47(e); Lithuania, CRC/C/LTU/CO/3-4, paras. 41 and 42; Portugal, CRC/C/PRT/CO/3-4, para. 52; Yemen, CRC/C/YEM/CO/4, paras. 59 and 60 – see Appendix II).

Likewise included in CRC’s list of recommendations is granting adolescents greater access to contraceptives. Recommendations like these are baseless, because the alleged right to access to contraceptives does not directly follow from binding international human rights norms and therefore cannot be regarded as a human right.<sup>35</sup> The necessity or desirability of access to contraceptives or information thereof is arbitrarily claimed by General comments Nos. 3 (2003) (CRC/GC/2003/3, para. 20), 4 (2003) (CRC/GC/2003/4, paras. 28, 30 and 31), and 15 (paras. 31 and 70). Selfsame recommendations are widely used in CRC’s *Concluding observations*: for example, there were no less than 15 instances of such recommendations in 2013-2014 (sessions 59-65) (Azerbaijan, CRC/C/AZE/CO/3-4, para. 63(a); Cook Islands, CRC/C/COK/CO/1, paras. 49 and 50(e); Madagascar, CRC/C/MDG/CO/3-4, para. 51; Myanmar, CRC/C/MMR/CO/3-4, paras. 65 and 66; Algeria, CRC/C/DZA/CO/3-4, para. 60; Australia, CRC/C/AUS/CO/4, para. 67; Greece, CRC/C/GRC/CO/2-3, para.

<sup>35</sup> For more details see Meghan Grizzle, J.D., Family Planning (White Paper of World Youth Alliance, 2012), <http://www.wya.net/advocacy/research/WYA%20family%20planning%20white%20paper.pdf> (retrieved 09.02.2014).

57; Vietnam, CRC/C/VNM/CO/3-4, para. 59; Andorra, CRC/C/AND/CO/2, para. 42; Namibia, CRC/C/NAM/CO/2-3, paras. 57(b) and 58(b); Uzbekistan, CRC/C/UZB/CO/3-4, para. 56(a); Guinea-Bissau, CRC/C/GNB/CO/2-4, para. 55(b); Lithuania, CRC/C/LTU/CO/3-4, paras. 41 and 42; the Holy See, CRC/C/VAT/CO/2, paras. 56 and 57(a); Portugal, CRC/C/PRT/CO/3-4, para. 52 – see Appendix II).

Not following from either the UN Convention on the Rights of the Child or the intergovernmental consensus, all of the aforesaid recommendations made by the CRC and likewise the respective provisions of its *General comments* Nos. 3, 4, and 15 must, as a consequence, be recognised as *ultra vires*, internationally illicit and, therefore, null and void.

***e) Outlawing parental corporal punishment for children: a case of ultra vires introduction of a new state obligation***

As stated previously citing Article 6 of the *San Jose Articles*, UN treaty monitoring bodies have no authority to interpret respective treaties in ways that introduce new state obligations or change the essence of said treaties. ‘Incorporating’ into a treaty a new right or obligation by means of interpretation, said treaty body acts *ultra vires* (beyond its authority) irrespective of the content of the norm being approved or disapproved.

In 2006 the Committee has issued its General comment No. 8 *The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia)* (CRC/C/GC/8). Said document gives the UNCRC an interpretation introducing a new obligation for its states parties: to outlaw all forms of corporal punishment of children, including parental (para. 18):

‘Corporal punishment and other cruel or degrading forms of punishment are forms of violence and States must take all appropriate legislative, administrative, social and educational measures to eliminate them’.

Irrespective of views on corporal punishment of children, this CRC act must be recognised as being *ultra vires*. Said *General comment* openly admits that such an obligation was not implied by the states parties to the UNCRC (para. 20):

‘Article 19 and article 28, paragraph 2, do not refer explicitly to corporal punishment. The *travaux préparatoires* for the Convention do not record any discussion of corporal punishment during the drafting sessions’.

Therefore this is a case of the CRC introducing a new obligation by means of interpreting the UNCRC.

It should be noted that the subject of corporal punishment of children did figure in preliminary discussions on the 1959 UNDRC draft by the UN Commission on Human Rights. A motion to outlaw corporal punishment of children in schools was put to vote and subsequently defeated by the Commission. Its report documents (E/CN.4/789) that

‘178. The Commission rejected by 9 votes to 3, with 6 abstentions, the amendment submitted by the Soviet Union (E/CN.4/L.526) calling for the insertion of the following sentence after the first sentence:

“In particular, the child shall not be subjected to corporal punishment in schools.”’.

Therefore, in the only instance a proposal to outlaw pedagogic corporal punishment was made during the discussion of UNDRC (a predecessor to the UNCRC) it was rejected by the Commission on Human Rights.

In its interpretation, the Committee also failed to consider that it contradicts the general rules of international treaty interpretation under Article 31.1 (b) of the Vienna Convention on the Law of Treaties:

‘1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

...

(b) any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty’.

It should be noted that, acceding to the UNCRC, the Republic of Singapore made a following interpretative declaration:

‘The Republic of Singapore considers that articles 19 and 37 of the Convention do not prohibit ... the judicious application of corporal punishment in the best interests of the child’ (CRC/C/2/Rev.8, Singapore).

Not being a reservation, this declaration forms part of the context for interpreting the UNCRC. In this regard, the interpretation given in CRC’s *General comment No. 8* must also be recognised as being unlawful and *ultra vires*. Such interpretations, as Article 6 of the *San Jose Article* rightly notes, ‘do not create any legal obligations for states parties to the treaty, nor should states accept them as contributing to the formation of new customary international law’.

Likewise, attempts to interpret Article 37 UNCRC as forbidding any kind of corporal punishment, including parental, contradicts the interpretation of international norms given by ECHR. Specifically, it directly follows from ECHR judgments on *Tyrer v. the United Kingdom* (No. 5856/72, 25 April 1978) and *Costello-Roberts v. the United Kingdom* (No. 13134/87, 25 March 1993) that not all types of corporal punishment can be regarded as ‘inhuman’ or ‘degrading’. Moreover, the idea of harmful consequences of any kind of corporal punishment of children fails to take into account the whole range of existing scientific data on the subject<sup>36</sup>.

Nevertheless, drawing on its unjustified interpretation, the CRC, having had published its *General comment No. 8*, has repeatedly demanded of states to outlaw all kinds of corporal punishment of children, including parental. To cite but a few examples: concluding observations on reports by the Russian Federation (2005, CRC/C/RUS/CO/3, paras. 36, 37 (a), (b)), Uganda (2005, CRC/C/UGA/CO/2, paras. 39-40), Guatemala (2010, CRC/C/GTM/CO/3-4, paras. 53-54), Czech Republic (2011, CRC/C/CZE/CO/3-4, paras. 39-40), Cuba (2011, CRC/C/CUB/CO/2, paras. 36-37), Cambodia (2011,

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<sup>36</sup> See, for example: Larzelere R., Kuhn, B., Comparing Child Outcomes of Physical Punishment and Alternative Disciplinary Tactics: A Meta-Analysis, *Clinical Child and Family Psychology Review*, vol. 8 Num. 1, 2005, p. 1-37

CRC/C/KHM/CO/2-3, paras. 40, 41 (a, b)), Belarus (2011, CRC/C/BLR/CO/3-4, paras. 39-40), et al. (see Appendix I<sup>37</sup>).

In view of the interpretative declaration the Republic of Singapore made acceding to the UNCRC, demands aimed at this state look particularly surprising. For example, in the concluding observations on its report (2011, CRC/C/SGP/CO/2-3, para. 40 (a)), the Committee points out that

'40. In light of the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee recommends that the State party:

(a) Prohibit unequivocally by law, without any further delay, all forms of corporal punishment, including caning, in all settings'.

Given the Republic of Singapore's declaration, such recommendations must be recognised as clearly violating the principle of the sovereign equality of states provided under Article 2 of the UN Charter.

In this context, even more portentous is its General comment No 13 *The right of the child to freedom from all forms of violence* (2011, CRC/C/GC/13). Therein the CRC does not restrict itself to recommendations, but proceeds to exert direct and severe pressure on states, noting in its Paragraph 41 that

'41. State parties that have not yet done so must:

(d) Review and amend domestic legislation in line with article 19 and its implementation within the holistic framework of the Convention, establishing a comprehensive policy on child rights and ensuring absolute prohibition of all forms of violence against children in all settings and effective and appropriate sanctions against perpetrators'.

Herein the Committee goes on to demands that the states parties do not merely review their national legislation in accordance to its *ultra vires* interpretation of the UNCRC, but also prosecute each and every person acting contrary to this interpretation. Such a demand constitutes a clear and definite violation of the principle of sovereign equality.

In 2013 the CRC once again repeated this arbitrary interpretation in its General comment No. 15 (2013)<sup>38</sup> *On the right of the child to the enjoyment of the highest attainable standard of health*:

'In the light of the impact of corporal punishment on children's health, including fatal and non-fatal injury and the psychological and emotional consequences, the Committee reminds States of their obligation to take all appropriate legislative, administrative, social and educational measures to eliminate corporal punishment and other cruel or degrading forms of punishment in all settings, including the home.' (para. 68)

In 2012-2014 (sessions 59-65) this 'obligation' to impose a statutory ban on corporal punishment (or the Committee's regrets at the inadequacy of its implementation) was mentioned in nearly every single one of its *Concluding observations*, no less than 37 times in total. (Azerbaijan, CRC/C/AZE/CO/3-4, paras. 45 and 46; Cook Islands, CRC/C/COK/CO/1, paras. 35(a) and 36(a); Madagascar, CRC/C/MDG/CO/3-4, paras.

<sup>37</sup> Due to the wide extent of CRC's promotion of this norm, only selected texts are adduced therein.

<sup>38</sup> CRC/GC/2013/15

37 and 38(a); Myanmar, CRC/C/MMR/CO/3-4, paras. 53 and 54(b); Thailand, CRC/C/THA/CO/3-4, paras. 8, 47 and 48(a); Togo, CRC/C/TGO/CO/3-4, paras. 43 and 44(a); Algeria, CRC/C/DZA/CO/3-4, paras. 8, 43, and 44(a); Australia, CRC/C/AUS/CO/4, paras. 8, 43, and 44(a); Cyprus, CRC/C/CYP/CO/3-4, paras. 29 and 30; Turkey, CRC/C/TUR/CO/2-3, paras. 7, 44, and 45(a); Vietnam, CRC/C/VNM/CO/3-4, paras. 45 and 46; Albania, CRC/C/ALB/CO/2-4, para. 41; Andorra, CRC/C/AND/CO/2, paras. 8, 30, and 31(a); Austria, CRC/C/AUT/CO/3-4, para. 33; Bosnia and Herzegovina, CRC/C/BIH/CO/2-4, para. 39; Canada, CRC/C/CAN/CO/3-4, paras. 8, 44, and 45; Liberia, CRC/C/LBR/CO/2-4, paras. 45 and 46; Namibia, CRC/C/NAM/CO/2-3, paras. 38(c) and 39(a); Guinea, CRC/C/GIN/CO/2, paras. 48 and 49(a); Guyana, CRC/C/GUY/CO/2-4, paras. 7, 32, and 33; Malta, CRC/C/MLT/CO/2, paras. 9, 36, and 37; Uzbekistan, CRC/C/UZB/CO/3-4, paras. 40 and 41(a); Armenia, CRC/C/ARM/CO/3-4, paras. 24 and 25; Guinea-Bissau, CRC/C/GNB/CO/2-4, paras. 36 and 37(a); Rwanda, CRC/C/RWA/CO/3-4, paras. 27 and 28; Slovenia, CRC/C/SVN/CO/3-4, paras. 37 and 38; China, CRC/C/CHN/CO/3-4, para. 7(c); Kuwait, CRC/C/KWT/CO/2, paras. 41 and 42; Lithuania, CRC/C/LTU/CO/3-4, paras. 24 and 25; Monaco, CRC/C/MCO/CO/2-3, paras. 28 and 29; Sao Tome and Principe, CRC/C/STP/CO/2-4, para. 7(d); Tuvalu, CRC/C/TUV/CO/1, paras. 35 and 36(b); Congo, CRC/C/COG/CO/2-4, para. 40; the Holy See, CRC/C/VAT/CO/2, paras. 39 and 40; Portugal, CRC/C/PRT/CO/3-4, paras. 33 and 34; Russia, CRC/C/RUS/CO/4-5, paras. 32 and 33; Yemen, CRC/C/YEM/CO/4, paras. 8, 43, and 44(a) – see Appendix II). In many of these instances the CRC recommended making changes to national laws to completely eradicate corporal punishment of children, and in case of Rwanda even demanded they were enacted ‘immediately’ (Rwanda, CRC/C/RWA/CO/3-4, paras. 28(c) and (e)).

Particularly astonishing is the fact the Committee believes itself entitled to explicitly impose this interpretation of the UNCRC on the states parties. For instance, in its *Concluding observations* on the report by the Holy See the CRC expresses its concern that ‘the Holy See still does not consider corporal punishment as being prohibited by the Convention’ (CRC/C/VAT/CO/2, para. 39), despite the fact that, as was shown above, it is precisely the latter’s position that is true to the UNCRC’s genuine interpretation.

Irrespective of views on corporal punishment of children, these CRC acts must be recognised as being legally *ultra vires* and undermining the international human rights law framework. They violate the principle of legal certainty, because the states parties to the agreement cannot foresee its future legal consequences.

This interferes with the rule of law, one of the fundamental principles of the law. In her briefing given at September the 6th 2006 in UN Headquarters, Dr. Krisztina Morvai, LL. M, Ph.D., a legal expert and, between 2003-2006, a member of the UN Women’s Anti-discrimination Committee, describes this conflict:

‘One of the basic principles of the Rule of Law is that interpretations of the law must be coherent and consistent, and decisions based on the law must be predictable and foreseeable. However, when the body/collection of interpretations of the different Articles of UN Human Rights Treaties ... available in the form of concluding comments, recommendations or observations by the treaty-based bodies to the States Parties – are

examined, they are *largely incompatible with this fundamental principle of the Rule of Law*<sup>39</sup>.

Acting in such a manner, the Committee turns UN bodies into some sort of 'global government' imposing on states new norms and obligations irrespective of their consent and the opinion of their sovereign peoples.

Being the result of *ultra vires* actions by the CRC, these recommendations, along with the ones scrutinised earlier, must be recognised as internationally illicit and therefore null and void.

**f) Exerting pressure on states in matters of their ratification of new international agreements and violating the sovereignty of UNCRC state parties**

As it was noted above, it does not follow from UNCRC text and, in particular, from the Committee's mandate that it has the authority to in any way interfere in matters of ratification of new international agreements by a state. A number of UNCRC norms do imply encouraging 'international cooperation', which, however, does not presume desirability or commitment to ratify new international agreements. The only direct reference to new international treaties is to be found in its Article 27(4):

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

Taking this into account, only the cases where the Committee recommends the states parties to ratify international agreements on the support of the child by parents living in a different state, including maintenance payments, can be regarded as being within its authority.

The UNCRC provides no justification for the Committee to recommend its states parties to ratify other international agreements obligation to accede to which does not directly follow from the UNCRC or the intergovernmental consensus.

Likewise absent from the Convention are references to CRC's right to recommend the states parties to withdraw their reservations or official interpretative declarations to the UNCRC.

The Committee has, nevertheless, repeatedly recommended the states parties to ratify certain international agreements not directly related to the UNCRC, as well as to withdraw their reservations and interpretative declarations on the UNCRC

In paragraph 13 of its *General comments No. 5* (2003)<sup>40</sup> the Committee justified its recommendation for the states parties to withdraw their reservations by referring to the 'encouragement given by the World Conference on Human Rights' to that effect.

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<sup>39</sup> Dr. Krisztina Morvai, LL.M, Ph.D., *Respecting National Sovereignty and Restoring International Law: The Need to Reform UN Treaty Monitoring Committees*, September 6, 2006 – Briefing\* at United Nations Headquarters, New York, <http://fota.cdnetworks.net/pdfs/Krisztina-Morvai-statement-final.pdf> (retrieved 21.03.2012).

<sup>40</sup> CRC/GC/2003/5

The 1993 *Vienna Declaration and Programme of Action* adopted by the World Conference on Human Rights does, indeed, contain such calls for all states to ratify human rights agreements and withdraw their reservations to the UNCRC.

Namely, paragraph 26 of Part I of the *Programme of Action* reads:

‘The World Conference on Human Rights welcomes the progress made in the codification of human rights instruments, which is a dynamic and evolving process, and urges the universal ratification of human rights treaties. All States are encouraged to accede to these international instruments; all States are encouraged to avoid, as far as possible, the resort to reservations.’

Paragraph 5 of Part II also recommends all states to ‘regularly review any reservations with a view to withdrawing them’. Moreover, paragraph 46 of Part II indicates that

‘The World Conference on Human Rights urges States to withdraw reservations to the Convention on the Rights of the Child contrary to the object and purpose of the Convention or otherwise contrary to international treaty law.’

However, neither the *Vienna Declaration and Programme of Action* nor other international documents of sufficient intergovernmental approbation are extending the mandate of the CRC in that regard beyond the limits set by the UNCRC or granting it the right to monitor the implementation of its encouragements and to approach the states parties recommending (or, especially, strongly urging) them to ratify new international treaties or withdraw their reservations to the UNCRC. Doing so at their own discretion remains the prerogative of sovereign states.

It merits special attention that it is not any reservations to the UNCRC that the *Programme of Action* is encouraging the states to withdraw, but specifically those ‘contrary to the object and purpose of the Convention or otherwise contrary to international treaty law’. Given the fact that the Committee has no right to issue legally binding or otherwise especially authoritative interpretations to the UNCRC, it may not single-handedly decide which of the states parties’ reservations can be classified as such.

In other words, neither the Convention nor other authoritative international instruments give the CRC the right to issue recommendations to the states parties to ratify additional international agreements or withdraw their reservations to the UNCRC. Notwithstanding that, the Committee did and continues to do just so.

In 2011 alone no less than 11 of UNCRC states parties received recommendations to ratify new international agreements as part of CRC’s *Concluding observations* (see Appendix I). In 2012-2014 this trend was reflected by nearly all of its *Concluding observations* (see Appendix II)

In some cases such recommendations were particularly insistent.

For example, in its concluding observations on the report by the Republic of Singapore (2011, CRC/C/SGP/CO/2-3, para. 49 (c)) the CRC demanded that the state party must

‘(c) Ratify, without delay, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption’.

Using references to the *Vienna Declaration and Programme of Action* to recommend the states parties to withdraw their reservations to the UNCRC, the Committee is, in effect, assuming the right to decide which of these reservations are contrary to the object and purpose of the Convention, because this is exactly the type of reservations the *Vienna Declaration and Programme of Action* encourages the states to withdraw.

As for interpretative declarations on the Convention, there is no mention of the need to review or withdraw them in the *Vienna Declaration and Programme of Action* whatsoever. Such declarations, especially if unchallenged by other states parties, are an entirely legitimate and integral part of the context for the proper interpretation of the UNCRC.

Citing the *Vienna Declaration and Programme of Action*, the CRC, nevertheless, did also call on the states parties to review such declarations. For example, its *Concluding observations* on the 3<sup>rd</sup> and 4<sup>th</sup> report by Algeria (CRC/C/DZA/CO/3-4) indicates that

**‘The Committee reiterates its recommendation of 2005 (CRC/C/15/Add.269, para. 11) that the State party should review its interpretative declarations with a view to withdrawing them, in accordance with the 1993 Vienna Declaration and Plan of Action of the World Conference on Human Rights.’** (para. 10)

Particular concerns are raised by the phrasing adopted by the CRC in its General comment No 13 *The right of the child to freedom from all forms of violence* (2011, CRC/C/GC/13). Therein (para. 41) the Committee went from a language of recommendation to that of demand:

‘41. State parties that have not yet done so must:

- (a) Ratify the two Optional Protocols to the Convention, and other international and regional human rights instruments that provide protection for children, including the Convention on the Rights of Persons with Disabilities and its Optional Protocol and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (b) Review and withdraw declarations and reservations contrary to the object and purpose of the Convention or otherwise contrary to international law’.

By using such language and making unjustified demands on the states parties to ratify new international agreements, the CRC is in clear violation of the principle of sovereign equality documented in Article 2 of the UN Charter. In this instance the Committee, in effect, without any justification acts as a regulative body superior to state parties.

We believe such actions to be *ultra vires*, and the recommendations they resulted in, along with the ones scrutinised earlier, internationally illicit and, therefore, null and void.

### ***g) Unlawfully interfering in religious freedoms***

The right to freedom of religion is one of the universally recognised fundamental human rights explicitly proclaimed by numerous international human rights instruments of both global<sup>41</sup> and regional<sup>42</sup> character.

This fundamental right to freedom of religion includes ‘freedom either alone or in community with others and in public or private, to manifest his religion or belief’<sup>43</sup>, without undue outside interference.

This right is widely acknowledged to also encompass the right of religious communities to autonomous existence. As rightly noted by the European Court of Human Rights, ‘religious communities traditionally and universally exist in the form of organised structures’, regarding which the right to freedom of religion must be viewed as inseparable from their right to freedom and autonomy of association. ‘[T]he right of believers to freedom of religion encompasses the expectation that the community will be allowed to function peacefully, free from arbitrary State intervention’, while ‘[t]he autonomous existence of religious communities is indispensable for pluralism in a democratic society and is an issue at the very heart of the protection’<sup>44</sup> afforded by international treaties.

This fundamental right to autonomous existence of the religious community includes the right to autonomy in its internal operations, as well as autonomy in establishing their own doctrine, that is, the right of its members to freely express their religious beliefs and teach them to others.

It is obvious that if states have no right to arbitrary intervene in matters relating to autonomy of religious communities, neither do the international organisations and their bodies they established, including UN treaty monitoring bodies like the Committee on the Rights of the Child.

Nevertheless, the CRC in its *Concluding observations* has been repeatedly unlawfully interfering in said matters, thus infringing upon this fundamental right.

The most striking example of such unlawful interference is the Committee’s *Concluding observations* on the 2<sup>nd</sup> report to it by the Holy See (CRC/C/VAT/CO/2, adopted during its 65<sup>th</sup> session, January 13-31, 2014)

In it, the CRC, guided by its arbitrary notion that ‘ratifying the Convention, [the Holy See] has committed itself to implementing the Convention not only on the territory of the Vatican City State but also as the supreme power of the Catholic Church through individuals and institutions placed under its authority’ (para. 8), is, among other things<sup>45</sup>:

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<sup>41</sup> See, *inter alia*: Art. 18 of the Universal Declaration of Human Rights, Art. 18 of the International Covenant on Civil and Political Rights, Art. 1 of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Art. 14 of the Convention on the Rights of the Child.

<sup>42</sup> See, *inter alia*: Art. 12 of the Universal Declaration of Human Rights, Art. 8 of the African Charter on Human and Peoples’ Rights, Art. 10 of the CIS Convention on Human Rights and Fundamental Freedoms.

<sup>43</sup> Art. 18 of the UDHR, Art. 18(1) of the ICCPR, Art. 1(!) of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief; cf. Art. 9(1) of the European Convention on Human Rights and Fundamental Freedoms.

<sup>44</sup> See ECHR judgement on *Sindicatul “Păstorul cel Bun” v. Romania*, no. 2330/09, 09.07.2013, para. 136, cf. also: *Hasan and Chaush v. Bulgaria* [GC], no. 30985/96, ECHR 2000-XI, para. 62; *Metropolitan Church of Bessarabia and Others v. Moldova*, no. 45701/99, ECHR 2001-XII, para. 119; *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others v. Bulgaria*, nos. 412/03 and 35677/04, 22.01.2009, para. 103.

<sup>45</sup> See *Appendix II* for excerpt from this document.

- Suggesting that the Holy See should make various changes to its Canon Law (paras. 13, 14, 25, 40, and 55), even going as far as to recommend it ‘undertake a comprehensive review of its . . . Canon Law, with a view to ensuring its full compliance with the Convention’ (para. 14). That is, in fact, telling the Catholic Church to change the internal norms, both legal and religious by their nature. The norms regarding which it, or any other religious community, enjoys autonomy protected by international human rights law.
- Urging the Holy See to ‘review its position on abortion’ (para. 55, cf. also para. 54), making the necessary changes to the norms of Canon Law. That is, in fact, telling the Catholic Church as a religious community to change its doctrines, something that is clearly beyond the mandate of a treaty monitoring body.
- Making similar suggestions with regard to the Holy See’s (that is, the Catholic Church’s; cf. para. 8) position on contraceptives (in relation to granting adolescents access to it and the information thereof; cf. paras. 56 and 57), something likewise directly infringing on the Catholic Church’s moral teaching.
- Going as far as recommending which particular interpretation of the Holy Scripture the Catholic Church should adhere to in its teaching and theological education. Namely, telling it to ‘ensure that an interpretation of Scripture as not condoning corporal punishment is reflected in Church teaching and other activities and incorporated into all theological education and training’ (para. 40(d)).
- Also, expressing its ‘regrets’ over the fact that the Holy See ‘continues to place emphasis on the promotion of [the concept of] complementarity [of sexes] and [their] equality in dignity’ (which the CRC, for no clear reason, believes to be not entirely consistent (?) with the principle of equality of sexes proclaimed by Article 2 UDHR) (para. 27), something likewise falling into the sphere of the Catholic Church’s religious teaching.<sup>46</sup>

Paragraph 40(d) of CRC’s *Concluding observations* on the report by the Holy See quoted above is not the sole example of the Committee trying to instruct religious communities on how they should interpret their holy scriptures. Its *Concluding observations* on the 2<sup>nd</sup> report by Guinea highlights ‘wrongly’ interpreted Islamic prescriptions practiced by some Muslim communities.<sup>47</sup>

Considering the above examples, one should keep in mind that, as was shown previously, there is no ‘right to abortion’ provided under international human rights instruments, and the ban on corporal punishment of children, especially within the family, neither does nor, indeed, can at all follow from the UN Convention on the Rights of the Child. Access to contraceptives, too, cannot be acknowledged to be a human right issuing from binding norms of international human rights law.<sup>48</sup> In other words, the Committee on the Rights of the Child can hardly advance the propriety of its aforesaid recommendations by basing them on claims such as these.

<sup>46</sup> Also clearly aimed against the doctrines of the Roman Catholic Church are paragraphs 48 and 49 of CRC’s *Concluding observations* criticising the Holy See and the Church-run institutions for the fact they ‘do not recognize the existence of diverse forms of families’ and recommending it to review its Canon Law to recognize ‘the diversity of family settings’ and the existence of diverse ‘types of families’.

<sup>47</sup> ‘Some religious interpretations wrongly prescribe whipping as being an integral part of learning the Koran’ (CRC/C/GIN/CO/2, para. 48 (c)).

<sup>48</sup> For more details see Meghan Grizzle, J.D., Family Planning (White Paper of World Youth Alliance, 2012), <http://www.wya.net/advocacy/research/WYA%20family%20planning%20white%20paper.pdf> (retrieved 09.02.2014).

All of the aforesaid examples taken from the *Concluding observations* on the 2<sup>nd</sup> report by the Holy See show an evident and clearly unlawful intervention by the CRC into the sphere of religious freedoms guaranteed by universal norms of human rights law and the private life and teaching of religious communities enjoying recognised autonomy<sup>49</sup>.

Having no legal and moral basis whatsoever, such interventions by the Committee on the Rights of the Child into the sphere of religious freedoms are unlawful and beyond the mandate of a treaty monitoring body. We have every reason to believe that in these instances the Committee was acting *ultra vires*.

Introducing in its general comments new norms by means of UNCRC interpretation, imposing them on the states parties through its concluding observations on their reports, demanding of them ratification of new international treaties, interfering in religious freedoms, the Committee, in effect, begins to substitute the Convention with its own decisions and opinions.

This causes serious concern and, should it continue this line of action, questions CRC's credibility.

In light of all this, there is a strong possibility that the new additional powers granted by the UNCRC Optional Protocol on a communications procedure will in practice be used the Committee to further impose upon states through direct or indirect pressure new norms not following from the UNCRC<sup>50</sup>.

Maintaining the status quo, or even granting the CRC any kind of additional powers, might seriously threaten the sovereignty of the states parties and the position enjoyed by the family in each of them.

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<sup>49</sup> As was rightfully pointed out in the Note on the publication of these *General observations* issued by the Holy See's spokesman Fr. Federico Lombardi SJ. In particular, it spoke that 'the Committee's comments in several directions seem to go beyond its powers and to interfere in the very moral and doctrinal positions of the Catholic Church, giving indications involving moral evaluations of contraception, or abortion, or education in families, or the vision of human sexuality, in light of [the Committee's] own ideological vision of sexuality itself. For this reason, in the official communique . . . there was talk of "an attempt to interfere in the teaching of the Catholic Church on the dignity of the human person and in the exercise of religious freedom"' ([http://en.radiovaticana.va/news/2014/02/07/fr\\_lombardi\\_sj: note\\_on\\_childrens\\_rights\\_committee\\_findings\\_en1-771101](http://en.radiovaticana.va/news/2014/02/07/fr_lombardi_sj: note_on_childrens_rights_committee_findings_en1-771101), retrieved 12.02.2014).

<sup>50</sup> Unlawful acts by UN treaty monitoring bodies, including the CRC, received negative feedback from Russian and Ukrainian civil society representatives, who found them containing 'anti-family tendencies'. Following international public hearings, in their *Saint Petersburg Resolution* adopted on 24 April 2011 and endorsed by 126 NGOs from Russia and Ukraine, they call upon world governments to abstain from endorsing, signing, and ratifying the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. See <http://blog.profamilia.ru/docs/Saint-Petersburg-Resolution-UN-English.pdf> (retrieved 21.03.2012)

#### **4. Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the main problems inherent to it**

The Optional Protocol to the UNCRC on a communications procedure (UN document A/RES/66/138) was adopted by consensus first by the UNHRC (17.06.2011), and then by the UN General Assembly (19.12.2011). As of February 2013, it has 45 signatories and 10 state-parties.

It grants the Committee powers to receive and consider individual and group communications (complaints) for violations of UNCRC provisions (including complaints by children). Following the consideration of a communication by the Committee it is to prepare its views and recommendations.

The Protocol is, therefore, granting new powers to the CRC whose decisions, though not legally binding, are, as was shown previously, are often having a significant influence on the formation of binding norms of national and international law.

In other words, powers given to the Committee by the Protocol are substantial and can be employed as an extra instrument of social and legal change. Therefore it is vital for the instrument itself to be free from defect and be put into reliable hands. However, both the quality of the Protocol and CRC's previous acts, brought into spotlight by its new powers, raise serious issues.

Some of the issues around its adoption have been mentioned in the Russian Foreign Ministry's official reply to a Russian NGO's query regarding the prospect of the country acceding to the Optional Protocol.

<sup>51</sup>

##### **a) Procedural flaws in the development of the Protocol**

*'...We were pointing out substantial procedural flaws in this document's development, with amendments and proposals from a whole number of states being totally ignored. As a result, the Optional Protocol exceeds previously established international treaties, with many states taking issue with some of its statements'.*

##### **b) Devaluation of national legislative norms**

*'In particular, the Optional Protocol allows receiving complaints from minors making no mention of their age and legal capacity as defined by national legislation. The CRC wants to arbitrary judge the 'maturity' of underage applicants and the 'importance' of their communications'.*

##### **c) Erosion of the exhaustion of domestic remedies rule**

*'Moreover, this Optional Protocol essentially erodes the fundamental principle of the necessity to exhaust all domestic legal remedies before submitting a communication to human rights treaty bodies. If a domestic judicial system 'is unlikely to bring effective relief', communications can be submitted to the CRC bypassing it. Such phrasing allows the CRC to dismiss virtually any preliminary legal proceedings as ineffective and unnecessary'.*

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<sup>51</sup> A reply to a media query concerning the prospects of Russia becoming party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure by Russian Foreign Ministry's official representative A. Lukashevitch [http://www.mid.ru/brp\\_4.nsf/newslines/3AB939A9C3F9E61A442579C1005E52BC](http://www.mid.ru/brp_4.nsf/newslines/3AB939A9C3F9E61A442579C1005E52BC) (retrieved 19.03.2012, our English translation)

**d) Potential belittlement of the value of the family**

The Foreign Ministry's representative goes on to rightly point out that

*'Concerns about the 'pioneering' approach set in the Optional Protocol are shared not only by numerous state authorities, but also by human rights NGOs, including those campaigning for the protection of traditional family values. They think that turning children into 'complainants' can seriously undermine parental authority and the pedagogic role of the family'.*

As was shown earlier, the CRC has been exerting systematic pressure on the states parties leading to the belittlement of the role of the parents and their rights, long established both in national family and education cultures and in national legal systems.

Allowing children to submit complaints to the CRC on their own, the Protocol, effectively, assumes that the Committee is *a priori* better qualified to judge on their best interests and whether they are in need of protection than either their parents or the national legal system.

This approach, already quite controversial, definitely requires that there should be no major challenges to the Committee's competence, objectivity and compliance with UNCRC regulations and general principles of international law.

Unfortunately, CRC's actions do not, as has already been show, always comply with these standards.

## **5. Possible action by UNCRC states parties**

Aforementioned *ultra vires* acts by the CRC raise serious questions concerning the role of this treaty monitoring body and its future credibility if left as it is.

To remedy this situation the states parties to the UNCRC may employ various means at their disposal:

### ***a) Using interpretative declarations***

The states parties can also use another international legal instrument, namely, interpretative declarations on the UNCRC. In its interpretative statement, a state party can document its understanding of the treaty's relevant provisions. In contrast to reservations that must precede or be tied to the ratification of a treaty, international treaty law provides no such limitations to the states' discretion to make interpretative declarations even after a treaty is ratified. Though not legally binding for other states parties, such a declaration may prove a valuable contribution to forming the context of UNCRC interpretation. Moreover, these declarations can be a potent counterforce to *ultra vires* interpretations by the CRC.

Interpretative declarations may pave the way for achieving a universal understanding of international human rights instruments that would exclude from the sphere of human rights controversial concepts and notions, and give international legal norms an interpretation serving the interests of the natural family, which is 'the natural and fundamental group unit of society and is entitled to protection by society and the State' (Article 16(3) UDHR).

### ***b) Exercising the possibility to denounce the Convention***

Article 52 UNCRC provides each state party the possibility to denounce it. When a treaty monitoring body reverts to *ultra vires* acts to promote controversial means, concepts, and notions with no established intergovernmental consensus behind them, this possibility can prove an important instrument of making an impact on the situation.

A state party can notify the Committee of its intention to invoke UNCRC Article 52 unless the activities of the respective treaty body be brought into line with UNCRC norms and general principles of international law. Such a note may provide serious incentive for the relevant reform of the said treaty body to take place.

Exercising this right, undoubtedly, has certain risks and penalties, but when state sovereignty, cultural identity of its peoples, and the family, the 'natural and fundamental group unit' of any society, is under threat, it may be regarded as justified.

It should also be noted that, should the Committee continue to reinterpret the UNCRC to the point of de facto rewriting its original contents, adding to it new meanings UNCRC state parties consenting to be bound by its authority could not in good faith foresee, under Articles 62(1)(b) and 62(3) of the 1969 Vienna Convention on the Law of Treaties said parties would have a right to cite such a 'fundamental change of circumstances' as a legal ground for terminating or withdrawing from the UNCRC or for suspending its operation.

***c) Exercising their right to point out the limits of the Committee's mandate replying to its requests for additional information for use in periodic reports and other official statements***

Under Article 44(4) UNCRC, the Committee is entitled to 'request from States Parties further information relevant to the implementation of the Convention'. Each time these requests contain references to its interpretations of the UNCRC or demands that exceed its authority, the states parties may identify these issues in their submissions. This enables them to indicate the need to bring the Committee's activities back into limits prescribed by the UNCRC while staying within the procedure of periodic report review. Pointing out limits to CRC's mandate can be employed each time its requests contain the usual *ultra vires* demands. For example, replying to a request demanding why has no review of national legislation concerning abortion, incorporation or expansion of sexuality education in the school curriculum, ban on parental corporal punishment of children, etc. took place, a state party can clearly point out that there is no international legal obligation for it to do so.

Similar indications can be given by the state parties in other kinds of official statements.

***d) Refusing to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure***

In this situation, recognising additional CRC powers granted under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure can, as was noted above, pose a danger to the sovereignty of the states parties, cultural identity of their peoples, and the standing of the family.

In these circumstances, signing and ratifying the Protocol by the states parties makes a dangerous and impractical step. The states parties may, referring to some or all of the aforementioned *ultra vires* acts by the CRC, abstain from signing and ratifying said Protocol. Reforming this and other UN treaty bodies to give their activities greater transparency and accountability to the states parties, and reviewing their procedures (through amendments to the UNCRC or otherwise) to exclude the possibility of further *ultra vires* acts exceeding the Committee's mandate can be presented as the condition for recognising its new powers.

***e) Actively participating in reforming UN treaty bodies***

It seems obvious that the states parties need to press for making the international human rights law framework and the respective UN treaty bodies free from misuse aimed at imposing artificial 'rights' and 'obligations' not following from international agreements and with no intergovernmental consensus behind them.

International agreements must guarantee those human rights and human rights standards that are indeed universal and unanimously accepted by the states parties to them. They must not be used for exerting pressure on the states parties with the aim of making them accept systems of values, policies, and practices alien to their cultures and contrary to the will of their sovereign peoples. Otherwise the international human right framework will cease to be an instrument of peace and stability and become an instrument of cultural neo-colonialism and ideological abuse of sovereign states.

This demands from states a more active and consistent commitment to reforming UN treaty bodies to

- 
- prevent them turning from supporting bodies into supranational structures, a form of undemocratic and authoritarian ‘global government’;
  - give their activities greater transparency and consistency;
  - guarantee they act within the authority of their mandates;
  - prevent their *ultra vires* acts being given legally binding character;
  - ensure their accountability to the states parties;
  - guarantee that their activities correspond to the interests of the family, ‘the natural and fundamental group unit of society and is entitled to protection by society and the State’ (Article 16(3) UDHR).

Unless concerned states parties implement these measures, *ultra vires* acts by UN treaty bodies can become a real threat to the sustainability of the whole international human rights framework and the whole of the international community.

**APPENDIX I**  
**Excerpts from *General comments***  
**and *Concluding observations***  
**by the Committee on the Rights of the Child**  
**(published up to 2011)**

This Appendix cites excerpts from official CRC documents, published up to 2011 inclusive, substantiating its alleged unlawful interpretations of the UNCRC and other *ultra vires* acts. The selection is organised by subject and is far from exhaustive and serves only to illustrate the points made in the Report. The second column of the table indicates types of *ultra vires* acts for the convenience of readers.

**Legend:**

**A** – calls to liberalize abortion laws.

**DC** – promotes disputable concepts (“sexual orientation”, “gender identity”, legalization of same-sex marriages/partnerships, decriminalization of prostitution, ‘a right to abortion’) through references to *International Guidelines on HIV/AIDS and Human Rights* or otherwise.

**IL** – calls to ratify new international agreements not following from UNCRC.

**NL** – calls to review national legislation not following from UNCRC.

**PR** – calls to provide children with sexuality education, access to counseling and health services without the need for parental consent (or not mentioning it, incl. with references to confidentiality<sup>1</sup>).

**Table of CRC document excerpts**

| №   | Type | Document details and excerpts  |
|---|------|--|
| <b>General comments (reproductive health)</b> |      |  |
| 1   | PR   | <p><b>CRC/GC/2003/3</b></p> <p><b>General Comment No. 3 (2003)</b></p> <p><b>HIV/AIDS and the rights of the child</b></p> <p>6. Adequate measures to address HIV/AIDS can be undertaken only if the rights of children and adolescents are fully respected. The most relevant rights in this regard, in addition to those enumerated in paragraph 5 above, are the following: the right to access information and material aimed at the promotion of their social, spiritual and moral well-being and physical and mental health (art. 17); <u>the right to preventive health care, sex education and family planning education and services</u> (art. 24 (f))...</p> <p>...</p> <p>8. Of particular concern is gender-based discrimination combined with taboos or negative or judgemental attitudes to sexual activity of girls, often limiting their access to preventive measures and other services. <u>Of concern also is discrimination based on sexual orientation.</u> In the design of HIV/AIDS-related strategies, and in keeping with their obligations under the Convention, States parties must give careful consideration to prescribed gender norms within their societies with a view to eliminating gender-based discrimination as these norms impact on the vulnerability of both girls and boys to HIV/AIDS. ...</p> |

<sup>1</sup> It must be emphasized that, speaking of educating children on matters of sexual and reproductive health, documents that have received some international approval, the *Cairo Programme of Action* and the *Beijing Platform for Action* in particular, repeatedly and explicitly indicate the need to do so respecting the rights and duties of their parents. However, in documents issued by CRC this indication is nearly always omitted. Moreover, its General comments Nos. 3 and 4 explicitly state the need to provide children with sexuality education, reproductive health counselling and services regardless of parental consent. As a result, whenever the Committee in its concluding statements refers to these general comments, it implies the need to disregard the parents’ considerations, contrary to Article 5 of UNCRC and relevant documents of some intergovernmental standing.

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|   |          | <p>...</p> <p>16. Consistent with the obligations of States parties in relation to the rights to health and information (arts. 24, 13 and 17), children should have the right to access adequate information related to HIV/AIDS prevention and care, through formal channels (e.g. through educational opportunities and child-targeted media) as well as informal channels (e.g. those targeting street children, institutionalized children or children living in difficult circumstances). States parties are reminded that children require relevant, appropriate and timely information which recognizes the differences in levels of understanding among them, is tailored appropriately to age level and capacity and enables them to deal positively and responsibly with their sexuality in order to protect themselves from HIV infection. The Committee wishes to emphasize that effective HIV/AIDS prevention requires <u>States to refrain from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information</u>, and that, consistent with their obligations to ensure the right to life, survival and development of the child (art. 6), States parties must ensure that children have the ability to acquire the knowledge and skills to protect themselves and others as they begin to express their sexuality.</p> <p>...</p> <p>20. The Committee is concerned that health services are generally still insufficiently responsive to the needs of children under 18 years of age, in particular adolescents. As the Committee has noted on numerous occasions, children are more likely to use services that are friendly and supportive, provide a wide range of services and information, are geared to their needs, give them the opportunity to participate in decisions affecting their health, are accessible, affordable, <u>confidential and non-judgemental, do not require parental consent</u> and are not discriminatory. ...</p> <p>...</p> <p>24. States parties must protect the confidentiality of HIV test results, consistent with the obligation to protect the right to privacy of children (art. 16), including within health and social welfare settings, and information on the HIV status of children may not be disclosed to third parties, <u>including parents, without the child's consent</u>.</p> |
| 2 | DC<br>PR | <p><b>CRC/GC/2003/4</b></p> <p><b>General comment No. 4 (2003)</b></p> <p><b>Adolescent health and development in the context of the Convention on the Rights of the Child</b></p> <p>6. States parties have the obligation to ensure that all human beings below 18 enjoy all the rights set forth in the Convention without discrimination (art. 2), including with regard to "race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status". These grounds also cover adolescents' <u>sexual orientation and health status (including HIV/AIDS and mental health)</u>. ...</p> <p>28. In light of articles 3, 17 and 24 of the Convention, States parties <u>should provide adolescents with access to sexual and reproductive information, including on family planning and contraceptives</u>, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of sexually transmitted diseases (STDs). In addition, States parties <u>should ensure that they have access to appropriate information, regardless of their marital status and whether their parents or guardians consent</u>. It is essential to find proper means and methods of providing information that is adequate and sensitive to the particularities and specific rights of adolescent girls and boys. To this end, States parties are <u>encouraged to ensure that adolescents are actively involved in the design and dissemination of information through a variety of channels beyond the school, including</u></p>  |

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|  |          | <p>youth organizations, religious, community and other groups and the media.</p> <p>...</p> <p>30. Adolescents, both girls and boys, are at risk of being infected with and affected by STDs, including HIV/AIDS. States should ensure that appropriate goods, services and information for the prevention and treatment of STDs, including HIV/AIDS, are available and accessible. To this end, States parties are urged (a) to develop effective prevention programmes, <u>including measures aimed at changing cultural views about adolescents' need for contraception and STD prevention and addressing cultural and other taboos surrounding adolescent sexuality</u>; (b) to adopt legislation to combat practices that either increase adolescents' risk of infection or contribute to the marginalization of adolescents who are already infected with STDs, including HIV; (c) to take measures <u>to remove all barriers hindering the access of adolescents to information, preventive measures such as condoms, and care</u>.</p> <p>31. ... The Committee urges States parties (a) to develop and implement programmes that provide access to sexual and reproductive health services, including family planning, contraception <u>and safe abortion services where abortion is not against the law</u>, adequate and comprehensive obstetric care and counselling; ...</p> <p>32. <u>Before parents give their consent</u>, adolescents need to have a chance to express their views freely and their views should be given due weight, in accordance with article 12 of the Convention. However, <u>if the adolescent is of sufficient maturity, informed consent shall be obtained from the adolescent her/himself, while informing the parents if that is in the "best interest of the child" (art. 3)</u>.</p> <p>33. With regard to privacy and confidentiality, and the related issue of informed consent to treatment, States parties should (a) enact laws or regulations to ensure that <u>confidential advice concerning treatment is provided to adolescents</u> so that they can give their informed consent. Such laws or regulations should stipulate an age for this process, or refer to the evolving capacity of the child; and (b) provide training for health personnel on the <u>rights of adolescents to privacy and confidentiality</u>, to be informed about planned treatment and to give their informed consent to treatment.</p> |
| 3  | NL<br>PR | <p><b>CRC/C/GC/12</b></p> <p><b>GENERAL COMMENT No. 12 (2009)</b></p> <p><b>The right of the child to be heard</b></p> <p>101. States parties <u>need to introduce legislation or regulations to ensure that children have access to confidential medical counselling and advice without parental consent, irrespective of the child's age</u>, where this is needed for the child's safety or well-being. Children may need such access, for example, where they are experiencing violence or abuse at home, or in need of reproductive health education or services, <u>or in case of conflicts between parents and the child over access to health services</u>. The right to counselling and advice is distinct from the right to give medical consent and <u>should not be subject to any age limit</u>.</p>   |
| <b>Concluding observations (reproductive health)</b> |          |   |
| 4  | PR       | <p><b>CRC/C/15/Add.128</b></p> <p><b>Concluding observations of the Committee on the Rights of the Child. CAMBODIA (2000)</b></p> <p>52. The Committee expresses its concern at the high maternal mortality rate, <u>the limited access by teenagers to reproductive and sexual health education and counselling services, including outside the school system, and the low level of contraceptive use</u>. ...</p>   |

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| 5  | A<br>NL  | <p><b>CRC/C/103</b></p> <p><b>Palau (2001)</b></p> <p>464. ... The Committee notes <u>that abortion is illegal except on medical grounds and expresses concern regarding the best interests of child victims of rape and/or incest in this regard.</u> ...</p> <p><u>465. ... The Committee recommends that the State party review its legislation concerning abortion, with a view to guaranteeing the best interests of child victims of rape and incest. ...</u></p>  |
| 6  | PR       | <p><b>CRC/C/RUS/CO/3</b></p> <p><b>Concluding observations: Russian Federation (2005)</b></p> <p>56. The Committee recommends that the State party pay close attention to adolescent health, taking into account general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child; and strengthen its efforts to promote adolescent health, <u>including by providing sexual and reproductive health education in schools</u> and introducing school health services, including youth-sensitive and <u>confidential counselling and care.</u> ...</p> |
| 7  | DC<br>PR | <p><b>CRC/C/UGA/CO/2</b></p> <p><b>Concluding observations of the Committee on the Rights of the Child: Uganda (2005)</b></p> <p>52. With reference to the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and <u>the International Guidelines on HIV/AIDS and Human Rights</u>, the Committee recommends, in particular, that the State party:</p> <p>...</p> <p><u>(c) Ensure access to child-sensitive and confidential counselling, without the need for parental consent, when such counselling is required by a child;</u></p>  |
| 8  | PR       | <p><b>CRC/C/JOR/CO/3</b></p> <p><b>Concluding observations: JORDAN (2006)</b></p> <p>65. The Committee recommends that the State party strengthen its efforts to promote adolescent health, <u>including sex and reproductive health education in schools and in other appropriate places frequented by children.</u> ... Finally, the Committee draws the attention of the State party to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child.</p>  |
| 9  | PR       | <p><b>CRC/C/TTO/CO/2</b></p> <p><b>Concluding observations: Trinidad and Tobago (2006)</b></p> <p>54. The Committee recommends that the State party, taking into account general comment No. 4 of 2003 on Adolescent health and development (CRC/GC/2003/4):</p> <p>...</p> <p><u>(c) Take measures to incorporate sexual and reproductive health education in the school curriculum, particularly at the secondary level, to inform adolescents fully of reproductive health rights, including prevention of sexually transmitted diseases including HIV/AIDS and early pregnancies;</u></p>                      |
| 10 | PR       | <p><b>CRC/C/SAU/CO/2</b></p> <p><b>Concluding observations: Saudi Arabia (2006)</b></p> <p>58. The Committee recommends that the State party take into account the Committee's general comment No. 4 on adolescent health and development in the</p>   |

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|    |          | context of the Convention on the Rights of the Child (CRC/GC/2003/4) and strengthen its efforts to promote adolescent health, <u>including sex and reproductive health education in schools</u> , and to provide adolescents with youth-sensitive and <u>confidential counselling and health-care services</u> .   |
| 11 | PR       | <p>CRC/C/HUN/CO/2</p> <p>Concluding observations: Hungary (2006)</p> <p>44. The Committee recommends that the State party pay close attention to adolescent health, taking into account general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, and strengthen its efforts to promote adolescent health, <u>including sexual and reproductive health education in schools</u>, and to introduce school health services, including youth-sensitive and <u>confidential counselling and care</u>. ...</p>   |
| 12 | PR       | <p>CRC/C/COL/CO/3</p> <p>Concluding observations: Colombia (2006)</p> <p>71. The Committee recommends that the State party promote and ensure access to reproductive health services for all adolescents, <u>including sex and reproductive health education in schools</u> as well as youth-sensitive and <u>confidential counselling and health-care services</u>, taking into due account the Committee's general comment No. 4 on adolescent health and development in the context of the Convention (CRC/GC/2003/4). ...</p>  |
| 13 | PR       | <p>CRC/C/SEN/CO/2</p> <p>Concluding observations: Senegal (2006)</p> <p>47. The Committee recommends that the State party:</p> <p>(a) <u>Strengthen sex and reproductive health education for adolescents, especially in schools</u>, with a view to reducing the incidence of teenage pregnancies and to provide teenage girls with the necessary assistance as well as access to health care and education;</p>  |
| 14 | DC<br>PR | <p>CRC/C/MEX/CO/3</p> <p>Concluding observations: Mexico (2006)</p> <p>51. The Committee recommends that the State party pay close attention to adolescent health, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child. In particular, the Committee recommends that the State party:</p> <p>(a) <u>Strengthen sexual and reproductive health education for adolescents, especially in schools</u>, with a view to reducing the incidence of teenage pregnancies and STIs, and to provide teenage pregnant girls with the necessary assistance and access to health care and education;</p> <p>...</p> <p>53. The Committee recommends that the State party, taking into account the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and <u>the International Guidelines on HIV/AIDS and Human Rights</u>:</p> <p>...</p> <p>(c) <u>Ensure access to child-sensitive and confidential counselling, without the need for parental consent</u>, when such counselling is required by a child;</p> |
| 15 | DC<br>PR | <p>CRC/C/BEN/CO/2</p> <p>Concluding observations: Benin (2006)</p> <p>58. The Committee recommends that the State party, taking into account its general</p>   |

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|    |          | <p>comment No. 3 (2003) on HIV/AIDS and the rights of the child and also <u>the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37)</u>, continue to:</p> <p>...</p> <p>(h) Carry out comprehensive information campaigns about HIV/AIDS, its transmission channels, treatment and prevention measures <u>as well as sex education, including condom promotion</u>, and provide training to teachers and other education personnel in this respect;</p> <p>(i) Involve children, in the development and implementation of HIV/AIDS policies and strategies.</p>  |
| 16 | DC<br>PR | <p>CRC/C/ETH/CO/3</p> <p>Concluding observations: Ethiopia (2006)</p> <p>56. The Committee recommends, with reference to the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and <u>to the International Guidelines on HIV/AIDS and Human Rights</u>, that the State party:</p> <p>...</p> <p>(d) Ensure access to child-sensitive and <u>confidential counselling, without the need for parental consent</u>, when such counselling is required and in the best interest of the child;</p>  |
| 17 | PR       | <p>CRC/C/IRL/CO/2 (*)</p> <p>Concluding observations: IRELAND (2006)</p> <p>52. While noting that social, personal and health education is incorporated into the curricula of secondary schools, <u>the Committee is concerned that adolescents have insufficient access to necessary information on reproductive health. The education is optional and parents can exempt their children from such education.</u> The Committee is also concerned that sexually transmitted infections are reported to have increased noticeably during the last 10 years and young girls are in particular risk.</p> <p>53. The Committee <u>recommends that the State party strengthen its efforts to enhance access to adolescent-specific reproductive and sexual health information and services</u>, and that these are not limited to school curricula but can also be accessed within the adolescent daily living environment, in addition to information and awareness-raising campaigns.</p> |
| 18 | DC<br>PR | <p>CRC/C/THA/CO/2</p> <p>Concluding observations: Thailand (2006)</p> <p>58. The Committee recommends that the State party, taking into account its general comment No. 3 on HIV/AIDS and the rights of the child of 2003 (CRC/GC/2003/3) and <u>the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37)</u>, continue to:</p> <p>...</p> <p>(d) Ensure access to child-sensitive and <u>confidential HIV/AIDS counselling when required by a child without parental consent</u>;</p> <p>(e) Systematically include accurate and <u>comprehensive information about HIV/AIDS and sex education, including condom promotion, in school and tertiary-level curricula</u>, and provide training to teachers and other education officials on teaching about HIV/AIDS and sex education;</p>   |
| 19 | DC<br>PR | <p>CRC/C/LBN/CO/3</p> <p>Concluding observations: Lebanon (2006)</p> <p>60. The Committee recommends, taking into account the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and <u>the International</u></p>   |

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|    |               | <p><b><u>Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37)</u></b>, that the State party:</p> <p>(a) Strengthen its efforts to prevent the spread of HIV/AIDS, inter alia, by implementing the National HIV/AIDS Program (NAP), and continue to <u>pay particular attention to safe sex education and awareness-raising activities among adolescents</u>;</p> <p>...</p> <p>(c) Ensure adolescents' access to adequate social and health services, including youth-sensitive and <u>confidential counselling on HIV/AIDS</u>, and provide them with accurate and comprehensive information about HIV/AIDS;</p>   |
| 20 | DC<br>PR      | <p><b>CRC/C/TZA/CO/2</b></p> <p>Concluding observations: United Republic of Tanzania (2006)</p> <p>49. The Committee recommends that the State party, taking into account its general comment No. 3 on HIV/AIDS and the rights of children (CRC/GC/2003/3) and <u>the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37)</u>, continue:</p> <p>...</p> <p>(b) To systematically <u>include comprehensive information about HIV/AIDS and sex education, including condom promotion</u>, and provide training to teachers and other education personnel on teaching about HIV/AIDS and sex education;</p> <p>(c) To integrate respect for the rights of the child into, and <u>involve children</u>, in the development and implementation of its HIV/AIDS policies and strategies;</p> |
| 21 | PR            | <p><b>CRC/C/MYS/CO/1</b></p> <p>Concluding observations: MALAYSIA (2007)</p> <p>67. The Committee recommends that the State party, taking into account the General Comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child (CRC/GC/2003/4):</p> <p>...</p> <p>(b) Promote adolescent health, <u>including sex and reproductive health education, in schools and in other appropriate places frequented by adolescents</u>.</p>  |
| 22 | PR            | <p><b>CRC/C/MLI/CO/2</b></p> <p>Concluding observations: Mali (2007)</p> <p>55. The Committee recommends that the State party:</p> <p>...</p> <p>(c) <u>Strengthen sex and reproductive health education for adolescents, especially in schools</u>, with a view to reducing the incidence of teenage pregnancies and provide adolescents with the necessary assistance and access to health care and education;</p>  |
| 23 | A<br>NL<br>PR | <p><b>CRC/C/KEN/CO/2</b></p> <p>Concluding observations: Kenya (2007)</p> <p>49. The Committee, while acknowledging that some measures have been taken to address mental and other health problems of adolescents, is concerned at the high rates of teenage pregnancies, <u>the criminalization of the termination of pregnancies in cases of rape and incest, the lack of adequate and accessible sex education</u> and reproductive health services and the difficulties pregnant girls face in order to continue their education. These factors all contribute to the elevated incidence of maternal mortality among adolescent girls. ...</p>  |
| 24 | DC<br>PR      | <p><b>CRC/C/MHL/CO/2</b></p> <p>Concluding observations: MARSHALL ISLANDS (2007)</p>  |

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|    |                     | <p>55. The Committee recommends that the State party pay close attention to adolescent health, taking into account the Committee's General Comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child. In particular, the Committee recommends that the State party:</p> <p>...</p> <p><b>(e) <u>Strengthen sexual and reproductive health education for adolescents, especially in schools, with a view to reducing STIs and the incidence of teenage pregnancies, and to provide teenage pregnant girls with the necessary assistance and access to health care and education;</u></b></p> <p>...</p> <p>57. The Committee recommends that the State party, taking into account the Committee's General Comment No. 3 (2003) on HIV/AIDS and the rights of the child and <u>the International Guidelines on HIV/AIDS and Human Rights:</u></p> <p>...</p> <p><b>(d) <u>Ensure access to child-sensitive and confidential counseling, without the need for parental consent, when such counseling is required by a child;</u></b></p>  |
| 25 | A<br>DC<br>PR       | <p><b>CRC/C/CHL/CO/3</b></p> <p><b>Concluding observations: Chile (2007)</b></p> <p>55. The Committee, while noting certain progress in the area of sexual education in schools, is concerned over the high rate of teenage pregnancies, the criminalization of the termination of pregnancies in all circumstances and <u>the lack of adequate sex education</u> and accessible reproductive health services. These factors all contribute to the elevated incidence of maternal mortality among adolescent girls.</p> <p><b>56. The Committee recommends that the State party promote and ensure access to sexual and reproductive health services for all adolescents, <u>including sex and reproductive health education in schools, as well as youth-sensitive and confidential counselling and health care services,</u> taking into account the Committee's general comment No. 4. on adolescent health and development in the context of the Convention (CRC/GC/2003/4). <u>The Committee urges the State party to review its criminalization of the termination of pregnancies in all circumstances, including in cases of rape, incest and situations where the life of the mother is at risk.</u> Furthermore, the Committee recommends that an appropriate strategy dedicate adequate resources to awareness raising, counselling services and other measures in order to prevent adolescent suicides.</b></p> <p>...</p> <p><b>58. The Committee recommends that the State party:</b></p> <p>...</p> <p><b>(b) <u>Provide adequate financial and human resources for prevention measures and information campaigns to combat discrimination against infected children, while taking into account the Committee's general comment No. 3 on HIV/AIDS and the rights of the child and the Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I);</u></b></p> |
| 26 | A<br>DC<br>NL<br>PR | <p><b>CRC/C/URY/CO/2</b></p> <p><b>Concluding observations: Uruguay (2007)</b></p> <p>51. <u>The Committee</u>, while recognising initiatives taken by the State party to improve adolescent health, <u>remains concerned over</u> the high rate of teenage pregnancies and <u>the criminalization of the termination of pregnancies</u> in relation to the negative impact illegal abortions have on the health of girls. Furthermore, the Committee regrets the <u>lack of adequate and accessible sex education</u> and reproductive health services for adolescents, <u>the persistence of traditional attitudes</u> and the negative impact early pregnancies have</p>  |

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|    |                | <p>upon the right of the girl child to access education. Furthermore, the Committee is concerned over the rapidly rising rate of drug abuse among adolescents.</p> <p><b>52. The Committee recommends that the State party further <u>promote and ensure access to reproductive health services for all adolescents, including sex and reproductive health education in schools</u> as well as youth-sensitive and <u>confidential counselling and health-care services</u>, taking into due account the Committee's general comment No 4. (2003) on adolescent health and development in the context of the Convention on the Rights of the Child. <u>The Committee urges the State party to raise further awareness among adolescents of the importance of preventing early pregnancies and review its criminalization of the termination of pregnancies.</u> Furthermore, the Committee urges the State party to allocate additional resources for preventive and rehabilitation measures in order to combat the increase of drug abuse among adolescents</b></p> <p>...</p> <p><b>54. The Committee recommends that the State party:</b></p> <p>...</p> <p><b>(b) Provide adequate financial and human resources for prevention measures and information campaigns to combat discrimination against infected children, while taking into account the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and <u>the Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37)</u>;</b></p> |
| 27 | DC<br>NL<br>PR | <p><b>CRC/C/ERI/CO/3</b></p> <p><b>Concluding observations: ERITREA (2008)</b></p> <p><b>57. The Committee recommends, with reference to its general comment No. 3 (2003) on HIV/AIDS and the rights of the child and to <u>the International Guidelines on HIV/AIDS and Human Rights</u>, the State party to:</b></p> <p>...</p> <p><b>(c) Ensure access to child-sensitive and <u>confidential testing and counselling, without the need for parental consent</u>;</b></p> <p><b>59. The Committee recommends that the State party, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child:</b></p> <p>...</p> <p><b>(b) <u>Ensure improved sex and reproductive health education in schools</u>;</b></p>   |
| 28 | NL<br>PR       | <p><b>CRC/C/GEO/CO/3</b></p> <p><b>Concluding observations: GEORGIA (2008)</b></p> <p>47. In view of the high number of pregnancies and the high and increasing rates of abortion, as well as the increasing incidence of sexually transmitted diseases, including HIV/AIDS, among adolescents, the Committee is concerned about the limited availability of health services, including reproductive health education and assistance for adolescents. <u>The Committee also notes with concern the legislative provision which stipulate that a child under the age of 16 who wishes to see a doctor must be accompanied by a parent, and that sex and reproductive health education is not part of the school curriculum.</u></p> <p><b>48. The Committee recommends that the State party promote and ensure access to reproductive health services for all adolescents, <u>including sex and reproductive health education in schools</u> as well as youth-sensitive and <u>confidential counselling and health-care services</u>, taking into due account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention</b></p>  |

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|    |               | <p>on the Rights of the Child. In this regard, the Committee <u>urges the State party to take legislative measures to ensure to all children under the age of 16 free and confidential access to medical counsel and assistance with or without parental consent.</u></p>  |
| 29 | NL<br>PR      | <p><b>CRC/C/BGR/CO/2</b></p> <p><b>Concluding observations: BULGARIA (2008)</b></p> <p>47. The Committee is deeply concerned about the high rate of early pregnancies and the high abortion rate among adolescents, which indicates that abortion may be used as a method of contraception. <u>Furthermore, the Committee is concerned that the legal minimum age for medical treatment without parental consent is set at 16 years</u> and notes the limited availability of programmes and services in the area of adolescent health at school. The Committee is also concerned at the shortage of mental health services provided to children.</p> <p><b>48. The Committee recommends that the State party, taking into account the general comment No. 4 on adolescent health and development (CRC/GC/2003/4) of 2003:</b></p> <p>(a) <b>Take all necessary measures to provide adolescent reproductive health services and strengthen measures aimed at the prevention of early pregnancies through, inter alia, <u>making a comprehensive range of contraceptives widely available</u>, reproductive health education in schools and increasing knowledge about family planning;</b></p> <p>...</p> <p>(d) <b><u>Lower the minimum legal age for medical treatment without parental consent;</u></b></p> |
| 30 | A<br>NL<br>PR | <p><b>CRC/C/MOZ/CO/2</b></p> <p><b>Concluding observations of the Committee on the Rights of the Child: Mozambique (2009)</b></p> <p><b>Adolescent health</b></p> <p>63. ... The Committee shares the views expressed by the Committee on the Elimination of Discrimination against Women (CEDAW/C/MOZ/CO/2, para. 36) <u>on the importance of including adequate sex education in school curricula.</u></p> <p><b>64. The Committee urges the State party to take all the necessary measures to reduce teenage pregnancies and, to this end, improve knowledge and the availability of family planning services, <u>further develop education programmes on adolescent reproductive health, and raise awareness about and access to safe contraception methods. The Committee also urges the State party to review its legislation concerning abortion, with a view notably to guaranteeing the best interests of pregnant teenagers.</u></b></p>   |
| 31 | PR            | <p><b>CRC/C/MDA/CO/3</b></p> <p><b>Concluding observations: Republic of Moldova (2009)</b></p> <p><b>55. The Committee recommends that the State party:</b></p> <p>...</p> <p>c) <b>Ensure that adolescents have access to age-appropriate and <u>confidential counselling services</u> and life skills training programmes;</b></p> <p>d) <b><u>Strengthen efforts in adolescent sex and reproductive health education</u> to reduce the number of teenage pregnancies and develop child-friendly programmes to assist teenage mothers and their children;</b></p>  |
| 32 | PR            | <p><b>CRC/C/PRK/CO/4</b></p> <p><b>Concluding Observations: Democratic People's Republic of Korea (2009)</b></p> <p><b>48. The Committee recommends that the State party <u>Strengthen measures to</u></b></p>   |

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|    |               | <p>promote access to reproductive health services for all adolescents in all parts of the country, <u>including sex and reproductive health education in schools</u> as well as youth-sensitive and <u>confidential counselling and health-care services</u>, taking into due account the Committee's General Comment no 4 (2003) on adolescent health and development in the context of the Convention.</p>   |
| 33 | PR            | <p><b>CRC/C/BOL/CO/4</b></p> <p><b>Concluding Observations: The Plurinational State of Bolivia (2009)</b></p> <p>56. The Committee recommends that the State party:</p> <p>...</p> <p>d) Promote and ensure access to reproductive health services for all adolescents, <u>including sex and reproductive health education in schools</u>, community and health facility levels;</p> <p>e) Take into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention.</p>   |
| 34 | DC<br>PR      | <p><b>CRC/C/MRT/CO/2</b></p> <p><b>Concluding observations: MAURITANIA (2009)</b></p> <p>58. The Committee recommends, with reference to its general comment No. 3 (2003) on HIV/AIDS and the rights of the child and <u>to the International Guidelines on HIV/AIDS and Human Rights</u>, that the State party:</p> <p>...</p> <p>c) Ensure access to child-sensitive and <u>confidential testing and counselling, without the need for parental consent</u>;</p> <p>...</p> <p>60. The Committee recommends that the State party, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention:</p> <p>...</p> <p>b) <u>Ensure improved sex and reproductive health education in schools</u>;</p> <p>c) Strengthen reproductive health services and make them known and accessible to adolescents.</p>   |
| 35 | A<br>NL<br>PR | <p><b>CRC/C/NGA/CO/3-4</b></p> <p><b>Concluding observations: Nigeria (2010)</b></p> <p>61. ... The Committee remains concerned however at remaining health challenges facing adolescents, such as abortion complications and <u>deaths of girls as a result of unsafe abortions</u>, the lack of access to information and services relating to reproductive health for adolescents, the very low percentage of adolescents who use condoms at their first sexual encounter, <u>restrictive abortion law</u>, the existence of user fees and prevalence of HIV and sexually transmitted diseases (STIs).</p> <p>62. The Committee recommends that the State party, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development, continue to strengthen activities and services under its national adolescent health policy and other projects. It strongly recommends that the State party, among other things:</p> <p>...</p> <p>c) <u>Ensure free and easily accessible contraceptives for adolescents, including</u></p> |

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|    |          | <p><b><u>condoms, in health facilities and in schools, and develop and implement child-friendly awareness-raising programmes on the use of contraceptives;</u></b></p> <p><b>d) <u>Introduce sex education for boys and girls in the school curricula and undertake sensitization programs at community level on reproductive health and rights;</u></b></p> <p><b><u>e) Consider the recommendations by the Committee on the Elimination of Discrimination against Women to review and amend the State party's abortion laws (CEDAW/C/NGA/C/06, para. 34).</u></b></p>   |
| 36 | PR       | <p><b>CRC/C/PRY/CO/3</b></p> <p><b>Concluding observations: Paraguay (2010)</b></p> <p><b>53. The Committee recommends that the State party:</b></p> <p>...</p> <p><b>d) <u>Promote and ensure access to reproductive health services for all adolescents, including sex and reproductive health education in schools, community and health facility levels;</u></b></p>  |
| 37 | NL<br>PR | <p><b>CRC/C/GRD/CO/2</b></p> <p><b>Concluding observations: Grenada (2010)</b></p> <p>45. While noting that initiatives are being taken in the area of adolescent health, primarily with regard to HIV/AIDS, recalling its previous concluding observations (CRC/C/15/Add.121, para. 22), the Committee nevertheless expresses concern regarding the limited availability of programmes and services and the lack of adequate data in the area of adolescent health. The Committee reiterates its previous concern at the high level of early pregnancies, and also regrets the lack of initiatives to develop adolescent-friendly health care, counseling and rehabilitation facilities <u>and the lack of access for adolescents to confidential health services.</u> The Committee also expresses concern that persons under the age of 16 must have parental consent in order to have access to contraceptives, a practice that may hinder the prevention of early pregnancies.</p> |
| 38 | PR       | <p><b>CRC/C/MNG/CO/3-4</b></p> <p><b>Concluding observations: Mongolia (2010)</b></p> <p><b>54. The Committee recommends that the State party:</b></p> <p>...</p> <p><b>b) <u>Promote and ensure access to reproductive health services for all adolescents, including sex and reproductive health education in schools as well as youth-sensitive and confidential counselling and health care services,</u> taking into due account the Committee's general comment no. 4 (2003) on adolescent health and development in the context of the Convention.</b></p>   |
| 39 | NL<br>PR | <p><b>CRC/C/PHL/CO/3-4</b></p> <p><b>Concluding observations: The Philippines (2009)</b></p> <p>61. The Committee remains seriously concerned at the inadequate reproductive health services and information, the <u>low rates of contraceptive use</u> (36 per cent of women relied on modern family planning methods in 2006) and the difficulties in obtaining access to artificial methods of contraception, which contribute to the high rates of teenage pregnancies and maternal deaths existing in the State party. The Committee welcomes the enactment of the Magna Carta of Women but remains especially concerned at the lack of effective measures to promote the reproductive rights of women and girls and <u>that</u></p>   |

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|    |               | <p>particular beliefs and religious values are preventing their fulfilment. ...</p> <p>62. The Committee urges the State party to increase its efforts to establish more child-friendly programmes and services in the area of adolescent health and to obtain valid data on adolescent health concerns through, inter alia, studies on this issue. In this respect, the Committee recommends that the State party:</p> <p>(a) <u>Adopt as a matter of urgency the Reproductive Health Bill awaiting approval by Congress and ensure that the Bill reflect the rights of children and adolescents as enshrined in the Convention;</u></p> <p>(b) Ensure access to reproductive health counselling and provide all adolescents with accurate and objective information and culturally sensitive services in order to prevent teenage pregnancies, <u>including by providing wide access to a broad variety of contraceptives without any restrictions</u> and improving knowledge and conscience on family planning;</p> <p>(c) <u>Strengthen formal and informal sex education, for girls and boys, focusing on the prevention of early pregnancies, STIs and family planning;</u></p> |
| 40 | A<br>NL<br>PR | <p>CRC/C/BFA/CO/3-4</p> <p>Concluding observations: Burkina Faso (2010)</p> <p>57. The Committee draws the attention of the State party to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child and joins the Committee on the Elimination of Discrimination against Women in its concluding comments (CEDAW/C/BFA/CO/4-5 para. 36) in recommending that the State party improve the availability of sexual and reproductive health services, including family planning, <u>enhance the availability of contraceptive services and promote sex education targeted at girls and boys, with special attention to the prevention of early pregnancies and sexually transmitted diseases. The Committee also calls upon the State party to review its legislation concerning abortion, with a view particularly to guaranteeing the best interests of pregnant teenagers.</u></p>   |
| 41 | DC<br>PR      | <p>CRC/C/CMR/CO/2</p> <p>Concluding observations: Cameroon (2010)</p> <p>58. The Committee urges the State party to:</p> <p>...</p> <p>c) <u>Expand confidential reproductive health services for adolescents and ensure improved sex education in schools;</u></p> <p>...</p> <p>f) Increase awareness and knowledge of HIV/AIDS prevention and protection methods, <u>including safe sex practices</u>, among adolescents.</p> <p>...</p> <p>62. The Committee recommends that the State party strengthen its efforts to prevent the spread of HIV/AIDS, taking into account the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and <u>the International Guidelines on HIV/AIDS and Human Rights</u>. The Committee also urges the State party to:</p> <p>...</p> <p>d) Carry out activities to reduce stigma and discrimination related to HIV/AIDS and provide awareness-raising on human rights within the context of HIV/AIDS;</p>   |

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| 42 | A<br>NL<br>PR | <p><b>CRC/C/LKA/CO/3-4</b></p> <p><b>Concluding observations: Sri Lanka (2010)</b></p> <p>55. Referring to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee urges the State party to <u>increase the availability of confidential and youth-friendly health services throughout the country, to enhance the availability of contraceptive services and to promote sex education targeted at adolescent girls and boys</u>, with special attention to the prevention of early pregnancies and sexually transmitted diseases. <u>The Committee also urges the State party to review its legislation on abortion, with a view, in particular, to guaranteeing the best interests of pregnant teenagers.</u> It further calls upon the State party to strengthen its efforts to address youth suicides, drug abuse, alcoholism and tobacco use as previously recommended.</p>  |
| 43 | A<br>NL<br>PR | <p><b>CRC/C/SLV/CO/3-4</b></p> <p><b>Concluding observations: El Salvador (2010)</b></p> <p>60. The Committee reiterates its previous concern expressed upon consideration of the State party's second periodic report at the high number of teenage pregnancies and the lack of results of the preventive measures adopted by the State party in this regard. <u>The Committee is also concerned at the fact that the current penal legislation criminalizes abortion in all circumstances and that this absolute prohibition may lead girls to resort to unsafe and clandestine abortion practices, sometimes with fatal consequences. ...</u></p> <p><b>61. The Committee recommends that the State party:</b></p> <p>...</p> <p><b>b) Further promote and ensure access to reproductive health services for all adolescents, <u>including sex and reproductive health education in schools as well as youth-sensitive and confidential counselling and health-care services</u>, taking into due account the Committee's general comment No 4. (2003) on adolescent health and development in the context of the Convention on the Rights of the Child;</b></p> <p>...</p> <p><b><u>d) Consider revising the provisions in the penal code criminalizing termination of pregnancy in all circumstances;</u></b></p>   |
| 44 | A<br>NL<br>PR | <p><b>CRC/C/ECU/CO/4</b></p> <p><b>Concluding observations of the Committee on the Rights of the Child: Ecuador (2010)</b></p> <p>60. While welcoming the National Plan for the Prevention of Adolescent Pregnancies as a response to one of the most pressing health problems faced by adolescents, the Committee shares the concern expressed by the Committee on the Elimination of Discrimination against Women in 2008 (CEDAW/C/ECU/CO/7, para. 38) at the high rate of pregnancy among teenage girls, especially among indigenous and Afro-Ecuadorian girls (one in five deliveries is by girls between 15 and 18 years of age). <u>In this regard, the Committee is concerned at the insufficient sex and reproductive health education and the absence of information on and access to contraceptives</u> despite the recent Constitution's explicit guarantee of the rights to take freely, responsibly and well informed decisions on health and reproductive life (art. 66, No. 10). <u>The Committee is particularly concerned with unwanted pregnancies as a result of rape, as well as the prohibition of some types of emergency contraception, in some cases leading to unsafe abortions and suicides.</u></p> <p><b>61. The Committee recommends that the State party strengthen its measures to promote access to reproductive health services for all adolescents in all parts of the country, <u>including sex and reproductive health education in schools as well as youth-sensitive and confidential counselling and health-care services, including information on and access to contraceptives.</u> It further recommends that the State party make all emergency contraception available to adolescents. In this regard, the State party's attention is drawn to the Committee's general comment No. 4 (2003) on</b></p> |

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|    |               | <p>adolescent health and development in the context of the Convention on the Rights of the Child. <u>The Committee shares the recommendation of the Committee on the Elimination of Discrimination against Women on the need for the State to support in-depth research on the question of abortions in dangerous circumstances and its effects on women (and girls) and on maternal health, enabling the appropriate formulation of laws and norms.</u></p>   |
| 45 | A<br>NL<br>PR | <p><b>CRC/C/CRI/CO/4</b></p> <p><b>Concluding observations: Costa Rica (2011)</b></p> <p>63. While welcoming the Health Plan for Adolescents 2010–2015, the Committee is concerned about:</p> <p>a) The high rate of early pregnancies (one out of five births by mothers under 19);</p> <p>...</p> <p>c) <u>The lack of access to legal abortions</u>, the absence of guidelines informing doctors when they can legally perform an abortion, the high rate of unsafe abortions, and the lack of adequate post-abortion care;</p> <p>...</p> <p>e) <u>The very low condom use rate, the lack of sexual education programmes, and the limited access to sexual and reproductive health services and information for adolescents;</u> and</p> <p>...</p> <p><b>64. Referring to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee recommends that the State party:</b></p> <p>...</p> <p><b>d) <u>Expand legal abortion in cases of rape and intra-family sexual violence and improve the availability and quality of post-abortion care in public hospitals;</u></b></p> <p><b>e) <u>Ensure that girls and adolescents have free and timely access to emergency contraception and raise awareness among women and girls about their right to emergency contraception, particularly in cases of rape;</u></b></p> <p><b>f) <u>Include systematic, comprehensive and scientific-based education on sexual and reproductive health, including on HIV/AIDS and other sexually transmitted diseases as well as on contraception, in regular school curricula and ensure that adequate resources are allocated for such education;</u></b></p> <p>...</p> |
| 46 | PR            | <p><b>CRC/C/KOR/CO/3-4</b></p> <p><b>Concluding observations: Republic of Korea (2011)</b></p> <p>58. Furthermore, the Committee notes with concern that, despite initiatives undertaken to provide mandatory sex education programmes, in practice there continues to be a <u>lack of systematic and accurate education on sexual and reproductive health in schools</u>. In this context, the Committee is also deeply concerned about the high rates of unplanned pregnancies among adolescents and the correspondingly high rates of abortion among adolescents in such situations.</p> <p>59. ... <b><u>The Committee also recommends that the State party undertake measures to ensure that sex education programmes in the school curriculum are conducted in a systematic and reliable manner.</u></b></p>   |
| 47 | PR            | <p><b>CRC/C/CZE/CO/3-4</b></p> <p><b>Concluding observations: Czech Republic (2011)</b></p> <p>58. The Committee recommends that the State party, taking into account the</p>  |

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|   |          | <p>Committee's general comment No. 4 (2003) on adolescent health:</p> <p>a) <u>Step up efforts in adolescent sex and reproductive health education</u> as well as improve the accessibility of contraception to reduce the number of teenage pregnancies and develop child-friendly programmes to assist teenage mothers and their children;</p>  |
| 48  | PR       | <p>CRC/C/CUB/CO/2</p> <p>Concluding observations: Cuba (2011)</p> <p>46. ... The Committee recommends that the State party strengthen its awareness-raising programmes, <u>including campaigns on sexual and reproductive health education for adolescents, in school and out of school, with a view to providing them with access to safe contraception methods.</u> ...</p>   |
| <b>General comments (disregard of sovereignty)</b>        |          |   |
| 49  | IL<br>NL | <p>CRC/C/GC/13</p> <p>General comment No. 13 (2011)</p> <p><b>The right of the child to freedom from all forms of violence</b></p> <p>41. <b>State parties that have not yet done so <u>must</u>:</b></p> <p>a) <u>Ratify the two Optional Protocols to the Convention, and other international and regional human rights instruments that provide protection for children, including the Convention on the Rights of Persons with Disabilities and its Optional Protocol and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;</u></p> <p>b) <u>Review and withdraw declarations and reservations contrary to the object and purpose of the Convention or otherwise contrary to international law;</u></p> <p>...</p> <p>d) <u>Review and amend domestic legislation in line with article 19 and its implementation within the holistic framework of the Convention, establishing a comprehensive policy on child rights and ensuring absolute prohibition of all forms of violence against children in all settings and effective and appropriate sanctions against perpetrators;</u><sup>2</sup></p> <p>e) <u>Provide adequate budget allocations for the implementation of legislation and all other measures adopted to end violence against children;</u></p> <p>...</p> <p>j) <u>Establish and support an independent national institution of children's rights.</u></p> |
| <b>Concluding observations (disregard of sovereignty)</b> |          |   |
| 50  | IL       | <p>CRC/C/RUS/CO/3</p> <p>Concluding observations: Russian Federation (2005)</p> <p><u>43. The Committee recommends that the State party ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.</u> ...</p> <p>69. ... <u>The Committee further recommends that the State party further its efforts to clear mines and ratify the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.</u></p> <p><u>83. The Committee encourages the State party to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized</u></p>  |

<sup>2</sup> In the context of "sanctions", the term "perpetrators" excludes children who harm themselves. The treatment of children who harm other children must be educational and therapeutic (Committee's footnote).

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|    |    | <p><b><u>Crime and the Council of Europe Convention on Action against Trafficking in Human Beings.</u></b></p> <p>87. The Committee welcomes the State party's signature and planned ratification of the Optional Protocol to the Convention on the involvement of children in armed conflict and notes that the State party is considering signing the Optional Protocol on the sale of children, child prostitution and child pornography. <u>The Committee urges the State party to pursue and complete its plans in this respect and to ratify the two Optional Protocols to the Convention.</u></p>   |
| 51 | IL | <p><b>CRC/C/CZE/CO/3-4</b></p> <p><b>Concluding observations: Czech Republic (2011)</b></p> <p>71. <u>The Committee urges the State party to ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Committee also recommends that, in order to further strengthen the fulfilment of children's rights, the State party consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990) and the Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006).</u></p>   |
| 52 | IL | <p><b>CRC/C/CRI/CO/4</b></p> <p><b>Concluding observations: Costa Rica (2011)</b></p> <p>29. ... While welcoming the new Migration Act, <u>the Committee regrets that the State party has decided not to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.</u></p> <p><b><u>86. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core United Nations human rights treaties and their Optional Protocols to which it is not yet a party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.</u></b></p>   |
| 53 | IL | <p><b>CRC/C/FIN/CO/4</b></p> <p><b>Concluding observations: Finland (2011)</b></p> <p>64. The Committee recommends that the State party:</p> <p>...</p> <p><b><u>e) Ratify ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.</u></b></p> <p><b><u>65. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core United Nations human rights instruments to which it is not yet a party, namely the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Optional Protocol to the Convention against Torture, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and its Optional Protocol, the Convention for the Protection of All Persons from Enforced Disappearance, and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.</u></b></p> |
| 54 | IL | <p><b>CRC/C/KHM/CO/2</b></p> <p><b>Concluding observations: Cambodia (2011)</b></p> <p><b><u>52. The Committee urges the State party to ensure effective implementation of the Law on Promotion and Protection of the Rights of Persons with Disabilities and the</u></b></p>  |

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|    |          | <p><u>2008 Policy on Education for Children with Disabilities, notably by allocating the necessary human, technical and financial resources. The Committee also recommends that the State party:</u></p> <p>...</p> <p><u>g) Ratify the International Convention on the Rights of Persons with Disabilities;</u></p>   |
| 55 | IL       | <p>CRC/C/CUB/CO/2</p> <p>Concluding observations: Cuba (2011)</p> <p>31. ... <u>The Committee also reiterates the recommendation made by the Committee on the Elimination of Racial Discrimination (CERD/C/CUB/CO/14-18, para. 19) to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.</u></p> <p><u>51. The Committee recommends that the State party ratify ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and review its Labour Code in order to harmonize it with the provisions of ILO Convention No. 182 and the Convention on the Rights of the Child.</u></p> <p>53. ... <u>The Committee also recommends that the State party ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.</u></p> <p><u>57. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the treaties to which it is not yet a party, namely the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, the International Covenant on Civil and Political Rights and its two Optional Protocols, the Optional Protocol to the Convention on the Elimination of Discrimination against Women, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.</u></p> <p><u>58. The Committee recommends that the State party ratify the Convention relating to the Status of Refugees (1951) and its Protocol (1967).</u></p> |
| 56 | IL       | <p>CRC/C/BHR/CO/2-3</p> <p>Concluding observations: Bahrain (2011)</p> <p>54. The Committee recommends that the State party:</p> <p>...</p> <p><u>(f) Ratify the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto and proceed with their implementation.</u></p> <p>...</p> <p><u>72. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, the International Convention on the Rights of Migrant Workers, the two Optional Protocols to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and any other relevant conventions.</u></p>  |
| 57 | IL<br>NL | <p>CRC/C/EGY/CO/3-4</p> <p>Concluding observations: Egypt (2011)</p>   |

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|    |    | <p><u>45. The Committee ... calls upon the State party to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.</u></p> <p><u>56. ... The Committee urges the State party to consider ratifying or acceding to the 1980 Hague Convention No. 28 and to ensure its incorporation into domestic legislation.</u></p> <p>79. The Committee urges the State party to strengthen effective measures to prohibit and eliminate economic exploitation of children, and in particular to:</p> <p>...</p> <p><u>e) Ratify ILO Convention No. 10 (1921) on Minimum Age (Agriculture) which prohibits employment or work in any public or private agricultural undertaking of children under the age of fourteen;</u></p> <p><u>89. The Committee welcomes the State party's announced plans to accede to all United Nations human rights treaties. It recommends that the State party, in order to strengthen the fulfillment of children's rights, ratify the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention against Torture, the Optional Protocol to the Convention on the Rights of Persons with Disabilities.</u></p> |
| 58 | IL | <p>CRC/C/SGP/CO/2-3</p> <p>Concluding Observations: Singapore (2011)</p> <p>49. The Committee recommends that the State party:</p> <p>...</p> <p><u>c) Ratify, without delay, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption.</u></p> <p><u>53. The Committee recommends that, in accordance with article 23 of the Convention, the State party:</u></p> <p>...</p> <p><u>g) Consider ratifying the Convention on the Rights of Persons with Disabilities and its Optional Protocol;</u></p>   |
| 59 | IL | <p>CRC/C/UKR/CO/3-4</p> <p>Concluding observations: Ukraine (2011)</p> <p>38. The Committee recommends that the State party:</p> <p>...</p> <p><u>b) Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.</u></p> <p><u>91. The Committee recommends that the State party ratify the core United Nations human rights treaties and their Optional Protocols to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.</u></p>   |
| 60 | IL | <p>CRC/C/NZL/CO/3-4</p> <p>Concluding observations: New Zealand (2011)</p> <p>50. ... <u>The Committee also reiterates its previous recommendation (CRC/C/15/Add.216, para. 48) that the State party ratify ILO Convention No. 138</u></p>   |

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|   |    | <p><b><u>(1973) concerning Minimum Age for Admission to Employment.</u></b></p> <p><b><u>59. The Committee recommends that the State party swiftly proceed with the ratification of the Optional Protocol on the sale of children, child prostitution and child pornography.</u></b></p> <p><b><u>60. The Committee encourages the State party to consider ratifying the international human rights instruments to which it is not yet party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.</u></b></p>  |
| 61  | IL | <p><b>CRC/C/BLR/CO/3-4</b></p> <p><b>Concluding observations: Belarus (2011)</b></p> <p><b><u>34. ... The Committee further recommends that the State party consider ratifying the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, the 1997 European Convention on Nationality and the 2009 Council of Europe Convention on the avoidance of statelessness in relation to State succession.</u></b></p> <p><b><u>74. The Committee recommends that the State party ratify the core United Nations human rights treaties and the protocols thereto to which it is not yet a party, namely: the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto; and the International Convention for the Protection of All Persons from Enforced Disappearance.</u></b></p> |
| <p><b>General comments:</b></p> <p><b>unlawful introduction of a new norm (ban on corporal punishment).</b></p> |    |   |
| 62  |    | <p><b>CRC/C/2/Rev.8</b></p> <p><b>[RESERVATIONS, DECLARATIONS AND OBJECTIONS RELATING TO THE CONVENTION ON THE RIGHTS OF THE CHILD]</b></p> <p><b>СИНГАПУР</b></p> <p><b>«The Republic of Singapore considers that articles 19 and 37 of the Convention do not prohibit ... the judicious application of corporal punishment in the best interests of the child».</b></p>   |
| 63  | NL | <p><b>CRC/C/GC/8</b></p> <p><b>General Comment No. 8 (2006)</b></p> <p><b>The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia)</b></p> <p>18. Article 37 of the Convention requires States to ensure that “no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment”. This is complemented and extended by article 19, which requires States to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”. There is no ambiguity: “all forms of physical or mental violence” does not leave room for any level of legalized violence against children. <u>Corporal punishment and other cruel or degrading forms of punishment are forms of violence and States must take all appropriate legislative,</u></p>  |

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|  |    | <p><u>administrative, social and educational measures to eliminate them.</u></p> <p>...</p> <p>20. <u>Article 19 and article 28, paragraph 2, do not refer explicitly to corporal punishment. The travaux préparatoires for the Convention do not record any discussion of corporal punishment during the drafting sessions.</u> But the Convention, like all human rights instruments, must be regarded as a living instrument, whose interpretation develops over time. ...</p>  |
| 64   | NL | <p><b>CRC/C/GC/13</b></p> <p><b>General comment No. 13 (2011)</b></p> <p><b>The right of the child to freedom from all forms of violence</b></p> <p><b>41. State parties that have not yet done so <u>must</u>:</b></p> <p>...</p> <p>d) <u>Review and amend domestic legislation</u> in line with article 19 and its implementation within the holistic framework of the Convention, establishing a comprehensive policy on child rights and <u>ensuring absolute prohibition of all forms of violence against children</u> in all settings <u>and effective and appropriate sanctions against perpetrators</u>,<sup>3</sup></p>  |
| <p><b>Concluding observations<sup>4</sup>:</b><br/><b>unlawful introduction of a new norm (ban on corporal punishment)</b></p> |    |  |
| 65   | NL | <p><b>CRC/C/RUS/CO/3</b></p> <p><b>Concluding observations: Russian Federation (2005)</b></p> <p>36. <u>The Committee is concerned that corporal punishment is not prohibited in the family and in alternative care settings. It is also concerned that corporal punishment of children remains socially acceptable in the State party and is still practised in families and in places where it has been formally prohibited, such as schools.</u></p> <p><b>37. The Committee urges the State party:</b></p> <p>a) <u>To explicitly prohibit by law all forms of corporal punishment in the family and in alternative care settings;</u></p> <p>b) <u>To prevent and combat the practice of corporal punishment of children in the family, in schools and other institutions by effectively implementing legislation;</u></p> <p>c) <u>To conduct awareness-raising and public education campaigns against corporal punishment and promote non-violent, participatory forms of discipline.</u></p> |
| 66   | NL | <p><b>CRC/C/UGA/CO/2</b></p> <p><b>Concluding observations of the Committee on the Rights of the Child: Uganda (2005)</b></p> <p>39. While taking note that corporal punishment has been prohibited in schools by a circular of the Ministry of Education, and in the penal system under the Children's Act, <u>the Committee remains concerned that corporal punishment is still traditionally accepted and widely practised in the family and in other settings.</u></p> <p><b>40. The Committee <u>recommends that the State party explicitly prohibit by law all forms of corporal punishment in all settings, including in the family, the schools and alternative childcare, and implement those laws effectively.</u></b> ...</p>   |
| 67   | NL | <p><b>CRC/C/GTM/CO/3-4</b></p> <p><b>Concluding observations: Guatemala (2010)</b></p> <p>53. While noting that Article 53 of the PINA Law prohibits corporal punishment, <u>the Committee remains concerned that corporal punishment continues to be practised in the home and in alternative care settings, and that there is no explicit prohibition of corporal</u></p>  |

<sup>3</sup> In the context of “sanctions”, the term “perpetrators” excludes children who harm themselves. The treatment of children who harm other children must be educational and therapeutic (Committee’s footnote).

<sup>4</sup> Only selected examples of a significantly greater number of concluding observations constituting unlawful pressure aimed at changing the national legislation are cited.

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|    |    | <p>punishment in schools. <u>It is also concerned at the social acceptance of corporal punishment as a normal form of discipline.</u></p> <p><b>54. The Committee recommends that the State party amend article 13 of the PINA Law and article 253 of the Civil Code, and specifically prohibit corporal punishment and other forms of cruel punishment of children in all settings.</b> It further recommends that the State party develop and implement information and awareness-raising campaigns among the population, in order to change the notion of disciplining through violence and the practice of violence present in many families. It further recommends the creation of an effective abuse detection system in the educational, health and alternative care systems, with appropriate instruments and resources in order to provide assistance to children and training for the staff of the relevant institutions. The Committee brings to the State party's attention its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.</p>  |
| 68 | NL | <p><b>CRC/C/SGP/CO/2-3</b></p> <p><b>Concluding Observations: Singapore (2011)</b></p> <p>39. While noting the education programmes and guidelines that restrict and discourage the use of corporal punishment, <u>the Committee reiterates its deep concern that corporal punishment, including caning, is still considered a lawful form of discipline in the family, schools and institutions.</u></p> <p><b>40. In light of the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee recommends that the State party:</b></p> <p><b>a) <u>Prohibit unequivocally by law, without any further delay, all forms of corporal punishment, including caning, in all settings;</u></b></p>  |
| 69 | NL | <p><b>CRC/C/CZE/CO/3-4</b></p> <p><b>Concluding observations: Czech Republic (2011)</b></p> <p>39. While noting that the corporal punishment of children is prohibited in public care, <u>the Committee notes with concern there that is still no legislation which explicitly prohibits corporal punishment of children in all settings, including in the family.</u> The Committee is also concerned <u>at the fact that according to surveys undertaken by the State party, the vast majority of Czech citizens expressed acceptance of corporal punishment in a child's upbringing.</u></p> <p><b>40. The Committee urges the State party to address the widespread tolerance of corporal punishment by, inter alia, conducting awareness-raising and public education programmes with a view to encouraging the use of alternative disciplinary measures in accordance with the inherent dignity of the child, <u>and in doing so, ensure that corporal punishment is prohibited in all settings including the family.</u></b></p>  |
| 70 | NL | <p><b>CRC/C/CUB/CO/2</b></p> <p><b>Concluding observations: Cuba (2011)</b></p> <p>36. While taking note that the provision on "adequate and moderate" punishment will be removed from the new draft Family Code, as indicated during the dialogue, <u>the Committee is concerned that provisions allowing for such punishment of children by their parents and guardians (arts. 86 and 152 of the Family Code) are still in force in the State party.</u> The Committee is further concerned that corporal punishment is often used at school and in social institutions as a measure of "discipline".</p> <p><b>37. <u>The Committee recommends that corporal punishment, in any form, be explicitly prohibited</u> and that the State party conduct public awareness campaigns and provide information on alternative non-violent forms of discipline, parental guidance and counselling with a view to eliminating all forms of corporal punishment of children. The Committee urges the State party to prioritize the adoption of the draft Family Code. In this regard, the Committee draws the State party's attention to its general comment no. 13 (2011) on the right of the child to freedom from all forms of violence, and its general comment no. 8 (2006) on corporal punishment.</b></p> |

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| 71 | NL | <p><b>CRC/C/KHM/CO/2-3</b></p> <p><b>Concluding observations: Cambodia (2011)</b></p> <p>40. While noting that the State party has adopted various legislation to prohibit corporal punishment, <u>the Committee is however concerned that article 1045 of the Civil Code allows a “parental power holder to personally discipline the child to the extent necessary” and that article 8 of the Law on the Prevention of Domestic Violence and Protection of the Victims implicitly authorizes corporal punishment of children for disciplinary purposes.</u> The Committee expresses concern <u>that physical punishment is frequently viewed as a culturally acceptable form of discipline by parents and teachers and widely practiced in the State party.</u></p> <p><b>41. The Committee urges the State party to:</b></p> <p><b><u>a) Repeal article 1045 of the Civil Code and provisions of the Law on the Prevention of Domestic Violence and Protection of the Victims authorizing corporal punishment of children;</u></b></p> <p><b><u>b) Enact legislation to explicitly prohibit corporal punishment of children in all settings, including within the family;</u></b></p> <p><b>c) Ensure that laws prohibiting corporal punishment are effectively implemented and that legal proceedings are systematically initiated against those responsible for violence against children;</b></p> <p><b>d) Introduce public education, awareness-raising and social mobilization campaigns on the harmful effects of corporal punishment with a view to changing the general attitude towards this practice and promote positive, non-violent, participatory forms of child-rearing and education as an alternative to corporal punishment;</b></p> <p><b>e) Refer to the Committee’s general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.</b></p> |
| 72 | NL | <p><b>CRC/C/BLR/CO/3-4</b></p> <p><b>Concluding observations: Belarus (2011)</b></p> <p>39. While noting that corporal punishment is unlawful as a sentence for a crime, and that it has been prohibited in the regulations of education establishments, <u>the Committee, nevertheless, remains concerned that corporal punishment is lawful in the home, not explicitly prohibited in institutions, including in the penal system and alternative care settings, and is widely accepted in society.</u></p> <p><b>40. The Committee reiterates its recommendation (CRC/C/15/Add.180, para. 40 (d)) <u>that the State party prohibit all forms of corporal punishment at home, in schools and other institutions and develop measures to raise awareness on the harmful effects of corporal punishment, and promote alternative forms of discipline in families, in institutions and the penal system, to be administered in a manner consistent with the child’s dignity and in conformity with the Convention.</u> In this regard, the Committee draws the State party’s attention to its general comment No. 8 (2007) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.</b></p>  |

**APPENDIX II**  
**Excerpts from *General comments***  
**and *Concluding observations***  
**by the Committee on the Rights of the Child**  
**(published in 2012-2014, Sessions 59-65)**

This Appendix cites excerpts from official CRC documents, published in 2012-2014 (Sessions 59-65), substantiating its alleged unlawful interpretations of the UNCRC and other *ultra vires* acts. Though not claiming to be comprehensive, this particular selection seeks to encompass all the documents containing the issues highlighted by the Report. The first column of the table indicates types of *ultra vires* acts for the convenience of readers (where appropriate).

**Legend:**

**A** – calls to liberalize abortion laws.

**C** – promotes contraception.

**DC** – promotes disputable concepts (“sexual orientation”, “gender identity”, legalization of same-sex marriages/partnerships, decriminalization of prostitution, ‘a right to abortion’) through references to *International Guidelines on HIV/AIDS and Human Rights* or otherwise.

**IL** – calls to ratify new international agreements not following from UNCRC.

**NL** – calls to review national legislation not following from UNCRC.

**PR** – calls to provide children with sexuality education, access to counseling and health services without the need for parental consent (or not mentioning it, incl. with references to confidentiality’).

**R** – interferes in religious freedom.

**Table of CRC document excerpts**

| Type  | Document details and excerpts   |
|---|---|
| <b>General Comments</b>   |   |
| <b>CRC/C/GC/14</b>  |   |
| <b>General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)</b> |   |
| <b>PR</b>   | 10. ... The Committee expects that this general comment will guide decisions by all those concerned with children, <u>including parents and caregivers</u> .  |
| <b>DC</b>   | 55. Children are not a homogeneous group and therefore diversity must be taken into account when assessing their best interests. The identity of the child includes characteristics such as sex, <u>sexual orientation</u> , national origin, religion and beliefs, cultural identity, personality. ...                               |
| <b>IL</b>   | 68. The Committee <u>encourages the ratification and implementation of the conventions of the Hague Conference on Private International Law,</u> <sup>2</sup> which facilitate the application of the child's best interests and provide guarantees for its implementation in the event that the parents live in different countries. |
| <b>PR</b>   | 72. Emotional care is a basic need of children; <u>if parents or other primary caregivers do not fulfil the child's emotional needs, action must be taken so that the child develops a secure</u>   |

<sup>1</sup> It must be emphasized that, speaking of educating children on matters of sexual and reproductive health, documents that have received some international approval, the *Cairo Programme of Action* and the *Beijing Platform for Action* in particular, repeatedly and explicitly indicate the need to do so respecting the rights and duties of their parents. However, in documents issued by CRC this indication is nearly always omitted. Moreover, its General comments Nos. 3 and 4 explicitly state the need to provide children with sexuality education, reproductive health counselling and services regardless of parental consent. As a result, whenever the Committee in its concluding statements refers to these general comments, it implies the need to disregard the parents' considerations, contrary to Article 5 of UNCRC and relevant documents of some intergovernmental standing.

<sup>2</sup> These include No. 28 on the Civil Aspects of International Child Abduction, 1980; No. 33 on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993; No. 23 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations, 1973; No. 24 on the Law Applicable to Maintenance Obligations, 1973. – *footnote 12 in the original text of the document.*

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|  | attachment. ...  |
| PR   | 78. For example, as regards adolescent health, the Committee has stated that States parties have the obligation to ensure that all adolescents, both in and out of school, have access to adequate information that is essential for their health and development in order to make appropriate health behaviour choices. <u>This should include information on use and abuse of tobacco, alcohol and other substances, diet, appropriate sexual and reproductive information, dangers of early pregnancy, prevention of HIV/AIDS and of sexually transmitted diseases. ...</u>   |
| PR<br>NL   | 96. The child will need appropriate legal representation when his or her best interests are to be formally assessed and determined by courts and equivalent bodies.. In particular, in cases where a child is referred to an administrative or judicial procedure involving the determination of his or her best interests, <u>he or she should be provided with a legal representative, in addition to a guardian or representative of his or her views, when there is a potential conflict between the parties in the decision.</u>  |
| NL   | 99. As mentioned above, the adoption of all measures of implementation should also follow a procedure that ensures that the child's best interests are a primary consideration. The child-rights impact assessment (CRIA) can predict the impact of any <u>proposed policy, legislation, regulation, budget or other administrative decision which affect children and the enjoyment of their rights and should complement ongoing monitoring and evaluation of the impact of measures on children's rights. CRIA needs to be built into Government processes at all levels and as early as possible in the development of policy and other general measures in order to ensure good governance for children's rights. Different methodologies and practices may be developed when undertaking CRIA. ...</u> |
| <b>CRC/C/GC/15</b>   |  |
| <b>General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)</b> |  |
| DC   | 8. ... A number of grounds on which discrimination is proscribed are outlined in article 2 of the Convention, including the child's, parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. These also include <u>sexual orientation, gender identity and health status, for example HIV status and mental health ...</u>   |
| PR   | 24. Children's right to health contains a set of freedoms and entitlements. The freedoms, which are of increasing importance in accordance with growing capacity and maturity, include the right to control one's health and body, <u>including sexual and reproductive freedom to make responsible choices ...</u>  |
| C<br>PR  | 31. In accordance with their evolving capacities, children should have access to confidential counselling and advice <u>without parental or legal guardian consent, where this is assessed by the professionals working with the child to be in the child's best interests. &lt;...&gt; States should review and consider allowing children to consent to certain medical treatments and interventions without the permission of a parent, caregiver, or guardian, such as HIV testing and sexual and reproductive health services, including education and guidance on sexual health, contraception and safe abortion.</u>  |
| A<br>NL  | 54. The interventions that should be made available across this continuum include, but are not limited to: <...>; <u>safe abortion services and post-abortion care; ...</u>  |
| NL   | 68. In the light of the impact of corporal punishment on children's health, including fatal and non-fatal injury and the psychological and emotional consequences, the Committee <u>reminds States of their obligation to take all appropriate legislative, administrative, social and educational measures to eliminate corporal punishment and other cruel or degrading forms of punishment in all settings, including the home.</u>   |
| PR<br>NL   | 69. Family planning services should be situated within comprehensive sexual and reproductive health services <u>and should encompass sexuality education, including counselling. &lt;...&gt; States should ensure that adolescents are not deprived of any sexual and reproductive health information or services due to providers' conscientious objections.</u>  |
| C<br>NL  | 70. <u>Short-term contraceptive methods such as condoms, hormonal methods and emergency contraception should be made easily and readily available to sexually active adolescents. Long-</u>  |

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|  | <u>term and permanent contraceptive methods should also be provided. The Committee recommends that States ensure access to safe abortion and post-abortion care services, irrespective of whether abortion itself is legal.</u>   |
| <b>CRC/C/GC/17</b>   |   |
| <b>General comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31)</b> |   |
| <b>PR?</b>   | 7. The present general comment seeks to enhance the understanding of the importance of article 31 for children's well-being and development; to ensure respect for and strengthen the application of the rights under article 31, as well as other rights in the Convention, and to highlight the implications for the determination of: <...><br>(c) Guidelines for all individuals working with children, <u>including parents</u> , on all actions undertaken in the area of play and recreation.  |
| <b>DC</b>  | 48. ... In addition, <u>gender differentiation in what is considered girls' and boys' play and which is widely reinforced by parents, caregivers, the media and producers/manufacturers of games and toys serve to maintain traditional gender-role divisions in society.</u> Evidence indicates that whereas boys' games prepare them for successful performance in a wide range of professional and other settings in modern society, girls' games, in contrast, tend to direct them towards the private sphere of the home and future roles as wives and mothers. Adolescent boys and girls are often discouraged from engaging in joint recreational activities. Furthermore, girls generally have lower participation rates in physical activities and organized games as a consequence of either external cultural or self-imposed exclusion or lack of appropriate provision. This pattern is of concern in the light of the proven physical, psychological, social and intellectual benefits associated with participation in sports activities. Given these widespread and pervasive barriers impeding girls' realization of their rights under article 31, the Committee urges States parties to take action to <u>challenge gender stereotypes</u> which serve to compound and reinforce patterns of discrimination and inequality of opportunity. |
| <b>Concluding observations</b>   |   |
| <b>Fifty-ninth session (16 January – 3 February 2012)</b>  |   |
| <b>CRC/C/AZE/CO/3-4</b>  |   |
| <b>Concluding observations: Azerbaijan</b>   |   |
| <b>NL</b>  | 10. ... <b>The Committee further <u>recommends that the State party consider enacting a comprehensive child rights act which fully incorporates the provisions of the Convention and its Optional Protocols</u> and provides clear guidelines for their consistent and direct application.</b>  |
| <b>NL</b>  | 45. While noting that the State party has a draft law on the protection of children against all forms of corporal punishment under consideration, the <u>Committee is concerned that current legislation fails to explicitly prohibit corporal punishment in all contexts.</u><br>46. <b>The Committee reiterates its previous recommendations (CRC/C/AZE/CO/2, para. 45) and <u>recommends that the State party introduce and fully implement legislation explicitly prohibiting all forms of corporal punishment of children in all settings, including the home.</u> ...</b>   |
| <b>C</b>   | 63. <b>The Committee recommends that the State party, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child:</b><br><b>(a) Intensify efforts to provide adolescents with education on sex and reproductive health, particularly with regard to HIV, and <u>improve the accessibility of contraception</u>;</b>  |
| <b>IL</b>  | 78. <b>The Committee encourages the State party, in order to further strengthen the fulfilment of children's rights, to accede to all core human rights instruments, including the International Convention for the Protection of All Persons from Enforced Disappearance.</b>  |
| <b>CRC/C/COK/CO/1</b>  |   |
| <b>Concluding observations: Cook Islands</b>   |   |
| <b>IL</b>  | 6. The Committee commends the State party for its withdrawal in 2009 of the reservation made on article 37 of the Convention upon accession. However, it is concerned about the remaining   |

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|          | <p>reservations on articles 2 and 10 as well as the Declaration on article 2, paragraph 1, and, in this regard, notes the information provided by the State party's delegation during the dialogue, that it is considering the withdrawal of the reservations in light of recent amendments to domestic legislation. Additionally, the Committee expresses its concern about the State party's general Declaration on the indirect application of the Convention in domestic law.</p> <p><b>7. The Committee encourages the State party to advance in its efforts concerning the withdrawal of its reservations made on articles 2 and 10 of the Convention and recommends that the State party consider withdrawing its declaration on article 2, paragraph 1. The Committee urges the State party to withdraw its general Declaration on the inapplicability of the Convention in domestic law and to ensure that its domestic legislations are fully in line with the Convention's principles and provisions.</b></p>   |
|          | <p>29. While the Committee notes the State party's efforts to encourage children to have their opinions and views expressed, <u>it is concerned about the traditional societal attitudes towards children</u>, in particular children with disabilities and child victims of sexual abuse <u>that hamper the realization of this principle</u>. The Committee is also <u>concerned about the limited opportunities for the child to express his/her own views in the family</u> and in the community and in particular about the lack of effective children's councils in all schools.</p>   |
| PR<br>NL | <p><b>34. The Committee urges the State party to accelerate its efforts in adopting the Privacy Act in order to provide for the adequate legal protection of the right to privacy. The Committee recommends that the State party take all measures to render the Act, once adopted, applicable in all administrative and judicial proceedings and launch awareness-raising programmes and trainings for all professional working with and for children so as to offer children greater respect for their privacy and dignity, in particular child victims of sexual abuse and pregnant teenagers, inter alia, by ensuring their right to confidential advice and counselling services.</b></p>   |
| NL       | <p>35. The Committee notes the legal review undertaken by the State party of the Education Act that aims at banning all forms of corporal punishment in schools. The Committee also notes with appreciation the State party's efforts to combat domestic violence, including through the legal review of the Crimes Act and Family law Bill that, among others, aim to provide wider protection for child victims of domestic violence. <u>However, the Committee expresses its concern about:</u></p> <p>(a) <u>The prevalence of violence against children including corporal punishment used in all settings and especially in the home, where it remains lawful;</u></p> <p>...</p> <p>36. Recalling its general comments Nos. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and 13 (2011) on the right of the child to freedom from all forms of violence, the Committee recommends that the State party:</p> <p><b>(a) <u>Prohibit corporal punishment in all settings including in the family, schools and in institutions for children; in this regard the State party is urged to accelerate the adoption of the Education Amendment Bill;</u></b></p> <p>...</p>  |
| A<br>C   | <p>49. The Committee expresses its concern about the high prevalence of sexually transmitted infections among adolescents, including pregnant teenagers, which is attributed to unprotected sex. It is also deeply concerned that the rate of teenage pregnancies remains very high, which derives also from the lack of accessible adolescent's reproductive health education and services. <u>The Committee is concerned that access to contraceptives for adolescents below the age of 16 is illegal and that the Crimes Act 1969 prohibits abortion in case of incest or rape.</u></p> <p><b>50. The Committee recommends that the State party:</b></p> <p>...</p> <p><b>(b) Strengthen its adolescent health programmes, by incorporating adolescent health education including adolescent reproductive health in school curricula;</b></p> <p>...</p> <p><b>(d) Provide comprehensive health services, including accessible and <u>confidential reproductive health services for adolescents, and in particular pregnant girls;</u></b></p> <p><b>(e) <u>Consider allowing access to contraceptives for adolescents under the age of 16;</u></b></p> <p><b>(f) <u>Consider amending the Crimes Act 1969 by providing for abortion in cases of incest or rape, with a view notably to guaranteeing the best interests of pregnant girls and</u></b></p> |

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|  | <u>teenagers.</u>   |
| IL   | <u>60. The Committee recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.</u>   |
| <b>CRC/C/MDG/CO/3-4</b>                    |   |
| <b>Concluding observations: Madagascar</b> |   |
|  | 29. <u>The Committee is concerned that traditional attitudes towards children in society limit, and often prevent, children from expressing their views on a wide range of issues that affect them within the family, schools, institutions, judicial system and society at large. The Committee is concerned that the views of the child are only sought on special occasions such as on child and youth days.</u>   |
| NL   | 37. The Committee notes that, although corporal punishment is prohibited in schools, it remains lawful in the home and alternative care settings. The Committee regrets that the State party report provides limited information on corporal punishment.<br>38. <b>Taking due note of the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee recommends that the State party:</b><br><b>(a) Consider enacting legislation to explicitly prohibit corporal punishment of children in all settings, including within the family and in alternative care settings;</b><br>...   |
| C  | 51. The Committee notes with concern reports that the current political crisis and subsequent weakening of societal and institutional frameworks have led to an increase in the use of drugs and alcohol as well as high-risk sexual activities among adolescents. <u>The Committee is further concerned about high level of teenage pregnancies and low level of contraceptive use. ...</u>  |
| IL   | <u>69. The Committee encourages the State party to accede to all core human rights instruments, including the Optional Protocol to the First International Covenant on Economic, Social and Cultural Rights, Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Convention on the Rights of Persons with Disabilities, Optional Protocol to the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.</u> |
| <b>CRC/C/MMR/CO/3-4</b>                    |   |
| <b>Concluding observations: Myanmar</b>    |   |
| NL   | 9. ... <u>The Committee also expresses its concern about the application of different sources of law, namely codified and customary laws, which may undermine the State party's efforts to harmonize its legislation with the Convention.</u>   |
|  | 39. <u>The Committee reiterates its concern (CRC/C/15/Add.237, para. 32) that traditional attitudes towards children in society continue to limit respect for their views and that the State party has not taken sufficient measures to ensure that the views of the child are given due consideration, especially in courts, schools, relevant administrative and other processes and within the family, other institutions and society at large.</u>  |
| NL   | 53. While noting the legal provisions prohibiting corporal punishment in schools and welcoming the ongoing discussion in the State party with a view to prohibiting corporal punishment in all settings, <u>the Committee is concerned that corporal punishment is still lawful within the family and in alternative care settings and is a disciplinary measure in prisons, including for children under 16 years of age.</u><br>54. <b>With reference to the Committee's general Comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee recalls its previous concluding observations (CRC/C/15/Add.237) and urges the State party to:</b><br>...   |

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|    | <b><u>(b) Withdraw provisions of the Child Law and the Penal Code authorizing corporal punishment and prohibit unequivocally by law and without any further delay corporal punishment in all settings, including the family, penal institutions, and alternative care settings;</u></b>  |
| C  | 65. While welcoming the development of a National Strategic Plan for Adolescent Health, the Committee is concerned about the general lack of knowledge among adolescents of sexual and reproductive health, which has an impact on the number of early pregnancies and abortions among girls below the age of 18. <u>The Committee is further concerned about the limited access by adolescents to contraceptives.</u><br>66. Referring to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention, the Committee recommends that the State party raise awareness among adolescents about sexual and reproductive health and the negative impact of early pregnancies and abortion, <u>and provide access to contraceptives.</u>  |
| IL | 82. The Committee urges the State party to:<br>...<br><b>(i) Ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.</b>   |
| IL | 84. The Committee urges the Government to take appropriate measures to:<br>...<br><b><u>(f) Ratify the Rome Statute on the International Criminal Court; the Convention on Cluster Munitions; the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime; the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction; and the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (with Protocols I, II and III).</u></b>  |
| IL | 86. The Committee recalls its previous concluding observations (CRC/C/15/Add.237, para. 69) and strongly recommends that the State party:<br>...<br><b><u>(h) Ratify the ILO Conventions Nos. 138 (1973) concerning Minimum Age for Admission to Employment and 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.</u></b>   |
| IL | 98. In order to further strengthen the fulfilment of children's rights, the Committee urges the State party to ratify all the core United Nations human rights treaties and their Optional Protocols, namely the:<br><b>(a) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;</b><br><b>(b) International Convention on the Elimination of All Forms of Racial Discrimination;</b><br><b>(c) International Covenant on Economic, Social and Cultural Rights and its Optional Protocol;</b><br><b>(d) International Covenant on Civil and Political Rights and its Optional Protocols;</b><br><b>(e) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;</b><br><b>(f) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol;</b><br><b>(g) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;</b><br><b>(h) Optional Protocol to the Convention on the Rights of Persons with Disabilities; and the</b><br><b>(i) International Convention for the Protection of All Persons from Enforced Disappearance.</b><br>99. It also urges the State party to ratify: |

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|  | <p>(a) Convention on the Recognition and Enforcement of Decisions relating to Maintenance Obligations; and the</p> <p>(b) Convention on the Law Applicable to Maintenance Obligations, and the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children..</p>   |
| <p><b>CRC/C/THA/CO/3-4</b><br/>Concluding observations: Thailand</p> |   |
| NL   | <p>8. <u>The Committee urges the State party to take all necessary measures to address those recommendations contained in the concluding observations on the second periodic report that have not yet been, or not sufficiently, implemented, including on such issues as data collection, non-discrimination, nationality, protection of privacy, <u>corporal punishment in the home</u>, alternative care, children in prison with their mothers, adolescent health, refugee and asylum-seeking children, children of migrant workers, child labour and juvenile justice. The Committee also urges the State party to provide adequate follow-up to the recommendations contained in the present concluding observations.</u></p>   |
| IL   | <p>10. <u>The Committee recommends that the State party withdraw its reservation concerning article 22 of the Convention and take all necessary measures to protect the rights and assist all asylum-seeking and refugee children in the country.</u></p>   |
| NL   | <p>47. <u>The Committee is concerned that corporal punishment remains lawful in the home. Moreover, article 1567 of the Civil and Commercial Code states that those with parental authority over children have a right to impose “reasonable” punishment for the purpose of discipline.</u></p> <p>48. <u>The Committee reiterates its previous concerns and concluding observations (CRC/C/THA/CO/2, paras. 40 and 41) and encourages the State party to take into account its general comments Nos. 13 (2011) on the right of the child to freedom from all forms of violence, and 8 (2006), on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment in adopting measures to combat all forms of violence against children.</u></p> <p>The Committee recommends that the State party:</p> <p>(a) <u>Prohibit explicitly by law corporal punishment of children in the home and alternative care settings, including for disciplinary purposes;</u></p> <p>...</p> |
| IL   | <p>86. <u>The Committee urges the State party to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. The Committee also recommends that the State party ratify the core United Nations human rights instruments to which it is not yet a party, namely the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the first and second Optional protocols to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Rights of Persons with Disabilities, the International Convention on the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of all Persons from Enforced Disappearance, and others.</u></p>   |
| <p><b>CRC/C/TGO/CO/3-4</b><br/>Concluding observations: Togo</p>     |   |
| NL   | <p>43. <u>While welcoming the prohibition of corporal punishment in all settings, as provided for in the Children’s Code, the Committee expresses concern that corporal punishment remains socially accepted and widely practiced in schools and in the home.</u></p> <p>44. <u>The Committee urges the State party to take more active measures to raise awareness on the negative impact of all forms of corporal punishment, as recommended by the Committee since 1997 (CRC/C/15/Add.83, para. 40 and CRC/C/15/Add.255, para. 39). The Committee in particular urges the State party to:</u></p> <p>(a) <u>Ensure that laws prohibiting corporal punishment are effectively implemented and that legal proceedings are systematically initiated against persons subjecting children to corporal punishment;</u></p> <p>...</p>  |

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| IL                                       | <p>66. ... <b>The Committee also urges the State party to:</b></p> <p>...</p> <p><b><u>(d) Consider ratifying ILO Convention No. 189 concerning decent work for domestic workers.</u></b></p>   |
| IL                                       | <p>78. <b><u>The Committee encourages the State party to accede to all core human rights instruments, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.</u></b> ...</p>   |
| Sixtieth session (29 May – 15 June 2012) |   |
| CRC/C/DZA/CO/3-4                         |   |
| Concluding observations: Algeria         |   |
| NL                                       | <p>8. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the second periodic report under the Convention that have not been implemented or sufficiently implemented, particularly those related to interpretative declarations, legislation, independent monitoring, cooperation with civil society, non-discrimination, <u>corporal punishment</u>, parental responsibilities, violence against children, children with disabilities and refugee children. The Committee further urges the State party to provide adequate follow-up to the recommendations contained in the present concluding observations.</p>   |
| IL                                       | <p>9. The Committee notes with concern that the State party has maintained its declaration on article 14, paragraphs 1 and 2, which amounts to a reservation to the Convention. The Committee is also concerned that the State party has still not reviewed its declarations on articles 13, 16 and 17.</p> <p>10. <b>The Committee reiterates its recommendation of 2005 (CRC/C/15/Add.269, para. 11) that the State party should review its interpretative declarations with a view to withdrawing them, in accordance with the 1993 Vienna Declaration and Plan of Action of the World Conference on Human Rights.</b></p>   |
|  | <p>29. The Committee notes with satisfaction the measures taken by the State party to increase girls' school enrolment. The Committee however expresses concern at the persistence of legal provisions that discriminate against girls and women such as those related to inheritance contained in the 2005 Family Code. <u>The Committee is also concerned that limited measures have been taken by the State party to change societal discriminatory and patriarchal attitudes and behaviours as well as stereotyping of gender roles.</u> The Committee further reiterates its concern (CRC/C/15/Add.269, para.26) at the persistent de facto discrimination faced by children with disabilities, children living in poverty, children born out of wedlock, working children, children in conflict with the law, street children, children living in rural areas and Western Saharan refugee children.</p> |
| NL                                       | <p>43. While noting as positive the prohibition of corporal punishment, psychological ill-treatment and all forms of bullying in schools contained in the Education Act No. 08–04 of 23 January 2008, the Committee is however concerned that corporal punishment remains widely accepted in society and routinely used as a disciplinary measure in schools. <u>The Committee is also concerned that corporal punishment remains lawful in the home</u> and in alternative-care settings and that there is no explicit legal prohibition of the use of corporal punishment as a disciplinary measure in penal institutions, as already stated in the previous concluding observations (CRC/C/15/Add.269, para. 41).</p> <p>44. <b>The Committee urges the State party:</b></p> <p><b><u>(a) To prohibit corporal punishment unequivocally in all settings;</u></b></p> <p>...</p>                            |
| C  | <p>60. Taking into account the Committee's general comment No. 4 (2003) on adolescent health, the Committee urges the State party to design and implement an inter-sectoral public policy for health, sexual and reproductive rights aimed at adolescents within and outside the educational system and taking into account sexual and reproductive rights, healthy sexuality, prevention of unplanned pregnancies, sexually transmitted diseases, HIV/AIDS, and the <u>accessibility and use of condoms and other contraceptives.</u></p>  |
| IL                                       | <p>84. <b><u>The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on a communications procedure, the International Convention for the Protection of All Persons from Enforced Disappearance as well as the Optional Protocols to the International Covenant on Economic, Social and Cultural Rights, the International</u></b></p>   |

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|  | <b><u>Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of Persons with Disabilities.</u></b>   |
| <b>CRC/C/AUS/CO/4</b><br><b>Concluding observations: Australia</b> |   |
| NL   | 8. The Committee urges the State party to take all necessary measures to effectively address the recommendations contained in the concluding observations on the combined second and third periodic reports that have yet to be implemented, particularly those on the reservation to article 37(c) of the Convention, legislation, coordination, respect for the views of the child, freedom of association, <u>corporal punishment</u> , and the administration of juvenile justice.  |
| IL   | 9. <u>The Committee regrets that notwithstanding its previous recommendation (CRC/C/15/Add.268, para. 8), the State party has not withdrawn its reservation to article 37(c) of the Convention.</u> The Committee reiterates its view (CRC/C/15/Add.268, para. 7) that the State party's reservation to article 37 (c) is unnecessary since there appears to be no contradiction between the logic behind it and the provisions of article 37 (c) of the Convention. The Committee further reiterates its view that the concerns expressed by the State party in its reservation are well addressed by article 37 (c), which provides that every child deprived of liberty shall be separated from adults "unless it is considered in the best interests of the child not to do so" and that the child "shall have the right to maintain contact with his or her family".<br>10. <b>The Committee reiterates its previous recommendation (CRC/C/15/Add.268, para. 8), in light of the 1993 Vienna Declaration and Programme of Action, that the State party continue and strengthen its efforts towards a full withdrawal of its reservation.</b> |
| NL   | 29. ...[The Committee] is particularly concerned at:<br>...<br>(e)The absence of federal legislation protecting against discrimination on the basis of <u>sexual orientation or gender identity</u> .<br><b>30. ... Furthermore, the Committee calls upon the State party to:</b><br>...<br><b>(e) Enact federal legislative protection against discrimination <u>on the basis of sexual orientation or gender identity</u> .</b>   |
| NL   | 39. The Committee reiterates its previous concern (CRC/C/15/Add.268, para 73(e)) about legislation in certain states and territories allowing police to remove children and young people who assemble peacefully in groups.<br>40. <b>The Committee reiterates its previous recommendation (CRC/C/15/Add.268, para. 74(h)) that the State party address the problems that may be related to the gathering of young people in certain places with measures that are in alternative to policing and/or criminalization, and consider reviewing legislation in this respect.</b>   |
| NL   | 43. The Committee regrets <u>that notwithstanding its previous recommendation (CRC/C/15/Add.268, para. 36), corporal punishment, in the home and some schools and alternative care settings, remains lawful throughout the State party under the label of so-called "reasonable chastisement"</u> .<br>44. <b>The Committee reiterates its previous recommendation (CRC/C/15/Add.268, para. 36) that the State party:</b><br><b>(a) Take all appropriate measures to explicitly prohibit corporal punishment in homes, in public and private schools, detention centres and alternative care settings in all states and territories;</b><br>...   |
| C<br>PR  | 67. <b>Highlighting the Committee's general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee recommends that the State party intensify efforts <u>to provide adolescents with education on sex and reproductive health</u>, particularly with regard to other STIs in addition to HIV, and <u>improve the accessibility of contraception, counselling, and confidential health services</u>, particularly among Aboriginal and socioeconomically disadvantaged communities.</b>   |
| IL   | 85. The Committee encourages the State party, in order to further strengthen the fulfilment of children's rights, <b><u>to accede to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and all core human rights</u></b>   |

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|  | <b><u>instruments, including the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the International Labour Organization Convention No. 189 on Domestic Workers.</u></b>   |
| <b>CRC/C/CYP/CO/3-4</b><br><b>Concluding observations on the combined third and fourth periodic report of Cyprus</b> |  |
|  | 27. ... However, the Committee is concerned that:<br>...<br>(c) Respect for the views of children in the general context of Cypriot society is not well understood and respected.  |
| <b>NL</b>  | 29. The Committee is concerned at the <u>widespread social acceptance of corporal punishment in the State party.</u> Furthermore, while noting that the State party's Violence in the Family (Prevention and Protection of Victims) Law of 2000 prohibits corporal punishment, the Committee is concerned that article 54 of the State party's Children's Law (1956) allowing for "the right of any parent, teacher or other person having the lawful control or charge of the child to administer punishment to him" is still in force.<br>30. ... <b><u>Furthermore, the Committee recommends that the State party explicitly repeal article 54 of its Children's Law (1956) to ensure all of its legislation explicitly prohibits all forms of corporal punishment of children in all settings, including the home.</u></b>   |
| <b>IL</b>  | <b><u>58. The Committee encourages the State party to sign the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and encourages the State party, in order to further strengthen the fulfilment of children's rights, to accede to the Optional Protocol and all core human rights instruments, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.</u></b>   |
| <b>CRC/C/GRC/CO/2-3</b><br><b>Concluding observations: Greece</b>  |  |
| <b>C<br/>PR</b>  | 57. Referring to its <u>general comment No. 4 (2003)</u> on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee urges the State party <u>to increase the availability of confidential and youth-friendly health services throughout the country, enhance the availability of contraceptive services and promote sex education targeted at adolescents,</u> with special attention to the prevention of early pregnancies and sexually transmitted diseases and youth suicides. The Committee further calls upon the State party to strengthen its efforts to address drug abuse, alcoholism and tobacco use among adolescents.  |
| <b>IL</b>  | 73. The Committee recommends that the State party ratify the core United Nations human rights treaties and the Optional Protocols thereto to which it is not yet a party, namely, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the 1961 Convention on the Reduction of Statelessness and International Labour Organization Convention No. 189 (2011) concerning Decent Work for Domestic Workers.  |
| <b>CRC/C/TUR/CO/2-3</b><br><b>Concluding observations: Turkey</b>  |  |
| <b>NL</b>  | 7. The Committee urges the State party to take all necessary measures to address the recommendations in the concluding observations on the initial report that have not yet been implemented fully or sufficiently, including those on such issues as reservations to the Convention on the Rights of the Child, coordination, an independent and effective monitoring mechanism, data collection, honour killings, prohibition of discrimination against children belonging to minorities not recognized under the Treaty of Lausanne of 1923, disparities affecting children living in the Eastern and South eastern regions and in rural areas, especially with regard to their access to adequate health and education, <u>corporal punishment</u> and administration of juvenile justice, including long detention periods and poor conditions in some prisons. The Committee urges the State party to provide in its next periodic report information on the measures taken to implement its concluding observations under the Optional Protocols, and to provide adequate follow- |

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|   | <b>up to the recommendations contained in the present concluding observations.</b>  |
| IL  | <p>8. The Committee reiterates its concern about the reservations to articles 17, 29 and 30 of the Convention. ...</p> <p><b>9. <u>The Committee encourages the State party to consider withdrawing its reservations to articles 17, 29 and 30 of the Convention in order to provide better protection and opportunities to all groups of children, in particular children of Kurdish origin, who are not recognized as a minority under the Turkish Constitution and the Treaty of Lausanne of 1923.</u></b></p>   |
| NL  | <p>44. The Committee takes note of the amendment to the Civil Code (2002) to remove parents' "right to correction of their children," as well as the amendments to the State party's criminal legislation to prohibit corporal punishment as a sentence for a crime and as a disciplinary measure in penal institutions. <u>The Committee however remains concerned that corporal punishment is still not explicitly prohibited in the home and in alternative care settings.</u> ... The Committee notes that while corporal punishment is prohibited in schools, reports indicate prevalence of the practice in addition <u>to a continued perception among adults of its educational value</u>, which raises grave concerns over the interpretation and implementation of the ban on corporal punishment in schools.</p> <p><b>45. The Committee reiterates its concerns , as expressed in previous concluding observations (CRC/C/THA/CO/2, paras. 40 and 41) and in line with its general comments No. 13 (2011) on the right of the child to freedom from all forms of violence and No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment , with respect to measures to combat all forms of violence against children , and recommends that the State party:</b></p> <p><b>(a) <u>Eliminate the practice of corporal punishment, including by explicitly prohibiting corporal punishment in the home and in alternative care settings;</u></b></p> |
| IL  | <p><b>72. The Committee recommends that the State party ratify the core United Nations human rights treaties and their Optional Protocols to which it is not yet a party, namely the <u>Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the International Convention for the Protection of All Persons from Enforced Disappearance.</u></b></p>   |
| <p><b>CRC/C/VNM/CO/3-4</b><br/><b>Concluding observations: Viet Nam</b></p> |   |
| NL  | <p>35. The Committee welcomes the various legislative measures adopted throughout the review period that acknowledged children's right to be heard, also in judicial and administrative proceedings, including the 2004 Law on Protection, Care and Education of Children and the 2004 Civil Procedure Code, and the forums for children to make their voices heard in the provinces and at the national level. The Committee, however, remains concerned at:</p> <p>(a) The lack of sufficient awareness of the importance attached to this principle and the lack of systematic application of the right of the child to be heard in all settings, including in judicial hearings;</p> <p><u>(b) The lack of systematic consultation of children in the process of making laws and policies affecting them at the national, regional or local levels, and the absence of more specific guidelines on children's participation in the development of future plans of action concerning children.</u></p>   |
| NL  | <p>45. <u>The Committee is concerned about the prevalence of corporal punishment in the home and that many parents still find it appropriate to use slapping as a means of discipline. While noting the State party's declaration during the dialogue that it intends to include a provision on corporal punishment in the amendment to the 2004 Law on Protection, Care and Education of Children, the Committee remains concerned that the State party has not yet passed legislation explicitly prohibiting all forms of corporal punishment in all settings, including in the home, despite the Committee's previous recommendation (CRC/C/15/Add.200, para. 34(e)).</u></p> <p><b>46. The Committee recommends that the State party reform its domestic legislation, including the envisaged amendment to the 2004 Law on Protection, Care and Education of Children, <u>to ensure the explicit prohibition of all forms of corporal punishment in all settings</u>, taking into account the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, and general comment No. 13 (2011) on the right of the child to freedom from all forms of violence. ...</b></p>  |

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| C   | 59. The Committee expresses its concern at the lack of information on adolescent health as well as at the reportedly high prevalence of abortions among teenagers. The Committee is further concerned at <u>the limited access adolescents have to contraceptives and to reproductive health services, assistance and counselling.</u>  |
| IL  | 68. <b>The Committee recommends that the State party take into account its general comment No. 1 (2001) on the aims of education, and:</b><br>...<br><b><u>h) Consider ratifying the UNESCO Convention against Discrimination in Education.</u></b>   |
| IL  | 72. <b>The Committee strongly recommends that the State party:</b><br>...<br><b><u>(e) Consider ratifying the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children .</u></b>  |
| IL  | 80. <b>The Committee recommends that the State party ratify the core United Nations human rights treaties and the Optional Protocols thereto to which it is not yet a party, in particular, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. In addition, the State party is recommended to ratify ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers.</b> |
| <b>Sixty-first session (17 September–5 October 2012)</b>  |   |
| <b>CRC/C/ALB/CO/2-4</b><br><b>Concluding observations the combined second to fourth periodic reports of Albania</b> |   |
|   | 33. ... <i>The Committee is also concerned that:</i><br>...<br>(c) Certain traditional and cultural attitudes might limit the full implementation of article 12 of the Convention and that children generally feel that their views are not taken into account in schools in alternative care institutions and at home.   |
| NL  | 41. <i>While welcoming that corporal punishment is explicitly prohibited in all settings, the Committee is concerned that various forms of corporal punishment are widely practiced at home, in schools and in institutions....</i>   |
| IL  | 79. ... <b><i>In particular, the Committee urges the State party to:</i></b><br>...<br><b><u>(d) Consider ratifying the ILO Convention No. 189 (2011) concerning decent work for domestic workers.</u></b>  |
| IL  | 86. <b>The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Convention on the Rights of Persons with Disabilities and its Optional Protocol and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.</b>   |
| <b>CRC/C/AND/CO/2</b><br><b>Concluding observations on the second periodic report of Andorra</b>                    |   |
| NL  | 8. <b>The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations on the initial report under the Convention that have not been implemented or sufficiently implemented, particularly those related to a national plan of action, coordination, data collection, definition of the child and violence against children, including corporal punishment.</b>   |
| NL  | 30. The Committee notes that the State party accepted the recommendation to prohibit all corporal punishment of children during the universal periodic review in 2010, and the amendment of the Criminal Code by Law 91/2010 to include a specific provision regarding maltreatment at home. However, the Committee is concerned that the amended provision does not specifically refer to corporal punishment or explicitly prohibit such forms of punishment in all settings, such as private or public educational or alternative care institutions or the penal system.   |

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|  | <p>31. In light of its general comment No. 8 (2007), the Committee recalls its previous recommendation (CRC/C/15/Add.176, para. 40), and urges the State party to:</p> <p>(a) <u>Enact legislation that explicitly prohibits all forms of corporal punishment in the family, schools and alternative care settings and penal institutions;</u></p> <p>...</p>  |
| A<br>C<br>PR<br>NL   | <p>42. <u>The Committee recommends that the State party review the provisions of the Penal Code concerning abortion to decriminalize abortion under certain circumstances, such as pregnancies as a result of rape, with a view to guaranteeing the best interests of pregnant teenagers. Referring to its general comment No. 4 (2003), the Committee further urges the State party to increase the availability of confidential and youth-friendly health services throughout the country, to enhance the availability of contraceptive services, including in all educational institutions and to promote sex education targeted at adolescent girls and boys, with special attention to the prevention of early pregnancies and sexually transmitted diseases.</u></p>                                 |
| IL   | <p>49. The Committee recommends that the State party:</p> <p>...</p> <p>(c) <u>Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol).</u></p>   |
| IL   | <p>52. <u>The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the following treaties: The Optional Protocol to the Convention on the Rights of the Child on Communication Procedures, the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, International Convention for the Protection of All Persons from Enforced Disappearance, and the International Convention on the Rights of Persons with Disabilities and its Optional Protocol.</u></p> |
| <p><b>CRC/C/AUT/CO/3-4</b><br/>Concluding observations on the combined third and fourth periodic report of Austria</p>                     |  |
| IL   | <p>8. While noting that discussions are taking place in the State party on a possible withdrawal of its reservations to articles 13, 15 and 17 of the Convention, the Committee remains of the opinion that said reservations are not necessary.</p> <p>9. <u>The Committee reiterates its recommendation that the State party consider withdrawing its reservations to articles 13, 15 and 17 of the Convention, in line with the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights in 1993.</u></p>  |
| NL   | <p>33. The Committee notes that the State party has taken measures to raise awareness about non-violent forms of child-rearing, including financial support to institutions that are educating parents on such forms of child-rearing. <u>However, it remains concerned by the continued use of corporal punishment by many parents and by the fact that parts of the population are still unaware of the prohibition of all forms of corporal punishment in the State party.</u></p>  |
| IL   | <p>68. <u>The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the following treaties: The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.</u></p>   |
| <p><b>CRC/C/BIH/CO/2-4</b><br/>Concluding observations on the consolidated second to fourth periodic reports of Bosnia and Herzegovina</p> |  |
| NL   | <p>39. While noting as positive that corporal punishment is unlawful in schools and as a sentence for crime and disciplinary measure in penal institutions throughout the State party and in the home since the adoption of the 2005 Law on Protection from Domestic Violence, <u>the Committee expresses serious concern that corporal punishment in the home remains widespread in the State party. Furthermore, the Committee is concerned at the wide acceptance of a certain degree of violence in "disciplining" children.</u></p>   |
| IL   | <p>78. <u>The Committee encourages the State party, in order to further strengthen the fulfilment of children's rights, to accede to the Optional Protocol to the Convention on the</u></p>  |

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|  | <b><u>Rights of the Child on a communications procedure and all core human rights instruments, including International Labour Organization Convention No. 189 (2011) concerning Decent Work for Domestic Workers.</u></b>   |
| <b>CRC/C/CAN/CO/3-4<br/>Concluding observations on the combined third and fourth periodic report of Canada</b>   |   |
| NL   | <b>8. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations on the second periodic report under the Convention that have not been implemented or sufficiently implemented, particularly those related to reservations, legislation, coordination, data collection, independent monitoring, non-discrimination, <u>corporal punishment</u>, family environment, adoption, economic exploitation, and administration of juvenile justice.</b>  |
| IL   | <b>9. While the Committee positively acknowledges the State party's efforts towards removing its reservations to article 37(c) of the Convention, <u>the Committee strongly reiterates its previous recommendation (CRC/C/15/Add.215, para.7, 2003), for the prompt withdrawal of its reservation to article 37(c).</u></b>   |
| NL   | 44. The Committee is gravely concerned that corporal punishment is condoned by law in the State party under Section 43 of the Criminal Code. Furthermore, the Committee notes with regret that the 2004 Supreme Court decision <i>Canadian Foundation for Children, Youth and the Law v. Canada</i> , while stipulating that corporal punishment is only justified in cases of "minor corrective force of a transitory and trifling nature," upheld the law. Furthermore, the Committee is concerned that the legalization of corporal punishment can lead to other forms of violence.<br><b>45. <u>The Committee urges the State party to repeal Section 43 of the Criminal Code to remove existing authorization of the use of "reasonable force" in disciplining children and explicitly prohibit all forms of violence against all age groups of children, however light, within the family, in schools and in other institutions where children may be placed. ...</u></b>   |
| IL   | <b>80. The Committee recommends that the State party:</b><br>...<br><b><u>(d) Consider ratifying ILO Convention No. 138 (1973) concerning the minimum age for admission to employment.</u></b>  |
| IL   | <b>87. The Committee <u>encourages the State party, in order to further strengthen the fulfilment of children's rights, to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. The Committee further urges the State party to ratify ILO Conventions No. 138 (1973) and No. 189 (2011) concerning decent work for domestic workers.</u></b>  |
| <b>CRC/C/LBR/CO/2-4<br/>Concluding observations on the combined second to fourth periodic reports of Liberia</b> |   |
| NL   | 45. <u>While welcoming the incorporation of the legal prohibition of corporal punishment in correctional facilities in article IX, section 3.5, of the Children's Law, the Committee is concerned that corporal punishment remains lawful in schools, in the home and in alternative care settings. It is highly alarmed by the frequent incidence of corporal punishment, including extreme physical violence suffered by children at school and in the home. The Committee is also concerned about the lack of awareness among parents, persons working with and for children, and the general public of the negative impact corporal punishment has on children.</u><br><b>46. <u>With reference to its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/C/GC/8), the Committee urges the State party to explicitly prohibit by law corporal punishment in all settings, including in the family, schools and other institutions and childcare settings....</u></b> |
| A<br>NL  | <b>67. In light of its general comment No. 4 (2003) on adolescent health (CRC/C/GC/4) , the Committee urges the State party to:</b><br>...<br><b><u>(b) Review its legislation on abortion, notably with a view to guaranteeing the best interests of pregnant teenagers and preventing teenage girls resorting to clandestine abortions at the risk of their lives;</u></b>  |
| IL   | <b>78. The Committee urges that the State party to:</b><br>...<br><b><u>(f) Ratify International Labour Organization (ILO) Convention No. 138 (1973) concerning Minimum Age for Admission to Employment ; ...</u></b>   |

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| IL   | <p>The Committee recommends that the State party strictly implement the Act to Ban Trafficking of 2005 and allocate adequate resources to the task force against human trafficking to enable it to fulfil its role effectively. The State party is urged to redouble its efforts to combat and bring to an end child trafficking, both internal and international, for the purposes of sexual exploitation, forced labour and domestic servitude. <u>In this endeavour the State party should:</u></p> <p>...</p> <p><b><u>(e) Ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, so as to offer maximum legal protection to children in the context of sale, trafficking and abduction.</u></b></p>  |
| IL   | <p><b><u>85. The Committee recommends that the State party take immediate measures to ratify the three Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on the involvement of children in armed conflict and on a communications procedure. It also recommends that, in order to further strengthen the fulfilment of children's rights, the State party ratify the core United Nations human rights treaties and the protocols thereto to which it is not yet a party, namely: the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention Against all Forms of Discrimination Against Women, the International Convention on the Rights of Migrant Workers and Members of Their Families, and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.</u></b></p>  |
| <p><b>CRC/C/NAM/CO/2-3</b><br/><b>Concluding observations on the consolidated second and third periodic reports of Namibia</b></p> |   |
| NL   | <p>38. The Committee notes that the Education Act (Act No. 16 of 2001) prohibits corporal punishment in schools, and that the Supreme Court ruling of 1991 ruled that corporal punishment is unlawful in school and as a sentence for crime. However, the Committee is gravely concerned about the information provided by the State party that:</p> <p>...</p> <p><b><u>(c) There is an absence of legislation that explicitly prohibits corporal punishment in the home, penal system and alternative care settings. In addition, the Committee deplors the fact that "reasonable chastisement" of a child is a common law defence to the crimes of corporal punishment.</u></b></p> <p><b>39. The Committee strongly calls upon the State party:</b></p> <p><b><u>(a) To pass, as a matter of priority, the Child Care and Protection Bill with a view to prohibiting corporal punishment under civil and customary law and in all settings, including in the home, in school and in alternative care settings;</u></b></p> <p>...</p>   |
| A<br>C<br>PR<br>NL   | <p>57. While welcoming various policies and initiatives undertaken by the State party to improve adolescent health, the Committee is extremely concerned at the high number of teenage pregnancies, including those as a result of rape, the high incidence of sexually transmitted infections and drug and alcohol abuse among adolescents. In particular, the Committee is concerned about:</p> <p><b><u>(a) The State party's punitive abortion law and various social and legal challenges, including long delays in accessing abortion services within the ambit of the current laws for pregnant girls. In this regard, the Committee notes with concern that such a restrictive abortion law has led adolescents to abandon their infants or terminate pregnancies under illegal and unsafe conditions, putting their lives and health at risk, which violates their rights to life, to freedom from discrimination, and to health;</u></b></p> <p><b><u>(b) Inadequate access by teenagers to reproductive health education and services, including contraceptives and emergency care. The Committee further regrets the absence of information in the State party's report on the measures taken to ensure the right of children to sexual and reproductive health care with or without parental consent.</u></b></p> <p><b>58. Referring to its general comment No. 4 (CRC/GC/2003/4, 2003), the Committee recommends that the State party:</b></p> <p><b><u>(a) Review and amend its legislation concerning abortion to prevent adolescents from resorting to clandestine and unsafe abortions and to reduce unwanted pregnancies, maternal mortality and the abandonment of infants;</u></b></p> <p><b><u>(b) Intensify and expand its efforts to ensure the accessibility and availability of sexual</u></b></p> |

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|  | <p>and reproductive health services, <u>including contraceptives, institutional birth services and health care at delivery, particularly in rural areas, and expedite the implementation of its policies and programmes to address the high rate of teenage pregnancies through preventative actions, and ensure that pregnant adolescents have easy access to confidential counselling and support;</u></p> <p>(c) Strengthen reproductive health education, <u>including sex education for adolescents, by, inter alia, making health education part of school curricula, and improve knowledge and the availability of reproductive health care services with a view to preventing HIV/AIDS and other sexually transmitted infections and reducing teenage pregnancies;</u></p> <p>...</p>   |
| IL   | <p>77. The Committee <u>recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the treaties to which it is not yet a party, namely the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.</u></p>   |
| <p>Sixty-second session (14 January–1 February 2013)</p>   |   |
| <p><b>CRC/C/GIN/CO/2</b><br/>Concluding observations on the second periodic report of Guinea</p>                       |   |
|  | <p>42. ... While the right to be heard has been integrated in the Children's Code, the Committee regrets that traditional social beliefs and attitudes continue to prevent children from freely expressing their opinions within the family, schools and the community at large. ...</p>  |
| NL<br>R  | <p>48. The Committee, while noting that the Children's Code prohibits "all forms of physical and psychological maltreatment" in the family, schools and institutions, the Committee remains concerned that:</p> <p>(a) The Children's Code does not explicitly prohibit corporal punishment in all settings;</p> <p>(b) <u>Corporal punishment of children remains widespread and socially accepted in the home, in schools, in penal institutions, and in alternative care settings;</u></p> <p>(c) <u>Some religious interpretations wrongly prescribe whipping as being an integral part of learning the Koran, as indicated by the delegation during the interactive dialogue; and</u></p> <p>(d) There is no mechanism available for children to denounce corporal punishment.</p> <p>49. <b>With reference to the Committee's General Comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/GC/8/2006), the Committee urges the State party to:</b></p> <p>(a) <u>Ensure that different laws and regulations explicitly prohibit corporal punishment;</u></p> <p>...</p>                       |
| IL   | <p>80. The Committee recommends that the State party:</p> <p>...</p> <p><b>(f) <u>Ratify ILO Convention No. 181.</u></b></p>  |
| IL   | <p>88. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, submit its initial report under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and <u>ratify the Optional Protocol to the Convention on the involvement of children in armed conflict (specifically by submitting the mandatory declaration required under article 3 to the Secretariat of the United Nations), the Optional Protocol to the Convention on a communications procedure, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Convention for the Protection of All Persons from Enforced Disappearance.</u></p> |
| <p><b>CRC/C/GUY/CO/2-4</b><br/>Concluding observations on the combined second to fourth periodic reports of Guyana</p> |   |
| NL   | <p>7. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the first periodic report under the</p>   |

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|  | Convention that have not been implemented or sufficiently implemented, particularly those related to a national plan of action, birth registration, <u>corporal punishment</u> , health, particularly adolescent health, and juvenile justice.   |
| DC   | 24. ... Furthermore, the Committee is concerned about discrimination against children <u>on the basis of sexual orientation and/or gender identity</u> .<br><b>25. The Committee urges the State party to ensure that its programmes address the situation of discrimination against Amerindian children, children with disabilities, and other children because of their sexual orientation and/or gender identity. ...</b>   |
|  | 28. ... The Committee also reiterates its previous concerns (CRC/C/15/Add.224, para. 27) on sociocultural attitudes and traditions that continue to restrain children from freely expressing their views in schools, courts and within the family.   |
| NL   | 32. The Committee welcomes the State party's Childcare and Development Services Act 2011 which prohibits corporal punishment in institutional residences. <u>However, the Committee regrets that notwithstanding its previous recommendation (CRC/C/15/Add.224, para. 32) to expressly prohibit corporal punishment by law in the family and schools, corporal punishment remains lawful and prevalent in these contexts.</u><br><b>33. The Committee recommends that the State party take all appropriate measures to explicitly prohibit corporal punishment in all settings, particularly in the domestic and school contexts. ...</b>  |
| PR?  | 49. ... However, the Committee reiterates its previous concern (CRC/C/15/Add.224, para. 43) on the high rate of adolescent pregnancies in the State party. <u>In this context, the Committee is also concerned that sex and reproductive education is not included in the education syllabus of the State party. ...</u>   |
| IL   | <b>65. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, and all core human rights instruments, including the International Convention for the Protection of All Persons from Enforced Disappearance, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.</b>   |
| <b>CRC/MLT/CO/2</b><br><b>Concluding observations on the second periodic report of Malta</b> |  |
| NL   | <b>9. The Committee urges the State party to take all necessary measures to address those recommendations in the concluding observations of the initial periodic report under the Convention that have not been implemented or sufficiently implemented, particularly those related to legislation, allocation of resources, best interests of the child, <u>corporal punishment</u>, abuse and neglect and adolescent health.</b>   |
| NL   | 36. The Committee notes as positive the Foundation for Social Welfare Services "Blue Ribbon" campaign to promote positive parenting that was launched in 2010. <u>However, the Committee regrets that, notwithstanding its previous recommendation (CRC/C/15/Add.129, para. 30) to explicitly prohibit corporal punishment, the State party continues to lack legislation explicitly prohibiting corporal punishment in all settings. The Committee is particularly concerned that corporal punishment is permitted and prevalent in the home and alternative care contexts as so-called "reasonable chastisement" under articles 229 and 339</u><br><b>37. The Committee recommends that the State party take all appropriate measures to explicitly prohibit corporal punishment in all settings and ensure that this prohibition is adequately monitored and enforced. ...</b>                                      |
| A  | 49. The Committee is concerned that unplanned adolescent pregnancies continue to be a significant problem in the State party. <u>Furthermore, the Committee is gravely concerned that abortion is illegal in all cases and with no exception under the law of the State party and that girls and women who choose to undergo abortion are subject to imprisonment. In this context, the Committee is also concerned at this frequently resulting in girls and women in these situations seeking risky illegal abortions.</u><br><b>50. Referring to its general comment No. 4 on adolescent health (CRC/GC/2003/4), the Committee recommends that the State party:</b><br>...<br><b>(b) Review its legislation concerning abortion, and consider including specific exceptions which allow for abortions with appropriate counselling and aftercare when this is in the best interests of the pregnant adolescent.</b> |
| IL   | <b>60. The Committee recommends that the State party:</b><br>...   |

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|   | <b><u>(c) Consider ratifying ILO Convention No. 189 concerning decent work for domestic workers.</u></b>  |
| IL  | <b><u>67. The Committee encourages the State party, in order to further strengthen the fulfilment of children's rights, to accede to all core human rights instruments, including ratifying the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.</u></b>  |
| <b>CRC/C/UZB/CO/3-4<br/>Concluding observations on the combined third and fourth periodic reports of Uzbekistan</b> |   |
| IL  | 7. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations (CRC/C/UZB/CO/2) that have not been implemented or sufficiently implemented, and in particular recommends that the State party:<br>...<br><b><u>(h) ...strengthen its monitoring of inter-country adoptions, in particular by ratifying and implementing the 1993 Hague Convention No. 33 on Protection of Children and Cooperation in Respect of Inter-country Adoption.</u></b>   |
|   | 26. The Committee welcomes the establishment of Children's Parliaments and notes that the right of the child to be heard is provided for in the recently enacted State party Law on the Guarantees of the Rights of the Child. <u>However, the Committee regrets that the State party's interpretation of this right "does not ensure the freedom of expression as it is understood by the International Standards" as mentioned in the State party's response to the Committee's list of issues to it (CRC/C/UZB/Q/3-4/Add.1, response to question 6 on page 9). In addition, the Committee remains concerned that the State party has legislation stating that children's freedom to have and express opinions may be limited by law. Furthermore, the Committee remains concerned that, in practice, traditional societal attitudes towards children continue to limit respect for their views, within the family, schools, other institutions and society at large.</u> |
| NL  | 40. While noting the statement regarding the prohibition of corporal punishment in all settings made by the State party during the interactive dialogue with it, the Committee is concerned that, <u>in practice, corporal punishment continues to occur frequently in the domestic context and in alternative care settings.</u><br>41. With reference to the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment, the Committee urges the State party to:<br><b><u>(a) Ensure that its legislation explicitly prohibits corporal punishment in all settings, including in the home and alternative care, and establish monitoring and reporting mechanisms to enforce such a prohibition;</u></b><br>...  |
| C<br>PR   | 56. In the light of its general comment No. 3 (2003) on HIV/AIDS and the <u>International Guidelines on HIV/AIDS and Human Rights</u> , the Committee recommends that the State party:<br><b><u>(a) Establish and implement reproductive health, including information on contraception and safe sex, as part of the mandatory school syllabus for children in addition to its current education on reproductive health;</u></b><br>...   |
| IL  | 66. The Committee urges the State party to:<br>...<br><b><u>(d) Consider ratifying ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers.</u></b>   |
| IL  | <b><u>72. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights treaties to which it is not yet a party, namely the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Convention for the Protection of All Persons from Enforced Disappearances and the International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families.</u></b>   |
| <b>Sixty-third session (27 May – 14 June 2013)</b>  |   |
| <b>CRC/C/ARM/CO/3-4<br/>Concluding observations on the combined third and fourth periodic reports of Armenia</b>    |   |
| PR  | 22. The Committee notes that the right to be heard is included in a number of laws, but is  |

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| NL   | concerned that children's views are not taken into account on a regular basis in all matters that affect them and regrets that the existing Youth Parliaments are not functioning effectively. <u>The Committee is also concerned that consent to medical intervention for children under the age of 18 is given only by the child's representative.</u>   |
| NL   | 24. The Committee ... is also concerned that although both the Family Code and the Rights of the Child Act of 1996 have provisions against corporal punishment, <u>there is a lack of enforcement mechanisms and the State party's legislation does not provide sanctions in cases of violation.</u><br>25. <b>The Committee ... recommends that the State party prohibit the use of corporal punishment in all settings and provide for enforcement mechanisms under its legislation, including appropriate sanctions in cases of violation. ...</b>  |
| IL   | <b>55. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.</b>   |
| <b>CRC/C/GNB/CO/2-4</b><br><b>Concluding observations on the combined second to fourth periodic reports of Guinea-Bissau</b> |  |
|  | 30. The Committee appreciates the establishment of the Children's Parliament. <u>However, it remains concerned that traditional attitudes towards children in society limit, and often prevent, children from expressing their views on a wide range of issues that affect them within the family, schools, institutions, judicial system and in society at large.</u>   |
| NL   | 36. The Committee notes that, although corporal punishment is prohibited in schools, <u>it remains lawful in the home and alternative care settings.</u> The Committee regrets that the State party report provides limited information on corporal punishment.<br>37. <b>Taking due note of the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee recommends that the State party:</b><br><b><u>(a) Consider enacting legislation to explicitly prohibit corporal punishment of children in all settings, including within the family and in alternative care settings;</u></b><br>...  |
| C<br>PR  | 55. In the light of its <b>general comment No. 4 (2003) on adolescent health</b> , the Committee recommends that the State party:<br><b><u>(a) Strengthen reproductive health education, including sex education for adolescents, by, inter alia, making health education part of school curricula, and improve knowledge and availability of reproductive health-care services with a view to preventing HIV/AIDS and other sexually transmitted infections (STIs) and reducing teenage pregnancies;</u></b><br><b><u>(b) Provide access to adolescent-sensitive and confidential counselling and care services, which also include access to contraceptive services;</u></b><br>...  |
| IL   | <b>70. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, namely the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Optional Protocol to the Convention on a communication procedure, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities, and the International Convention for the Protection of All Persons from Enforced Disappearance.</b> |
| <b>CRC/C/ISR/CO/2-4</b><br><b>Заключительные замечания по второму-четвертому периодическим докладам Израиля</b>              |  |
| IL   | 70. ... The Committee urges the State party to:<br><br>...<br><b><u>(f) Consider ratifying the 1961 Convention on the Reduction of Statelessness, and review nationality legislation and existing procedures to bring them in line with international standards for the prevention and reduction of statelessness.</u></b>   |
| IL   | <b>75. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify all core human rights treaties to which it is not yet a party, namely the Third Optional Protocol to the Convention on the Rights of the Child on a communication procedure, the Convention for the Protection of All Persons from</b>  |

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|   | <b><u>Enforced Disappearance as well as the Optional Protocols the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of Discrimination against Women, the Convention against Torture and the Convention on the Rights of Persons with Disabilities.</u></b>   |
| <b>CRC/C/RWA/CO/3-4<br/>Concluding observations on the third and fourth periodic reports of Rwanda</b>                            |   |
|   | 23. The Committee notes the establishment and promotion of the yearly National Children's Summit since 2004. <u>Nevertheless, the Committee is concerned that due to traditional attitudes and resistance, respect for the views of the child remains limited within the family, in schools and village councils....</u>  |
| NL  | 27. The Committee notes that Law N. 54/2011 prohibits some violent forms of punishment against children; however, the Committee is gravely concerned that:<br><u>(a) The use of corporal punishment is considered appropriate in education and is still widespread in all settings, including families and schools;</u><br>(b) The draft ministerial order on general regulation of preschool, primary and secondary education, prohibiting corporal punishment in school has not yet been adopted;<br>(c) There is an absence of legislation that explicitly prohibits corporal punishment in alternative care settings; and<br>(d) Parents have a "right of correction" under Article 347 of the 1988 Civil Code, which may lead to corporal punishment.<br><b>28. The Committee urges that the State party:</b><br>...<br><b>(c) Immediately adopt and implement the ministerial order on prohibition of corporal punishment in schools and widely publicize the order in all educational institutions;</b><br><b>(d) Explicitly prohibit corporal punishment of children in alternative care settings;</b><br><b><u>(e) Immediately repeal all provisions that authorize corporal punishment, including the "right of correction" in the Civil Code; and</u></b><br><b>(f) Ensure adequate follow-up measures to all corporal punishment.</b> |
| PR  | 47. <b>The Committee draws the State party's attention to its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, and recommends that the State party:</b><br>...<br><b>(e) Provide accessible, age appropriate and adolescent friendly health services for girls and boys, including confidential services related to sexual and reproductive health, with a focus on prevention of HIV/AIDS and STIs, and the prevention of substance abuse; ...</b>   |
| IL  | 57. ... <b>The Committee specifically recommends that the State party:</b><br>...<br><b><u>(e) Ratify ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries.</u></b>   |
| IL  | 61. <b>The Committee recommends that the State party:</b><br>...<br><b><u>(g) Ratify ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers.</u></b>   |
| IL  | 65. <b><u>The Committee encourages the State party, in order to further strengthen the fulfilment of children's rights, to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.</u></b>   |
| <b>CRC/C/SVN/CO/3-4<br/>Concluding observations on the combined third and fourth periodic reports of the Republic of Slovenia</b> |   |
| DC  | 26. The Committee <u>welcomes the enactment of the Registration of the Same-Sex Partnership Act in 2006</u> , and takes note of the information provided during the dialogue with the State party's delegation on the administrative decision of 2011 permitting same-sex couples to adopt children. The Committee, however, expresses its concern about the lack of provisions regularizing the status and rights of children in same-sex couples in the above-mentioned Act and in other legislation. The Committee is further concerned that children of same sex couples face various forms of discrimination in school <u>based on their family's sexual orientation</u> , with no appropriate redress provided.   |
| NL  | 37. <u>The Committee reiterates its previous concern on the absence of a legal prohibition of corporal punishment within the home (CRC/C/15/Add.230, para 40).</u> While welcoming the enactment of the Family Violence Protection in 2008, the Committee regrets that the Law prohibits only <i>physical</i> violence and only <i>within the family</i> . The Committee is also concerned that corporal punishment in penal institutions, although unlawful as a disciplinary measure under the  |

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|  | <p>Constitution and Criminal Code, is not explicitly prohibited. Similarly, the Committee notes with concern that although corporal punishment is unlawful in educational day care centers and residential school institutions, it is not explicitly prohibited in other forms of alternative care.</p> <p><b>38. <u>The Committee recommends that the State party explicitly prohibit in its national legislation corporal punishment in all settings including at home and amend the Criminal Code as well as the Foster Care Act. This should be undertaken with the objective of prohibiting corporal punishment in penal institutions as well as in all forms of alternative care. ...</u></b></p>  |
| IL   | <p>67. In the light of its General Comment no. 6 on the treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6), the Committee recommends that the State party:</p> <p>...</p> <p><b><u>(d) Consider acceding to the 1961 Convention on the Reduction of Statelessness.</u></b></p>  |
| IL   | <p>70. The Committee recommends that the State party:</p> <p>...</p> <p><b><u>(e) Consider ratifying International Labour Organisation Convention no. 189 (2011) concerning Decent Work for Domestic Workers; ...</u></b></p>  |
| IL   | <p>79. The Committee <u>recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, namely the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, and the Optional Protocol to the Convention on Economic, Social and Cultural Rights.</u></p>   |
| <p>Sixty-fourth session (16 September–4 October 2013)</p>  |  |
| <p><b>CRC/C/CHN/CO/3-4</b><br/><b>Concluding observations on the combined third and fourth periodic reports of China</b></p> |  |
| NL   | <p>7. Recalling its previous recommendations, the Committee recommends that the State party take all necessary measures to address those recommendations that have not been implemented or not sufficiently implemented, and urges it to:</p> <p>...</p> <p><b><u>(c) Explicitly prohibit by law corporal punishment in the family, schools, institutions and all other settings, including penal institutions.</u></b></p>  |
| IL   | <p>84. The Committee recommends that Hong Kong, China:</p> <p>...</p> <p><b><u>(c) Accede to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.</u></b></p>   |
| IL   | <p>86. The Committee urges the State party to ...</p> <p>...</p> <p><b><u>(d) Consider ratifying International Labour Organization Convention No. 189 (2011) concerning Decent Work for Domestic Workers.</u></b></p>  |
| IL   | <p>98. The Committee <u>recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, particularly the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Covenant on Civil and Political Rights, the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.</u></p>   |
| <p><b>CRC/C/KWT/CO/2</b><br/><b>Concluding observations on the second periodic report of Kuwait</b></p>                      |  |
| IL   | <p>7. The Committee welcomes the information provided by the delegation that the State party will consider withdrawing its reservations to article 21 of the Convention. The Committee is however concerned that the State party has maintained its general reservation to the Convention, which is incompatible with the object and purpose of the Convention. The Committee is also concerned that reservations to article 7 of the Convention and article 3, paragraph 5, of the Optional Protocol on the sale of children, child prostitution and child pornography have not been withdrawn.</p> <p><b><u>8. In the light of its previous recommendations (CRC/C/15/Add.96, para. 9), the Committee urges the State party to review its general reservation to the Convention and its interpretative declarations with a view to withdrawing them, in accordance with the 1993</u></b></p> |

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|   | <b>Vienna Declaration and Programme of Action. The Committee considers that cultural and religious specificities may be taken into consideration in order to develop adequate means to ensure respect for universal human rights, but they cannot jeopardize the implementation of all provisions of the Convention.</b>   |
|   | 29. ... <u>The Committee is also concerned about the persistence of a patriarchal culture and discriminatory gender stereotypes in the State party as observed by the Committee on the Elimination of Discrimination against Women in 2011 (CEDAW/C/KWT/CO/3-4, paras. 28 and 38)</u>  |
| NL  | 41. The Committee welcomes the information that corporal punishment of children is strictly prohibited in the school system and that clear instructions have been provided to all school staff in this respect. The Committee is however concerned that article 26 of Act No. 16/1960 (the Penal Code) provides for the right of a person to discipline a child, if that person is authorized by law to do so, on the condition that boundaries are maintained and the intention of the beating is directed solely towards disciplining, and that corporal punishment remains lawful in home and in alternative care settings. The Committee is further concerned that violence in schools, including the use of corporal punishment by teachers, has been increasing in all six governorates of the country.<br>42. <b>In the light of its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee urges the State party to repeal article 26 of Act No. 16/1960 and prohibit corporal punishment unequivocally in all settings as it committed to do in 2010 in the framework of the universal periodic review (A/HRC/15/15, para. 79.10). ...</b> |
| A<br>NL   | 59. ... <u>The Committee also expressed concern that abortion is allowed only when the mother's life is threatened and is criminalized in all other circumstances.</u><br>60. ... <b><u>The Committee also recommends that the State party review its legislation concerning abortion, with a view notably to guaranteeing the best interests of pregnant teenagers, and ensure by law and in practice that the views of the child always be heard and respected in abortion decisions.</u></b>  |
| IL  | 78. <b><u>The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify all core human rights treaties to which it is not yet a party, in particular the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance, as well as the optional protocols to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of Persons with Disabilities.</u></b>  |
| <b>CRC/LTU/CO/3-4</b>   |  |
| <b>Concluding observations on the combined third and fourth periodic reports of Lithuania</b> |  |
| NL  | 19. <b>The Committee draws the State party's attention to its General Comment No 14 (2013) and <u>urges the State party to amend its legislation to expressly mention the "best interests of the child" in national law and better reflect the right of the child to have his or her best interests taken as a primary consideration as established by the Convention....</u></b>  |
| NL  | 24. The Committee notes that according to the State party's information the full prohibition of corporal punishment is foreseen in the proposed draft Law on Child Protection. <u>Nevertheless, the Committee is concerned that currently corporal punishment is lawful at home and in alternative care settings. Although the current legislation prescribes avoiding any acts including physical and mental torture and other cruel behaviour at home, the Committee is concerned that such provision is not interpreted as prohibiting corporal punishment and that there is a widespread acceptance of the corporal punishment as a parenting technique.</u><br>25. <b>The Committee draws the attention of the State party to its General Comment No 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and <u>urges the State party to ensure that the new legislation prohibit the use of all forms of corporal punishment in all settings, in particular in the home and alternative care institutions and provide for enforcement mechanisms under its legislation, including appropriate sanctions in cases of violation....</u></b>                                     |
| C<br>PR   | 41. The Committee is concerned about the lack of sexual and reproductive health information and child friendly services to adolescents in the country <u>as well as the inaccessibility of contraception, confidential STI tests and treatments....</u>  |

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|  | <b><u>42. The Committee recommends that the State party introduce the mandatory subject on sexual and reproductive health in school curriculum and provide easy access to contraceptives, confidential tests and treatments to its adolescents....</u></b>  |
| IL   | <b><u>54. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, in particular the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention against Torture.</u></b>   |
| <b>CRC/C/LUX/CO/3-4</b><br><b>Concluding observations on the combined third and fourth periodic reports of Luxembourg</b>            |   |
| IL   | 10. The Committee regrets that, notwithstanding its previous recommendation (CRC/C/15/Add.250, para. 8), the State party still maintains its reservations to articles 2, 6, 7 and 15, some of which seem incompatible with the object and purpose of the Convention.<br>11. <b>The Committee reiterates its previous recommendations (CRC/C/15/Add.250, para. 9) urging the State party to consider withdrawing its reservations to the Convention.</b>   |
| IL   | <b><u>52. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, in particular the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, and the International Convention on the Rights of All Migrant Workers and Members of Their Families.</u></b>  |
| <b>CRC/C/MCO/CO/2-3</b><br><b>Concluding observations on the combined second and third periodic reports of Monaco</b>                |   |
| IL   | 8. The Committee notes that the State party has again indicated its intention to withdraw its declaration made upon ratification of the Convention and its willingness to consider withdrawing its reservation (CRC/C/15/Add.158, para. 11). However, the Committee regrets that the State party has maintained its declaration and reservation made upon ratification.<br>9. <b>The Committee urges the State party to expedite the review of its declaration and reservation with a view to withdrawing them in accordance with the Vienna Declaration and Programme of Action.</b>   |
| NL   | 28. Despite the fact that the State party's criminal law provisions prohibit different forms of violence against children, the Committee regrets that the State party continues to lack legislation explicitly prohibiting corporal punishment in all settings, including the home, institutions and all alternative care settings, as previously recommended by the Committee (CRC/C/15/Add.158, para. 27).<br>29. <b>The Committee urges the State party to introduce provisions expressly prohibiting corporal punishment in all settings, and to strengthen its efforts to promote positive, non-violent and participatory forms of child-rearing and discipline.</b> |
| IL   | <b><u>49. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, in particular the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Convention on the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities.</u></b>  |
| <b>CRC/C/STP/CO/2-4</b><br><b>Concluding observations on the combined second to fourth periodic reports of Sao Tome and Principe</b> |   |
| NL   | 7. The Committee urges the State party to take all necessary measures to address the recommendations in the concluding observations (CRC/C/15/Add.235) that have not been implemented or sufficiently implemented, and in particular, it recommends and urges the State party to:<br>...<br>(d) <b>Amend the current legislation to explicitly prohibit corporal punishment in all settings, including in the home, schools and other childcare settings, defining what constitutes ill-treatment and prohibiting such practices in all settings; ....</b>  |
| IL   | 57. The Committee urges the State party to:<br>...<br>(c) <b>Consider ratifying ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers.</b>  |

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| IL  | <p>63. The Committee <u>recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, in particular the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. The State party is also encouraged to ratify the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.</u></p> |
| <p><b>CRC/C/TUV/CO/1</b><br/><b>Concluding observations on the initial report of Tuvalu</b></p>                                 |  |
|   | <p>27. The Committee notes with appreciation the efforts by the State party to seek and incorporate the views of children and young people in the preparation of the National Strategy for Sustainable Development, the National Youth Policy for 2005-2010 and the Ministry of Health Strategic Plan (2008-2018), and the State party's initial report to the Committee. However, the Committee remains concerned that traditional customs appear to be contrary to the principle of respect for the views of the child. Children under the age of 18 years are prohibited from participating in <i>Falekaupule</i> meetings, where decisions are made with regard to education, health and other important matters affecting them.</p>   |
| NL  | <p>31. The Committee is deeply concerned that Section 29 of the Constitution stipulates that the exercise of human rights might be restricted if it is deemed divisive, unsettling or offensive to the people or threatens the values and culture of Tuvalu and that the State party has enacted the 2010 Religion Organization Restriction Act, which results in placing restrictions on the freedom of religion, leaving the registration of religious organizations at the discretion of island <i>Falekaupule</i>. The Committee is also concerned that in practice the freedom of religion is not respected in schools, as guaranteed in the legislation.</p>   |
| NL  | <p>35. The Committee is deeply concerned that the Constitution and the Penal Code allow parents and guardians to use corporal punishment to discipline children and that corporal punishment is still widely practiced in the homes and schools. The Committee is further concerned that Island Courts can authorize physical punishment as a criminal sentence.</p> <p>36. With reference to the Committee's general comment N° 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee urges the State party to:</p> <p>...</p> <p><b>(b) <u>Bring all laws, policies, and regulations in full conformity with the Convention with a view to banning corporal punishment in all schools, homes and communities;</u></b></p>  |
| IL  | <p>66. The Committee <u>recommends that, in order to further strengthen the fulfilment of children's rights, the State party ratify the treaties to which it is not yet a party, in particular the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Convention on the Rights of Persons with Disabilities and its Optional Protocol.</u></p>   |
| <p>Sixty-fifth session (13 January 2014 – 31 January 2014)</p>  |  |
| <p><b>CRC/C/COG/CO/2-4</b><br/><b>Concluding observations on the second to fourth periodic reports of Republic of Congo</b></p> |  |
| NL  | <p>33. The Committee draws the State party's attention to its general comment No. 12 (2009) on the right of the child to be heard, and recommends that it take measures to strengthen the respect for the views of the child in accordance with article 12 of the Convention. To that effect, it recalls its previous recommendation (CRC/C/COG/CO/1 par. 31) and urges the State party to:</p> <p>...</p> <p><b>(e) Institutionalize the Parliament of the Congolese Child as a regular event and ensure that it is provided with a meaningful mandate and adequate human, technical and financial resources, in order to facilitate children's effective engagement with national legislative processes on issues that affect them.</b></p>  |
| NL  | <p>40. While welcoming the prohibition of corporal punishment to discipline a child, as provided in</p>  |

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|  | Law 4-2010 on the protection of the child, the <u>Committee remains concerned that children still suffer violent corporal punishment at home and at school.</u>  |
| IL   | <b>75. The Committee urges the State party to take immediate and effective measures to eliminate the worst forms of child labour and recommends that it:</b><br>...<br><b><u>(d) Consider ratifying ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers; ...</u></b>   |
| IL   | <b>79. The Committee ... urges the State party to further strengthen its efforts to identify, prevent and combat trafficking in children for sexual and other exploitative purposes, and specifically to:</b><br>...<br><b><u>(g) Consider ratifying all international instruments related to combating human trafficking.</u></b>   |
| IL   | <b>83. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, namely the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Second Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention on the elimination of Discrimination against Women, the Optional Protocol to the Convention against torture and other cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of all Migrant Workers and members of Their Families, the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and the International Convention for the Protection of All Persons from Enforced Disappearance.</b> |
| <b>CRC/C/DEU/CO/3-4</b><br><b>Concluding observations on the combined third and fourth periodic reports of Germany</b> |  |
| NL   | 9. The Committee notes with satisfaction that most Länder have explicitly recognized children's rights in their Constitutions. <u>However, the Committee remains concerned that children's rights have not yet been explicitly recognized in the Constitutions of Hamburg and Hesse, and in the Federal Constitution (Basic Law).</u> The Committee further notes that under article 59, paragraph 2 of the Basic Law, the Convention is placed at the level of an ordinary federal law.<br><br><b>10. In light of its previous recommendations (CRC/C/15/Add.226, para. 10), the Committee urges the State party to take all the necessary measures to ensure that the Convention takes precedence over the Federal laws through its incorporation into the Basic Law or by any other procedure.</b>  |
| IL   | <b>80. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, namely the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.</b>  |
| <b>CRC/C/VAT/CO/2</b><br><b>Concluding observations on the second periodic report of the Holy See</b>                  |  |
|  | 8. ... <u>The Committee therefore reminds the Holy See that by ratifying the Convention, it has committed itself to implementing the Convention not only on the territory of the Vatican City State but also as the supreme power of the Catholic Church through individuals and institutions placed under its authority.</u>  |
| IL<br>NL<br>R  | 11. The Committee welcomes the statement of the delegation of the Holy See that a possible withdrawal of its reservations to the Convention is currently under consideration. <u>In light of its previous recommendation, the Committee reiterates its concern (CRC/C/15/Add.46 para. 10) about the Holy See's reservations to the Convention which undermine the full recognition of children as subjects of rights and condition the application of the Convention on its compatibility with the sources of law of the Vatican City State.</u><br><b>12. The Committee recommends that the Holy See undertake the necessary steps to withdraw all its reservations and to ensure the Convention's precedence over internal laws and regulations.</b>   |
| NL<br>R  | 13. While welcoming the Holy See's approach to ensuring that the legislation of the Vatican City State complies with the Convention, <u>the Committee regrets that the same approach has not been followed in relation to its internal laws, including Canon Law.</u> The Committee is also concerned that some of the rules of Canon Law are not in conformity with the provisions of the   |

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|    | <p>Convention, in particular those relating to children's rights to be protected against discrimination, violence and all forms of sexual exploitation and sexual abuse.</p> <p><b><u>14. The Committee recommends that the Holy See undertake a comprehensive review of its normative framework, in particular Canon Law, with a view to ensuring its full compliance with the Convention.</u></b></p>   |
| NL | <p><b><u>16. The Committee recommends that the Holy See establish a mechanism at a high level with the mandate and capacity to coordinate the implementation of children's rights across all pontifical councils, episcopal conferences of bishops as well as individuals and institutions of a religious nature that function under the authority of the Holy See. This mechanism should be provided with adequate human, financial and technical resources to fulfil its mandate.</u></b></p>   |
| DC | <p>25. The Committee welcomes the information provided by the Holy See during the interactive dialogue that it has initiated a review of its legislation with a view to withdrawing the discriminatory expression "illegitimate children" which can still be found in Canon Law, in particular Canon 1139. While also noting as positive the progressive statement delivered in July 2013 by Pope Francis, the Committee is concerned about the Holy See's past statements and declarations on homosexuality which contribute to the social stigmatization of and violence against lesbian, gay, bisexual, and transgender adolescents and children raised by same sex couples.</p> <p><b><u>26. The Committee recommends that the Holy See bring all its laws and regulations, as well as its policies and practices, in conformity with article 2 of the Convention and promptly abolish the discriminatory classification of children born out of wedlock as illegitimate children. The Committee also urges the Holy See to make full use of its moral authority to condemn all forms of harassment, discrimination or violence against children based on their sexual orientation or the sexual orientation of their parents and to support efforts at international level for the decriminalisation of homosexuality.</u></b></p>   |
| DC | <p>27. With reference to its previous concern on gender-based discrimination (CRC/C/15/Add.46, para. 8), the Committee regrets that the Holy See continues to place emphasis on the promotion of complementarity and equality in dignity, two concepts which differ from equality in law and practice provided for in article 2 of the Convention and are often used to justify discriminatory legislation and policies. The Committee also regrets that the Holy See did not provide precise information on the measures taken to promote equality between girls and boys and to remove gender stereotypes from Catholic schools textbooks as requested by the Committee in 1995.</p> <p><b><u>28. The Committee urges the Holy See to adopt a rights-based approach to address discrimination between girls and boys and refrain from using terminology that could challenge equality between girls and boys. The Committee also urges the Holy See to take active measures to remove from Catholic schools textbooks all gender stereotyping which may limit the development of the talents and abilities of boys and girls and undermine their educational and life opportunities.</u></b></p>  |
| NL | <p>31. The Committee is concerned that the Holy See restrictively interprets children's right to express their views in all matters affecting them, as well as their rights to freedom of expression, association and religion. The Committee is also concerned that the Holy See continues to view the rights enshrined in article 12 of the Convention as undermining the rights and duties of parents.</p> <p><b><u>32. The Committee reminds the Holy See that the right of children to freely express their views constitutes one of the most essential components of children's dignity and that ensuring this right is a legal obligation under the Convention, which leaves no leeway for the discretion of the States parties.</u></b> The Committee also underlines that a family where children can freely express their views and have them given due weight from the earliest ages provides an important model, and is a preparation for them to exercise the right to be heard in the wider society. Referring to its general comment No. 12 (2009) on the right of the child to be heard, the Committee urges the Holy See to:</p> <p>(a) Combat negative attitudes to the realization of the right of all children to be heard and promote the recognition of children as rights holders;</p> <p>...</p> <p>(c) Encourage, through legislation and policy, opportunities for parents and guardians to listen to children and give due weight to their views in matters that concern them and promote parenting education programmes, which build on existing positive behaviours and attitudes; and</p> <p>(d) Promote the active role of children in all services provided to families and children by</p> |

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|              | <p><b>Catholic church run organisations and institutions, as well as in the planning of curricula and school programmes, and ensure that in disciplinary matters, the right of the child to be heard is fully respected.</b></p>  |
| NL<br>R      | <p>39. The Committee welcomes the statement during the interactive dialogue that the delegation of the Holy See will take the proposal of banning corporal punishment of children in all settings back for consideration. However, the Committee is concerned that while corporal punishment, including ritual beatings of children, has been and remains widespread in some Catholic institutions and reached endemic levels in certain countries, as revealed notably by the Ryan Commission in Ireland, the Holy See still does not consider corporal punishment as being prohibited by the Convention and has therefore not enacted guidelines and rules clearly banning corporal punishment of children in Catholic schools, in all Catholic institutions working with and for children, as well as in the home.</p> <p><b>40. The Committee reminds the Holy See that all forms of violence against children, however light, are unacceptable and that the Convention leaves no room for any level of violence against children.</b> The Committee also reminds the Holy See of its obligation under article 19 of the Convention to take all appropriate measures to protect the child from all forms of physical or mental violence. The Committee urges the Holy See to:</p> <p><b>(a) Explicitly oppose all corporal punishment in childrearing, in the same way it opposes torture and other cruel, inhuman or degrading treatment or punishment;</b></p> <p><b>(b) Amend both Canon Law and Vatican City State laws to explicitly prohibit all corporal punishment of children, including within the family;</b></p> <p>...</p> <p><b>(d) Make use of its authority to promote positive, non-violent and participatory forms of child-rearing, and ensure that an interpretation of Scripture as not condoning corporal punishment is reflected in Church teaching and other activities and incorporated into all theological education and training.</b></p> |
|              | <p>41. The Committee is concerned about the Holy See's position that civil authorities should intervene in the family setting only in cases where a proven abuse has been committed in order not to interfere with the duties and rights of the parents. Such a position seriously undermines efforts and measures to prevent abuse and neglect of children. ...</p>  |
| NL<br>IL     | <p><b>44. The Committee ...strongly urges the Holy See to:</b></p> <p>...</p> <p><b>(d) Amend Canon Law in order for child sexual abuse to be considered as crimes and not as "delicts against the moral" and repeal all provisions which may impose an obligation of silence on the victims and on all those that become aware of such crimes;</b></p> <p>...</p> <p><b>(i) Consider ratifying the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.</b></p>  |
| NL<br>R      | <p>48. While welcoming the information provided by the delegation of the Holy See that it will proceed with a revision of family-related provisions of Canon Law in the near future, the Committee is concerned that the Holy See and Church run institutions do not recognize the existence of diverse forms of families and often discriminate children on the basis of their family situation.</p> <p><b>49. The Committee recommends that the Holy See ensure that Canon Law provisions recognise the diversity of family settings and do not discriminate children based on the type of family they live in.</b></p>   |
| A<br>NL<br>R | <p>54. The Committee expresses its deepest concern that in the case of a nine-year old girl in Brazil who underwent an emergency life-saving abortion in 2009 after having been raped by her stepfather, an Archbishop of Pernambuco sanctioned the mother of the girl as well as the doctor who performed the abortion, a sanction which was later approved by the head of the Roman Catholic Church's Congregation of Bishops.</p> <p><b>55. The Committee urges the Holy See to review its position on abortion which places obvious risks on the life and health of pregnant girls and to amend Canon 1398 relating to abortion with a view to identifying circumstances under which access to abortion services can be permitted.</b></p>  |
| C<br>R       | <p>56. The Committee is seriously concerned about the negative consequences of the Holy See's position and practices of denying adolescents' access to contraception, as well as to sexual and reproductive health and information.</p> <p><b>57. With reference to its general comments No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, No. 4 (2003) on adolescent health</b></p>   |

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|  | <p><b>and No.3 (2003) on HIV/AIDS and the rights of the child</b>, the Committee reminds the Holy See of the dangers of early and unwanted pregnancies and clandestine abortion which result notably in high maternal morbidity and mortality in adolescent girls, as well as the particular risk for adolescents girls and boys to be infected with and affected by STDs, including HIV/AIDS. The Committee recommends that the Holy See :</p> <p>(a) <u>Assess the serious implications of its position on adolescents' enjoyment of the highest attainable standard of health and overcome all the barriers and taboos surrounding adolescent sexuality that hinder their access to sexual and reproductive information, including on family planning and contraceptives</u>, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of sexually transmitted diseases (STDs);</p> <p>...</p> <p>(c) Ensure the right of adolescents to have access to adequate information essential for their health and development and for their ability to participate meaningfully in society. In this respect, <u>the Holy See should ensure that sexual and reproductive health education and prevention of HIV/AIDS is part of the mandatory curriculum of Catholic schools and targeted at adolescent girls and boys</u>, with special attention to preventing early pregnancy and sexually transmitted infections;</p> <p>...</p> |
| IL   | <p>62. The Committee recommends that the Holy See, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, namely the <u>Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Covenant on Economic, Social and Cultural Rights and the Covenant on Civil and Political Rights and their Optional Protocols as well as the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and its Optional Protocol, the Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.</u></p>   |
| <p><b>CRC/C/PRT/CO/3-4</b><br/><b>Concluding observations on the third and fourth periodic reports of Portugal</b></p> |   |
| DC   | <p>25. ... The Committee is also concerned about reported cases of discriminatory conduct and ill-treatment, as well as manifestations of racist stereotypes and prejudice towards immigrants, foreigners and ethnic and racial minorities by law enforcement officials <u>as well as discrimination against lesbian, gay, bisexual and transgender adolescents.</u></p>  |
| NL   | <p>33. While noting the revision of the Penal Code in 2007 to prohibit corporal punishment against children, including within the family, and other measures to combat this practice, such as the Raise Your Hand Against Smacking Campaign, <u>the Committee is concerned that corporal punishment continues to be practiced within the family and is widely accepted in society.</u></p> <p>34. In line with general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel and degrading forms of punishment, and general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, <u>the Committee recommends that the State party continue its efforts through awareness-raising campaigns and parenting education programmes to end the practice of corporal punishment in all settings, including in the home. ...</u></p>  |
| C<br>PR  | <p>52. Referring to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee recommends that <u>the State party increase the availability of confidential and youth-friendly health services throughout the country, enhance the availability of contraceptive services, promote sexual education targeted at adolescents, with special attention to the prevention of early pregnancies and sexually transmitted diseases, and provide disaggregated data on adolescent health education, including sexual education, in schools.</u></p>  |
| IL   | <p>64. The Committee recommends that the State party:</p> <p>...</p> <p>(e) <u>Ratify the International Labour Organization Convention No. 189 (2011) concerning Decent Work for Domestic Workers.</u></p>  |
| IL   | <p>67. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, namely, the <u>International Convention on the Protection of the Rights of All</u></p>   |

| <b>Migrant Workers and Members of Their Families.</b>   |   |
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| <b>CRC/C/RUS/CO/4-5</b><br><b>Concluding observations on the combined fourth and fifth periodic reports of the Russian Federation</b> |   |
| <b>NL</b>   | <p>18. The Committee expresses its deep concern at the 2012 Federal Law regarding the “Regulation of Activities of Non-Commercial Organizations Performing the Function of Foreign Agents”, requiring that organizations receiving financial support from sources outside the State party register and identify themselves publicly as “foreign agents,” as well as recent amendments to the Criminal Code which expanded the definition of the crime of State treason to include “providing financial, technical, advisory or other assistance to a foreign state or international organization [...] directed at harming Russia's security”, which are used also against organizations working on children’s rights.</p> <p><b>19. The Committee urges the State party to repeal its 2012 law requiring human rights organizations which receive foreign funding to register as “foreign agents” and amend the definition of the crime of treason in the Criminal Code in order to ensure that non-governmental organizations working in the area of human rights and children’s rights can operate without any undue pressure.</b></p>   |
| <b>DC<br/>NL</b>  | <p>24. The Committee is also concerned at the recent developments in the legislation of the State party prohibiting “propaganda of unconventional sexual relationship”, generally with the intent of protecting children, which however encourages stigmatization of and discrimination against LGBTI persons, including children, and children of LGBTI families. The Committee is particularly concerned that vague definitions of propaganda leads to the targeting and ongoing persecution of the country’s LGBTI community, including abuse and violence, in particular against underage LGBTI rights activists.</p> <p><b>25. The Committee recommends that the State party repeal its laws prohibiting propaganda of homosexuality and ensure that children who belong to LGBTI groups or children of LGBTI families are not subjected to any forms of discrimination by raising the awareness of the public on equality and non-discrimination based on sexual orientation and gender identity.</b></p>   |
| <b>NL</b>   | <p>26. However, the Committee is concerned that:</p> <p>...</p> <p>(c) The ongoing “anti-juvenile” campaign reportedly prioritizes the interests of parents over the interests of their children.</p> <p><b>27. The Committee draws the State party’s attention to its General Comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (CRC/C/GC/14) and recommends that the State party amend its legislation to better reflect the right established by the Convention. It also recommends that the State party strengthen its efforts to ensure that this right is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects relevant to and with an impact on children. In this regard, the State party is encouraged to develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving them due weight as a primary consideration. Such procedures and criteria should be disseminated to the public, including religious leaders, courts of law, administrative authorities and legislative bodies. Furthermore, the Committee recommends that the State party establish a constructive dialogue between pro-juvenile and anti-juvenile groups concerning the State party’s international legal obligations, while taking into account the national family traditions.</b></p> |
| <b>NL</b>   | <p>32. The Committee notes that corporal punishment is unlawful as a sentence for crime and is considered unlawful in schools and penal institutions, but regrets that it is not explicitly prohibited in those settings. The Committee is also concerned that corporal punishment remains lawful in the home and in alternative care settings.</p> <p><b>33. The Committee draws the attention of the State party to its General Comment No 8 (2008) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and urges the State party to legally prohibit the use of all forms of corporal punishment in all settings, in particular in the home and alternative care institutions and provide for enforcement mechanisms under its legislation, including appropriate sanctions in cases of violation....</b></p>  |
| <b>NL</b>   | <p>39. The Committee notes the system of financial incentives introduced in the State party in order to promote placement of children in foster families. However, the Committee is concerned that:</p> <p>...</p>  |

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|  | <p>(c) The adoption of the draft Law on independent public inspections of children's institutions has been significantly delayed;</p> <p>...</p> <p><b>40. Recalling the Guidelines for the Alternative Care of Children annexed to the United Nations General Assembly resolution 64/142 of 20 December 2009, the Committee recommends that the State party:</b></p> <p>...</p> <p><b><u>(c) Accelerate the adoption of the draft Law on independent public inspections of children's institutions and establish a rigorous system of monitoring services provided by care institutions;</u></b></p> <p>...</p>   |
| DC   | <p>55. ... The Committee is also concerned about the reports of coercive treatment of transsexual and homosexual persons, in particular children, and attempt to diagnose transsexuality as psychiatric disease <u>as well as the lack of sexual health information for LGBTI children.</u></p> <p><b>56. The Committee recommends that the State party:</b></p> <p>...</p> <p><b><u>(c) Put an end to the coercive treatment of transsexual and homosexual persons, in particular children, and to attempts to diagnose transsexuality as psychiatric disease as well as provide LGBTI children with easy access to necessary sexual health information.</u></b></p>  |
| IL   | <p><b><u>72. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Second Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention against Torture, the Optional Protocol to the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance</u></b></p>                                  |
| <p><b>CRC/C/YEM/CO/4</b><br/><b>Concluding observations on the fourth periodic report of Yemen</b></p> |  |
| NL   | <p><b>8. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the third periodic report under the Convention that have not been implemented or sufficiently implemented, particularly those related to the definition of the child, <u>corporal punishment</u>, harmful practices, education and administration of juvenile justice.</b></p>  |
| NL   | <p>43. The Committee notes that the Ministry of Education issued Decree No. 426 (2012) prohibiting corporal punishment in schools. However, it is concerned at the challenges to the effective implementation of this decree, such as the lack of adequate monitoring mechanisms, the teachers' preconceptions regarding corporal punishment as a disciplinary measure and the lack of accountability mechanisms. <u>It remains concerned that corporal punishment continues to be widely used within the family, in alternative care settings and as a sentence for a crime.</u></p> <p><b>44. The Committee urges the State party to:</b></p> <p><b><u>(a) Explicitly prohibit in its legislation all forms of corporal punishment including by adopting the draft amendments package on the rights of the child;</u></b></p> <p>...</p> |
| PR   | <p>59. The Committee ... concerned at the lack of information on measures taken to ensure adolescents' access to sexual and reproductive health education and to confidential reproductive services and information.</p> <p><b><u>60. In line with the Committee's general comment No. 4 on adolescent health and development, the Committee recommends that the State party strengthen its efforts to ensure universal access to reproductive health information and confidential services for boys and girls. ...</u></b></p>  |
| IL   | <p>76. ... The Committee also urges the State party to :</p> <p>...</p> <p><b><u>(e) Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.</u></b></p>   |
| IL   | <p>80. The Committee recommends that the State party:</p> <p>...</p> <p><b><u>(d) Consider ratifying ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers.</u></b></p>  |
| IL   | <p><b>82. The Committee urges the State party to:</b></p>  |

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|    | <p>...</p> <p><b><u>(g) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol).</u></b></p>  |
| IL | <p><b><u>87. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, namely Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the , Protection of All Persons from Enforced Disappearance.</u></b></p> |