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GENERAL COMMENT No. 13 (2011)

Article 19: The right of the child to freedom from all forms of violence

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The right of the child to freedom from all forms of violence (Article 19)

Article 19

1. States Parties shall 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.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

I. Introduction

1. **Rationale:** The Committee on the Rights of the Child (hereinafter: the Committee) issues the present general comment on Article 19 of the Convention on the Rights of the Child (hereinafter: the Convention), since the extent and intensity of violence exerted on children is alarming. Therefore, measures to end violence have to be massively strengthened and expanded in order to effectively put an end to these practices which jeopardize children's development and societies' non-violent potentials for conflict resolution.
2. **Overview:** The general comment is based on the following fundamental assumptions:
 - "No violence against children is justifiable; all violence against children is preventable."¹
 - A child rights-based approach to child caregiving and protection requires a paradigm shift towards respecting and promoting the human dignity and physical and psychological integrity of children as rights-bearing individuals rather than perceiving them primarily as 'victims'.
 - The concept of *dignity* requires that every child is recognized, respected and protected as a rights holder and as a unique and valuable human being with an individual personality, distinct needs, interests and privacy.
 - The rule of law principle should apply fully to children as it does to adults.
 - Children's rights to be heard and to have their views given due weight must be respected systematically in all decision-making processes, and their empowerment and participation should be central to child caregiving and protection strategies and programmes.

¹ Report of the independent expert for the UN Study on Violence against Children (A/61/299) paragraph 1.

- The right of children to have their best interests be a primary consideration in all matters involving or affecting them has to be respected, especially when they are victims of violence as well as in all measures of prevention.

- Primary prevention, through public health, education, social services and other approaches, of all forms of violence is of paramount importance.

- The Committee recognizes the primary position of families, including extended families, in child caregiving and protection and in the prevention of violence. Nevertheless, the Committee also recognises that the majority of violence takes place in the context of families and that intervention and support are therefore required when children become the victims of hardship and distress imposed on, or generated in, families.

- The Committee is also aware of widespread and intense violence applied against children in State institutions and by State actors including schools, care centres, residential homes, police custody and justice institutions which may amount to torture and killing of children, as well as violence against children frequently used by armed groups and State military forces.

3. **Definition of violence:** For the purposes of this general comment, “violence” is understood to mean “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse” as listed in paragraph 1 of Article 19. The term ‘violence’ has been chosen here to represent all forms of harm to children as listed in paragraph 1 of Article 19, in conformity with the terminology used in the 2006 UN Study on Violence against Children, although the other terms used to describe types of harm (injury, abuse, neglect or negligent treatment, maltreatment and exploitation) carry equal weight.² As in common parlance the term ‘violence’ is often understood to mean only ‘physical’ harm and/or ‘intentional’ harm. However, the Committee emphasises most strongly that the choice of the term ‘violence’ in the present general comment must not be used in any way to minimise the impact of, and need to address, non-physical and/or non-intentional forms of harm (such as neglect and psychological maltreatment *inter alia*).

4. **States' obligations and responsibilities of family and other actors:** References to “States Parties” relate to the obligations of States Parties to assume their responsibilities towards children not only at the national level, but also at provincial and municipal levels. These special obligations are due diligence and obligation to prevent violence or violations of human rights, the obligation to protect child victims and witnesses from human rights violations, the obligation to investigate and to punish those responsible, and the obligation to provide access to redress human rights violations. Regardless of whether violence takes place, States Parties have a positive and active obligation to support and assist parents and other caregivers to secure, within their abilities and financial capacities and with respect for the evolving capacities of the child, the living conditions necessary for the child's optimal development (Art. 18 and 27). State parties, furthermore, shall ensure that persons who, within the context of their work, are responsible for the prevention of, protection from, and reaction to violence and in the justice systems are addressing the needs and respecting the rights of children.

5. **Evolution of General Comment No.13:** This general comment builds on the existing guidance provided by the Committee in its review of States Parties’ reports and the respective concluding observations, the recommendations of two days of general discussion on violence against children held in 2000 and 2001, General Comment No. 8 (2006) on The

² Translations of the Convention into other languages do not necessarily include exact equivalents of the English term ‘violence’.

right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, and references in other general comments to the topic of violence. The present general comment draws attention to the recommendations of the 2006 report of the independent expert for the United Nations (UN) Study on Violence against Children and calls on States Parties to implement these recommendations without delay. It calls attention to the detailed guidance available in the UN Guidelines for the Alternative Care of Children³. It also draws on the expertise and experience of UN agencies, governments, non-governmental organizations (NGOs), community organizations, development agencies, and children themselves in seeking to implement Article 19 in practice⁴.

6. **Article 19 in context:** The Committee recognises that:

- Article 19 is one of many provisions in the Convention directly relating to violence. The Committee also recognises the direct relevance to Article 19 of the Optional Protocol on the sale of children, child prostitution and child pornography and the Optional Protocol on the involvement of children in armed conflict. However, the Committee holds that Article 19 forms the core provision for discussions and strategies to address and eliminate all forms of violence in the context of the Convention more broadly.

- Article 19 is strongly linked to a broad range of provisions in the Convention beyond those relating directly to violence. In addition to the articles containing the rights identified as principles of the Convention (see Section V of the present general comment), implementation of Article 19 must be situated in the context of Articles 5, 9, 18 and 27.

- Children's rights to respect for their human dignity, physical and psychological integrity and to equal protection under the law are also recognised in other international and regional human rights instruments.

- Implementation of Article 19 requires cooperation within and between national, regional and international human rights bodies, mechanisms and UN agencies.

- Cooperation in particular is needed with the Special Representative of the Secretary-General on Violence against Children who has the mandate to promote the implementation of the recommendations of the UN Study on Violence against Children in close collaboration with member states and a wide range of partners, including UN agencies and organizations, civil society organizations and children in order to safeguard the child's right to freedom of all forms of violence.

7. **Dissemination:** The Committee recommends that States Parties widely disseminate the present general comment within government and administrative structures, to parents, other caregivers, children, professional organizations, communities and civil society at large. All channels of dissemination, including printmedia, the internet and children's own communication means, should be used. This will necessitate translating it into relevant languages, including sign languages, Braille and easy to read formats for children with disabilities. It also requires making culturally appropriate and child-friendly versions available, holding workshops and seminars, implementing age and disability-specific support to discuss its implications and how best to implement it, and incorporating it into the training of all professionals working for and with children.

8. **Reporting requirements under the Convention:** The Committee refers States Parties to the reporting requirements outlined in the Treaty Specific Reporting Guidelines (2010), in General Comment No.8 (para. 53), and in the Concluding Observations of the Committee adopted following the dialogues with representatives of States Parties. The

³ Resolution adopted by the General Assembly (A/RES/64/142), 24 February 2010.

⁴ See the Guidelines on Justice for Child Victims and Witnesses of Crime (ECOSOC Resolution 2005/20).

current General Comment consolidates and specifies the measures on which State Parties are expected to give information in the reports to be submitted under Article 44 of the Convention. The Committee also recommends that States Parties include information on progress made towards implementing the recommendations of the UN Study on Violence Against Children (see UN Report, para. 116). Reporting should comprise laws and other regulations taken to prohibit violence and to intervene appropriately when violence occurs and also measures for the prevention of violence, awareness-raising activities and promotion of positive, non-violent relationships. In the reports it should be furthermore specified, who has responsibility for the child and family at each stage of intervention (including prevention), what those responsibilities are, at what stage and under what circumstances professionals can intervene and how different sectors work together.

9. **Additional sources of information:** The Committee also encourages UN agencies, national human rights institutions, NGOs and other competent bodies to provide it with relevant information on the legal status and prevalence of all forms of violence and progress towards their elimination.

II. Objectives

10. **Objectives:** The present general comment seeks to:

- guide States Parties in understanding their obligations under Article 19 of the Convention to prohibit, prevent and respond to all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation of children, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child, including State actors;

- outline the legislative, judicial, administrative, social and educational measures that States Parties must take;

- overcome isolated, fragmented and reactive initiatives to address child caregiving and protection, which have had limited impact on the prevention and elimination of all forms of violence;

- promote a holistic approach to implementing Article 19 based on the Convention's overall perspective on securing children's rights to survival, dignity, well-being, health, development, participation and non-discrimination – the fulfilment of which are threatened by violence;

provide States Parties and other stakeholders with a basis on which to develop a coordinating framework for eliminating violence through comprehensive child rights-based caregiving and protection measures;

- highlight the need for all States Parties to move quickly to fulfil their obligations under Article 19.

III. Violence in children's lives

11. **Challenges:** The Committee acknowledges and welcomes the numerous initiatives developed by governments and others to prevent and respond to violence against children. In spite of these efforts, existing initiatives are in general insufficient. Legal frameworks in a majority of states still fail to prohibit all forms of violence against children, and where laws are in place, their enforcement is often inadequate. Widespread social and cultural attitudes and practices condone violence. The impact of measures taken is limited by lack of knowledge, data and understanding of violence against children and its root causes, by

reactive efforts focusing on symptoms and consequences rather than causes, and by strategies which are fragmented rather than integrated. Resources allocated to address the problem are inadequate.

12. **The human rights imperative:** Addressing and eliminating the widespread prevalence and incidence of violence against children is an obligation of States Parties under the Convention. Securing and promoting children's fundamental rights to respect for their human dignity and physical and psychological integrity, through the prevention of all forms of violence, is essential for promoting the full set of child rights in the Convention. All other arguments presented here reinforce but do not replace this human rights imperative. Strategies and systems to prevent and respond to violence must therefore adopt a child rights rather than a welfare approach. (See paragraph 49 for more details).

13. **Societal development and children's contribution:** A respectful, supportive childrearing environment free from violence supports the realisation of children's individual personalities and fosters the development of social, responsible and actively contributing citizens in the local community and larger society. Research shows that children who have not experienced violence and who develop in a healthy manner are less likely to act violently, both in childhood and when they become adults. Preventing violence in one generation reduces its likelihood in the next. Implementation of Article 19 is therefore a key strategy for reducing and preventing all forms of violence in societies and for promoting "social progress and better standards of life" and "freedom, justice and peace in the world" for the "human family" in which children have a place and a value equal to that of adults (Convention preamble).

14. **Survival and development – the devastating impact of violence against children:** Children's survival and their "physical, mental, spiritual, moral and social development" (Article 27, 1) are severely negatively impacted by violence.

a) The short and long-term health consequences of violence against children and child maltreatment are widely recognized. They include: fatal injury; non-fatal injury (possibly leading to disability); physical health problems (including failure to thrive, later lung, heart and liver disease and sexually transmitted infections); cognitive impairment (including impaired school and work performance); psychological and emotional consequences (such as feelings of rejection and abandonment, impaired attachment, trauma, fear, anxiety, insecurity and shattered self-esteem); mental health problems (such as anxiety and depressive disorders, hallucinations, memory disturbances and suicide attempts); health-risk behaviours (such as substance abuse and early initiation of sexual behaviour).

b) Developmental and behavioural consequences (such as school non-attendance and aggressive, anti-social, self-destructive and inter-personal destructive behaviours) can lead, inter alia, to deterioration of relationships, exclusion from school and coming into conflict with the law). There is evidence that exposure to violence increases a child's risk of further victimisation and an accumulation of violent experiences, including later intimate partner violence⁵.

c) The impact on children, in particular adolescents, of high-handed or "zero tolerance" State policies in response to child violence is highly destructive as it is a punitive approach victimizing children by reacting to violence with more violence. Such policies are often shaped by public concerns over citizens security and by the high profile given to these issues by mass media. State policies on public security have to carefully consider the root causes of children's offences in order to provide a way out of a vicious circle of retaliating violence with violence.

⁵ See also the World Report of the United Nations Study on Violence against Children, page 63.

15. **The cost of violence against children:** The human, social, and economic costs of denying children's rights to protection are enormous and unacceptable. Direct costs may include medical care, legal and social welfare services and alternative care. Indirect costs may include possible lasting injury or disability, psychological costs or other impacts on a victim's quality of life, disruption or discontinuation of education and productivity losses in the future life of the child. They also include costs associated with the criminal justice system as a result of crimes committed by children who have experienced violence. The social costs arising from a demographic imbalance due to discriminatory elimination of girls before birth are high and have potential implications for increased violence against girls including abduction, early and forced marriage, trafficking for sexual purposes and sexual violence.

IV. Legal analysis of Article 19

Paragraph 1 of Article 19

(a) 'all forms of ...':

16. No exceptions: The Committee has consistently maintained the position that *all* forms of violence against children, however light, are unacceptable. "All forms of physical or mental violence" does not leave room for any level of legalized violence against children. Frequency, severity of harm and intent to harm are not prerequisites for the definitions of violence. States Parties may refer to such factors in intervention strategies in order to allow proportional responses in the best interests of the child, but definitions must in no way erode the child's absolute right to human dignity and physical and psychological integrity by describing some forms of violence as legally and/or socially acceptable.

17. The need for child rights-based definitions: States Parties need to establish national standards for child well-being, health and development as securing these conditions is the ultimate goal of child caregiving and protection. Clear operational legal definitions are required of the different forms of violence outlined in Article 19 in order to ban all forms of violence in all settings. These definitions must take into account the guidance provided in the present general comment and have to be sufficiently clear to be usable and should be applicable in different societies and cultures. Efforts to standardise definitions internationally (in order to facilitate data collection and cross-country exchange of experiences) should be encouraged.

18. Forms of violence - overview: The following non-exhaustive lists outlining forms of violence apply to all children in all settings and in transit between settings. Children can experience violence at the hands of adults, and violence may also occur among children. Furthermore, some children harm themselves. The Committee recognises that forms of violence often co-occur and that they can span the categories used here for convenience. Both girls and boys are at risk of all forms of violence, but violence often has a gender component. For example, girls may experience more sexual violence at home than boys whereas boys may be more likely to encounter – and experience violence within – the criminal justice system. (See also paragraph 61(b) on the gender dimensions of violence).

19. Neglect or negligent treatment: Neglect means the failure to meet children's physical and psychological needs, protect them from danger, or obtain medical, birth registration or other services when those responsible for children's care have the means, knowledge and access to services to do so. It includes:

- physical neglect: failure to protect a child from harm⁶, including through lack of supervision, or failure to provide the child with basic necessities including adequate food, shelter, clothing and basic medical care;
- psychological or emotional neglect: including lack of any emotional support and love, chronic inattention to the child, caregivers being ‘psychologically unavailable’ by overlooking young children’s cues and signals, and exposure to intimate partner violence, drug or alcohol abuse;
- neglect of children’s physical or mental health: withholding essential medical care;
- educational neglect: failure to comply with laws requiring caregivers to secure their children’s education through attendance at school or otherwise; and
- abandonment: a practice which is of great concern and which can disproportionately affect, amongst others, children out of wedlock and children with disabilities in some societies⁷.

20. *Mental violence*: ‘Mental violence’, as referred to in the Convention, is often described as psychological maltreatment, mental abuse, verbal abuse and emotional abuse or neglect and this can include:

- all forms of persistent harmful interactions with the child, for example, conveying to children that they are worthless, unloved, unwanted, endangered, or only of value in meeting another’s needs;
- scaring, terrorizing and threatening; exploiting and corrupting; spurning and rejecting; isolating, ignoring and favouritism;
- denying emotional responsiveness; neglecting mental health, medical and educational needs;
- insults, name-calling, humiliation, belittling, ridiculing and hurting a child’s feelings;
- exposure to domestic violence;
- placement in solitary confinement, isolation or humiliating or degrading conditions of detention; and
- psychological bullying and hazing⁸ by adults or other children, including via information and communication technologies such as mobile phones and the Internet (known as ‘cyber bullying’).

21. *Physical violence*: This includes fatal and non-fatal physical violence. The Committee is of the opinion that “physical and mental violence” includes:

- all corporal punishment and all other forms of torture, cruel, inhuman or degrading treatment or punishment; and

⁶ States Parties are also obliged to support caregivers to prevent accidents (Art. 19 and Art. 24.2 (e)).

⁷ In many countries children are abandoned because parents and caregivers living in poverty do not have the means to support them. According to the definition, neglect is a failure of care when parents have the means to meet their children's needs. The Committee has often urged State Parties to "render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities" (Art. 18 of the Convention).

⁸ Hazing means rituals and other activities involving harassment, violence or humiliation which are used as a way of initiating a person into a group.

- physical bullying and hazing by adults and by other children.

Children with disabilities may be subject to particular forms of physical violence such as:

- forced sterilisation, particularly girls;
- violence in the guise of treatment (for example electroconvulsive treatment (ECT) and electric shocks used as ‘aversion treatment’ to control children’s behaviour); and
- deliberate infliction of disabilities on children for the purpose of exploiting them for begging in the streets or elsewhere.

22. *Corporal punishment*: In General Comment no. 8 the Committee defined “corporal” or “physical” punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting (“smacking”, “slapping”, “spanking”) children, with the hand or with an implement - a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, caning, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion. In the view of the Committee, corporal punishment is invariably degrading. Other specific forms of corporal punishment are listed in the Report of the United Nations Study on Violence against Children (paragraphs 56, 60 and 62).

23. *Sexual abuse and exploitation*: Sexual abuse and exploitation includes:

- the inducement or coercion of a child to engage in any unlawful or psychologically harmful sexual activity;⁹

- the use of children in commercial sexual exploitation; and
- the use of children in audio or visual images of child sexual abuse.

Sexual abuse includes child prostitution, sexual slavery, sexual exploitation in travel and tourism, trafficking (within and between countries) and sale of children for sexual purposes and forced marriage. Many children experience sexual victimisation which is not accompanied by physical force or restraint but which is nonetheless psychologically intrusive, exploitive and traumatic.

24. *Torture and inhuman or degrading treatment or punishment*: This includes violence in all its forms against children in order to extract a confession, to extra-judicially punish children for unlawful or unwanted behaviours, or to force children to engage in activities against their will, typically applied by police and law-enforcing officers, staff of residential and other institutions and persons who have power over children, including non-state armed actors. Victims are often children who are marginalized, disadvantaged and discriminated against and who lack the protection of adults responsible for defending their rights and best interests. This includes children in conflict with the law, children in street situations, minorities and indigenous children, and unaccompanied children. The brutality of such acts often results in lifelong physical and psychological harm and social stress.

25. *Violence among children*: This includes physical, psychological and sexual violence, often by bullying, exerted by children against other children, frequently by groups of

⁹ Sexual abuse comprises any sexual activities imposed by an adult on a child, against which the child is entitled to protection by criminal law. Sexual activities are also considered as abuse, when committed to a child by another child, if the child offender is significantly older than the child victim or uses power, threat or other means of pressure. Sexual activities between children are not considered as sexual abuse, if the children are older than the age limit defined by the State Party for consensual sexual activities.

children, which not only harms a child's physical and psychological integrity and well-being in the immediate term, but often has severe impact on his or her development, education and social integration in the medium and long term. Also violence by youth gangs takes a severe toll on children, whether as victims or as participants. Although children are the actors, the role of adults responsible for these children is crucial in all attempts to appropriately react and prevent such violence ensuring that measures do not exacerbate violence by a punitive approach and using violence against violence.

26. *Self-harm*: This includes eating disorders, substance use and abuse, self-inflicted injuries, suicidal thoughts, suicide attempts and actual suicide. Suicide is a particular concern among adolescents.

27. *Harmful practices*: These include, but are not limited to:

- corporal punishment and other cruel or degrading forms of punishment;
- female genital mutilation;
- amputations, binding, scarring, burning and branding;
- violent and degrading initiation rites; force-feeding of girls; fattening; virginity testing (inspecting girls' genitalia);
- forced marriage and early marriage;
- so-called 'honour' crimes; 'retribution' acts of violence (where disputes between different groups are taken out on children of the parties involved); dowry-related death and violence;
- accusations of 'witchcraft' and related harmful practices such as 'exorcism';
- uvulectomy and teeth extraction.

28. *Violence in the mass media*: Mass media, especially tabloids and yellow press, tend to use shocking occurrences and as a result create a biased and stereotyped image of children, in particular of disadvantaged children or adolescents, who are often portrayed as violent or delinquent just because they may behave or dress in a different way. Such stirred up stereotypes pave the way for state policies based on a punitive approach, which may include violence as a reaction to assumed or factual misdemeanours of children and young persons.

29. *Violence through information and communication technologies (ICT)*¹⁰: Child protection risks in relation to ICT comprise the following overlapping areas:

- (i) Sexual abuse of children to produce both visual and audio child abuse images facilitated by the Internet and other ICT;
- (ii) The process of taking, making, permitting to take, distributing, showing, possessing or advertising indecent photographs or pseudophotographs ('morphing') and videos of children and those making a mockery of an individual child or categories of children.
- (iii) Children as users of ICT:

¹⁰ Information technologies such as the Internet and mobile phones have great potential as positive tools to help keep children safe and as a way to report suspected or actual violence or maltreatment. A protective environment needs to be created through regulation and monitoring of information technologies including empowering children to safely use these technologies.

As recipients of information, children may be exposed to actually or potentially harmful adverts, spam, sponsorship, personal information and content which is aggressive, violent, hateful, biased, racist, pornographic¹¹, unwelcome and/or misleading.

As children in contact with others through ICT, children may be bullied, harassed or stalked (child ‘luring’) and/or coerced, tricked or persuaded into meeting strangers off-line, being ‘groomed’ for involvement in sexual activities and/or providing personal information.

As actors, children may become involved in bullying or harassing others, playing games that negatively influence their psychological development, creating and uploading inappropriate sexual material, providing misleading information or advice, and/or illegal downloading, hacking, gambling, financial scams and/or terrorism.¹²

30. Institutional and system violations of child rights: Authorities at all levels of the State responsible for the protection of children from all forms of violence may directly and indirectly cause harm by lacking effective means of implementation of obligations under the Convention. Such omissions include absence of adoption or revision of legislation and other provisions, inadequate implementation of laws and other regulations and insufficient provision of material, technical and human resources and capacities to identify, prevent and react to violence against children. It is also an omission when measures and programmes are not equipped with sufficient means to assess, monitor and evaluate progress or shortcomings of the activities to end violence against children. Also in the commission of certain acts, professionals may abuse children's right to freedom from violence, for example, when they execute their responsibilities in a way that disregards the best interests, the views and the developmental objectives of the child.

(b) “while in the care of...”

31. Definition of ‘caregivers’: The Committee considers that, whilst respecting the evolving capacities and progressive autonomy of the child, all human beings below the age of eighteen years are nonetheless either “in the care of” someone or they *should be* “in the care of” someone. There are only three conditions for children: emancipated¹³, in the care of primary or proxy caregivers, or in the *de facto* care of the State. The definition of ‘caregivers’, referred to in Article 19 as “parent(s), legal guardian(s) or any other person who has the care of the child”, covers those with clear, recognized legal, professional-ethical and/or cultural responsibility for the safety, health, development and well-being of the child, primarily: parents, foster parents, adoptive parents, caregivers in *kafalah* of Islamic law, guardians, extended family and community members; education, school and early childhood personnel; child caregivers employed by parents; recreational and sports coaches – including youth group supervisors; workplace employers or supervisors; and institutional personnel (governmental or non-governmental) in the position of caregivers -

¹¹ Exposure to pornography can lead to an increase in child-on-child sexual abuse as children exposed to pornography “try out” what they have seen in practice with younger children or those over whom they have easy access and control.

¹² Adapted from a table developed by the EUKids Online project, cited in *AUPs in context: Establishing safe and responsible online behaviours*, 2009, p.6. See also the Rio Declaration and Plan of Action: <http://iicongressomundial.net/congresso/arquivos/Rio%20Declaration%20and%20Call%20for%20Action%20-%20FINAL%20Version.pdf>.

¹³ In line with the Committee’s previous recommendation to States Parties to increase the age for marriage to 18 years for both girls and boys (General Comment No.4, paragraph 20), and given their specific vulnerability to maltreatment, the Committee considers that Article 19 applies also to under-18s who have attained majority or emancipation through early marriage and/or forced marriage.

for example responsible adults in health care, juvenile justice and drop-in and residential care settings. In the case of unaccompanied children, the State is the de facto caregiver.

32. Definition of care settings: Care settings are places where children spend time under the supervision of their ‘permanent’ primary caregiver (such as a parent or guardian) or a proxy or ‘temporary’ caregiver (such as a teacher or youth group leader) for periods of time which are short-term, long-term, repeated or once only. Children will often pass between caregiving settings with great frequency and flexibility but their safety in transit between these settings is still the responsibility of the ‘primary’ caregiver – either directly, or via coordination and cooperation with a ‘proxy’ caregiver (for example to and from school or when fetching water, fuel, food or fodder for animals). Children are also considered to be “in the care of” a primary or proxy caregiver whilst they are physically unsupervised within a care setting, for example whilst playing out of sight or surfing the Internet unsupervised. Usual care settings include family homes, schools and other educational institutions, early childhood care settings, after-school care centres, leisure, sports, cultural and recreational facilities, religious institutions and places of worship. In medical, rehabilitative and care facilities, at the workplace and in justice settings children are in the custody of professionals or State actors, who have to observe the best interests of the child and ensure his or her rights to protection, well-being and development. A third type of setting, in which children's protection, well-being and development also have to be secured, are neighbourhoods, communities and camps or settlements for refugees and people displaced by conflict and/or natural disasters.¹⁴

33. Children without obvious primary or proxy caregivers: Article 19 also applies to children without a primary or proxy caregiver or another person who is entrusted with the protection and well-being of the child as, for instance, children in child-headed households, children in street situations, children of migrating parents or unaccompanied children outside their country of origin¹⁵. The State Party is obliged to take responsibility as the de facto caregiver or the one “who has the care of the child”, even if these children are not within the context of physical care settings such as foster homes, group homes or NGO facilities. The State Party is under the obligation “to ensure the child such protection and care as is necessary for his or her well-being” (Article 3.2) and to “ensure alternative care” to “a child temporarily or permanently deprived of his or her family environment” (Article 20). There are different ways to guarantee the rights of these children, preferably in family-like care arrangements, which have to be carefully examined with respect to the risk of these children being exposed to violence.

34. Perpetrators of violence: Children may be subjected to violence by primary or proxy caregivers and/or by others from whom their caregiver does not protect them (for example neighbours, peers and strangers). Furthermore children are at risk of being exposed to violence in many settings where professionals and State actors have often misused their power over children, such as schools, residential homes, police stations or justice institutions. All of these conditions fall under the scope of Article 19, which is *not* limited to violence perpetrated solely by caregivers in a personal context.

¹⁴ The UN Study on violence describes settings in which violence against children occurs; see also the detailed guidance available in the UN Guidelines for the Alternative Care of Children, (A/RES/64/142), 24 February 2010.

¹⁵ As defined in the Committee's General Comment No. 6, para. 7.

(c) “shall take ...”

35. “Shall take”: “Shall take” is a term which leaves no leeway for the discretion of States Parties. Accordingly, States Parties are under strict obligation to undertake “all appropriate measures” to fully implement this right for all children.

(d) “all appropriate legislative, administrative, social and educational measures”

36. General measures of implementation and monitoring: The Committee draws the attention of States Parties to General Comment No. 5 on General measures of implementation of the Convention on the Rights of the Child (Arts. 4, 42 and 44, para. 6).¹⁶ The Committee also refers States Parties to General Comment No. 2 on The role of independent national human rights institutions. These measures of implementation and monitoring are essential to bring Article 19 into reality.

37. “All appropriate...measures”: The term “appropriate” refers to the broad range of measures cutting across all sectors of government, which have to be used and be effective in order to prevent and respond to all forms of violence. “Appropriate” *cannot* be interpreted to mean acceptance of some forms of violence. An integrated, cohesive, interdisciplinary and coordinated system is required, which incorporates the full range of measures identified in paragraph 1 of Article 19 across the full range of interventions listed in its paragraph 2. Isolated programmes and activities which are not integrated into sustainable and coordinated government policy and infrastructures will have limited effects. Child participation is essential in the development, monitoring and evaluation of the measures outlined here.

38. Legislative measures refer to both legislation, including the budget, and the implementing and enforcing measures. They comprise national, provincial and municipal laws and all relevant regulations, which define frameworks, systems, mechanisms and the roles and responsibilities of concerned agencies and competent officers.

State parties that have not yet done so have to:

- ratify the Convention’s two Optional Protocols 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;
- review and withdraw declarations and reservations contrary to the object and purpose of the Convention or otherwise contrary to international law;
- strengthen cooperation with treaty bodies and other human rights mechanisms;
- 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

¹⁶ See in particular General Comment No. 5 paragraphs 9 (range of measures required), 13 and 15 (regarding withdrawal and eligibility of reservations), and 66 and 67 (dissemination of the Convention).

violence against children in all settings and effective and appropriate sanctions against perpetrators¹⁷;

- provide adequate budget allocations for the implementation of legislation and all other measures adopted to end violence against children;
- ensure the protection of child victims and witnesses and effective access to redress and reparation;
- ensure that relevant legislation provide adequate protection of children in relation to media and information and communication technologies (ICT);
- establish and implement social programmes to promote optimal positive childrearing by providing necessary support for the child and for those who have the care of the child through integrated services;
- enforce law and judicial procedures in a child-friendly way including remedies available to children when rights are violated;
- establish and support an independent national institution of children's rights.

39. Administrative measures should reflect governmental obligations to establish policies, programmes, monitoring and oversight systems required to protect the child from all forms of violence. These include:

(i) *at the national and sub-national government levels:*

- establishing a government focal point to coordinate child protection strategies and services;
- defining the roles, responsibilities and relationships between stakeholders on inter-agency steering committees with a view to their effectively managing, monitoring and holding accountable the implementing bodies at national and sub-national levels;
- ensuring that the process of decentralising services safeguards their quality, accountability and equitable distribution;
- implementing systematic and transparent budgeting processes in order to make the best use of allocated resources for child protection, including prevention;
- establishing a comprehensive and reliable national data collection system in order to ensure systematic monitoring and evaluation of systems (impact analyses), services, programmes and outcomes based on indicators aligned with universal standards, and adjusted for and guided by locally established goals and objectives;
- providing support to independent national human rights institutions and promoting the establishment of specific child rights mandates such as Child Rights Ombudsmen where these do not yet exist.¹⁸

(ii) *at the levels of governmental, professional and civil society institutions:*

- developing and implementing (through participatory processes which encourage ownership and sustainability):
- intra- and inter-agency child protection policies;

¹⁷ In the context of “sanctions”, the term “perpetrators” excludes children who harm themselves. The treatment of children who harm other children has to be educational and therapeutic.

¹⁸ See General Comment No.2, in particular paragraphs 1, 2, 4 and 19.

- professional ethics codes, protocols, memoranda of understanding and standards of care for all childcare services and settings (including day care centres, schools, hospitals, sport clubs and residential institutions etc.)
- involving academic teaching and training institutions with regard to child protection initiatives; and
- promoting good research programmes.

40. Social measures should reflect governmental commitment to fulfilling child protection rights and provide for basic and targeted services. They can be initiated and implemented by both state and civil society actors under the responsibility of the state. Such measures include:

(i) *Social policy measures to reduce risk and prevent violence against children, for example:*

- Integration of child caregiving and protection measures into mainstream systems of social policy ;
- Identification and prevention of factors and circumstances which hinder vulnerable groups' access to services and full enjoyment of their rights (including indigenous and minority children and children with disabilities amongst others);
- Poverty reduction strategies including financial and social support to families at risk;
- Public health and safety, housing, employment and education policies;
- Improved access to health, social welfare and justice services;
- 'Child-friendly cities' planning;
- Reduced demand for and access to alcohol, illegal drugs and weapons;
- Collaboration with the mass media and information and communication technologies industry to devise, promote and enforce global standards for child caregiving and protection;
- Development of guidelines for protecting children from information and material produced by mass media disrespecting the human dignity and integrity of the child, abolishing stigmatising language, refraining from re-victimizing reports on events in family or elsewhere affecting a child and promoting professional ways of investigations based on use of diverse sources which can be examined by all parties involved;
- Opportunities for children to express their view and expectations in the media and be engaged not only in children's programmes, but also involved in the production and transmission of all kinds of information, including as reporters, analysts and commentators in order to support an adequate image of children and childhood in the public.

(ii) *Social programmes to support the child individually and to support the child's family and other caregivers to provide optimal positive childrearing, for example:*

- For children: childcare, early child development and after-school care programmes for children; child and youth groups and clubs; counselling support to children experiencing difficulties (including self-harm); 24-hour toll-free child helplines with trained personnel; foster family services which are subject to periodic review;
- For families and other caregivers: community-based mutual help groups to address psychosocial and economic challenges (for example parenting and micro-credit groups); welfare programmes to support families' standard of living including direct allowances to children at a certain age; counselling support to caregivers having difficulties

with employment, housing and/or childrearing; therapeutic programmes to assist caregivers with domestic violence, addictions to alcohol or drugs or with other mental health needs (including mutual help groups).

41. Educational measures should address attitudes, traditions, customs and behavioural practices which condone and promote violence against children. They should encourage open discussion about violence, including the engagement of media and civil society. They should support children's life skills, knowledge and participation and enhance the capacities of caregivers and professionals in contact with children. They can be initiated and implemented by both State and civil society actors under the responsibility of the state. Specific examples include, but are not limited to:

(i) *For all stakeholders*: public information programmes, including awareness campaigns, via opinion leaders and the media, to promote positive childrearing and to combat negative societal attitudes and practices which condone or encourage violence; dissemination of the Convention, the present general comment and States Parties reports in child friendly and accessible formats; supporting measures to educate and advise about protection in the context of information and communication technologies;

(ii) *For children*: provision of accurate, accessible and age-appropriate information and empowerment on life skills, self-protection and specific risks, including those relating to information and communication technologies and how to develop positive peer relationships and combat bullying; empowerment regarding child rights in general - and in particular on the right to be heard and to have their views taken seriously - through the school curriculum and in other ways;

(iii) *For families and communities*: education on positive childrearing for parents and caregivers; provision of accurate and accessible information on specific risks and how to listen to children and take their views seriously;

(iv) *For professionals and institutions (government and civil society)*:

- Initial and in-service general and role-specific training (including inter-sectoral where necessary) on a child rights approach to Article 19 and its application in practice, for all professionals and non-professionals working with, and for, children (including teachers at all levels of the educational system, social workers, medical doctors, nurses and other health professionals, psychologists, lawyers, judges, police, probation and prison officers, journalists, community workers, residential caregivers, civil servants and public officials, asylum officers and traditional and religious leaders);

- Developing officially recognised certification schemes in association with educational and training institutions and professional societies in order to regulate and acknowledge such training;

- Ensuring that the Convention is part of the educational curriculum of all professionals expected to work with and for children;

- Supporting "child-friendly schools" and other initiatives which include, *inter alia*, respect for children's participation;

- Promoting research into child caregiving and protection.

Paragraph 2 of Article 19

a) “such protective measures should, as appropriate, include...”

42. Range of interventions: An holistic child protection system requires provision of comprehensive and integrated measures across the full range of stages identified in paragraph 2 of Article 19, taking account of the socio-cultural traditions and legal system of the respective State Party.¹⁹

43. Prevention: The Committee emphasises in the strongest terms that child protection must begin with proactive prevention of all forms of violence as well as explicitly prohibiting all forms of violence. States have the obligation to adopt all measures necessary to ensure that adults responsible for the care, guidance and upbringing of children will respect and protect children's rights. Prevention includes public health and other measures to positively promote respectful childrearing, free from violence, for *all* children, and to target the root causes of violence at the levels of the child, family, perpetrator, community, institution and society. Emphasis on general (primary) and targeted (secondary) prevention must remain paramount at all times in the development and implementation of child protection systems. Preventive measures offer the greatest return in the long-term. However, commitment to prevention does not lessen States' obligations to respond effectively to violence when it occurs.

Prevention measures include, but are not limited to:

(i) *For all stakeholders:*

- challenging attitudes which perpetuate tolerance and condoning of violence in all its forms, including gender, race, colour, religion, ethnic or social origin, disability and other power imbalances;
- disseminating information regarding the Convention's holistic and positive approach to child protection through creative public campaigns, schools and peer education, family, community and institutional educational initiatives, professionals and professional groups, NGOs and civil society;
- developing partnerships with all sectors of society, including children themselves, NGOs and the media;

(ii) *For children:*

- registration of all children to facilitate their access to services and redress procedures;
- supporting children to protect themselves and their peers through awareness of their rights and development of social skills as well as age-appropriate empowerment strategies;
- implementing 'mentoring' programmes that engage responsible and trusted adults in the lives of children identified as needing extra support beyond that provided by their caregivers;

(iii) *For families and communities:*

¹⁹ The detailed guidance available in the UN Guidelines for the Alternative Care of Children should also be taken into account at each stage (A/RES/64/142, 24 February 2010).

- supporting parents and caregivers to understand, embrace and implement good childrearing, based on knowledge of child rights, child development and techniques for positive discipline in order to support families' capacity to provide children with care in a safe environment;
- providing pre- and post-natal services, home visitation programmes, quality early childhood development programmes, and income-generation programmes for disadvantaged groups;
- strengthening the links between mental health services, substance abuse treatment and child protection services;
- providing respite programmes and family support centres for families facing especially difficult circumstances; and
- providing shelters and crisis centres for parents (mostly women) who have experienced violence at home and their children;
- although the State should abstain from unduly interfering in children's private and family relations, depending on circumstances, it must also provide assistance to the family by adopting measures that promote family unity and ensure children the full exercise and enjoyment of their rights in private settings.²⁰

(iv) *For professionals and institutions (government and civil society):*

- identifying prevention opportunities and informing policy and practice on the basis of research studies and data collection;
- implementing, through a participatory process, rights-based child protection policies and procedures and professional ethics codes and standards of care;
- preventing violence in care and justice settings by, amongst other things, developing and implementing community-based services in order to make use of institutionalisation and detention only as a last resort and only if in the best interest of the child.

44. Identification²¹: This includes identifying risk factors for particular individuals or groups of children and caregivers (in order to trigger targeted prevention initiatives) and identifying signs of actual maltreatment (in order to trigger appropriate intervention as early as possible). This requires that all who come in contact with children are aware of risk factors and indicators of all forms of violence, have received guidance on how to interpret such indicators, and have the necessary knowledge, willingness and ability to take appropriate action (including the provision of emergency protection). Children must be provided with as many opportunities as possible to signal emerging problems before they reach a state of crisis, and for adults to recognize and act on such problems even if the child does not explicitly ask for help. Particular vigilance is needed when it comes to marginalized groups of children who are rendered particularly vulnerable due to their alternative methods of communicating, their immobility and/or the perceived view that they are incompetent, such as children with disabilities. Reasonable accommodation should be provided to ensure that they are able to communicate and signal problems on an equal basis with others.

²⁰ Human Rights Committee, General Comment No. 17, Rights of the Child (Article 24), 7 April 1989, CCPR/C/35; European Court of Human Rights, *Olson vs. Sweden* (No. 1), Judgement of 24 March 1988, Series A No. 130, para. 81; Inter-American Court of Human Rights, *Velasquez Rodriguez v. Honduras*, Judgement on the Merits, 10 January 1989, Series C, No. 3, para. 172.

²¹ The following paragraphs can also be applied to processes in informal and customary systems of justice.

45. Reporting²²: The Committee strongly recommends all States Parties to develop safe, well-publicized, confidential and accessible support mechanisms for children, their representatives and others to report violence against children, including through the use of 24-hour toll-free hotlines and other information and communication technologies. The establishment of reporting mechanisms includes: providing appropriate information to facilitate the making of complaints; participation in investigations and court proceedings; developing protocols which are appropriate for different circumstances and made widely known to children and the general public; establishing related support services for children and families; and training and providing ongoing support for personnel to receive and advance the information received through reporting systems. Reporting mechanisms must be coupled with, and should present themselves as, help-oriented services offering public health and social support rather than as triggering responses which are primarily punitive. The children's right to be heard and to have their views taken seriously has to be respected. In every country reporting of instances, suspicion or risk of violence should, at a minimum, be required by professionals working directly with children. When reports are made in good faith, processes must be in place to ensure the protection of the professional making the report.

46. Referral: The person receiving the report should have clear guidance and training on when and how to refer the issue to whichever agency is responsible for coordinating the response. Following this, inter-sectoral referrals may be made by trained professionals and administrators when children are found to be in need of protection (immediate or longer-term) and specialized support services. Professionals working within the child protection system need to be trained in inter-agency cooperation and protocols for collaboration. The process will involve: a participatory, multi-disciplinary assessment of the child, caregivers' and family's short and long term needs which invites and gives due weight to the child's views as well as those of the caregivers and family; sharing of the assessment results with the child, caregivers and family; referral of the child and family to a range of services to meet those needs; and follow-up and evaluation of the adequateness of the intervention.

47. Investigation: Investigation of instances of violence, whether reported by the child, a representative or an external party, require role-specific and comprehensive training by qualified professionals as well as a child rights-based and child-sensitive approach. Rigorous but child-sensitive investigation procedures will help to ensure that violence is correctly identified and provides evidence for administrative, civil, child protection and criminal proceedings. Extreme care must be taken to avoid subjecting the child to further harm through the process of the investigation. Towards this end, all parties are obliged to invite and give due weight to the child's views.

48. Treatment: 'Treatment' is one of the many services needed to "promote physical and psychological recovery and social reintegration" for children who have experienced violence "in an environment which fosters the health, self-respect and dignity of the child" (Article 39). In this respect attention must be given to: inviting and giving due weight to the child's views; the safety of the child; the possible need for her or his immediate safe placement; and the predictable influences of potential interventions on the child's long term well-being, health and development. Medical, mental health, social and legal services and support may be required for children upon identification of abuse, as well as longer-term follow-up services. A full range of services, including family group conferencing and other similar practices, should be made available. Services and treatment for perpetrators of violence, especially child perpetrators, are also needed. Children who are aggressive towards other children have often been deprived of a caring family and community

²² See also the Guidelines on Justice for Child Victims and Witnesses of Crime (ECOSOC Resolution 2005/20).

environment. They must be regarded as victims of their childrearing conditions, which imbue them with frustration, hatred and aggression. Educational measures must have priority and be directed to improve their pro-social attitudes, competencies and behaviours. Simultaneously, the life conditions of these children have to be examined in order to promote their care and support and that of other children in the family and neighbourhood. In terms of children who harm themselves, it is recognised that this is a result of severe psychological distress and may be a result of violence by others. Self-harm should not be criminalised. Interventions must be supportive and not in any way punitive.

49. Follow-up: The following must always be clear: who has responsibility for the child and family from reporting and referral all the way through to follow-up; the aims of any course of action taken – which must be fully discussed with the child and other relevant stakeholders; the details, deadlines for implementation and proposed duration of any interventions; mechanisms and dates for review, monitoring and evaluation of actions. Continuity between stages of intervention is essential and this may best be achieved through a case management process. Effective help requires that actions, once decided through a participatory process, must not be subject to undue delay. The follow-up must be understood in the context of Article 39 (recovery and reintegration), Article 25 (periodic review of treatment and placements), Article 6.2 (right to development) and Article 29 (aims of education which present intentions and aspirations for development). Contact of the child with both parents should be ensured in accordance with Article 9.3 unless this is contrary to the best interests of the child.

50. Judicial involvement²³: At all times and in all cases, due process must be respected. In particular the protection and the further development of the child and his or her best interests (and the best interests of other children where there is a risk of a perpetrator reoffending) must form the primary purpose of decision-making, with regard given to the least intrusive intervention as warranted by the circumstances. Further more, the Committee recommends the respect of these guarantees:

- Children and their parents should be promptly and adequately informed by the justice system or other competent authorities (such as the police, immigration, educational, social or health care services);

- Child victims of violence should be treated in a child friendly and sensitive manner throughout the justice process, taking into account their personal situation, needs, age, gender, disability and level of maturity and fully respecting their physical, mental and moral integrity;

- Judicial involvement should be preventive where possible, proactively encouraging positive behaviour as well as prohibiting negative behaviour. Judicial involvement should be an element of a coordinated and integrated approach across sectors, supporting and facilitating other professionals to work with children, caregivers, families and communities, and facilitating access to the full range of child caregiving and protection services available;

- In all proceedings involving children victims of violence, the celerity principle must be applied, while respecting the rule of law.

Judicial involvement may consist of the following:

²³ See also: Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice, adopted on 17 November 2010; Guidelines on Justice for Child Victims and Witnesses of Crime (ECOSOC Resolution 2005/20); and Resolution of the UN Third Committee (Social, Humanitarian and Cultural) on 'Human Rights in the Administration of Justice', adopted by the General Assembly 21 December 2010 (A/C.3/65/L.35/Rev.1).

- Differentiated and mediated responses such as family group conferencing, alternative dispute-resolution mechanisms, restorative justice and kith and kin agreements (where processes are human-rights respecting, accountable and managed by trained facilitators);
- Juvenile or family court intervention leading to a specific measure of child protection;
- Criminal law procedures, which have to be strictly applied in order to abolish the widespread practice of *de jure* or *de facto* impunity, in particular of State actors;
- Disciplinary or administrative proceedings against professionals for neglectful or inappropriate behaviour in dealing with suspected cases of child maltreatment (either internal proceedings in the context of professional bodies for breaches of codes of ethics or standards of care or external proceedings)
- Judicial orders to ensure compensation and rehabilitation for children who have suffered from violence in its various forms.

When appropriate, juvenile or family specialized courts and criminal procedures should be established for children victims of violence. This could include the establishment of specialised units within the police, the judiciary and the prosecutor's office with the possibility of providing accommodations in the judicial process to ensure equal and fair participation of children with disabilities. All professionals working with and for children and involved in such cases should receive specific interdisciplinary training on the rights and needs of children of different age groups, as well as on proceedings that are adapted to them. While implementing a multidisciplinary approach, professional rules on confidentiality should be respected. The decision to separate a child from his or her parent(s) or family environment must be made only when it is in the child's best interests (Articles 9 and 20.1). However, in cases of violence where perpetrators are primary caregivers, within the child rights safeguards listed above, depending on the severity and other factors, intervention measures focusing on social and educational treatment and a restorative approach are often preferable to a purely punitive judicial involvement. Effective remedies should be available, including compensation to victims and access to redress mechanisms and appeal or independent complaint mechanisms

51. **Effective procedures:** Such protective measures as mentioned in paragraphs 1 and 2 of Article 19, and as integrated into a systems building approach (see paragraph 33), require "effective procedures" to ensure their enforcement, quality, relevance, access, impact and efficiency. Such procedures should include:

- inter-sectoral coordination, mandated by protocols and memoranda of understanding as necessary;
- the development and implementation of systematic and ongoing data collection and analysis;
- development and implementation of a research agenda; and
- the development of measurable objectives and indicators in relation to policies, processes and outcomes for children and families.

Outcome indicators should focus on the child's positive development and well-being as a rights-bearing person, beyond a purely narrow focus on incidence, prevalence and types or extent of violence. Child death reviews, critical injury reviews, inquests and systemic reviews must also be taken into account when identifying the underlying causes of violence and in recommending corrective courses of actions. Research must build on the existing body of international and national child protection knowledge and benefit from

interdisciplinary and international collaboration in order to maximise complementarity. (See also paragraph 61j on accountability in relation to national coordinating frameworks).

V. Interpretation of Article 19 in the broader context of the Convention

52. **Definition of a child rights approach:** Respect for the dignity, life, survival, well-being, health, development, participation and non-discrimination of the child as a rights-bearing person should be established and championed as the pre-eminent goal of States Parties' policies concerning children. This is best realised through respecting, protecting and fulfilling all of the rights in the Convention (and its Optional Protocols). It requires a paradigm shift away from child protection approaches in which children are perceived and treated as 'objects' in need of assistance rather than as rights holders entitled to non-negotiable rights to protection. A child rights approach is one which furthers the realisation of the rights of all children as set out in the Convention by developing the capacity of duty bearers to meet their obligations to respect, protect and fulfil rights (Article 4) and the capacity of rights holders to claim their rights: guided at all times by the rights to non-discrimination (Article 2), consideration of the best interests of the child (Article 3.1), life, survival and development (Article 6), and respect for the views of the child (Article 12). Children also have the right to be directed and guided in the exercise of their rights by caregivers, parents and community members, in line with children's evolving capacities (Article 5). This child rights approach is holistic and places emphasis on supporting the strengths and resources of the child him/herself and all social systems of which the child is a part: family, school, community, institutions, religious and cultural systems.

53. **Article 2 (Non-discrimination):** The Committee stresses that States Parties shall take adequate measures to assure to every child the right to protection from all forms of violence "without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status". This includes discrimination based on prejudices towards commercially sexually exploited children, children in street situations, children in conflict with the law or based on children's clothing and behaviour. States Parties must address discrimination against vulnerable or marginalized groups of children, such as outlined in paragraph 61(g) of the present general comment, and make proactive efforts to ensure that such children are assured their right to protection on an equal basis with all other children.

54. **Article 3 (Best interests of the child):** The Committee emphasizes that the interpretation of a child's best interests must be consistent with the whole Convention, including the obligation to protect children from all forms of violence. It cannot be used to justify practices, including corporal punishment and other forms of cruel or degrading punishment, which conflict with the child's human dignity and right to physical integrity. An adult's judgment of a child's best interests cannot override the obligation to respect all the child's rights under the Convention. In particular, the Committee maintains that the best interests of the child are best served through:

- prevention of all forms of violence and the promotion of positive childrearing, emphasising the need for a focus on primary prevention in national coordinating frameworks.
- adequate investment in human, financial and technical resources dedicated to the implementation of a child rights-based and integrated child protection and support system.

55. **Article 6 (Life, survival and development):** Protection from all forms of violence must not only be considered in terms of the child's right to "life" and "survival", but also their right to "development", which must be interpreted compatible with the overall goal of child protection: Thus, the obligation of the State Party includes comprehensive protection from violence and exploitation, which would jeopardize a child's right to life, survival and development. "The Committee expects States to interpret "development" in its broadest sense as a holistic concept, embracing the child's physical, mental, spiritual, moral, psychological and social development. Implementation measures should be aimed at achieving the optimal development for all children.

56. **Article 12 (Right to be heard):** The Committee is of the opinion that child participation promotes protection and child protection is key to participation. The child's right to be heard commences already with very young children who are particularly vulnerable to violence. Children's views must be invited and given due weight as a mandatory step at every point in a child protection process. The child's right to be heard has particular relevance in situations of violence (see the Committee's General Comment No. 12, paras. 118 ff). With regard to family and child rearing the Committee expressed that this right plays a preventive role against all forms of violence in the home and family. The Committee furthermore underlines the importance of children's participation in the development of prevention strategies in general and in school, in particular in the elimination of prevention of bullying, and other forms of violence in school. Initiatives and programmes that aim at strengthening children's own capacities to eliminate violence should be supported. As the experience of violence is inherently disempowering, sensitive measures are needed to ensure that child protection interventions do not further disempower children but rather contribute positively to their recovery and reintegration via carefully facilitated participation. The Committee points at barriers to participation faced by particularly marginalised and/or discriminated groups. Addressing these barriers is especially relevant for child protection as such children are often amongst those most affected by violence.

57. The following two articles of the Convention also have all-embracing relevance which gives them particular significance for the implementation of Article 19.

58. **Article 4 (Appropriate measures):** Article 4 obliges States Parties to undertake all appropriate measures to implement all the rights in the Convention, including Article 19. In applying Article 4 of the Convention, it must be noted that Article 19 on the right to protection from all forms of violence is a civil right and freedom. Implementation of Article 19 is therefore an immediate and unqualified obligation of States Parties. Article 4 states that, whatever their economic circumstances, States are required to undertake all possible measures towards the realization of the rights of the child, paying special attention to the most disadvantaged groups. The Article stresses that available resources have to be utilized to the maximum extent (see the Committee's General Comment No. 5).

59. **Article 5 (Direction and guidance consistent with evolving capacities):** Implementation of Article 19 requires recognition of, and support for, the primary importance of parents, extended families, legal guardians and community members in the caregiving and protection of children and the prevention of violence. This approach is consistent with Article 5 which promotes respect for the responsibilities, rights and duties of caregivers 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 (including Article 19). See also paragraph 61(d) on the primacy of families in the context of national coordinating frameworks and other articles relevant to families.

60. **Other relevant articles:** The Convention contains numerous articles which relate explicitly or implicitly to violence and child protection. Article 19 should be read in conjunction with these articles. These comprehensive references demonstrate the need to

take account of the pervasive threat to the implementation of child rights by violence in all its forms and to ensure the protection of children in all situations of life and development.

VI. National coordinating framework on violence against children

61. **Beyond National Plans of Action:** The Committee recognizes that many National Plans of Action adopted by States Parties to implement the rights of the child, include measures to prohibit, prevent and eliminate all forms of violence against children. Such plans of action, while contributing to more enjoyment by children of their rights, have nevertheless faced many challenges in their implementation, monitoring, evaluation and follow-up. For example, they have often lacked links with the overall development policy, programmes, budget and coordinating mechanisms. In order to establish a more feasible and flexible instrument, the Committee is proposing a ‘coordinating framework on violence against children’ for all child rights-based measures to protect children from violence in all its forms and to support a protective environment.²⁴ Such a ‘coordinating framework’ can be used in place of National Plans of Action where these do not yet exist or where they are proving unwieldy. Where National Plans of Action are being effectively implemented already, the ‘coordinating framework’ can nonetheless complement the efforts, stimulate discussion and generate new ideas and resources to improve their functioning.

62. **National coordinating framework on violence against children:** This ‘coordinating framework’ can provide a common frame of reference and a mechanism for communication amongst government ministries and also for state and civil society actors at all levels with regard to needed measures across the range of measures and at each stage of intervention identified in Article 19. It can promote flexibility and creativity and allow for the development and implementation of initiatives led simultaneously by both government and community, but which are nonetheless contained within an overall cohesive and coordinated framework. In previous recommendations and general comments, including its General Comment no. 5 on General measures of implementation, the Committee has already urged State Parties to develop plans and strategies for specific aspects of the Convention (for example juvenile justice or early childhood). It is in this context that the Committee recommends the development of a national coordinating framework on protection against all forms of violence, including comprehensive prevention measures.

63. **Different starting points:** The Committee acknowledges that protecting children from all forms of violence is highly challenging in most countries and that States Parties are designing and implementing measures from very different starting points, in terms of existing legal, institutional and service infrastructures, cultural customs and professional competencies, as well as levels of resources.

64. **The process of developing a national coordinating framework:** There is no single model for such coordinating frameworks for freedom from all forms of violence. Some countries have invested in a discrete system of protecting children whereas others prefer to integrate protection issues into mainstream systems of implementing the rights of children. Experience shows that the *process* of developing a system is essential to its successful implementation. Skilful facilitation is required to ensure the participation of and ownership by senior representatives of all stakeholder groups, possibly through a multi-disciplinary working group which has appropriate decision-making power, which meets regularly and

²⁴ See also the Overarching Recommendation #1 of the Report of the independent expert for the United Nations Study on Violence against Children (A/61/299) paragraph 96.

which is prepared to be ambitious. A system of prevention and protection against all forms of violence should build on the strengths in existing formal and informal structures, services and organisations. Gaps should be identified and filled, based on the obligations outlined in Article 19 and the Convention more broadly, and in other international and regional human rights instruments, and supported by the guidance provided in the UN Study on Violence, the present general comment and additional implementation supports. National planning should be a transparent and inclusive process, with full disclosure to the general public and assurance of the involvement of government, NGOs, research and professional practice experts, parents and children. It should be accessible and understandable to both children and adults. The national coordinating framework should be fully costed and financed, including human and technical resources, and presented, if possible, within the national child budget.

65. **Elements to be mainstreamed into national coordinating frameworks:** The following elements need to be mainstreamed across the measures (legislative, administrative, social and educational) and stages of intervention (from prevention through to recovery and reintegration):

a) *Child rights approach:* This approach is based on the declaration of the child as a rights holder and not a beneficiary of benevolent activities of adults. It includes respecting and encouraging consultation and cooperation with, and the agency of, children in the design, implementation, monitoring and evaluation of the coordinating framework and specific measures therein, taking account of the age and evolving capacities of the child or children.

b) *The gender dimensions of violence against children:* States Parties should ensure that policies and measures take into account the different risks facing girls and boys in respect of various forms of violence in various settings. States should address all forms of gender discrimination as part of a comprehensive violence-prevention strategy. This includes addressing gender-based stereotypes, power imbalances, inequalities and discrimination which support and perpetuate the use of violence and coercion in the home, in school and educational settings, in communities, in the workplace, in institutions and in society more broadly. Men and boys must be actively encouraged as strategic partners and allies, and along with women and girls, must be provided with opportunities to increase their respect for one another and their understanding of how to stop gender discrimination and its violent manifestations.

c) *Primary (general) prevention:* Refer to paragraph 39 of the present general comment for details.

d) *The primary position of families in child caregiving and protection strategies*²⁵: Families (including extended families and other forms of family-type care arrangements) have the greatest potential to protect children and to prevent violence. Families can also support and empower children to protect themselves. The need to strengthen family life, support families and work with families with challenges must therefore be a priority child protection activity at every stage of intervention, particularly prevention (through establishing good child caregiving) and in early intervention. However, the Committee also recognises that much of the violence experienced by children, including sexual abuse, takes place within a family context and stresses the necessity of intervening in families if children are exposed to violence by family members.

e) *Resilience and protective factors:* It is of critical importance to understand resilience and protective factors, i.e. internal and external strengths and supports which

²⁵ See also the UN Guidelines for the Alternative Care of Children, (A/RES/64/142), 24 February 2010.

promote personal security and reduce abuse and neglect and their negative impact. Protective factors include stable families; nurturing childrearing by adults who meet the child's physical and psychosocial needs; positive non-violent discipline; secure attachment of the child to at least one adult; supportive relationships with peers and others (including teachers); social environment that fosters pro-social, non-violent and non-discriminatory attitudes and behaviours; high levels of community social cohesion; and thriving social networks and neighbourhood connections.

f) *Risk factors*: Proactive, tailored measures need to be taken to reduce the 'risk' factors to which individual children or groups of children may be exposed in general or in particular contexts. This includes parental risk factors such as substance abuse, mental health problems and social isolation as well as family risk factors such as poverty, unemployment, discrimination and marginalization. At a universal level all children aged 0-18 years are considered vulnerable until the completion of their neural, psychological, social and physical growth and development. Babies and young children are at higher risk due to the immaturity of their developing brain and their complete dependency on adults. Both girls and boys are at risk, but violence often has a gender component.

g) *Children in potentially vulnerable situations*: Groups of children which are likely to be exposed to violence include, but are not limited to children: not living with their biological parents, but in various forms of alternative care; not registered at birth; in street situations; in actual or perceived conflict with the law; with physical disabilities, sensory disabilities, learning disabilities, psycho-social disabilities and congenital, acquired and / or chronic illnesses or serious behavioural problems; who are indigenous²⁶ and from other ethnic minorities; from minority religious or linguistic groups; who are lesbian, gay, transgender and transsexual; at risk of harmful traditional practices; in early marriage (especially girls, and especially but not exclusively forced marriage); in hazardous child labour, including the worst forms; who are on the move as migrants, refugees, displaced and trafficked; who have already experienced violence; who experience and witness violence in the home and in communities; in low socio-economic urban environments, where guns, weapons, drugs and alcohol may be easily available; living in accident or disaster-prone areas or in toxic environments; affected by HIV/AIDS or who are themselves HIV infected; who are malnourished; looked after by other children; who are themselves carers and heads of households; born to parents who are themselves still under 18; who are unwanted, born prematurely or part of a multiple birth; hospitalized with inadequate supervision or contact with caregivers; exposed to information and communication technologies without adequate safeguards, supervision or empowerment to protect themselves. Children in emergencies are extremely vulnerable to violence when, as a consequence of social and armed conflicts, natural disasters and other complex and chronic emergencies, social systems collapse, children become separated from their caregivers and caregiving and safe environments are damaged or even destroyed.

h) *Resource allocation*: Human, financial and technical resources needed across different sectors have to be allocated to the maximum extent of available resources. Robust monitoring mechanisms must be developed and implemented to ensure accountability regarding allocation of budgets and their efficient utilization.

²⁶ In some societies, in contrast to non-indigenous families, "neglect" as distinct from "abuse" is the primary reason leading to the removal of indigenous children from their families. Non-punitive family support services and interventions directly addressing causes (such as poverty, housing and historical circumstances) are often more appropriate. Specific efforts are required to address discrimination in the provision of services and the range of intervention options available to indigenous and other minority communities.

i) *Coordination mechanisms*: Mechanisms have to be explicitly outlined which will ensure effective coordination at central, regional and local levels, between different sectors and with civil society, including the empirical research community. These mechanisms must be supported by the administrative measures outlined above.

j) *Accountability*: It has to be ensured that States Parties, national and local agencies and organizations, and relevant civil society stakeholders proactively and cooperatively establish and apply standards, indicators, tools, and systems of monitoring, measurement and evaluation to fulfill their obligations and commitments to protect children from violence. The Committee has consistently expressed its support for systems of accountability, including in particular by data collection and analysis, indicator construction, monitoring and evaluation as well as support for independent human rights institutions. The Committee recommends that States Parties publish an annual report on progress made with regard to the prohibition, prevention and elimination of violence, submit it to parliament for consideration and discussion, and invite all relevant stakeholders to respond on the information contained therein.

VII. Resources for implementation and the need for international cooperation

66. **States Parties' obligations**: In the light of States Parties' obligations under Articles 4 and 19, inter alia, the Committee considers that resource constraints cannot provide a justification for a State Party's failure to take any, or enough, of the measures that are required for child protection. States Parties are therefore urged to adopt comprehensive, strategic and time-bound coordinating frameworks for child caregiving and protection. In particular the Committee highlights the necessity to consult with children in the development of these strategies, frameworks and measures.

67. **Sources of support**: Within the context of different starting points highlighted in paragraph 59, and on the understanding that budgets at national and decentralised levels should be the primary source of funds for child caregiving and protection strategies, the Committee draws the attention of States Parties to the avenues of international cooperation and assistance outlined in Articles 4 and 45 of the Convention. The Committee calls upon the following partners to support both financially and technically child protection programmes, including training, which take full account of the requirements stipulated in Article 19 and the Convention more broadly²⁷: States Parties providing development cooperation; donor institutions (including the World Bank, private sources and foundations); UN agencies and organizations; other international and regional bodies and organizations. This financial and technical support should be provided systematically through strong and equitable partnerships, at the national and international level. Child rights-based protection programmes should be one of the main components in assisting sustainable development in countries receiving international assistance. The Committee also encourages such bodies to continue to work with the Committee, the Special Representative of the Secretary-General on Violence against Children and other international and regional human rights mechanisms to advance this goal.

²⁷ See General Comment No.5 (paragraphs 61, 62 and 64) on: the need for the mainstreaming of children's rights into international cooperation and technical assistance; the need for such cooperation and assistance to be guided by, and to fully promote implementation of, the Convention; the allocation of a substantive part of international aid and assistance specifically to children; and the need for Poverty Reduction Strategy Papers (PRSPs) and sectorwide approaches to development (SWAp) to include a strong focus on children's rights.

68. **Resources needed at the international level:** Investment is also needed in the following areas at the international level to assist States Parties to fulfil their obligations in relation to Article 19:

a. *Human resources:* improved communication, cooperation and individual exchange within and between professional associations (e.g. medical, mental health, social work, legal, education, child maltreatment, academic/research, child rights and training organizations/institutions); improved communication and cooperation within and between civil society groups (e.g. research communities, NGOs, child-led organisations, faith-based organisations, organisations of persons with disabilities, community and youth groups, and individual experts involved in the development and exchange of knowledge and practice);

b. *Financial resources:* improved coordination, monitoring and evaluation of donor aid; further development of financial and human capital analyses in order for economists, researchers and States Parties to fully measure the costs of implementing holistic child protection systems (with an emphasis on primary prevention) versus the costs of managing the direct and indirect (including inter-generational) impact of violence at the individual, community, national and even international levels; and “international financial institutions should review their policies and activities to take account of the impact they may have on children”²⁸;

c. *Technical resources:* evidence-based indicators, systems, models (including model legislation), tools, guidelines, protocols and practice standards for use by communities and professionals, with guidance on their adaptation to different contexts; a platform for systematic sharing and accessing of information (knowledge and practice); universally established clarity and transparency in budgeting for child rights and child protection, as well as in outcome monitoring of child protection during up and down cycles of economies and challenging circumstances (technical assistance should be established over time, through information, models and related training).

69. **Regional and international cross-border cooperation:** In addition to development assistance, cooperation is also needed to address child protection issues which cut across national borders such as: cross-border movement of children – either unaccompanied or with their families - either voluntarily or under duress (e.g. due to conflict, famine, natural disasters or epidemics) which can put children at risk of harm; cross-border trafficking of children for labour, sexual exploitation, adoption, removal of body parts or other purposes; conflict which cuts across borders and which may compromise a child’s safety and access to protection systems, even if the child remains in the country of origin; and disasters that impact several countries simultaneously. Specific legislation, policies, programmes and partnerships may be required to protect children affected by cross-border child protection issues (e.g. cyber-crime and extra-territorial prosecution of sexual abusers of children through travel and tourism and traffickers of families and children), whether these children are in traditional caregiving situations or where the State is the de facto caregiver, as in the case of unaccompanied children.

²⁸ Report of the independent expert for the United Nations Study on Violence against Children (A/61/299) paragraph 117.