

Thirty-fifth session (1989)

General comment No. 17: Article 24 (Rights of the child)

1. Article 24 of the International Covenant on Civil and Political Rights recognizes the right of every child, without any discrimination, to receive from his family, society and the State the protection required by his status as a minor. Consequently, the implementation of this provision entails the adoption of special measures to protect children, in addition to the measures that States are required to take under article 2 to ensure that everyone enjoys the rights provided for in the Covenant. The reports submitted by States parties often seem to underestimate this obligation and supply inadequate information on the way in which children are afforded enjoyment of their right to a special protection.

2. In this connection, the Committee points out that the rights provided for in article 24 are not the only ones that the Covenant recognizes for children and that, as individuals, children benefit from all of the civil rights enunciated in the Covenant. In enunciating a right, some provisions of the Covenant expressly indicate to States measures to be adopted with a view to affording minors greater protection than adults. Thus, as far as the right to life is concerned, the death penalty cannot be imposed for crimes committed by persons under 18 years of age. Similarly, if lawfully deprived of their liberty, accused juvenile persons shall be separated from adults and are entitled to be brought as speedily as possible for adjudication; in turn, convicted juvenile offenders shall be subject to a penitentiary system that involves segregation from adults and is appropriate to their age and legal status, the aim being to foster reformation and social rehabilitation. In other instances, children are protected by the possibility of the restriction - provided that such restriction is warranted - of a right recognized by the Covenant, such as the right to publicize a judgement in a suit at law or a criminal case, from which an exception may be made when the interest of the minor so requires.

3. In most cases, however, the measures to be adopted are not specified in the Covenant and it is for each State to determine them in the light of the protection needs of children in its territory and within its jurisdiction. The Committee notes in this regard that such measures, although intended primarily to ensure that children fully enjoy the other rights enunciated in the Covenant, may also be economic, social and cultural. For example, every possible economic and social measure should be taken to reduce infant mortality and to eradicate malnutrition among children and to prevent them from being subjected to acts of violence and cruel and inhuman treatment or from being exploited by means of forced labour or prostitution, or by their use in the illicit trafficking of narcotic drugs, or by any other means. In the cultural field, every possible measure should be taken to foster the development of their personality and to provide them with a level of education that will enable them to enjoy the rights recognized in the Covenant, particularly the right to freedom of opinion and expression. Moreover, the Committee wishes to draw the attention of States parties to the need to include in their reports information on measures adopted to ensure that children do not take a direct part in armed conflicts.

4. The right to special measures of protection belongs to every child because of his status as a minor. Nevertheless, the Covenant does not indicate the age at which he attains his majority. This is to be determined by each State party in the light of the relevant social and cultural conditions. In this respect, States should indicate in their reports the age at which the child attains his majority in civil matters and assumes criminal responsibility. States should also indicate the age at which a child is

legally entitled to work and the age at which he is treated as an adult under labour law. States should further indicate the age at which a child is considered adult for the purposes of article 10, paragraphs 2 and 3. However, the Committee notes that the age for the above purposes should not be set unreasonably low and that in any case a State party cannot absolve itself from its obligations under the Covenant regarding persons under the age of 18, notwithstanding that they have reached the age of majority under domestic law.

5. The Covenant requires that children should be protected against discrimination on any grounds such as race, colour, sex, language, religion, national or social origin, property or birth. In this connection, the Committee notes that, whereas non-discrimination in the enjoyment of the rights provided for in the Covenant also stems, in the case of children, from article 2 and their equality before the law from article 26, the non-discrimination clause contained in article 24 relates specifically to the measures of protection referred to in that provision. Reports by States parties should indicate how legislation and practice ensure that measures of protection are aimed at removing all discrimination in every field, including inheritance, particularly as between children who are nationals and children who are aliens or as between legitimate children and children born out of wedlock.

6. Responsibility for guaranteeing children the necessary protection lies with the family, society and the State. Although the Covenant does not indicate how such responsibility is to be apportioned, it is primarily incumbent on the family, which is interpreted broadly to include all persons composing it in the society of the State party concerned, and particularly on the parents, to create conditions to promote the harmonious development of the child's personality and his enjoyment of the rights recognized in the Covenant. However, since it is quite common for the father and mother to be gainfully employed outside the home, reports by States parties should indicate how society, social institutions and the State are discharging their responsibility to assist the family in ensuring the protection of the child. Moreover, in cases where the parents and the family seriously fail in their duties, ill-treat or neglect the child, the State should intervene to restrict parental authority and the child may be separated from his family when circumstances so require. If the marriage is dissolved, steps should be taken, keeping in view the paramount interest of the children, to give them necessary protection and, so far as is possible, to guarantee personal relations with both parents. The Committee considers it useful that reports by States parties should provide information on the special measures of protection adopted to protect children who are abandoned or deprived of their family environment in order to enable them to develop in conditions that most closely resemble those characterizing the family environment.

7. Under article 24, paragraph 2, every child has the right to be registered immediately after birth and to have a name. In the Committee's opinion, this provision should be interpreted as being closely linked to the provision concerning the right to special measures of protection and it is designed to promote recognition of the child's legal personality. Providing for the right to have a name is of special importance in the case of children born out of wedlock. The main purpose of the obligation to register children after birth is to reduce the danger of abduction, sale of or traffic in children, or of other types of treatment that are incompatible with the enjoyment of the rights provided for in the Covenant. Reports by States parties should indicate in detail the measures that ensure the immediate registration of children born in their territory.

8. Special attention should also be paid, in the context of the protection to be granted to children, to the right of every child to acquire a nationality, as provided for in article 24, paragraph 3. While the purpose of this provision is to prevent a child from being afforded less protection by society and the State because he is stateless, it does not necessarily make it an obligation for States to give their nationality to every child born in their territory. However, States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born. In this connection, no discrimination with regard to the acquisition of nationality should be admissible under internal law as between legitimate children and children born out of wedlock or of stateless parents or based on the nationality status of one or both of the parents. The measures adopted to ensure that children have a nationality should always be referred to in reports by States parties.