



# General Assembly

Seventy-fourth session

Official Records

Distr.: General  
20 November 2019

Original: English

---

## Third Committee

### Summary record of the 12th meeting

Held at Headquarters, New York, on Tuesday, 8 October 2019, at 3 p.m.

*Chair:* Mr. Braun ..... (Luxembourg)

## Contents

Agenda item 66: Promotion and protection of the rights of children (*continued*)(a) Promotion and protection of the rights of children (*continued*)(b) Follow-up to the outcome of the special session on children (*continued*)

---

This record is subject to correction.Corrections should be sent as soon as possible, under the signature of a member of the delegation concerned, to the Chief of the Documents Management Section ([dms@un.org](mailto:dms@un.org)), and incorporated in a copy of the record.Corrected records will be reissued electronically on the Official Document System of the United Nations (<http://documents.un.org/>).

19-17330 (E)



Please recycle



*The meeting was called to order at 3.05 p.m.*

**Agenda item 66: Promotion and protection of the rights of children** (*continued*)

**(a) Promotion and protection of the rights of children** (*continued*) ([A/74/136](#), [A/74/162](#), [A/74/231](#), [A/74/246](#), [A/74/249](#) and [A/74/259](#))

**(b) Follow-up to the outcome of the special session on children** (*continued*) ([A/74/240](#))

1. **Mr. Pedernera** (Chair, Committee on the Rights of the Child) said that despite the significant improvements made to children's lives globally since the adoption of the Convention on the Rights of the Child 30 years ago, challenges persisted. Poverty, exclusion, criminalization, violence, discrimination, armed conflicts and climate change continued to hamper children's full enjoyment of their rights. In March 2019, the Committee had asked States parties to renew their commitment to the Convention by pledging to take one specific and measurable action for the promotion, protection and realization of children's rights. A total of 32 pledges had since been received.

2. While the Convention on the Rights of the Child had the highest rate of ratifications and accessions of all United Nations human rights instruments, over the past year the pace of ratification of the Optional Protocols had slowed: there had been only two accessions to the Optional Protocol on the involvement of children in armed conflict; one accession to the Optional Protocol on the sale of children, child prostitution and child pornography; and six accessions to the Optional Protocol on a communications procedure.

3. Reporting could also be improved. Over the past year, the Committee had received only two reports under the Optional Protocol on the sale of children, child prostitution and child pornography and none under the Optional Protocol on the involvement of children in armed conflict. Member States should avail themselves of the capacity building programme provided by the Office of the United Nations High Commissioner for Human Rights (OHCHR) to fulfil their reporting obligations.

4. Thanks to the efforts made by the Chairs of the treaty bodies and other stakeholders, the Committee had been able to hold its three scheduled sessions in 2019 and had reviewed and adopted concluding observations on 22 States parties' reports. The backlog stood at 39 reports, which included 25 new reports under the Convention and the Optional Protocols that had been received since October 2018, including the first report under the simplified reporting procedure. With regard to the Optional Protocol on a communications procedure,

the Committee had adopted decisions on 21 cases, 12 more than the previous year. Of those, it had found violations in 7 cases, declared 10 cases inadmissible and discontinued 4 cases. It had received 300 cases, registered 99 and adopted 30 decisions, bringing the cases pending consideration to 69. The number of cases received continued to grow and it was necessary to increase resources in order to meet the requests made.

5. The Committee had adopted a general comment on children's rights and the child justice system, which replaced general comment No. 10 on children's rights in juvenile justice and reflected the developments made since 2007 as a result of the promulgation of international and regional standards, the Committee's jurisprudence, new knowledge about child and adolescent development, and evidence of effective practices, including those relating to restorative justice. It also reflected concerns regarding the minimum age of criminal responsibility and the persistent use of deprivation of liberty. The Committee had also adopted a new set of guidelines for the implementation of the Optional Protocol on the sale of children, child prostitution and child pornography.

6. The Committee had offered 70 States parties the option of submitting reports under the simplified reporting procedure. So far, 16 States had done so. The Committee had sent six lists of issues prior to reporting and had received the first report under that procedure from Hungary.

7. During its seventy-ninth session, the Committee had held its eleventh annual informal meeting with States. Discussions had focused on, inter alia, the thirtieth anniversary of the Convention on the Rights of the Child, the 2020 treaty bodies review process and the Committee's work on general comments.

8. The financial situation of the United Nations system remained challenging. The Secretary-General had said that there were serious cash flow issues that made it difficult to finance fully mandated activities from the regular budget. He urged Member States to fulfil their responsibilities with regard to the human rights treaties that they had ratified.

9. **Ms. Jankovic** (Switzerland) said that her delegation welcomed the new guidelines for the implementation of the Optional Protocol on the sale of children, child prostitution and child pornography in the digital era and the new general comment on children's rights and the child justice system. New developments had led to new challenges with regard to the realization of children's rights. In that context, her delegation commended the Committee for involving children in actions to combat climate change and address other

issues that affected them. She would welcome more information on the most significant challenges related to the promotion of children's rights.

10. **Ms. Hermann** (Observer for the European Union) said that, despite the progress made in child survival rates, children continued to be affected by violence, discrimination, inequality and the deterioration of parental care. Families could be separated for different reasons, including armed conflict, natural disasters, poverty, migration, immigration status and political practices. Children deprived of parental care were more vulnerable to violations, yet they were not represented in the 2030 Agenda for Sustainable Development. She asked how Member States could ensure that those children were not left behind and whether there were specific recommendations that could be applied in that context.

11. **Mr. Dunkel** (Germany) said that it was necessary to scale up efforts to effectively implement the Convention. Children without parental care were more likely to experience human rights violations. One of the general principles of the Convention was that all children should grow up in a family environment, so it was essential to prevent the institutional care of children where possible and to reunify children with their families. Given that children were one of the most important assets for a sustainable social, economic and environmental future, it was important to emphasize their role not only as individuals requiring protection but also as rights holders and agents of positive change.

12. **Mr. Bastida Peydro** (Spain) said that his delegation welcomed the Committee's initiative to launch an open and fluid channel of communication with the States that had ratified the Optional Protocol on a communications procedure and encouraged the Committee to maintain that practice in the interests of efficiency and a faster resolution of pending cases. In the context of the thirtieth anniversary of the Convention on the Rights of the Child, he asked which aspects of the Convention should be updated or modified and which issues the Committee was considering for future general comments.

13. **Ms. Khusanova** (Russian Federation) said that the Committee on the Rights of the Child should take advantage of the thirtieth anniversary of the adoption of the Convention on the Rights of the Child to evaluate and revise its working methods to make them more impartial and transparent and thus enable it to provide genuine assistance to States in the implementation of their obligations. Unfortunately, the closed meetings of the Committee with civil society representatives and the promotion of the so-called working methods for the

participation of children in the reporting process of the Committee ([CRC/C/66/2](#)) were not conducive to equal and mutually respectful dialogue. She asked what was being done by the Committee to achieve greater transparency in those aspects of its work.

14. **Mr. Tomoyoshi** (Japan) said that, as a pathfinding country of the Global Partnership to End Violence Against Children, Japan would continue its efforts to formulate a national action plan to end violence against children; implement measures to prevent child abuse and prohibit corporal punishment; and continue multisectoral dialogue with civil society. His delegation encouraged other Member States to join initiatives to reconfirm their commitment to promoting and protecting the rights of children.

15. **Mr. Chaudhry** (Norway), speaking as a youth delegate, said that, in order to protect future generations, it was essential to reach climate goals, secure education for all and implement measures to prevent and protect children from violence. Although the Convention was the most widely ratified human rights instrument, there were still too many children around the world who were suffering neglect and violence. His delegation encouraged all Member States and the international community at large to engage children and youth to be part of the solutions and the change to come.

16. **Mr. Holtz** (United Kingdom) said that his country was aligned with the voluntary global pledge "For Every Child, Every Right" and was committed to renewing efforts to strengthen protection for children. In November 2019, the United Kingdom would host an international conference on the prevention of sexual violence in conflict, which would highlight the challenges faced by children born of sexual violence in conflict. In that context, he asked what action Member States should take to ensure the protection of those children and to address the stigma that they faced.

17. **Mr. Pedernera** (Chair, Committee on the Rights of the Child) said that the right of children to express their views on issues that affected them was set out in article 12 of the Convention. The traditional relationship between adults, institutions and children had changed over the years, and thus the Committee had increased its engagement with children. This had improved the Committee's understanding of certain issues, such as the importance for children of the right to play. In that regard, it was essential to continue to encourage ongoing intergenerational dialogue.

18. In response to the observer for the European Union, he said that the Convention's preamble stated that children should grow up in a family environment. He agreed that the institutionalization of children should

be avoided and, in that regard, attempts made to strengthen the role of families. In addition, communities should be encouraged to support and guide families in the care and development of their children.

19. In response to the question posed by the representative of Spain, he said that the Committee was currently focused on a general comment on the rights of children in the digital environment and was yet to decide on future general comments. However, during the decision-making process, the Committee had discussed the possibility of devoting future general comments to climate change, surrogacy and gender, among other issues. Member States were welcome to submit other relevant topics for consideration.

20. In response to the question on transparency from the representative of the Russian Federation, he said that the Committee's sessions were webcast, information on report submissions, debates and general comments was readily available on the Committee website and processes were highly consultative. Moreover, the Committee had received over 160 responses from stakeholders, including States parties, in connection with the general comment on children's rights and child justice that had replaced general comment No. 10. In addition, a joint general comment issued by the Committee on Migrant Workers and the Committee on the Rights of the Child had involved six regional consultations and the participation of children, Member States and academic organizations, which also demonstrated the transparency and participatory nature of the work of the Committee.

21. With regard to the question raised by the United Kingdom on children and sexual violence, he said that the Committee was cooperating closely with other treaty bodies and special representatives to address the issue.

22. **Ms. de Boer-Buquicchio** (Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material), introducing her report on the discharge of her mandate ([A/74/162](#)), said that the extent and nature of the sale and sexual exploitation of children had significantly changed in the past decade. New manifestations of that abhorrent crime had resulted from the "dark side" of rapidly evolving information and communications technology, which had led to the grooming, sexual abuse and exploitation of children by predators; from the exploitation of unaccompanied children in the context of forced displacement; and from the for-profit nature of assisted reproductive technologies. All had far-reaching implications for the rights of children, which called for rights-based responses at the global and national levels. In each of

the contexts described, children were at risk of being sold as commodities, often for exploitation. Hence the need for strong preventive measures and for cooperation between stakeholders nationally and internationally.

23. Her report also presented a study on safeguards for the protection of children born from surrogacy arrangements, in particular international surrogacy, resulting in complex legal and ethical issues regarding the attribution of parentage and parental responsibility. There was a lack of international consensus from the legal, policy or ethical perspective, with approaches taken by States ranging from prohibition to regulation or lack of regulation. The disparity in relation to international surrogacy arrangements often left children born through surrogacy vulnerable to breaches of their fundamental rights. While not all forms of surrogacy amounted to sale of children, the practice, in particular in its commercial form with the involvement of for-profit intermediaries, often involved abusive practices, in which children were being traded as mere commodities. She had therefore recommended strict regulation and oversight mechanisms to prevent any instances of sale and exploitation of children in the context of surrogacy.

24. On the basis of the feedback received during the interactive dialogue with the Human Rights Council and during country visits, she had developed minimum safeguards for the protection of the rights of surrogate-born children. The starting point for a discussion on any form of third-party-induced family formation, as in the context of adoption, was that there was no right to have a child under international law. Any attempt to commodify children was in contravention of the norms contained in the Convention on the Rights of the Child and the Optional Protocol on the sale of children, child prostitution and child pornography. All surrogate-born children were entitled to enjoy their human rights and under no circumstance should children be discriminated against based on the way they were conceived.

25. States would inevitably be confronted with surrogacies carried out abroad, often in jurisdictions that did not conduct individualized post-birth reviews of the child's best interests or other protective measures. States should create a mechanism and legal framework for the attribution of legal parentage and parental responsibility. Moreover, regardless of their policy perspectives on surrogacy, States must create safeguards to ensure the fundamental rights of children born through surrogacy arrangements and to prevent the sale of children. They should focus on free and informed consent by surrogates and the role of intermediaries, and regulate the financial aspects of surrogacy arrangements. A pragmatic response was necessary to

safeguard children's identity rights, access to origins and a family environment. Conversely, in the context of international surrogacy arrangements, jurisdictions allowing surrogacy should verify that intending parents coming from abroad would be able to return to their countries of origin with their surrogate-born child. Interim solutions could include a model law to be adapted and contextualized in various jurisdictions and a set of commonly agreed minimum principles governing the practice from a multidimensional and holistic human rights perspective. In that regard, she commended the Hague Conference on Private International Law for its project on parentage and surrogacy and the efforts made by the International Social Service in developing international principles for the protection of the rights of the child in the context of surrogacy.

26. **Ms. Simpson** (United States of America) said that her country had not ratified the Convention on the Rights of the Child and was not bound by it, although it was a party to the Optional Protocol on the sale of children, child prostitution and child pornography. United States laws protected and advanced the rights and welfare of children, including children born from surrogacy arrangements, and were among the strongest in the world. However, her delegation did not accept the premise put forward by the Special Rapporteur in her report that the Optional Protocol created obligations related to surrogacy. Given that surrogacy was outside the scope of the Special Rapporteur's mandate, it was inappropriate for her to make prescriptive recommendations.

27. **Mr. Bastida Peydro** (Spain) said that the prohibition of surrogacy was the most consistent regulatory solution for safeguarding the best interests of the child. His country did not see a link between guaranteeing the protection of the child and regulating surrogacy, which could encourage the practice. It could not consider surrogacy simply as another assisted reproduction technique. Given the complexity of the issue, it would be interesting to know whether, within the United Nations or any other international or regional framework, there was coordination among the different mechanisms for the promotion and protection of human rights to discuss the issue of surrogacy.

28. **Ms. Ní Chonchúir** (Ireland) said that her delegation supported the view of the Special Rapporteur that oversight mechanisms were essential to prevent the sale and exploitation of children in the context of surrogacy. The need for a holistic regulation of surrogacy was particularly important in international surrogacy arrangements. Her country agreed with the principle that the best interest of the child should be the

paramount consideration and supported the view that States must ensure that a record be kept with details of surrogates and gamete donors where possible. Her delegation valued the opportunities provided to engage with the Special Rapporteur, including during her country visit to Ireland in 2018.

29. **Ms. Hermann** (Observer for the European Union), stressing the commitment of States members of the European Union to strengthen their efforts to ensure that all children grew up free from all forms of violence, abuse and exploitation, said that her delegation would appreciate some examples of best practices to determine the best interest of a surrogate-born child, as well as information on whether such decisions should be made through judicial or administrative proceedings. She asked how the threat of exploitation of women and children by intermediaries could be addressed.

30. **Ms. Khusanova** (Russian Federation) said that her delegation agreed that it was important to develop standards, empirical studies and further research on the long-term impact of surrogacy on all stakeholders concerned, especially children. It was also urgent to develop international norms in order to build bridges between different legal systems around parentage issues and ensure legal certainty for children and parents in international surrogacy arrangements. However, her delegation was seriously concerned by the fact that, despite the objections that had already been made, the Special Rapporteur continued to examine surrogacy as a form of trafficking in children and to address the issue of the "sexual orientation or gender identity" of parents. The Special Rapporteur should keep to internationally agreed terminology and refrain from promoting disputed concepts that were not recognized by the majority of States since they undermined the institution of the family and traditional family values.

31. **Mr. Holtz** (United Kingdom) said that his country, in collaboration with the African Union, would host a global summit of the WeProtect Global Alliance to increase awareness, harness political commitment and showcase the international response to online child sexual exploitation. He asked what more the international community could do to address the issue of children born of sexual violence in conflict.

32. **Ms. de Boer-Buquicchio** (Special Rapporteur on the sale of children, child prostitution and child pornography, including child prostitution, child pornography and other child sexual abuse material) said that, given the complexity of the issue of surrogacy, more empirical research was needed on its long term impact on all stakeholders, including children, surrogates and intending parents. The results of such

research could be used by States in deciding whether to adopt national legislation or an international instrument.

33. In response to the comment made by the representative of the United States, she said that although in many cases no serious issues arose when the surrogate and the intending parents pursued their intentions as agreed initially, the fact that surrogacy was a contract-based agreement with irrevocable consent by the surrogate could raise sale-related issues. In addition, it was important to assess the suitability and capacity of parents to care for children, an aspect that should be incorporated into the relevant legislation. The mere application of contractual law would not be sufficient in such cases.

34. Responding to the representative of Spain, she said that the question of whether surrogacy should be prohibited or regulated was an issue that fell within the discretionary powers of States. However, irrespective of the stance taken by a State, the rights of children under the Convention on the Rights of the Child were of paramount consideration, including the right to identity, a nationality and access to origins. With regard to coordination with other human rights mechanisms, each entity considered the issue of surrogacy from different perspectives. For instance, the World Health Organization looked at the issue from a fertility treatment perspective. She had facilitated an inter-agency meeting in which representatives of various United Nations agencies had discussed the issue of surrogacy. Her report reflected the input from all stakeholders, including those working in women's rights.

35. She agreed with the representative of Ireland that a holistic approach to the regulation of surrogacy arrangements was required, that the best interest of the child should be the primary consideration and that records should be kept so that children born through surrogacy could access information on their origins, including health-related matters. With regard to the issues raised by the observer for the European Union, she said that the determination of best interest was linked to assigning parentage and parental responsibility. She also stressed the importance of putting in place regulatory frameworks for surrogacy, including international surrogacy, as the arrangements often took place in jurisdictions where prior suitability assessments of parents were lacking. The fact that some intermediaries operated exclusively with the purpose of gaining profit with no regard for the rights of the people involved suggested that the practice should be regulated. The concept of the sale of children took on full significance in cases in which intermediaries exercised

physical or psychological control on surrogates prior to and during the birth.

36. Responding to the representative of the Russian Federation, she said the current discussion was not about situations in which the sale of children arose, but rather about addressing the rights of children born from surrogacy. In her report, she did not talk about trafficking but rather about sale, which was clearly related to her mandate.

37. She welcomed the commitment of the United Kingdom to addressing online sexual exploitation through the WeProtect Global Alliance. The number of children affected by sexual violence in conflict was of great concern. Such matters must be discussed in the context of peace negotiations, as must the measures required to integrate children born of sexual violence in conflict into their communities.

38. **Mr. Nowak** (Independent Expert leading the United Nations global study on children deprived of liberty), introducing his report on the United Nations global study on children deprived of liberty ([A/74/136](#)), said that, under the Convention on the Rights of the Child, the detention of children was permitted only as a measure of last resort and could be justified only as an exceptional measure. According to the most conservative estimates informed by the global study, roughly 1.5 million children were deprived of liberty by a decision of a court or administrative authority per year worldwide, but the total number of children deprived of liberty de facto possibly exceeded 7 million. Such figures illustrated a huge discrepancy between law and practice.

39. When a child committed a crime, non-custodial solutions should be applied rather than punitive measures. Detention simply did not serve the assumed purpose of preventing crime. Similarly, immigration detention did not deter irregular migration, and the institutionalization of children did not provide the right care for children in need. Children's deprivation of liberty constituted a form of structural violence, which States had committed themselves to eliminating under target 16.2 of the Sustainable Development Goals.

40. In his report, he had summarized the detailed findings, conclusions and recommendations of the broader global study, which would be launched in Geneva on 19 November 2019. An interactive electronic version of the study, an open online course, a child-friendly version and translations into all the official languages of the United Nations were in preparation. The global study would not have been possible without the efforts of many stakeholders, including Member States, the United Nations inter-agency task force, the



OHCHR secretariat, dedicated research groups, international and regional organizations, the global academic community, non-governmental organizations and children, whose invaluable views had enriched the study.

41. Data collected for the global study indicated a decline in the number of children detained in prisons and pretrial detention facilities. At a minimum, 410,000 children were currently detained every year in the context of the administration of justice, but that figure was highly conservative and did not include children in police custody (estimated at almost 1 million per year). Boys made up 94 per cent of the children detained in the context of the administration of justice, indicating that the child justice system was more inclined to apply diversion measures to girls than boys. To avoid detention of children, diversion measures should be applied at all stages with the aim of transferring children to the child welfare system if possible.

42. Immigration detention could never be considered a measure of last resort because non-custodial solutions were always available, and detention for migration-related reasons therefore always violated the Convention. Although a growing number of States prohibited migration detention of children, at least 330,000 children were currently held in immigration detention in clear violation of international law. States should prohibit all forms of migration-related detention of children and their families, provide refugee children with quick access to asylum procedures and humanitarian assistance, and ensure that migrant and refugee children were never separated from their families.

43. The total number of children placed in institutions seemed to have dropped in recent years, from 8 million to about 5.4 million, which was still an alarmingly high figure. While a comparatively low percentage of those children (12.8 per cent) had been deprived of liberty by a formal decision of a court or other competent authority, the Human Rights Committee had rightly observed that the placement of a child in institutional care amounted to deprivation of liberty. States should adopt comprehensive deinstitutionalization policies and develop non-custodial solutions.

44. Roughly 35,000 children were currently detained in the context of armed conflicts. States should recognize such children mainly as victims and prioritize their recovery and reintegration. Furthermore, States should not detain, prosecute or punish children solely for their membership in armed forces or groups. In recent years, non-State armed groups designated as terrorist had recruited thousands of children in

contravention of international law. Children associated with such groups should also be treated as victims.

45. All States were encouraged to create appropriate data collection systems at the national level. Training should be provided to all professionals who worked with and for children in decisions leading to their deprivation of liberty and beyond. In addition, all States should ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure to enable children to seek redress for violations of their human rights.

46. The global study was only the first step in creating a world in which all children were free from structural violence. Comprehensive follow-up to the study by the international community would be required to contribute to the ultimate goal of the 2030 Agenda to leave no one behind and, in particular, to leave no child behind bars.

47. While the global study was on children, it was also intended for children. Its aim was to influence lawmakers to significantly improve the situation of children deprived of liberty. Children must demand their rights to be heard and to participate in all decisions that directly affected them.

48. **Ms. Carlé** (Belgium) said that the quality, relevance and use of data on children deprived of liberty needed to be consistent with international human rights norms and principles. Given the lack of comprehensive and disaggregated data on children deprived of liberty, the global study was paramount because it added to the existing information base and provided guidance on the more effective protection of children's rights. She asked how the sharing of best practices between States could be ensured to reduce the number of children in detention or to eliminate the detention of children.

49. **Ms. Khusanova** (Russian Federation) said that the factual information gathered by the Independent Expert could help to inform the work of international and national mechanisms on juvenile justice. Nevertheless, the Independent Expert's misleading interpretation of the provisions of the Convention on the Rights of the Child was troubling. In paragraph 100 of his report, the Independent Expert called upon States to most rigorously apply the requirement of article 37 (b) of the Convention in order that, supposedly, "the views of children shall be heard and taken duly into account", but that article contained no such provision. If the Independent Expert was referring to the right of a child to challenge the legality of the deprivation of his or her liberty before competent authorities, which was provided for in articles 37 (d) and 12 (2) of the Convention, then the conditions under article 12 (1),

namely, “in accordance with the age and maturity of the child”, should be taken into account. The absence of those reasonable conditions was a significant shortcoming of the Optional Protocol to the Convention on a communications procedure.

50. Her delegation could not support the recommendation of the Independent Expert to create follow-up mechanisms for disseminating the study findings and promoting its recommendations, as it was against the establishment of superfluous bureaucratic mechanisms and structures. Rather than addressing the problems faced by children deprived of liberty separately, it would be more productive to deal with them as part of the overall efforts of States to improve the situation of minors.

51. **Ms. Oehri** (Liechtenstein) said that women and girls were disproportionately affected by sexual and gender-based violence. However, as documented in reports of the Secretary-General and by the All Survivors Project, men and boys made up the majority of victims in contexts such as child recruitment or detention settings in armed conflict. She would welcome further comments on the gender-specific nature of sexual violence against children in places of detention.

52. While the study provided valuable insight into children’s deprivation of liberty in public institutions, it did not cover deprivation of liberty by private criminal actors. She asked the Independent Expert to share his thoughts on child trafficking, child slavery and child labour as forms of deprivation of liberty by private actors and in the informal market. A follow-up report on that topic would be welcome.

53. **Ms. Jankovic** (Switzerland) said that greater efforts were needed to address the lack of comprehensive, up-to-date and disaggregated data on the number of children in various situations of detention. Effective follow-up to the recommendations contained in the report of the Independent Expert should be ensured, and all efforts in that regard should also contribute to the achievement of the Sustainable Development Goals, in particular target 16.2. She asked what role the United Nations system and civil society should play in the follow-up to the study. The inclusion of the views of children affected by deprivation of liberty in the study was commendable and fulfilled their right under the Convention to express their views freely in all matters affecting them. She asked what had been learned from the interactions with those children.

54. **Ms. Vasquez Muñoz** (Mexico) said that the justifications provided by States for the detention of children for migration-related purposes were unacceptable and not in the best interest of the child. Her

country was developing a road map for the comprehensive protection of the rights of girls, boys and adolescents in migration situations with support from the United Nations Children’s Fund (UNICEF), the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration. It was also introducing an alternative care model for child and adolescent migrants, asylum seekers and refugees in Mexico. She asked for examples of best practices in terms of disaggregated data showing the cross-cutting nature of the problems faced by girls deprived of liberty on the basis of their gender.

55. **Ms. Hermann** (Observer for the European Union) said that the European Union had been providing funding for the completion of the study through the European Commission. Support for the universal ratification and implementation of the Convention on the Rights of the Child, in particular the provision regarding children deprived of liberty unlawfully or arbitrarily, was a priority of the European Union and its member States. In accordance with its Guidelines for the Promotion and Protection of the Rights of the Child, which recommended improving coherence in its external efforts related to children, the European Union was working with partners to strengthen alternatives to imprisonment for children.

56. She asked how the Independent Expert interpreted the numbers in the study. She would also be interested to learn how the correlation had been established between deprivation of liberty and higher rates of early death in children in that situation compared with their community peers.

57. **Ms. Sánchez García** (Colombia) said that her delegation welcomed the report of the Independent Expert and appreciated his commitment to conducting his study in the midst of significant financial challenges. Her country, which had contributed to the study by responding to the questionnaire circulated by the Independent Expert, also welcomed the support of the Special Representatives, United Nations agencies and 22 experts on the study’s advisory board for their contributions to the document.

58. **Mr. Wislocki** (Austria) said that his country had been among the first to contribute financially to the study and had provided a comprehensive reply to the questionnaire. Given that the criminalization of status offences contributed to a large number of children being deprived of liberty, he asked how awareness of the vulnerability of children who were sentenced could be enhanced. He would also appreciate positive examples of the training and systematic education of police and judicial personnel. Lastly, he asked how to ensure that



the findings of the study were disseminated in the most effective way.

59. **Ms. Al Kuwari** (Qatar) said that education was key to protecting children from involvement in legal proceedings and thus from deprivation of their liberty. Her country was committed to providing support for the protection of the right to education at the national, regional and international levels. Reiterating its commitment to support the study, Qatar would continue to host regional and national workshops in order to discuss methods for the implementation of the recommendations.

60. **Ms. Moutchou** (Morocco) said that the Mohammed VI Foundation for the Reintegration of Prisoners had organized a national workshop on changes to measures for children deprived of liberty in Rabat in March 2019, with the aim of strengthening alternatives to imprisonment. It would be useful to have an international database as recommended by the Independent Expert, and more information on such a database would be welcome, such as its structure and content, the data collection methods and whether it would take into account the differences between countries and regions with respect to, for example, the minimum age of criminal responsibility.

61. **Ms. Coutu** (Observer for the International Committee of the Red Cross) said that, in his report, the Independent Expert had emphasized that States should ensure that children formerly associated with armed forces and armed groups received appropriate rehabilitation and reintegration assistance. In that regard, children associated with groups designated as terrorist deserved specific attention, as they were at a greater risk of facing lower standards of existing legal protections. The International Committee of the Red Cross called upon States not to selectively implement the law in respect of those children.

62. **Mr. Nowak** (Independent Expert leading the United Nations global study on children deprived of liberty) said that, in their questionnaires, many States had noted practices that had led to a decline in the number of children deprived of liberty. The total number of children in institutions had also dropped as a result of the deinstitutionalization measures initiated by many States. In Central and Eastern Europe and Central Asia, many States had drastically reduced the number of children in institutions by following the Guidelines for the Alternative Care of Children. In 2007, UNICEF had estimated the total number of children in pretrial detention and in prisons at about 1 million, while data collected for the study indicated a decline to 410,000 children. The decline could be attributed to the measures

taken by States to establish special child justice systems and apply more diversion measures at every stage of the criminal justice process. Many African States had adopted handover protocols, according to which children in armed conflict were handed over to the United Nations with the aim of their reintegration into society, thereby reducing the number of children deprived of liberty in the context of armed conflict.

63. Regarding paragraph 100 of his report, the phrase “the views of children shall be heard and taken duly into account” was indeed not found in article 37 (b) of the Convention. He had meant that the views of children should always be heard and taken duly into account in decisions that may lead to their detention. The right of children to be heard was enshrined in article 12 of the Convention. However, he recognized that the sentence could be misconstrued.

64. His recommendation that States should ratify the Optional Protocol to the Convention on a communications procedure was intended to enable and empower children to lodge complaints to the Committee on the Rights of the Child. The fact that the number of complaints was on the rise was a good sign for the empowerment of children and for the implementation of article 12 of the Convention. Children in detention who felt that their human rights had been violated should have the option of first initiating legal proceedings at the domestic level and then bringing a communication to the attention of the Committee.

65. Regarding the concerns that follow-up to the study might lead to excessive bureaucratization, he had made no recommendation to that effect. Rather, he had stated in his report that the global study was not the end but the beginning of a new process. His main recommendation was that States, United Nations agencies and other stakeholders should take measures to learn from each other about how to drastically reduce the number of children deprived of liberty. The most appropriate follow-up process would have to be decided by the General Assembly once the full study was available in all languages. He fully agreed that the process should not lead to excessive bureaucratization.

66. He had been surprised to learn that, in the administration of justice and in the contexts of armed conflicts and national security, 94 per cent of children in detention were boys and only 6 per cent girls, as that did not correspond to the crime rate. Usually, one third of juvenile crimes were committed by girls and two thirds by boys, and girls typically committed less violent crimes. The difference could be explained, among other reasons, by stereotypes and the chivalrous attitudes of male judges, who applied diversion measures more

readily to girls than to boys. Such measures should be applied equally to boys to reduce the number of boys behind bars. However, girls in detention were at a much higher risk of sexual and other forms of violence.

67. It had been decided not to cover private criminal actors in the study because the definition of “deprivation of liberty” had been applied as contained in the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and in the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules).

68. A process of disseminating the study findings would need to be launched. He was grateful to Qatar for its willingness to host a meeting for the region to raise awareness of the study and to enable State representatives and civil society to discuss the implementation of the recommendations. Similar events would be held in Australia and South Africa.

69. He welcomed the fact that the representative of Mexico had agreed that migration-related detention of children was unacceptable. According to the replies received to the questionnaire, more than 20 States applied non-custodial measures rather than migration-related detention.

70. The support of the European Union, including in the context of the European Forum on the Rights of the Child, was welcome. Although the figures in the study were very conservative, they were based on sound scientific methods. The data had been extrapolated from various sources, primarily the responses to the questionnaire, but also official sources, academic and peer-reviewed journals and United Nations sources. The data had been entered into a database, which was far from complete. Data had been received from more than 100 States, but many States had not submitted replies to the questionnaire. In the future, the database would need to be maintained and updated on a regular basis. Ideally, States would be requested every two years to provide data on the number of children deprived of liberty in the different situations of deprivation of liberty.

71. There were many positive examples of police being trained in a child-sensitive manner to ensure that every police station had an officer with child-specific expertise. Only that officer should deal with children suspected of having committed a crime, and such children should be handled in the child welfare system rather than the criminal justice system.

#### *General discussion*

72. **Mr. Condor** (Saint Kitts and Nevis), speaking on behalf of the Caribbean Community (CARICOM), said

that, to fulfil the commitments made to children in the context of the Sustainable Development Goals, an examination of the intrinsic link between the protection of the rights of the child and the 2030 Agenda was imperative. That would enable States to reflect on their interconnected commitments to give full effect to the rights to health and education for all children, to protect the large and growing number of migrant children in the aftermath of natural disasters and humanitarian crises, to strengthen efforts to prevent and protect children from violence and to remove barriers hindering the access of children to the resources necessary for their survival, growth and development.

73. In the light of the startling rate of childhood obesity in the Caribbean, CARICOM attached critical importance to the promotion of healthy diets and lifestyles, physical education and activity in schools, and improved food and nutrition security. CARICOM continued to support national and regional immunization and breastfeeding programmes to ensure that children were protected from communicable and non-communicable diseases. The region had also benefited tremendously from national and regional HIV/AIDS programmes and, for the most part, was well on the way to the total elimination of mother-to-child transmission of HIV.

74. CARICOM member States continued to improve legislation to ensure the right to education at the earliest stages of children’s lives. They also promoted early childhood development programmes and ensured the access of all children to compulsory primary and secondary education. Gender parity had been achieved in primary and secondary schools. Education policies were being reoriented to promote science, technology, engineering and mathematics education and to ensure that children benefited from advances in information and communications technology.

75. Hurricane Dorian in the Bahamas was the most recent illustration of the relentless destruction caused by climate change and natural disasters to children’s schools, homes and communities. Children were often susceptible to violence and exploitation during such crises. CARICOM urged the international community to scale up efforts to ensure the protection of children in all places and at all times.

76. Regarding the report on the status of the Convention on the Rights of the Child (A/74/231), CARICOM agreed that children and societies suffered severe negative consequences from the breakdown of parental care and that children without parental care were more likely to experience exclusion, violence, abuse, neglect and exploitation.

77. In the context of target 16.2 of the Sustainable Development Goals, CARICOM had committed itself to evidence-based policies and multisectoral approaches to minimize crime and violence in schools.

78. **Mr. Suan** (Myanmar), speaking on behalf of the Association of Southeast Asian Nations (ASEAN), said that all ASEAN member States had ratified the Convention on the Rights of the Child and had adopted national and regional frameworks to promote and protect the rights of the children. ASEAN was focusing on increasing social investments to lift children out of poverty and address the multiple deprivations experienced by them. It was also endeavouring to strengthen legal frameworks on child rights to prevent all forms of violence against children and protect their rights to education, health and other basic services. Another priority was to strengthen data systems to improve monitoring of the Sustainable Development Goals relating to violence against children, climate change and environmental impacts, and ensure the availability of sex-disaggregated data. In addition, ASEAN was seeking to enhance cooperation with agencies and intergovernmental bodies to reinforce regional systems, cross-border collaboration and national and regional policies for the implementation of international child rights commitments.

79. The ASEAN Commission on the Promotion and Protection of the Rights of Women and Children had been established to promote and protect children's rights and well-being, such as through the development of regional guidelines to eliminate trafficking in children, child labour, child marriage, online exploitation of children and bullying at school. The Commission had engaged in dialogue with the Special Representative of the Secretary-General on Violence against Children annually. Progress had been made in the implementation of the ASEAN Regional Plan of Action on the Elimination of Violence against Children, which served as a 10-year framework and road map for monitoring and evaluating the elimination of violence against children across the region. At the eighteenth meeting of the Commission, in March 2019, ASEAN had agreed to continue to work towards the development of a declaration on the protection of children from all forms of online exploitation and abuse in the region.

80. **Ms. Lodhi** (Pakistan) said that children were among the most affected in situations of armed conflict, humanitarian crisis, foreign occupation and long-standing and unresolved disputes. In his report of 2018, the Independent Expert leading the global study on children deprived of liberty had affirmed that children under foreign occupation were routinely detained by government forces and were subjected to torture and ill-

treatment. Nowhere was that grim reality starker than in occupied Jammu and Kashmir. Since the illegal annexation of the territory by India on 5 August 2019, widespread torture and arbitrary arrests by the occupation forces had been reported, and innocent children and young people had been injured and killed, showing the disregard of the occupation forces for the norms of international law and the rights of children. Those gruesome facts had been amply documented in two reports of OHCHR on the situation of occupied Jammu and Kashmir, but the recommendations contained therein had yet to be implemented. It was time for the international community to act and demand that India fulfil its obligations, including to protect and safeguard children in the occupied territory. It was also time for UNICEF to come to the aid of children who were incarcerated or suffering in curfew-bound occupied Kashmir.

81. In keeping with her country's tradition of attaching the highest priority to protecting and promoting the rights of children, her delegation had had the honour of jointly facilitating the resolution on the commemoration of the thirtieth anniversary of the adoption of the Convention on the Rights of the Child during the previous session of the General Assembly.

82. **Ms. Miyazaki** (Japan) said that the year 2019 marked the twenty-fifth anniversary of her country's ratification of the Convention on the Rights of the Child. Japan had also joined the global pledge "For Every Child, Every Right" upon the invitation of the Group of Friends for Children and Sustainable Development Goals.

83. Since committing itself to the Global Partnership to End Violence against Children in 2018, the Government, together with civil society, had made concrete steps towards formulating a national action plan to end violence against children by holding productive, multi-stakeholder meetings and taking into consideration the opinions of children. In the light of the increase in the number of reports of child abuse in Japan in recent years, and following the most recent recommendations by the Committee on the Rights of the Child, relevant laws had been amended to strengthen measures to prevent child abuse and clearly prohibit corporal punishment.

84. With the intention of ending violence against children abroad, Japan had contributed \$5.9 million to the associated fund of the Global Partnership. The contribution had supported 12 humanitarian projects in Nigeria and Uganda and had expedited efforts to release more than 1,900 children from armed groups in Nigeria. Japan encouraged other partners, including pathfinding

countries, to help to expand the humanitarian window of the fund in order to end violence against children affected by conflicts.

85. **Ms. Al Abtan** (Iraq) said that her country had become a party to the Convention on the Rights of the Child in 1994. On that occasion, UNICEF had launched a campaign to create an enabling environment for the protection of the rights of children in Iraq, and all civil society organizations dealing with issues related to children had been called upon to participate.

86. Iraq had always sought to guarantee the protection of the human dignity of vulnerable children. To that end, a department had been created to combat homelessness among children through the provision of housing and a law on mandatory education had been passed to prevent children from leaving school and entering the labour market early. Iraq was also involved in the prospects for enhancing food security in the Arab region under Arab Horizon 2030.

87. Iraq welcomed cooperation with the international community and UNICEF to put an end to child labour and with OHCHR to identify violations against children in armed conflict. Together with the Special Representative of the Secretary-General for Children and Armed Conflict, Iraq was devising an action plan with a clear timetable to ensure a violence-free environment for children.

*The meeting rose at 6 p.m.*