

COMMITTEE ON THE RIGHTS OF THE CHILD

46<sup>th</sup> Session

17 September – 5 October 2007

DAY OF GENERAL DISCUSSION ON “RESOURCES FOR THE RIGHTS OF  
THE CHILD – RESPONSIBILITY OF STATES”

21 September 2007

RECOMMENDATIONS<sup>1</sup>

I. BACKGROUND

1. The annual Days of General Discussion of the Committee on the Rights of the Child seek to foster a deeper understanding of the contents and implications of the Convention as they relate to specific articles or topics. On 21 September 2007, during its forty-sixth session, the Committee devoted its Day of General Discussion to: **“Resources for the Rights of the Child - Responsibility of States”, Investments for the Implementation of Economic, Social and Cultural Rights of Children and International Cooperation (CRC article 4).**
2. Under article 4 of the Convention on the Rights of the Child, States parties are required to “undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the [present] Convention”. However, its second sentence suggests that - with regard to economic, social and cultural rights - State parties shall “*undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation*”. The wording of the second sentence is similar to that of article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>2</sup> and

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<sup>1</sup> These recommendations are based on the input to and discussions that took place during the Day of general discussion on “Resources for the rights of the child – responsibility of States” on 21 September 2007 and do not pretend to be exhaustive.

<sup>2</sup> “*Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures*”.

explicitly recognizes that lack of resources may affect the full implementation of economic, social and cultural rights, introducing the concept of “progressive realization”.

3. In its General Comment n° 5 of 2003 (CRC/GC/2003/5) on the General Measures of Implementation of the Convention (arts. 4, 42 and 44 § 6 of the Convention), the Committee outlined States parties’ obligations to develop general measures of implementation and already reflected on issues related to budget allocation for children, the progressive realization of economic, social and cultural rights enshrined in the Convention and international cooperation<sup>3</sup>. In the introduction to this General Comment, the Committee indicated that, given the complexity of the concept, it was “likely to issue more detailed general comments on individual elements in due course”.

4. The purpose of the 2007 Day of General Discussion was to elaborate in further detail on issues raised by the second part of article 4 which required further discussion and consideration, and notably, the obligations of State parties with regard to the implementation of economic, social and cultural rights.

5. On 21 September 2007, over 120 participants (constituting State parties, international organizations, non-governmental organizations as well as individual experts) attended the meeting, and more than 40 written contributions were submitted prior to the event.

## II. SUMMARY

6. Ms Yanghee Lee, the Chairperson of the Committee, opened the Day of General Discussion with a short introduction on the topic, followed by Mr Kamal Siddiqui, a Member of the Committee and the keynote speaker for the Day. Mr Siddiqui underlined that the term ‘available resources’ refers not only to financial resources but also to human and organisational resources, and that the quality of resources and not only their quantity must be taken into account. In elaborating on the concept of the ‘maximum extent’, Mr Siddiqui argued that States parties must aim at achieving positive changes to the maximum extent progressively, but as quickly as possible. Upon ratification of the Convention, States bear upon themselves the obligation not only to implement the Convention within their respective territorial jurisdiction, but also to contribute, through international cooperation, to global implementation. Mr Siddiqui further highlighted the importance of article 4 as an essential instrument for the implementation of the entire Convention, and set forth three questions to be taken into consideration when discussing its meaning: a) a minimum political will in favour of child rights; b) factors affecting the availability of the resources for children; and c) factors affecting the maximum use of resources available for children. Mr Siddiqui also noted that political will in favour of child rights is an

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<sup>3</sup> See General Comment n° 5 on ‘General measures of implementation of the Convention on the Rights of the Child’ CRC/GC/2003/5, November 2003.

essential condition for the availability of resources for children, but it does not exist in a vacuum, he said, underlining the importance of pressure exerted on States by, *inter alia*, political movements, civil society, international community and the media. With respect to the factors which may affect the availability of resources, Mr Siddiqui highlighted: the strength and efficacy of the taxation system, including whether there is a progressive tax policy at the local and national level; military expenditure; independent tracking; and the involvement of civil society, and underlined the importance of having genuine consultation with children regarding the use of resources. Finally, Mr Siddiqui analyzed the main factors affecting the maximum use of resources, citing, *inter alia*, the prioritization exercise, the coordination between service providers and beneficiaries, the importance of having regular and independent monitoring regarding how resources are being used (e.g. waste and corruption), and of ensuring that resources reach the most marginalised groups of children.

7. Following the statement by Mr Siddiqui, the floor was given to Mr. Patrick Reichenmiller of the World Bank Office in Geneva, who delivered a statement on behalf of Ms. Iqbal Kaur, Social Protection Specialist at the Bank's Middle East and North Africa Region. Underscoring the importance placed by the World Bank in investing in children's and young people's rights as a way to build a better future, Mr Reichenmiller pointed to the evidence that increasingly demonstrates that the political and economic costs of not investing in children and youth could be immense, as highlighted by the consequences of risky behaviours of disadvantaged children, including teenage pregnancy, school drop-outs, crime and HIV/AIDS. He also stressed that although the World Bank directed substantial economic resources towards children, particularly in the fields of education and health, their contribution represent only a small fraction of what is required. Indeed, allocating sufficient resources and directing them to where they are most needed is a task which requires collective action through partnerships between governments, international agencies and the civil society within respective countries. He further emphasised that countries have to commit themselves to investing in child rights, by dedicating human and physical resources to be utilised effectively, prioritising children and youth in national development plans, underpinning spending priorities and including the civil society in the entire process.

8. The final speaker of the opening segment was Mr. Eibe Riedel, a Member of the Committee on Economic, Social and Cultural Rights (CESCR). Mr. Riedel, recalling that the second sentence of article 4 of the Convention on the Right of the Child takes up the wording of article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), provided an analysis of parallels between the interpretations of the two articles, and described how the idea of progressive realization has also been taken up by the Committee on the Rights of the Child, as much as the idea that the obligations entrenched in article 4 remain even with regard to those countries with inadequate available resources. In elaborating the approach taken by CESCR, he highlighted the principle of non-retrogression, the power of discretion given to State parties in the modalities of financial allocation and

budgeting, and their duty to demonstrate that they have at least undertaken serious efforts to meet their obligations if they were not able to meet them fully. He concluded by suggesting that a similar approach is adopted by the Committee on the Right of the Child.

9. Following Mr. Riedel's statement, the participants divided into two working groups (WGs) which proceeded to discuss the concept of 'available resources' and their allocation to children (WG 1), and the use of these resources to the 'maximum extent' (WG 2) respectively.

### **WG 1: Available resources and their allocation to children**

10. The work of this group, facilitated by Ms. Moushira Khattab, a member of the Committee, and also joined by Ms. Rocio Barahona Riera, the Vice-Chairperson of the Committee on Economic, Social and Cultural Rights, began with two presentations from experts on the subject.

11. The first speaker was Ms. Elizabeth Gibbons, Chief of the Global Policy Section of the UNICEF Division of Policy and Planning, who provided a concrete example of UNICEF's work in budgeting for children at the country level, and shared with participants the analysis and monitoring of social expenditure in Ecuador. On a general level, Ms. Gibbons stressed the importance of a balanced distribution of wealth in the context of economic policies, and underlined that the entire budget process should be based on the principles of participation, transparency, accessibility and universality. She also analyzed some of the constraints in maximising resources for children, in particular, the fact that budget priorities and economic policies have traditionally focused on economic growth neglecting the social aspect and the human rights approach. Ms. Gibbons concluded her speech with some recommendations for consideration of the Committee.

12. The second speaker of this working group was Ms. Lobna Abdellatif, a Professor of Economics at Cairo University, who presented the experience of Egypt with respect to budget tracking for children. She stated that, as a precondition to having a more effective allocation of resources to children, it is essential to first overcome certain obstacles which usually hamper the development and implementation of child rights budgeting, including: lack of transparency; poor monitoring of the budget process; insufficient coordination among the different actors involved in the decision making process of resource allocation; and lack of awareness about child rights. Prof. Abdellatif concluded her speech by emphasizing that the experience of the budget tracking exercise in Egypt demonstrates that there is a need for a collective action both at the national and the international level involving all stakeholders, including international organizations involved in budgeting exercises, to encourage a more coherent approach on budgeting for children.

13. In the discussion that followed, the group focused on the concept of 'available

resources' and on the process of their allocation to children, including national priorities and the need to increase transparency in this process. Resource mobilization, the human rights-based approach to the budget and the modalities of ensuring consistency and coordination between economic and social policies were discussed. The participants highlighted the importance of having a budget that is readable and accessible to children as an essential requisite for appropriate monitoring and follow-up to States' policies. Participants also emphasized the need for involving civil society, including children, at all stages, and ensuring transparency in the budget process, including inter-ministerial transparency. Some participants pointed out that information on revenues and expenditures should be made available to all governmental agencies, and the budgeting process be opened up to the general public and the civil society. Opportunity cost in budget allocation was also discussed, in particular in relation to military spending.

14. Several participants underscored the importance of involving the Ministry of Finance throughout the reporting process under the Convention, and it was suggested that a representative of the Ministry of Finance be part of the delegation presenting the report before the Committee. The Committee was also invited to consider the possibility of developing a General Comment on article 4, notably on the issues under discussion during the event. Reference was also made to the importance of providing children with social and financial education. Another area that was highlighted was that budgetary allocation must be scrutinized at the local level, and not only at the national level.

15. Some mention was also made on international cooperation, especially with respect to the importance of raising awareness among States parties with respect to their obligations under article 4, since there appeared to be a tendency, in some sectors, to believe that external support should be the main source of resource for the implementation of economic, social and cultural rights.

## **WG 2: The use of resources to the maximum extent**

16. The work of this group, facilitated by Mr. Jean Zermatten, a member of the Committee, was commenced with the introductory remarks of Mr. Hatem Kotrane, also member of the Committee, who elaborated on the nature and the scope of obligations entered into by States parties under the Convention, including the duty to respect, protect and fulfil the rights of children. States had to ensure the broadest possible enjoyment of relevant rights within the limits of resources that are available to them, and in particular to ensure those rights to the most vulnerable groups of children. In particular, any decisions of allocation of resources should be monitored to ensure that they were not discriminatory, and did not impact negatively on a particular group of children. States are also to seek external assistance if necessary, including in the framework of international cooperation. In outlining the obligations of States, Mr Kotrane also underscored the importance of ensuring justiciability of economic, social and cultural rights in domestic courts, especially with regard to the allocation of resources to the maximum extent, and cited some of the landmark cases.

17. In the discussion that followed, the group, which was also joined by Mr. Miloon Kothari, UN Special Rapporteur on Adequate Housing, focused on how the resources allocated to children have been used, and discussed around the definition and the meaning of the States parties' obligation to undertake measures "to the maximum extent" of their "available resources" with regard to the implementation of economic, social and cultural rights. In doing so, the participants highlighted the importance of having reliable and accurate data, as well as the need for indicators that allow for effective assessment and monitoring of public expenditures for children. Some participants focused on the indivisibility of rights and emphasized that the fulfilment of civil and political rights has a direct link with the enjoyment of economic, social and cultural rights.

18. The group also discussed how an efficient use of resources can be achieved, eliminating misuse of resources, and reducing waste as much as possible. Consequently, they touched upon the related issue of a "minimum core content" of economic, social and cultural rights and minimum standards for their realization. In this connection, the group underscored the respective roles of local government, civil society and international financial institutions in ensuring that the legislative, administrative and other measures undertaken for children by States parties to the maximum extent of their available resources are in fact effective, equitable and non-discriminatory. Among other issues raised were principles and priorities guiding the use of resources for children, the role of international cooperation and the responsibilities of international financial institutions and non-governmental organizations in the implementation of article 4. Reference was made, in particular, to the States' duty to protect with respect to the prevention of violation of children's rights by third parties as well as to their duty to monitor and sanction these violations.

19. The two rapporteurs of the working groups, Ms. Lucy Smith (WG 1) and Mr. Hatem Kotrane (WG 2) summarized the main points raised during the discussion in the two groups.

20. The reporting-back was shortly followed by a video message of children from Peru, in which the children made a number of concrete recommendations to the Committee and the other participants of the Day of General Discussion. Among those recommendations were that children should take an active part in discussing local and national budgets, that maximum priority is given to children when discussing public investments, and that information on the budget process be included in school curricula.

21. Finally, Mr. Norberto Liwski, a former Vice-Chair of the Committee on the Rights of the Child, and the General Rapporteur of the event, highlighted in his concluding comments that a clear need for a right-based, holistic approach in the area of budgeting had emerged from the discussions. Mr. Liwski stressed the importance of a participatory process in the development and implementation of public policies which impact on children. He reminded participants that the question of progressive realization does not in any manner imply that States should postpone

their immediate obligations and actions to ensure the widest possible enjoyment of the relevant rights derived from the Convention, and emphasised the monitoring role of national human rights institutions in this respect. Mr. Liwski also pointed out that international financial institutions should closely assess the impact of their policies towards children and take into account National Plans of Action and the principle of best interests of the child in their decision making at the national level. It was also stressed that there is a need for coordination of governments at the national, regional and local levels. He concluded by noting the importance of the Human Development Index as an objective indicator for the measurement of the degree of enjoyment of economic, social and cultural rights.

### III. CONCLUDING RECOMMENDATIONS

#### Legislative framework

22. The Committee recalls that article 4 underscores the obligation of States Parties to undertake legislative measures, as well as all other appropriate measures, for the implementation of the rights recognized in the Convention. To ensure that resources of children are adequately prioritized, some States have gone as far as assigning specific percentage points of the State budgets that must be allocated to children in the national legislation itself, so that adequate resources are earmarked specifically for children. This approach, of legally incorporating budgetary allocations for children in domestic legislation, so that public authorities are accountable for the use of resources for children is one that the Committee supports, for the purpose of encouraging States to commit themselves to investing in children.

**23. Recognizing that having an adequate legislative framework is an essential pre-condition for an equitable and effective allocation of resources to children, the Committee encourages all States to consider legislating a specific proportion of the public expenditure to be allocated to children. Such legislation should be accompanied by a mechanism that allows for a systematic independent evaluation of the public expenditure on children.**

#### The concept of “available resources”

24. The Committee reaffirms that it is the responsibility of States in the first place to allocate resources for the implementation of the rights of the child as defined by the Convention. The term “available resources” includes also resources available from the international community through international assistance, which should complement the resources available at national level. Resource must be understood as encompassing not only financial resources, but also other types of resources relevant for the realization of economic, social and cultural rights, such as human, technological, organizational, natural and information resources. Resources are also to be understood in qualitative terms and not solely quantitative.

**25. The Committee encourages State Parties to periodically identify available economic, human and organisational resources for the achievement of children’s rights, as well as the resources which are actually used to implement children’s**

**rights, and combine both in an assessment of available resources. The Committee particularly encourages State Parties to assess ‘available resources’ beyond financial measures that contribute to the implementation of children’s economic, social and cultural rights. In this respect, it emphasizes the importance of systematically supporting parents and families which are among the most important ‘available resources’ for children.**

### **Budget process, social policies and human rights**

26. The Committee emphasizes that the ultimate purpose of public policy, including budgetary and fiscal policies, must be the universal fulfilment of rights and that economic growth and stability should be considered as a means towards human development and not as an end in itself. The Committee considers that it is very important to ensure a balance between economic and social policies and strongly underlines that social investment is not only directly proportional to achieving better access and better quality of social services and realization of human rights, but also, in the long term, to increased productivity and competitiveness through an improvement in human capital by investing in education, health and nutrition.

27. In “A World Fit for Children”, States reaffirmed their commitment to the mobilization and allocation of new and additional resources at both national and international levels, and to prioritise children in budgetary allocations, guided by the Convention. “Investing in children” is a concept now widely accepted as the best guarantee for achieving equitable and sustainable human development, and a fundamental requirement for social and economic priorities of any government. In this connection, the Committee also underlines the interdependence and indivisibility of all human rights, and that enjoyment of economic, social and cultural rights is inextricably intertwined with enjoyment of civil and political rights.

28. The Committee underscores the ways in which factors such as the level of decentralisation, national and sub-national planning processes, executive discretion and the role of the civil society greatly determine or influence the allocation of resources, as well as the ways in which those allocations actually reach children and advance their enjoyment of economic, social and cultural rights.

29. The Committee further underscores that a good public financial management system is a precondition for an adequate allocation of resources in a country. In this respect, State parties should ensure that they have an appropriate system of budget methodology as well as a strong capacity for budget analysis in place within their public administration.

30. **In view of the fact that investment for children has high economic return and in an effort to ensure that investments and other resources allocated for children serve as an instrument for fulfilment of children’s rights, the Committee recommends that State parties:**

- a) **make children a priority in the budgetary allocations as a means to ensure the highest return of the limited available resources; and**

**make investment in children visible in the State budget through detailed compilation of resources allocated to them;**

- b) consider using rights-based budget monitoring and analysis, as well as child impact assessments on how investments in any sector may serve “the best interests of the child”;**
- c) undertake a comprehensive approach to children’s economic, social and cultural rights, in particular, by identifying ministries and departments dealing with children and to make sure that other ministries are also able to demonstrate how their budget and programmes are consistent with the realisation of children’s economic, social and cultural rights.**

**31. The Committee also recommends that the emphasis on allocations aimed at economic growth is not made at the sacrifice of social sector expenditure. In this respect, the macroeconomic framework of growth targets should be harmonized with a human development framework based on the Convention on the Rights of the Child and the principles of non-discrimination, best interests of the child, participation, universality and accountability. The development of this framework should also take into account the Millennium Development Goals (MDGs), World Fit for Children, rights-based Poverty Reduction Strategy Papers (PRSPs) and national plans of action for children developed in accordance with the Convention.**

#### **Transparency and accountability in the allocation and use of resources**

**32. Since national budgets are key political documents reflecting the priorities of Governments, the extent to which the budget serves as an instrument for the realization of children’s rights is closely related to the extent to which the budget operates effectively and efficiently and prioritizes investments for children. It is therefore crucial that State parties consistently ensure the transparency of the budget allocation process, both internally and externally. Internal transparency implies that information on revenues and expenditures are available to all governmental bodies conducting impact assessments on how major spending decisions are likely to affect children. External transparency is understood to mean that the budget should be open and accessible to all stakeholders, including the civil society and that information on budget choices and allocations is available to the public in a comprehensible and easy-to-understand language in a child-friendly manner.**

**33. Budget data may be difficult to obtain and verify, and may be affected in some instances by poor budgeting capacity and, in some cases, by corruption. Thus, an accurate systematization of data and indicators as well as an effective analysis of the budget are particularly important requirements for the monitoring of efforts towards the realization of economic, social and cultural rights for children.**

**34. The Committee recommends that:**

- a) **State parties encourage public dialogue on State budgets. Budgeting process should be transparent and participatory. Information on the criteria guiding the formulation and the implementation of national budgets, including priorities guiding the allocation of resources, should be made publicly available in an easy-to-understand language to encourage accountability and public scrutiny;**
- b) **effective resource tracking systems for the allocation and the use of resources and a comprehensive system of data collection on children are developed and implemented, including financial data and common indicators capable of international comparison and subjected to periodical review;**
- c) **State parties reports submitted under the Convention contain analytical statistical information on the various budget allocations in order for the Committee to adequately assess the importance that State parties attach to budgeting for children. These statistical data should indicate the resources available and the proportion allocated to children, disaggregated by sectors. Such information should clearly indicate the proportion of allocation and expenditure on children, in relation to other priorities of the government, including, but not limited to, military allocation and expenditure;**
- d) **all stakeholders at the national level engage in the budget process through, inter alia, efforts to facilitate and encourage literacy in budgetary analysis;**
- e) **consistent and systematic accountability of State parties, governmental departments and officials as well as of other stakeholders involved in budgeting for children should be ensured. For such accountability to be consistently applied, State parties are encouraged to take measures to rectify inefficiency and waste of resources as well as to establish effective mechanisms to hold public officials accountable of their actions;**
- f) **a representative of the Ministry of Finance is included in the delegation presenting State parties' reports under the Convention before the Committee.**

### **Participation of children and other stakeholders**

35. The Committee reaffirms the obligation of States parties to implement article 12 of the Convention as an integral part of the implementation of the other provisions in the Convention. In this respect, it underlines the importance of ensuring that the process of allocation of resources be as participatory as possible and that children and their parents are involved from the outset in the development, implementation and monitoring of the budget process. It also underlines the importance of effective engagement of the civil society in policy development and budgetary processes, as appropriate.

36. In light of the day of general discussion of September 2006 on "the right of the child to be heard", and recognising the positive impact that a transparent and

democratic process of decisions on the state's budget has on economic, social and cultural rights, the Committee encourages States Parties to promote child participation in the budget process, through, inter alia, allowing parents, teachers, caregivers and children themselves to participate in budgetary decisions and requests that the Committee is informed of the results achieved through the participatory process.

37. The Committee recommends that State parties report to the Committee not only on budget allocations with regard to article 4, but also on the process through which these allocations were made and the extent to which children, their parents and communities were involved in the decision making process. Reports should also include information on how the National Plan of Action for Children and other child-related policy documents relate to the budget process at the national level.

#### The use of resources to the "maximum extent"

38. The Committee recognizes that the exact nature of what the "maximum extent of available resources" may be, and how it could be measured, represent a challenge for States parties, for the international community working for children and for the Committee itself. The Committee also recognizes the limits of statistical variables and the fact that human rights indicators cannot capture the complexity and specificity of individual human rights in different contexts. However, the Committee underlines the importance of assessment tools in the use of resources and recognizes the need to develop measurable indicators to assist States parties in monitoring and evaluating progress in the implementation of the rights of the child as defined by the Convention.

39. The Committee while commending the existing OHCHR initiative to develop a comprehensive, disaggregated and common set of human rights indicators, invites UNICEF to develop child-specific indicators, with a view to assisting States in improving their policy formulation, monitoring and evaluation for the implementation of child rights. This system of indicators, combined with specific time-bound targets, including those recognized internationally, such as the Millennium Development Goals, will serve to identify human rights challenges and allow for assessment of progress or regress in the realisation of children's rights.

#### Prioritization in the allocation and use of resources for children

40. The Committee recalls that the non-discrimination principle in the Convention requires that all the rights guaranteed by the Convention should be recognized for all children. In this respect, the Committee recognizes the need for identifying and giving priority to marginalized and disadvantaged groups of children, while not neglecting or diluting in any way the obligations which States parties have accepted under the Convention.

41. The Committee recommends that States parties consider establishing national priorities guided by the four general principles of the Convention in the

allocation of resources in their efforts to prioritise the implementation of the rights of children in their respective national contexts. These priorities should be established using rights-based approach, paying special attention to the most marginalized and disadvantaged groups of children.

42. States should ensure that their national priorities for children, to have actual impact, can be independently monitored on a regular basis. While this may be done in the context of a parliamentary review, the Committee strongly recommends that States establish a monitoring mechanism that will allow for an external review of the national priorities *vis-à-vis* the actual enjoyment of rights by children, with the authority to issue recommendations. The outcomes of the national priorities review should be included in the periodic reports to the Committee.

### **Justiciability of economic, social and cultural rights for children**

43. In addition to legislation (see paragraphs 22 and 23 *supra*), States are required to ensure the availability of judicial remedies with respect to all human rights, including economic, social and cultural rights. The Committee notes that many of the economic, social and cultural rights provided for in the Convention are already widely accepted as legally enforceable rights; for example, free and compulsory primary education is a right reflected in the national legislation of many States, as well as in practice. However, many States have yet to recognise many of the economic, social and cultural rights which are fundamental to the full development and well-being of children as justifiable in the court of law. The Committee recognizes that in order to give full meaning to the economic, social and cultural rights of children as enshrined by the Convention, these rights must be domestically justiciable in practice.

44. The Committee recommends that State parties ensure that domestic adjudicating bodies are able to give full justiciability to economic, social and cultural rights of children, to ensure the full realization of these rights.

45. State parties should ensure that judicial procedures are child-sensitive and child-friendly, and that accessible and independent legal advice is made available to children and their representatives through, *inter alia*, the Children's Ombudsperson or the National Human Rights Commission where appropriate.

### **Progressive realization**

46. With respect to the issue of "progressive realization" of economic, social and cultural rights, the Committee notes that the principle of progressive realization is often misunderstood and interpreted to mean that those rights are not immediately applicable and are merely of aspirational character.

47. The Committee recommends that progressive realization be understood as imposing an immediate obligation for States parties to the Convention to undertake targeted measures to move as expeditiously and effectively as possible towards the full realization of economic, social and cultural rights of children. In

**particular, it underlines that there are obligations requiring immediate implementation, irrespective of the level of available resources: i.e. the obligation to guarantee non-discrimination in the enjoyment of these rights and the obligation to take immediate steps towards their realization. Also, the obligation not to take any retrogressive steps that could hamper the enjoyment of economic, social and cultural rights is considered to be inherent in the obligation towards progressive realization of those rights.**

48. Standing parallel to the concept of progressive realization is the idea of “minimum core obligations” of States. Core obligations are intended to ensure, at the very least, the minimum conditions under which one can live in dignity. The Committee on Economic, Social and Cultural Rights (CESCR) has systematically underlined this obligation of States, to guarantee at all times, the minimum level of protection (the minimum core content) in the provision of: essential foodstuffs, equal access to primary health care, basic shelter and housing, social security or social assistance coverage, family protection, and basic education. All States, regardless of their level of development, are required to take immediate action to implement these obligations, as a matter of priority. Where the available resources are demonstrably inadequate, the State concerned is still required to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances. Thus, complying with obligations relating to the core of a right should not be dependent on the availability of resources.

49. **The Committee considers that State parties are under the obligations to satisfy at least the core minimum content of economic, social and cultural rights and recommends that in its own assessment of the “adequacy” of the measures taken to protect, respect and fulfil economic social and cultural rights of children, States parties closely examine the criteria set out by the Committee on Economic, Social and Cultural Rights in its statement on the “Maximum of Available Resources” (E/C.12.2007/1, of 10 May 2007) and apply them in relation to children.**

### **The role of the international cooperation**

50. The Committee notes the existence of divergent views on whether the reference to international cooperation in article 4 amounts to a legal obligation on the part of State parties to engage in international development assistance, and notably, for the realization of the rights mentioned in article 4.

51. The Committee believes that children’s rights are a shared responsibility between the developed and the developing countries. State parties must respect and protect economic, social and cultural rights of children in all countries with no exceptions, and take all possible measures to fulfil these rights – whenever they are in a position to do so - through development cooperation. At the same time, countries with severe resource constraints have the responsibility to seek international co-operation and assistance. Thus, inaction cannot be justified by sole reliance on external support and they must at least bear the burden of demonstrating

that they have made all possible efforts, to the best of their ability, to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances, in particular for the most disadvantaged and marginalized members or groups of the society.

52. The Committee, recalling and reinforcing its views as stated in its General Comment n° 5 (2003) on the “General Measures of Implementation of the Convention”,<sup>4</sup> recommends that:

- a) State parties meet internationally agreed targets, including the United Nations target for international development assistance of 0.7 per cent of gross domestic product and take all possible measures to pursue the aims of the 20/20 initiative with the view to achieving universal access to basic social services of optimum quality on a sustainable basis, as a shared responsibility of the developing and the donor States;
- b) donor States parties consider the Convention as the framework for international development assistance related directly or indirectly to children. Programmes of donor States should be rights-based and a proportion of their international support should be earmarked for the implementation of children’s rights; in this respect, the Committee welcomes and encourages the enactment of legislation on international aid and cooperation in line with the principles and the spirit of the Convention, so as to ensure that child rights are respected and protected in all sectors covered by State parties’ bilateral and multilateral development cooperation.
- c) States parties that receive international aid and assistance allocate, as a matter of priority, an adequate part thereof specifically to children;
- d) international financial institutions regularly and systematically earmark a proportion of their international support for the implementation of children’s rights and assess the impact which their activities, including conditionalities, have upon children’s rights and that the principle of the best interests of the child constitute a primary consideration in the development and the implementation of their policies; and
- e) international financial institutions and other international governmental as well as non-governmental organizations should work together with recipient governments to enhance their capacity to implement child rights-based budgeting into national budgets and to ensure that aid is effectively coordinated;

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<sup>4</sup> General Comment n° 5 (2003), CRC/GC/2003/5, paragraph 61-64.

- f) **bilateral and multilateral international aid should not depend on any conditions which may have negative or harmful impact on the rights of children and other marginalised and disadvantaged groups.**

**Recommendations to be followed up on by the Committee**

53. **The Committee recognises the importance of continually striving to develop its Reporting Guidelines with a view to assisting States parties in reporting on their implementation of their obligations under the Convention.**

54. **The Committee will explore the possibility of developing a General Comment on issues related to the implementation of article 4 of the Convention related to the issues discussed during this event.**