



**OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS**



Rights of the child

Human Rights Resolution 2005/44

The Commission on Human Rights,

Emphasizing the importance of the Convention on the Rights of the Child and that its provisions and other relevant human rights instruments must constitute the standard in the promotion and protection of the rights of the child, and bearing in mind the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, and the Optional Protocol to the Convention on the involvement of children in armed conflict,

Reaffirming that the best interests of the child shall be a primary consideration in all actions concerning children,

Reaffirming also the United Nations Millennium Declaration, the Vienna Declaration and Programme of Action (A/CONF.157/23), and the outcome document of the twenty-seventh special session of the General Assembly on children entitled “A world fit for children” and the commitments contained therein,

Recalling its previous resolutions on the rights of the child, the most recent of which is resolution 2004/48 of 20 April 2004, as well as General Assembly resolution 59/261 of 23 December 2004,

Taking note with appreciation of the reports of the Secretary-General on the status of the Convention on the Rights of the Child (E/CN.4/2005/73), of the Special Rapporteur on the right to education (E/CN.4/2005/50), of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2005/78 and Corr.1 and Add.1-4), the report of the Special Representative of the Secretary-General for Children and Armed Conflict (E/CN.4/2005/77), and the progress report of the Secretary-General on the study on the question of violence against children (E/CN.4/2005/75),

Welcoming the work of the Committee on the Rights of the Child and taking note of the conclusions of the day of general discussion held on 17 September 2004 at its thirty-seventh session on implementing child rights in early childhood (see CRC/C/143, annex),

Profoundly concerned that the situation of children in many parts of the world remains critical as a result of the persistence of poverty, social inequality, inadequate social and economic conditions in an increasingly globalized economic environment, pandemics, in particular HIV/AIDS, malaria, tuberculosis, natural disasters, armed conflicts, displacement, exploitation, illiteracy, hunger, intolerance, discrimination, gender inequality, discrimination on the basis of disability and inadequate legal protection, and convinced that urgent and effective national and international action is called for,

Recognizing that environmental damage has potentially negative effects on children and their enjoyment of their lives, health and satisfactory standard of living,

Underlining the need for mainstreaming a gender perspective and recognizing the child as a rights holder in all policies and programmes relating to children,

Concerned that, in conflict situations, children continue to be victims and deliberate targets of attacks with consequences that are often irreversible for their physical and emotional integrity,

Recognizing that the family is the basic unit of society and as such should be strengthened; that it is entitled to receive comprehensive protection and support; that the primary responsibility for the protection, upbringing and development of children rests with the family; that all institutions of society should respect children's rights and secure their well-being and render appropriate assistance to parents, families, legal guardians and other caregivers so that children can grow and develop in a safe and stable environment and in an atmosphere of happiness, love and understanding, bearing in mind that in different cultural, social and political systems, various forms of family exist,

Reaffirming the interrelatedness of all human rights and the necessity of taking into account the universality, indivisibility, interdependence and interrelatedness of civil, political, economic, social and cultural rights, including the right to development, to promote and protect the rights of the child,

I. IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD AND OTHER INSTRUMENTS

1. Reaffirms that the best interests of the child shall be a primary consideration in all actions concerning children, and reaffirms also the general principles of, inter alia, non-discrimination, participation, and survival and development;

2. Urges once again the States that have not yet done so to consider signing and ratifying or acceding to the Convention on the Rights of the Child as a matter of priority and, concerned at the great number of reservations to the Convention, urges States parties to withdraw reservations incompatible with the object and purpose of the Convention and to consider reviewing other reservations with a view to withdrawing them;

3. Urges States that have not yet done so to consider signing and ratifying or acceding to the Optional Protocols to the Convention on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography;

4. Calls upon States parties to implement the Convention and its Optional Protocols fully and in accordance with the best interests of the child by, inter alia, putting in place effective national legislation and policies, and to comply in a timely manner with their reporting obligations under the Convention and the Optional Protocols thereto, in accordance with the guidelines elaborated by the Committee, as well as to take into account the recommendations made by the Committee in the implementation of the provisions of the Convention;

5. Also calls upon States parties to strengthen relevant governmental structures for children, including, where appropriate, ministers in charge of child issues and independent commissioners for the rights of the child, and ensure adequate and systematic training in the rights of the child for professional groups working with and for children;

6. Encourages all States to strengthen their national statistical capacities and, as far as possible, to use statistics disaggregated by, inter alia, age, gender and other relevant factors that may lead to disparities, including in the area of juvenile justice and on children in detention, and other statistical indicators at the national, subregional, regional and international levels to develop and assess social policies and programmes so that economic and social resources are used efficiently and effectively for the full realization of the rights of the child;

7. Calls upon all States to end impunity for perpetrators of crimes committed against children, recognizing in this regard the contribution of the establishment of the International Criminal Court as a way to prevent violations of human rights and international humanitarian law, in particular when children are victims of serious crimes, including the crime of genocide, crimes against humanity and war crimes, and to bring perpetrators of such crimes to justice, and not to grant amnesties for these crimes and to strengthen international cooperation towards the goal of ending impunity;

8. Notes the Committee's ongoing efforts to reform its working methods so as to consider reports of States parties in a timely manner;

9. Requests the Office of the United Nations High Commissioner for Human Rights, United Nations mechanisms, including human rights mechanisms, and all relevant organs of the United Nations system, to incorporate a strong child-rights perspective throughout all activities in the fulfilment of their mandates, as well as to ensure that their staff is trained in child protection matters, and calls upon States to cooperate closely with them;

II. PROTECTING AND PROMOTING THE RIGHTS OF THE CHILD AND NON-DISCRIMINATION AGAINST CHILDREN, INCLUDING CHILDREN IN PARTICULARLY DIFFICULT SITUATIONS

Non-discrimination

10. Calls upon all States to ensure that children are entitled to their civil, political, economic, social and cultural rights without discrimination of any kind;

11. Notes with concern the large number of children, particularly girls, children belonging to national, ethnic, religious and linguistic minorities, migrant children, refugee children and children of indigenous origin among the victims of racism, racial discrimination, xenophobia and related intolerance, stresses the need to incorporate special measures, in accordance with the principle of the best interests of the child and respect for his or her views, in programmes to combat these practices, and calls upon States to provide special support and ensure equal access to services for those children;

Freedom from violence

12. Requests the submission of the final report of the Secretary-General's study on the question of violence against children to the Commission;

13. Also requests all relevant human rights mechanisms, in particular special rapporteurs and working groups, within their mandates, to pay attention to the special situation of violence against children, reflecting their experience in the field;

14. Calls upon all States:

(a) To take all appropriate measures to prevent, and to protect children from, all forms of violence, including physical, mental and sexual violence, child abuse, domestic violence and neglect, and abuse by the police, other law enforcement authorities and employees and officials in detention centres or welfare institutions, including orphanages;

(b) To investigate and submit cases of torture and other forms of violence against children to the competent authorities for the purpose of prosecution and to impose appropriate disciplinary or penal sanctions against those responsible for such practices;

15. Urges States:

(a) To take measures to protect students from violence, injury or abuse, including sexual abuse and intimidation or maltreatment in schools, to establish complaint mechanisms that are age appropriate and accessible to children and to undertake thorough and prompt investigations of all acts of violence and discrimination;

(b) To take measures to eliminate the use of corporal punishment in schools;

Identity, family relations and birth registration

16. Urges all States to continue to intensify efforts in order to ensure the implementation of the right of the child, irrespective of the child's status, to birth registration, preservation of identity, including nationality, and family relations, as recognized by law;

(a) Providing, at a minimal cost, simplified, expeditious, effective procedures for birth registration;

(b) Raising awareness at the national, regional and local levels, whenever necessary, of the importance of the birth registration of all children, irrespective of their status, immediately after birth;

(c) Ensuring that a child shall not be separated from his or her parents against their will, except when consistent with the Convention on the Rights of the Child;

(d) Guaranteeing, to the extent consistent with each State's obligations, the right of a child whose parents reside in different States to maintain on a regular basis, except if it is contrary to the child's best interests, personal relations and direct contacts with both parents by providing means of access and visitation in both States and by respecting the principle that both parents have common responsibilities for the upbringing and development of their children;

(e) Where alternative care is necessary, promoting family and community-based care in preference to placement in institutions;

(f) Addressing cases of international abduction of children, bearing in mind that the best interest of the child shall be a primary consideration, and encourages States to engage in multilateral and bilateral cooperation to ensure, inter alia, the return of the child to the country where he or she resided immediately before the removal or retention and, in this

respect, to pay particular attention to cases of international abduction of children by one of their parents or other relatives;

(g) Establishing policy, legislation and effective supervision for the protection of children involved in intercountry adoption, bearing in mind the best interest of the child;

(h) Taking all necessary measures to prevent and combat illegal adoptions;

(i) Where a child is illegally deprived of some or all of the elements of his or her identity, providing appropriate assistance and protection with a view to re-establishing speedily his or her identity;

(j) Taking all appropriate measures, especially educational measures, and promoting further the responsibility of both parents in the education, development and raising of children;

17. Calls upon States to take all necessary measures to address the problem of children growing up without parents, in particular orphaned children and children who are victims of family and social violence, neglect and abuse, and recognizes the need for guidelines for the protection and alternative care of children without parental care;

Poverty

18. Calls upon States and the international community to cooperate, support and participate in the global efforts for poverty eradication at the global, regional and country levels, to intensify efforts so that all the development and poverty reduction goals, as set out in the United Nations Millennium Declaration are realized within their time framework, and reaffirms that investments in children and the realization of their rights contribute to their social and economic development, and are among the most effective ways to eradicate poverty;

Health

19. Calls upon all States:

(a) To ensure the enjoyment of the highest attainable standard of physical and mental health of all children without discrimination, to develop sustainable health systems and social services, to ensure access to such systems and services without discrimination, and to pay particular attention to adequate food and nutrition to prevent disease and malnutrition, to prenatal and post-natal health care, to special needs of adolescents, to reproductive and sexual health and to threats from substance abuse and violence;

(b) To give support and rehabilitation to children and their families affected by HIV/AIDS and to involve children and their caregivers, as well as the private sector, to ensure the effective prevention of HIV infections through correct information and access to voluntary and confidential care, reproductive health care and education, treatment and testing, including pharmaceutical products and medical technologies, affordable to all, giving due importance to the prevention of mother-to-child transmission of the virus;

Education

20. Calls upon all States:

(a) To recognize the right to education on the basis of equal opportunity by making primary education available, free and compulsory for all children, by ensuring that all children, particularly girls, children in need of special protection, children with disabilities, indigenous children, children belonging to minorities and children of different ethnic origins, have access without discrimination to education of good quality, as well as making secondary education generally available and accessible for all, in particular by the progressive introduction of free education, bearing in mind that special measures to ensure equal access, including affirmative action, contribute to achieving equal opportunity and combating exclusion;

(b) To design and implement programmes to provide social services and support to pregnant adolescents and adolescent mothers, in particular to enable them to continue and complete their education;

(c) To take all appropriate measures to prevent racism and discriminatory and xenophobic attitudes and behaviour through education, keeping in mind the important role that children play in changing these practices;

(d) To ensure that children, from an early age, benefit from education programmes, materials and activities that develop respect for human rights and reflect fully the values of peace, non-violence against oneself and others, tolerance and gender equality;

(e) To harness the rapidly evolving information and communication technologies to support education at an affordable cost, including open and distance education, while reducing inequality in access and quality;

(f) To enable children, including adolescents, to exercise their right to express their views freely, the views of the child being given due weight in accordance with age and maturity of the child;

The girl child

21. Calls upon all States to take all necessary measures, including legal reforms where appropriate:

(a) To ensure the full and equal enjoyment by girls of all human rights and fundamental freedoms, to take effective actions against violations of those rights and freedoms, and to base programmes and policies on the rights of the child, taking into account the special situation of girls;

(b) To eliminate all forms of discrimination and violence against girls, including female infanticide and prenatal sex selection, rape, sexual abuse and harmful traditional or customary practices, including female genital mutilation, son preference, marriages without free and full consent of the intending spouses, early marriages and forced sterilization, including addressing their root causes, by enacting and enforcing legislation and, where appropriate, formulating comprehensive, multidisciplinary and coordinated national plans, programmes or strategies protecting girls;

Children with disabilities

22. Calls upon all States to take necessary measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by children with disabilities in both the public and private spheres, including access to good-quality education and health care and protection from violence, abuse and neglect and to develop and, where it already exists, to enforce legislation protecting them against discrimination to ensure their dignity, promote their self-reliance and facilitate their active participation and integration in the community, taking into account the particularly difficult situation of children with disabilities living in poverty;

23. Encourages the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities to consider in its deliberations children with disabilities;

Migrant children

24. Calls upon all States to ensure, for migrant children, the enjoyment of all human rights as well as access to health care, social services and education of good quality; States should ensure that migrant children, and especially those who are unaccompanied, in particular victims of violence and exploitation, receive special protection and assistance;

Children working and/or living on the street

25. Calls upon all States to prevent violations of the rights of children working and/or living on the street, including discrimination, arbitrary detention and extrajudicial, arbitrary and summary execution, torture, all kinds of violence and exploitation, and to bring the perpetrators

to justice, to adopt and implement policies for the protection, social and psychosocial rehabilitation and reintegration of these children, and to adopt economic, social and educational strategies to address the problems of children working and/or living on the street;

Refugee and internally displaced children

26. Calls upon all States to protect refugee, asylum-seeking and internally displaced children, in particular those who are unaccompanied, who are particularly exposed to risks in connection with armed conflict and post-conflict situations, such as recruitment, sexual violence and exploitation, to pay particular attention to programmes for voluntary repatriation and, wherever possible, local integration and resettlement, to give priority to family tracing and reunification and, where appropriate, to cooperate with international humanitarian and refugee organizations;

Children alleged to have or recognized as having infringed penal law

27. Calls upon all States:

(a) In particular, States in which the death penalty has not been abolished, to comply with their obligations as assumed under relevant provisions of international human rights instruments, particularly articles 37 and 40 of the Convention on the Rights of the Child and articles 6 and 14 of the International Covenant on Civil and Political Rights, keeping in mind the safeguards guaranteeing protection of the rights of those facing the death penalty and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989, and calls upon those States to abolish by law as soon as possible the death penalty for those aged under 18 at the time of the commission of the offence;

(b) To protect children deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment;

(c) To ensure compliance with the principle that depriving children of their liberty should be used only as a measure of last resort and for the shortest appropriate time, in particular before trial, recalling the prohibition of life imprisonment without possibility of release;

(d) To ensure that, if they are arrested, detained or imprisoned, children are provided with adequate legal assistance and that they shall have the right to maintain contact with their family through correspondence and visits, save in exceptional circumstances, and that no child in detention is sentenced to forced labour, corporal punishment, or deprived of access to and provision of health-care services, hygiene and environmental sanitation, education, basic instruction and vocational training, taking into consideration the special needs of children with disabilities in detention;

Child labour

28. Calls upon all States to translate into concrete action their commitment to protect children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, and to take immediate and effective

measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency;

29. Urges all States that have not yet done so to consider ratifying and implementing the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) and the Convention concerning the Minimum Age for Employment, 1973 (No. 138) of the International Labour Organization, and calls upon States parties to these instruments to implement them fully and to comply in a timely manner with their reporting obligations;

Recovery and social reintegration

30. Encourages States to promote actions, including through bilateral and multilateral technical cooperation and financial assistance, for the social reintegration of children in difficult situations, considering, inter alia, views, skills, and capacities that these children have developed in the conditions in which they lived and, where appropriate, with their meaningful participation;

31. Encourages all States to promote actions to ensure that children affected by natural disasters are provided with access to basic social services;

III. PREVENTION AND ERADICATION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

32. Calls upon all States:

(a) To criminalize and effectively penalize all forms of sexual exploitation and sexual abuse of children, including within the family or for commercial purposes, child pornography and child prostitution, child trafficking, child sex tourism, the sale of children and their organs, and the use of the Internet for these purposes, and to take effective measures against the criminalization of children who are victims of exploitation;

(b) To take effective measures to ensure prosecution of offenders, whether local or foreign, by the competent national authorities, either in the country where the crime was committed, or in the country of which the victim is a national or a resident, or in the offender's country of origin in accordance with due process of law, and for these purposes, to afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings;

(c) To increase cooperation at all levels to prevent and dismantle networks trafficking in children;

(d) To consider ratifying or acceding to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(e) To address effectively the needs of victims of trafficking, of sale of children, of child prostitution and child pornography, including their safety and protection, physical and psychological recovery and full reintegration into their family and society and bearing in mind the best interest of the child;

(f) To combat the existence of a market that encourages such criminal practices against children and factors leading to these practices, including through the adoption and effective application of preventive and enforcement measures targeting customers or individuals who sexually exploit or sexually abuse children, as well as ensuring public awareness;

(g) To take the necessary measures to eliminate the sale of children, child prostitution and child pornography by adopting a holistic approach and addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structures, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children;

IV. PROTECTION OF CHILDREN AFFECTED BY ARMED CONFLICT

33. Reaffirms the essential role of the General Assembly, the Economic and Social Council and the Commission on Human Rights for the promotion and protection of the rights and welfare of children, including children affected by armed conflict, reaffirms the increasing role played by the Security Council in ensuring protection for children affected by armed conflict, and takes note of the importance of the debates held by the Security Council on children and armed conflict, of Council resolutions 1379 (2001) of 20 November 2001, 1460 (2003) of 30 January 2003 and 1539 (2004) of 22 April 2004, and of the undertaking by the Council to give special attention to the protection, welfare and rights of children in armed conflict when taking action aimed at maintaining peace and security, including provisions for the protection of children in the mandates of peacekeeping operations, as well as the inclusion of child protection advisers in these operations;

34. Recognizes the inclusion in the Rome Statute of the International Criminal Court, as a war crime, of crimes involving sexual violence and crimes of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts;

35. Takes note with appreciation of the Secretary-General's proposals to establish a comprehensive monitoring, reporting and compliance mechanism in order to obtain systematic, reliable and accurate information on the recruitment and use of children in armed conflict and other grave violations against children, and calls upon States to support this process;

36. Strongly condemns any recruitment and use of children in armed conflicts contrary to international law, and urges all parties to armed conflict to end such practice, and all

other violations against children, including killing or maiming, rape or other sexual violence, abduction, denial of humanitarian access, attacks against schools and hospitals and the forced displacement of children and their families;

37. Calls upon all States to pay special attention to the protection, welfare and rights of girls affected by armed conflict;

38. Calls upon States:

(a) When ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, to raise the minimum age for voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention, bearing in mind that under the Convention persons under 18 years of age are entitled to special protection, and to adopt safeguards to ensure that such recruitment is not forced or coerced;

(b) To take all feasible measures to prevent recruitment and use of children by armed groups, as distinct from the armed forces of a State, including the adoption of legal measures necessary to prohibit and criminalize such practice, and the adoption of measures to prevent re-recruitment, in particular education;

(c) To take all feasible measures, in particular educational measures, to ensure the demobilization and effective disarmament of children used in armed conflicts and to implement effective measures for their rehabilitation, physical and psychological recovery and reintegration into society, taking into account the rights and the specific needs of the girl child;

(d) To take effective preventive measures against sexual exploitation and abuse by their military and civilian peacekeepers and hold them to account;

39. Calls upon:

(a) All States and other parties to armed conflict to respect fully international humanitarian law and, in this regard, calls upon States parties to respect fully the provisions of the Geneva Conventions, of 12 August 1949, and the Additional Protocols thereto of 8 June 1977;

(b) Armed groups that are distinct from the armed forces of a State not, under any circumstances, to recruit or use in hostilities persons under the age of 18 years;

(c) All States and relevant United Nations bodies and agencies and regional organizations to integrate the rights of the child into all activities in conflict and post-conflict situations, to ensure adequate child protection training of their staff and personnel, including through the drafting and dissemination of codes of conduct addressing the issue of sexual exploitation and abuse of children, to ensure that States take effective preventive measures against sexual exploitation and abuse by their military and civilian peacekeepers and hold them to account, and to facilitate the participation of children in the development of strategies in this regard, making sure that there are opportunities for children's voices to be heard and given due weight in accordance with the age and maturity of the child;

(d) All States and relevant United Nations bodies to continue to support national and international mine action efforts, including through financial contributions, assistance to victims and social and economic reintegration, mine awareness programmes, mine clearance and child-centred rehabilitation;

V. FOLLOW-UP

40. Decides:

(a) To request the Secretary-General to ensure the provision of appropriate staff and facilities from the United Nations regular budget for the effective and expeditious performance of the functions of the Committee on the Rights of the Child, special rapporteurs and special representatives of the United Nations system in the implementation of their mandates and, where appropriate, to invite States to continue to make voluntary contributions;

(b) To request the Secretary-General to submit to the Commission at its sixty-second session a report on the rights of the child, with information on the status of the Convention on the Rights of the Child and on the problems addressed in the present resolution;

(c) To request the Special Rapporteur on the sale of children, child prostitution and child pornography to submit a report to the Commission at its sixty-second session;

(d) To continue its consideration of this question at its sixty-second session under the same agenda item.

57th meeting
19 April 2005

[Adopted by a recorded vote of 52 votes to 1. See chap. XIII, E/CN.4/2005/L.10/Add.13]