



CRC General Comment No. 3: HIV/AIDS and the Rights of the Child

*Adopted at the Thirty-second Session of the Committee on the Rights of the Child, on
17 March 2003*

CRC/GC/2003/3 (General Comments)

I. Introduction¹

1. The HIV/AIDS epidemics have drastically changed the world in which children live. Millions of children have been infected and have died and many more are gravely affected as HIV spreads through their families and communities. The epidemics impact on the daily life on younger children, and increase the victimization and marginalization of children especially on those living in particularly difficult circumstances. HIV/AIDS is not a problem of some countries but of the entire world. To truly bring its impact on children under control will require concerted and well-targeted efforts from all countries at all stages of development.

Initially children were considered to be only marginally affected by the epidemic. However, the international community has discovered that unfortunately, children are at the heart of the problem. According to UNAIDS - the Joint United Nations Programme on HIV/AIDS - the most recent trends are alarming: in most parts of the world the majority of new infections are in young people between the ages of 15 and 24, sometimes younger. Women including young girls are also increasingly becoming infected. In most regions of the world, the vast majority of infected women do not know that they are infected and may unknowingly infect their children. Consequently many States have recently registered an increase in their infant and child mortality rates and child mortality rate. Adolescents are also vulnerable to HIV/AIDS because their first sexual experience may take place in an environment in which they have no access to proper information and guidance. Children who use drugs are at high risk.

¹ In its seventeenth session (1998), the Committee on the Rights of the Child held a day of general discussion on the theme of HIV/AIDS and children's rights in which it recommended a number of actions be taken including facilitating the engagement of States parties on HIV/AIDS issues in relation to the rights of the child. Human rights in relation to HIV/AIDS has also been discussed at the Eighth Meeting of Persons Chairing the Human Rights Treaty Bodies in 1997 and been taken up by the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women. Similarly, HIV/AIDS has been discussed annually by the Commission on Human Rights for over a decade. UNAIDS and UNICEF have emphasized the rights of the child in relation to HIV/AIDS in all aspects of their work, and the World AIDS Campaign for 1997 focused on "Children Living in a World with AIDS" and for 1998 on "Force for Change: World AIDS Campaign with Young People". UNAIDS and the Office of the United Nations High Commissioner for Human Rights have also produced *The International Guidelines on HIV/AIDS and Human Rights* (1998) and its *Revised Guideline 6* (2002) to promote and protect human rights in the context of HIV/AIDS. At the international political level, HIV/AIDS - related rights have been recognized in the United Nations General Assembly Special Session *Declaration of Commitment on HIV/AIDS, A World Fit for Children* of the United Nations Assembly Special Session on Children, and in other international and regional documents.



Yet all children can be rendered vulnerable by the particular circumstances of their lives being mainly: (a) children who are themselves HIV-infected; (b) children who are affected by the epidemics because the loss of parental caregiver or teacher and/or because their families or communities are severely strained by its consequences; and (c) children who are most vulnerable to be infected or affected.

II. The objectives of this general comment

2. The objectives of this general comment are:

(a) To strengthen the identification and understanding of all the human rights of children in the context of HIV/AIDS;

(b) To promote the realization of human rights of children in the context of HIV/AIDS as guaranteed under the Convention on the Rights of the Child (hereafter, the Convention);

(c) To identify measures and good practices to increase the level of implementation by the States of rights related to the prevention of HIV/AIDS and the support, care and protection of children infected with or affected by this pandemic;

(d) To contribute to the formulation and promotion of child oriented Plans of Action, strategies, laws, policies and programmes to combat the spread and mitigate the impact of HIV/AIDS at the national and international level.

III. The Convention's perspectives to HIV/AIDS - the holistic child rights-based approach

3. The issue of children and HIV/AIDS is perceived as mainly a medical or health problem, although in reality it involves a much wider range of issues. In this regard the right to health (article 24 of the Convention) is, however, central. But HIV/AIDS impacts so heavily on the lives of all children that it affects all their rights - civil, political, economic, social and cultural. The rights in the general principles of the Convention - the right to non-discrimination, (art. 2), the rights of the child to have her/his interest to be a primary consideration (art. 3), the right to life, survival and development (art. 6) and the rights to have her/his views respected (art. 12) - should therefore be the guiding themes in the consideration of HIV/AIDS at all levels of prevention, treatment, care and support.

4. Adequate measures to address HIV/AIDS can be provided to children and adolescents only if their rights are fully respected. The most relevant rights in this regard are - in addition to the four above-referred general principles - the following: the right to access information and material aimed at the promotion of their social, spiritual and moral well-being, physical and mental health (art. 17), their right to preventive health care, sex education and family planning education and services (art. 24 (f)), their right to an appropriate standard of living (art. 27) their rights to privacy (art. 6), the right not to be separated from parents (art. 9), the right to be protected from violence (art. 19), the rights to special protection and assistance by the State (art. 20), the rights of children with disabilities (art. 23), the right to health (art. 24),



the right to social security, including social insurance (art. 26), the right to education and leisure (arts. 28 and 31), the right to be protected from economic and sexual exploitation and abuse, from illicit use of narcotic drugs (arts. 32, 33, 34 and 36), the right to be protected from abduction, sale and trafficking as well as torture or other cruel inhuman or degrading treatment or punishment (arts. 35 and 37) and the right to physical and psychological recovery and social reintegration (art. 39). Children are confronted with serious challenges to their above-mentioned rights as a result of the epidemics. The Convention and in particular the four general principles with its comprehensive approach provide a powerful framework for efforts to reduce the negative impact of the pandemic on the lives of children. The holistic rights-based approach required to implement the Convention is the optimal tool to address the broader range of issues that relate to prevention, treatment and care efforts.

(a) The right to non-discrimination (art. 2)

5. Discrimination is responsible for heightening the vulnerability of children to HIV and AIDS, as well as seriously impacting the lives of children who are affected by HIV/AIDS, or are themselves HIV infected. Girls and boys of parents living with HIV/AIDS are often the victims of stigma and discrimination as they too are often assumed to be infected. As a result of discrimination children are denied access to information, education (reference to general comment No.1 on the aims of education), health or social care services or from community life. At its extreme, discrimination against HIV-infected children has resulted in their abandonment by their family, community and/or society. Discrimination also fuels the epidemic by making children in particular those belonging to certain groups like children living in remote or rural areas where services are less accessible, more vulnerable to infection. These children are thereby doubly victimized.

6. Of particular concern is gender-based discrimination combined with taboos or negative or judgemental attitudes to sexual activity of girls, often limiting their access to preventive measures and other services. Of concern also is discrimination based on sexual orientation. In the design of HIV/AIDS related strategies, and in keeping with their obligations under the Convention, State parties must give careful consideration to prescribed gender norms within their societies with a view to eliminating gender-based discrimination as these impact on the vulnerability of both girls and boys to HIV/AIDS. States parties should in particular recognize that discrimination in the context of HIV/AIDS often impacts girls more severely than boys.

7. All the above-mentioned discriminatory practices are violations of children's rights under the Convention. Article 2 of the Convention obliges States to ensure all the rights under the Convention without discrimination of any kind, and "irrespective of the child's or her or his 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". The Committee interprets "other status" under article 2 of the Convention to include HIV/AIDS status of the child or her/his parent(s). Laws, policies, strategies and practices should address all forms of discrimination that contribute to increasing the impact of the epidemics. Strategies should also promote



education and training programmes explicitly designed to change attitudes of discrimination and stigmatization associated with HIV/AIDS.

(b) Best interests of the child (art. 3)

8. Policies and programmes for prevention, care and treatment of HIV/AIDS have generally been designed for adults with scarce attention to the principle of the best interest of the child as a primary consideration. Article 3 of the CRC, states: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” The obligations attached to this right are fundamental to guiding the action of States in relation to HIV/AIDS. The child should be put at the centre of the response to the pandemic, adapting strategies to children’s rights and needs.

(c) The right to survival, life and development (art. 6)

9. Children have the right not to have their lives arbitrarily taken, as well as to benefit from economic and social policies which will allow them to survive into adulthood and develop in the broadest sense of the word. State obligation to realize the right to survival, life and development also highlights the need to give careful attention to sexuality as well as to the behaviours and lifestyle of children, even if they do not conform to the society’s determination of what is acceptable under prevailing cultural norms for a particular age group. In this regard, the female child is often subject to harmful traditional practices such as early and or forced marriage, which violate her rights and make her more vulnerable to HIV infection, including because such practices often interrupt access to education and information. Effective prevention programmes are only those that acknowledge the realities of the lives of adolescents, while addressing sexuality by ensuring equal access to appropriate information, life-skills, and to preventive measures.

(d) The right to express views and have them taken into account (art. 12)

10. Children are rights holders and have a right to participate, in accordance with their evolving capacities, in raising awareness by speaking out about the impact of HIV/AIDS on their lives and in the development of HIV/AIDS policies and programmes. Interventions have been found to benefit children most when they are actively involved in assessing needs, devising solutions, shaping strategies and carrying them out rather than being seen as objects for whom decisions are made. In this regard, the participation of children as peer educators, both within and outside schools, should be actively promoted. States, international agencies and NGOs must provide children with a supportive and enabling environment to carry out their own initiatives, and to fully participate at both community and national levels in HIV policy and programme conceptualization, design, implementation, coordination, monitoring and review. A variety of approaches are likely to be necessary to ensure the participation of children from all sectors of society, including mechanisms which encourage children, consistent with their evolving capacities, to express their views, have them heard, and given due weight in accordance with their age and maturity (art. 12 (1)). Where appropriate, the involvement of children living with HIV/AIDS in



raising awareness, by sharing their experiences with their peers and others is critical both to effective prevention and to reduce stigma and discrimination. States parties must ensure that children who participate in these awareness efforts do so voluntarily, after being counselled, and also that these children receive both the social support and legal protection to allow them to lead normal lives during and after their involvement.

(e) Obstacles

11. Experience has shown that many obstacles hinder delivery of effective prevention and care services and the support of community initiatives on HIV/AIDS. These are mainly cultural, structural and financial. Denial that a problem exists, cultural practices and attitudes, including taboos and stigmatization, poverty, patronizing attitudes towards children, are just some of the obstacles that may block the political and individual commitment needed for effective programmes. Concerning financial, technical and human resources, the Committee is aware that those resources may not be immediately available. But with regard to this obstacle the Committee likes to remind the States parties of their obligation under article 4. It further notes that resources constraints should not be used to justify States parties failure to take any or enough of the technical or financial measures required. Finally, the Committee wants to emphasize in this regard the essential role of international cooperation.

IV. Prevention, care, treatment and support

12. The Committee wishes to stress that prevention, care, treatment and support are mutually reinforcing elements and provide a continuum within an effective response to HIV/AIDS.

(a) Information for HIV prevention and raising awareness

13. Consistent with State party obligations in relation to the rights to health and information (arts. 24, 13 and 17), children should have the right to access adequate information related to HIV/AIDS prevention and care, through formal channels (e.g. through educational opportunities and child-targeted media) as well as informal channels (e.g. targeted to street children, institutionalized children or children living in difficult circumstances). States parties are reminded that children require relevant, appropriate and timely information which recognizes the differences in levels of understanding among them, is tailored appropriately to age level and capacity and enables them to deal positively and responsibly with their sexuality in order to protect themselves from HIV infection. The Committee wishes to emphasize that effective HIV/AIDS prevention requires States to refrain from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information, and that consistent with their obligations to ensure the survival, life and development of the child (art. 6), States parties must ensure children have the ability to acquire the knowledge and skills to protect themselves and others as they begin to express their sexuality.

14. Dialogue with community, family and peer counsellors, and the provision of “life skills” education within schools, including skills in communicating on sexuality



and healthy living, have been found to be useful approaches for delivering HIV prevention messages to both girls and boys, but different approaches may be necessary to reach different groups of children. States parties must make efforts to address gender differences as they may impact the access children have to prevention messages, and ensure that children are reached with appropriate prevention messages even if they face constraints due to language, religion, disability or other factors of discrimination. Particular attention must be paid to raising awareness in hard to reach populations. In this respect, the role of the mass-media and/or oral tradition in ensuring children have access to information and material, as recognized in article 17 of the Convention, is crucial both to provide appropriate information and to reduce stigma and discrimination. States parties should support the regular monitoring and evaluation of HIV/AIDS awareness campaigns to ascertain their effectiveness in providing information, reducing ignorance, stigma and discrimination, as well as addressing fear and misperceptions concerning HIV and its transmission among children, including adolescents.

(b) The role of education

15. Education plays a critical role in providing children with relevant and appropriate information on HIV/AIDS which can contribute to a better awareness and understanding of this phenomenon and prevent negative attitudes towards victims of HIV/AIDS (see also the Committee's general comment No. 1 on the aims of education). Furthermore, education can and should empower children to protect themselves from the risk of HIV infection. In this regard, the Committee wants to remind the States parties of their obligation to ensure that primary education is available to all children, whether infected, orphaned or otherwise affected by HIV/AIDS. In many communities where HIV has spread widely, children from affected families, in particular girls, are facing serious difficulties staying in school and the number of teachers and other school employees lost to AIDS is limiting and threatening to destroy the ability of children to access education. States parties must make adequate provision to ensure children affected by HIV/AIDS can stay in school and ensure the qualified replacement of sick teachers so that children's regular attendance at schools is not affected, and that the right to education (art. 28) of all children living within these communities is fully protected.

16. States parties must make every effort to ensure that schools are safe places for children, which offer them security and do not contribute to their vulnerability to HIV infection. In accordance with article 34 of the Convention, States parties are obliged to take all appropriate measures to prevent, inter alia, the inducement or coercion of any child to engage in unlawful sexual activity.

(c) Child and adolescent sensitive health services

17. The Committee is concerned that health services are generally still insufficiently responsive to the needs of human beings below 18 years old, in particular adolescents. As the Committee has noted on numerous occasions, children are more likely to use services that are friendly and supportive, provide a range of services and information, are geared to their needs, ensure their opportunity to participate in decisions affecting their health, and are accessible, affordable,



confidential, non-judgemental, do not require parental consent and do not discriminate. In the context of HIV/AIDS and taking into account the evolving capacities of the child, States parties are encouraged to ensure that health services employ trained personnel who fully respect the rights of children to privacy (art. 6) and non-discrimination in offering them access to HIV-related information, voluntary counselling and testing, knowledge of their HIV status, confidential sexual and reproductive health services, free or low cost contraception, condoms and services, as well as HIV-related care and treatment if and when needed, including for the prevention and treatment of health problems related to HIV/AIDS e.g. tuberculosis and opportunistic infections.

18. In some countries, even when child and adolescent friendly HIV-related services are available, they are not sufficiently accessible to children with disabilities, indigenous children, children belonging to minorities, children living in rural areas, children living in extreme poverty or children who are otherwise marginalized within the society. In others, where the health system's overall capacity is already strained, children with HIV have been routinely denied access to basic health care. States parties must ensure that services are provided to the maximum extent possible to all children living within their borders, without discrimination, and that they sufficiently take into account differences in gender, age, and the social, economic, cultural and political context in which children live.

(d) HIV counselling and testing

19. The accessibility of voluntary, confidential HIV-counselling and testing services, with due attention to the evolving capacities of the child, is fundamental to the rights and health of children. These services are critical to children's ability to reduce their risk of acquiring or transmitting HIV, to accessing HIV-specific care, treatment and support, and to better plan for their futures. Consistent with the obligation under article 24 of the Convention to ensure that no child is deprived of her or his right of access to necessary health services, States parties should ensure access to voluntary, confidential HIV counselling and testing for all children.

20. The Committee wishes to stress that as the duty of States parties is first and foremost to ensure that the rights of the child are protected, States parties must refrain from imposing mandatory HIV/AIDS testing of children in all circumstances and ensure protection against it. While the evolving capacities of the child will determine whether consent is required from the child directly or from their parent or guardian, in all cases, consistent with the child's right to receive information under articles 13 and 17 of the Convention, States parties must ensure that prior to any HIV-testing, whether by health-care providers in relation to children who are accessing health services for another medical condition or otherwise, the risks and benefits of such testing are sufficiently conveyed so that an informed decision can be made.

21. States parties must protect the confidentiality of HIV test results consistent with the obligation to protect the right to privacy of children (art. 16), including within health and social welfare settings, and information on the HIV status of children may not be disclosed to third parties including parents without consent.



(e) Mother-to-child transmission

22. Mother-to-child transmission (MTCT) is responsible for the majority of HIV infections in infants and young children. Infants and young children can be infected with HIV during pregnancy, labour and delivery, and through breastfeeding. States parties are requested to ensure implementation of the strategies recommended by the United Nations agencies to prevent HIV infection in infants and young children. These include: (1) the primary prevention of HIV infection among parents-to-be, (2) the prevention of unintended pregnancies in HIV-infected women, (3) the prevention of HIV transmission from HIV-infected women to their infants and (4) the provision of care, treatment and support to HIV-infected women, their infants and families.

23. To prevent MTCT of HIV, States parties must take steps, including the provision of essential drugs, e.g. antiretroviral drugs, appropriate antenatal, delivery and post-partum care, and making HIV voluntary counselling and testing services available to pregnant women and their partners. The Committee recognizes that antiretroviral drugs given to a woman during pregnancy and/or labour and, in some regimens, to her infant, has been shown to significantly reduce the risk of transmission from mother to child. However, in addition, State parties should provide support for mothers and children, including counselling on infant feeding options. States parties are reminded that counselling of HIV-positive mothers should include information about the risks and benefits of different infant feeding options, and guidance in selecting the option most likely to be suitable for their situation. Follow-up support is also required in order for women to be able to implement their selected option as safely as possible.

24. Even in populations with high HIV prevalence, the majority of infants are born to women who are not HIV-infected. For the infants of HIV-negative women and women who do not know their HIV status, the Committee wishes to emphasize, consistent with articles 6 and 24 that breastfeeding remains the best feeding choice. For the infants of HIV-positive mothers, available evidence indicates that breastfeeding can add to the risk of HIV transmission by 10-20 per cent, but that lack of breastfeeding can expose children to an increased risk of malnutrition or infectious disease other than HIV. United Nations agencies have recommended that where replacement feeding is affordable, feasible, acceptable, sustainable and safe, avoidance of all breastfeeding by HIV-infected mothers is recommended - otherwise exclusive breastfeeding is recommended during the first months of life and should then be discontinued as soon as it is feasible.

(f) Treatment and care

25. The obligations of States parties under the Convention extend to ensuring that children have sustained and equal access to comprehensive treatment and care, including necessary HIV-related drugs, goods and services on a basis of non-discrimination. It is now widely recognized that comprehensive treatment and care includes antiretroviral and other medicines, diagnostics and related technologies for the care of HIV/AIDS, related opportunistic infections and other conditions, good nutrition, and social, spiritual, and psychological support, as well as family, community and home-based care. In this regard, States parties should negotiate with



the pharmaceutical industry in order to make the necessary medicines available at the lowest costs possible at local level. Furthermore States parties are requested to affirm, support and facilitate the involvement of communities as part of comprehensive HIV/AIDS treatment, care and support, while nonetheless complying with their own obligations under the Convention. States parties are asked to pay special attention to addressing those factors within their societies that hinder equal access to treatment, care and support for all children.

(g) Involvement of children in research

26. Consistent with article 24 of the Convention, States parties must ensure that HIV/AIDS research programmes include specific studies that contribute to effective prevention, care, treatment, and impact reduction for children. States parties must nonetheless ensure that children do not serve as research subjects until an intervention has already been thoroughly tested on adults. Rights and ethical concerns have arisen in relation to HIV/AIDS biomedical research, as well as HIV/AIDS operations, social, cultural and behavioural research. Children have been subjected to unnecessary or inappropriately designed research with little or no voice to either refuse or consent to participation. In line with the child's evolving capacities, consent of the child should be sought and consent may be sought from parents or guardians if necessary, but in all cases consent must be based on full disclosure of the risks and benefits of research to the child. States parties are further reminded to ensure that the privacy rights of children, in line with their obligation under article 16 of the Convention, are not inadvertently violated through the research process and that personal information about children which is accessed through research is, under no circumstances, used for purposes other than that for which consent was given. States parties must make every effort to ensure that children, and according to their evolving capacities their parents and/or their guardians, participate in decisions on research priorities and that a supportive environment is created for children that participate in such research.

V. Vulnerability and children needing special protection

27. The vulnerability of children to HIV/AIDS resulting from political, economic, social, cultural and other factors determines their likelihood of being left with insufficient support to cope with the impact of HIV/AIDS on their families and communities, exposed to a risk of acquiring infection, subjected to inappropriate research, or deprived of access to treatment, care and support if HIV infection sets in. HIV/AIDS-related vulnerability is most acute for children living in refugee and internally displaced persons (IDP) camps, children in detention, children living in institutions, as well as children living in extreme poverty, children living in situations of armed conflict, child-soldiers, economically and sexually exploited children, disabled, migrant, minority, indigenous, and street children, but all children can be rendered vulnerable by the particular circumstances of their lives. Even in times of severe resource constraints, the Committee wishes to note that the rights of vulnerable members of society must be protected and that many measures can be pursued with minimum resource implications. Reducing HIV/AIDS-related vulnerability requires first and foremost that children, their families and communities be empowered to



make informed choices about decisions, practices or policies affecting them in relation to HIV/AIDS.

(a) Children affected and orphaned by HIV/AIDS

28. Special attention must be given to children orphaned by AIDS, children from affected families, including child-headed households, as these impact on vulnerability to HIV infection. For children from families affected by HIV/AIDS, the stigmatization and social isolation they experience may be accentuated by the neglect or violation of their rights, in particular discrimination resulting in a decrease or loss of access to education, health and social services. The Committee wishes to underline the necessity of legal, economic and social protections for affected children to ensure their access to education, inheritance, shelter, health and social services, as well as to feel secure in disclosing their HIV status and that of their family members when the children deem it appropriate. In this respect, States parties are reminded that these measures are critical to realization of the rights of children and to give them the skills and support necessary to reduce their vulnerability and risk of becoming infected.

29. The Committee wishes to emphasize the critical implications of proof of identity for children affected by HIV/AIDS, as it relates to securing recognition as a person before the law, safeguarding the protection of rights, in particular to inheritance, education, health and other social services, as well as to making children less vulnerable to abuse and exploitation, particularly if separated from their families due to illness or death. In this respect, birth registration is critical to ensure the rights of the child and is also necessary to minimize the impact of HIV/AIDS on the lives of affected children. States parties are therefore reminded of their obligation under article 7 of the Convention to ensure that systems are in place for the registration of every child at or shortly after birth.

30. The trauma HIV/AIDS brings to the lives of orphans often begins with the illness and death of one of their parents, and is frequently compounded by the effects of stigma and discrimination. In this respect, States parties are particularly reminded to ensure that both law and practice support the inheritance and property rights of orphans, with particular attention to underlying gender-based discrimination as it may interfere with the fulfilment of these rights. Consistent with their obligations under article 27 of the Convention, States parties must also support and strengthen the capacity of families and communities of children orphaned by AIDS to provide them with a standard of living adequate for their physical, mental, spiritual, moral, economic and social development, including access to psychosocial care as needed.

31. Orphans are best protected and cared for when efforts are made to enable siblings to remain together, and in the care of relatives or family members. The extended family, with the support of the surrounding community, may be the least traumatic and therefore the best way to care for orphans when there are no other feasible alternatives. Assistance must be provided so that, to the maximum extent possible, children can remain within existing family structures. This option may not be available due to the impact HIV/AIDS has on the extended family. In that case, States parties should provide as far as possible for family-type alternative care (e.g. foster care). States parties are encouraged to provide support, financial and otherwise,



when necessary, to child-headed households. States parties must ensure that their strategies recognize that communities are at the front line of the response to HIV/AIDS and that these strategies are designed to support communities in their determinations as to how best to provide support to the orphans living there.

32. Although institutionalized care may have detrimental effects on child development, States parties may nonetheless determine that it has an interim role to play in caring for children orphaned by HIV/AIDS when family-based care within their own communities is not a possibility. It is the opinion of the Committee, that any form of institutionalized care for children can only serve as a last resort, and measures must be fully in place to protect the rights of the child and guard against all forms of abuse and exploitation. In keeping with the right of children to special protection and assistance when within these environments, and consistent with articles 3, 20 and 25 under the Convention, strict measures are needed to ensure that such institutions meet specific standards of care and comply with legal protections. States parties are reminded that limits must be placed on the length of time children spend in these institutions, and programmes must be developed to support any children who stay in these institutions, whether infected or affected by HIV/AIDS, to successfully reintegrate into their communities.

(b) Victims of sexual and economic exploitation

33. Girls and boys who are deprived of the means of survival and development, particularly children orphaned by AIDS, may be subjected to sexual and economic exploitation in a variety of forms, including the exchange of sexual services or hazardous work for money to survive, support their sick or dying parents and younger siblings, or to pay for school fees. Children who are infected or immediately affected by HIV/AIDS may find themselves at a double disadvantage, experiencing discrimination on the basis of both their social and economic marginalization and their, or their parents, HIV status. Consistent with the right of children under articles 32, 34, 35 and 36 of the Convention, and in order to decrease children's vulnerability to HIV/AIDS, States parties are obliged to protect children from all forms of economic and sexual exploitation, including ensuring they do not fall prey to prostitution networks, and that they are protected from performing any work likely to be hazardous or to interfere with their education, health or physical, mental, spiritual, moral or social development. States parties must take bold action to protect children from sexual and economic exploitation, trafficking and sale and consistent with the rights under article 39, create opportunities for those who have been subjected to such treatment to benefit from the support and caring services of the State and non-governmental entities engaged in these issues.

(c) Victims of violence and abuse

34. Children may be exposed to various forms of violence and abuse which may increase their risk of becoming HIV-infected, and they may also be subjected to violence as a result of their being infected or affected by HIV/AIDS. Violence, including rape and other forms of sexual abuse, can occur in the family or foster setting or be perpetrated by those with specific responsibilities towards children, including teachers and employees of institutions working with children, such as



prisons and institutions concerned with mental health and other disabilities. In keeping with the rights of the child according to article 19 of the Convention, States parties have the obligation to protect children from all forms of violence and abuse, whether at home, in school or other institutions, or in the community. Programmes must be specifically adapted to the environment in which children live, their ability to recognize and disclose abuses and their individual capacity and autonomy. The Committee considers that the relationship between HIV/AIDS and the violence or abuse suffered by children in the context of war and armed conflict requires specific attention. Measures to prevent violence and abuse in these situations are critical, and States parties must ensure the incorporation of HIV/AIDS and child rights issues in addressing and supporting children - girls and boys - who were used by military or other uniformed personnel to provide domestic help or sexual services, or who are internally displaced or living in refugee camps. In keeping with States parties obligations, including under articles 38 and 39 of the Convention, active information campaigns combined with the counselling of children and mechanisms for prevention and early detection of violence and abuse must be put in place within conflict and disaster affected regions, as well as within national and community responses to HIV/AIDS.

Substance abuse

35. The use of substances, including alcohol and drugs, may reduce the ability of children to exert control over their sexual conduct and, as a result, may increase their vulnerability to HIV infection. Injecting practices with unsterile equipment further enhances the risk of HIV transmission. The Committee notes that greater understanding is needed of substance-use behaviours among children, including the impact that neglect and violation of the rights of the child has on these behaviours. In most countries, children have not benefited from pragmatic HIV prevention programmes related to substance use, which even when they do exist have largely been targeted at adults. The Committee wishes to emphasize that policies and programmes aimed at reducing substance use and HIV transmission must recognize the particular sensitivities and lifestyles of children, including adolescents, in the context of HIV/AIDS prevention. Consistent with the right of children under articles 33 and 24 of the Convention, States parties are obliged to ensure the implementation of programmes that aim to reduce the factors that expose children to the use of substances, as well as those that provide children that are abusing substances treatment and support.

VI. Recommendations

36. The Committee hereby reaffirms the recommendations, which emerged at the day of general discussion on HIV/AIDS (CRC/C/80) and calls upon States parties to:

1. Adopt and implement national and local HIV/AIDS-related policies, including effective Plans of Action, strategies, and programmes that are child-centred rights-based and incorporating the rights of the child under the Convention including by taking into account the recommendations made in the previous paragraphs of this general comment and those adopted at the United Nations General Assembly Special Session on Children (2002).



OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS



2. Allocate financial, technical and human resources to the maximum extent available to support national and community-based action (art. 4), and when appropriate within the context of international cooperation (see hereafter under 7).

3. Review existing laws or enact new legislation with the view to implement fully article 2 of the Convention and in particular to prohibit expressly discrimination based on real or perceived HIV/AIDS status as to guarantee equal access of all children to all relevant services with particular attention for the child's right to privacy and confidentiality and other recommendations the Committee made in the previous paragraphs relevant to legislation.

4. Include HIV/AIDS Plans of Action, strategies, policies and programmes in the work of national mechanisms for monitoring and coordinating children's rights and to consider the establishment of a review procedure, which responds specifically to complaints of neglect or violation of the rights of the child in relation to HIV/AIDS, whether this entails the creation of a new legislative or administrative body or is entrusted to an existing national institution.

5. Reassess their HIV-related data collection and evaluation to ensure that they adequately cover children as defined under the Convention, disaggregated by age and gender and ideally be done in five-year age groups, and as far as possible reflect children belonging to vulnerable groups and in need of special protection.

6. Include in their reporting process under article 44 of the CRC information on national HIV/AIDS policies and programmes and, to the extent possible, budgeting and resource allocations at national, regional and local levels, as well as within these breakdowns the proportions allocated to prevention, care, research and impact reduction. Specific attention must be given to the extent to which these programmes and policies explicitly recognize children (in light of their evolving capacities) and their rights, and the extent to which HIV-related rights of children are dealt with in laws, policies and practices, with specific attention to discrimination against children on the basis of their HIV status, as well as because they are orphans or the children of parents living with HIV/AIDS. The Committee requests States parties to provide a detailed indication in their reports of what it considers to be the most important priorities within its jurisdiction in relation to children and HIV/AIDS, and to outline the programme of activities it proposes to take over the succeeding five years in order to address the problems identified. This will allow these to be progressively assessed over time.

7. In order to promote international cooperation, the Committee calls upon UNICEF, WHO, UNFPA, UNAIDS and other relevant international bodies, organizations and agencies to contribute systematically, at the national level, to efforts to ensure the rights of children in the context of HIV/AIDS, and also to continue to work with the Committee to improve the rights of the child in the context of HIV/AIDS. Further the Committee urges States providing development cooperation to ensure that HIV/AIDS strategies are designed so as to fully take into account the rights of the child.



OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS



8. Non-governmental organizations, as well as community-based groups and other civil society actors, such as youth groups, faith-based organizations, women's organizations, traditional leaders, including religious and cultural leaders, all have a vital role to play in the response to the HIV/AIDS pandemic. States parties are requested to ensure an enabling environment for civil society participation, which includes facilitating collaboration and coordination among different players and that they are given the support to be able to operate effectively without impediment. (In this regard, States parties are specifically encouraged to support the full involvement of People Living with HIV/AIDS, with particular attention to the inclusion of children, in the provision of HIV/AIDS prevention, care, treatment and support services.)