



# Reporting on Ethnic Discrimination against Children

A Reference Guide

Save the Children works for:

- A world which respects and values each child.
- A world which listens to children and learns.
- A world where all children have hope and opportunity.

Save the Children works for children everywhere. We believe lasting benefits for children can only come about through changes in social values, public policy and practice.

To achieve such change we must:

- Lead through innovation and contribute knowledge and experience to a children's agenda for the new century.
- Promise a global commitment to children's rights through partnerships with national and international organisations and by drawing on public support.
- Demand recognition and action on behalf of the world's most vulnerable children, including victims of crisis.

Our work is all based on the rights of the child, first advocated by the founders of Save the Children and expressed today in the United Nations Convention on the Rights of the Child.



*This Reference Guide has been prepared for the United Nations  
World Conference against Racism, Racial Discrimination,  
Xenophobia and Related Intolerance (WCAR) in South Africa 2001.*

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# Foreword

The United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) will be held in South Africa in 2001. This will be the third World Conference on this topic; the previous two World Conferences on Racism were held in 1978 and 1983 in Geneva and focused mainly on ending apartheid. The UN Commission on Human Rights has recommended that “the situation of children should receive special attention during the preparation for and during the World Conference itself, especially in its outcome.”

The International Save the Children Alliance welcomes this statement. In 2000, Save the Children published a pioneering study on discrimination against children, entitled “Children’s Rights: Equal Rights?”. The study confirmed what we know from practical experience: that children are considerably more vulnerable to discrimination than adults. At the same time, reports on ethnic discrimination do not give adequate emphasis on the situation of children. It is not hard to understand the reasons why: Children lack power and are usually not consulted when adults report about discrimination. Children are often not informed about their rights and, consequently, do not recognise discrimination as legal infringements. Children do not necessarily have the legal knowledge, economic resources and contacts required to pursue judicial action. As a result, the discrimination they encounter is hidden and suffered in silence. States have the primary responsibility to report on the situation of children to treaty bodies established to monitor human rights conventions. These bodies have in turn a responsibility to request states how children are affected by ethnic discrimination in their countries. Children’s ombudsmen and other national human rights institutions can do a lot to change the situation, provided that they are independent and flexible enough to complement the ordinary judicial system. Non-governmental organisations thoughts and opinions known to those in power and the general public. This guide invites them all to pay more attention to the situation of children from minority, indigenous and migrant groups.

Alfhild Petré  
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# Glossary

CEDAW	Committee on the Elimination of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
HRC	Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICEDAW	International Convention on the Elimination of All Forms of Discrimination against Women
ICERD	International Convention on the Elimination of all Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
NGO	Non-governmental organisation
UDHR	Universal Declaration of Human Rights
UN	United Nations

# Introduction

Children in almost every society lack power and are therefore vulnerable to discrimination. Most boys and girls grow up aware that, as children, they have inferior status. But it is a status they leave behind once adult. For millions of children, however, the discrimination perpetrated against them because they are young is compounded by additional lifelong prejudice. Children from minority, indigenous or migrant groups constitute some of these groups. The discrimination they face is especially pervasive, since it is based not only upon age, but also upon other grounds such as skin colour, language, religion or cultural traditions. In many instances this has a profound impact on children's self-esteem and self-confidence and the internalisation of negative attitudes which lead to the transmission and reinforcement of these attitudes over generations.<sup>1</sup>

Current state of practice has not yet recognised the extent to which children experience racial and ethnic discrimination. In the course of preparation of this guide, a number of national human rights institutions, children's ombudspersons, racial discrimination monitoring bodies and academic institutions were requested if they had already elaborated similar guidelines. Out of 46 requests for information sent out, 16 replies were returned. None of them indicated that such guidelines have been developed. More importantly, almost all of these replies suggested that these monitoring bodies have not tackled the issue of ethnic discrimination against children in any depth. Some claimed that this was not a major problem in their countries; others that the issue falls within the mandate of other monitoring bodies in the country.<sup>2</sup>

The UN Secretary General confirmed in a recent study on the effects of racial discrimination against children that "research in this area is scant, and tends to focus on some countries or minorities to the neglect of others".<sup>3</sup> Both states and NGOs report to various treaty bodies<sup>4</sup> about discrimination based on race, colour, descent, national or ethnic origin. However, these reports rarely focus specifically on the situation of children belonging to groups such as minorities, indigenous peoples, migrants, asylum-seekers and refugees. If children are mentioned at all, the information is usually not sufficiently detailed in order to get a clear picture of the problems involved. Consequently, the Secretary General recommended governments to develop appropriate indicators and encouraged "NGO coalitions and organisations representative of minority and migrant communities...to gather and prepare information for treaty bodies on country situations as they relate to the situation of racial discrimination against the children of minorities and migrant workers".<sup>5</sup> However, in order to draft such reports it is necessary to know what information to look for, what possible problems related to discrimination children may encounter and which situations are likely to occur and may be worth monitoring.

Save the Children has prepared this reference guide as a tool for non-governmental

organisations and others who wish to report to UN treaty-bodies on ethnic discrimination against children. By improving reporting at the national and international level it is possible to bridge the information gap concerning ethnic discrimination against children. Information is in turn crucial for two reasons: first to draw the attention of governments to problems of discrimination and, second, to decide upon suitable actions and programmes to counteract discrimination. While the reference guide is primarily intended for non-governmental organisations, we hope it will be of equal interest to states, ombudspersons, other national human rights institutions, treaty-bodies and special rapporteurs of the United Nations human rights system.

The reference guide will, first, introduce the reader to the concept of discrimination in international human rights law. Second, it will examine the specific relevance of the principle of non-discrimination to children, the problem of indicators and the need of children affected by multiple discrimination. As examples of multiple discrimination, reference will be made to the situation of girls and children with disability. Third, the reference guide will briefly survey the reporting system under the Convention on the Rights of the Child (CRC) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Finally, it will include a checklist intended as an aid for non-governmental organisations and others who wish to report on ethnic discrimination against children. The examples in the boxes disseminated throughout the text aim at providing an illustration of how ethnic discrimination may affect certain groups of children all over the world.

## 1. Definitions

From the outset it is necessary to agree on some working definitions for the purpose of this reference guide.

The Convention on the Rights of the Child defines a “child” as every human being below the age of 18 years. Therefore, this guide will rely on the Conventions’ definition of the term “child”, which covers both very young children and teenagers who have nearly attained majority.

“Racism” has not been defined by any human rights treaties. However, a proposed definition to be used as a starting point here is that “racism is an ideology of racial domination based on (i) beliefs that a designated racial group is either biologically or culturally inferior and (ii) the use of such beliefs to rationalise or prescribe the racial group’s treatment in society, as well as to explain its social position and accomplishment”.<sup>6</sup>

“Racial discrimination”, on the other hand, is a relatively precise concept in international human rights law. Article 1.1 of the International Convention on the Elimination of Racial Discrimination defines racial discrimination as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition,

enjoyment or exercise, on an equal footing, or human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”.<sup>7</sup>

The term “racial discrimination” is retained in international discussions, since it is the official term used to protect relevant persons under various human rights conventions. However, the expression “race” is a vague concept, which means different things to different people. Modern science tends to reject the idea that it is possible to divide human kind into biologically distinct races. Moreover the term race has frequently been misused for political reasons during the last two centuries. Some would argue that it has evolved over time from one with biological connotations to a classification of individuals based upon how they are perceived in society. Today’s ethnic groups can be considered as yesterday’s races.<sup>8</sup> For the purpose of this guide, the term “ethnic discrimination” will be preferred although it is not a fully satisfactory alternative. This term, therefore, will be used in a broader sense than usually. It will refer not only to discrimination against children whose skin colour is different from that of the majority population, but also to discrimination against children whose nationality, language, religion or cultural traditions are different.<sup>9</sup>

When the guide speaks of children affected by ethnic discrimination, it will primarily refer to the following categories of persons:

1. *children of migrant background*: this term will be used to accommodate the many different terms applying to children who themselves, or whose parents or grandparents, have migrated to another country including children who are refugees, asylum seekers or otherwise non-nationals.<sup>10</sup> This term will also include internally displaced children although they have been forcibly displaced within their own country of origin;
2. *children of ethnic, religious, linguistic, national minority background*: this term will include, apart from the children with migrant background which in some countries are called ethnic minorities, children from other non-dominant groups constituted by persons not part of recent migrations (e.g. Travellers in the UK; Roma throughout Europe, etc.);
3. *children from indigenous groups*: indigenous or aboriginal peoples are so-called because they were living on their lands before settlers came from elsewhere; they are descendants of those who inhabited a country or a geographical region at a time when people of different cultures or ethnic origins arrived, the new arrivals later becoming dominant through conquest, occupation, settlement or other means.<sup>11</sup>

## 2. Overview of the non-discrimination principle in human rights law

Since the World War II, numerous international instruments have been drawn up to protect human rights and fundamental freedoms. The principle of non-discrimination has become, over the years, fundamental to the concept of human rights. Human rights are said to inhere to every human being by virtue of their humanity and human dignity alone. It must necessarily follow that no particular feature or characteristic



attaching to any individual and which distinguishes him/her from others can affect his/her entitlement to human rights.

The overarching importance of the prohibition of discrimination is reflected in some of the major international human rights documents, including:

- the 1948 Universal Declaration of Human Rights (UDHR);
- the 1948 Convention on the Prevention and Punishment of the Crime of Genocide;
- the 1957 ILO Convention (No. 107) concerning Indigenous and Tribal Populations or Peoples;
- the 1958 ILO Convention (No. 111) concerning Discrimination in respect of Employment and Occupation;
- the 1960 UNESCO Convention against Discrimination in Education;
- the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
- the 1966 International Covenant on Civil and Political Rights (ICCPR);
- the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR);
- the 1981 Declaration on the Elimination of all Forms of Intolerance and of Discrimination based on Religion or Belief;
- the 1989 ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries;
- the 1989 Convention on the Rights of the Child;
- the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

Standards concerning non-discrimination and minority rights can also be found in a series of regional instruments, such as the European Convention on Human Rights and its Protocol 12, the European Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages, the American Declaration and Convention on Human Rights, the African Charter on Human and People's Rights.

The generally accepted definition of discrimination is that formulated by the Human Rights Committee, i.e. the body monitoring compliance with the International Covenant on Civil and Political Rights. In a relevant General Comment, the Committee proposes that the term “discrimination” should be understood as “any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms”.<sup>12</sup>

This definition is sufficiently broad to include all discriminatory acts, whether intentional or not, provided the “purpose or effect” exists. In this context, it should be recalled that international human rights law prohibits direct as well as indirect discrimination. Direct discrimination has been defined as the straightforward distinction

on the basis of a certain criterion without a reasonable and objective justification. Indirect discrimination takes place when a distinction is made on the basis of an apparently neutral criterion, which does not come within the scope of a specific discrimination interdiction, but its effects lead to a distinction which is explicitly forbidden.

It is important to recall that not all forms of discrimination are illegal. Supervisory bodies of the international human rights system have consistently held that only unjustified distinctions are outlawed. These bodies have furthermore underlined that a distinction or differentiation can be made provided that there exists an objective justification.<sup>13</sup>

Moreover, in order to achieve equality in practice, international human rights law legitimates the adoption of positive action by calling for special measures in order to remedy past discrimination. Also known as “preferential treatment”, such positive action aims at protecting or promoting the welfare of the members of a group previously discriminated against, provided that this group desires such measures. Such measures are, however, justified only when they are based on specific needs of the group and not on group membership – race, colour, religion, or language – *per se*. In general, preferential treatments may be adopted only on a temporary basis and should cease once the intended aim has been achieved. In no case should positive action deteriorate into unjustified discrimination<sup>14</sup> and lead to the maintenance of separate rights for different racial groups.<sup>15</sup>

Apart from the prohibition of discrimination, international human rights law grants additional protection to persons belonging to minority, indigenous and migrant groups. Article 27 of the Covenant on Civil and Political Rights gives opportunities to members of minorities to express and preserve their characteristics in the cultural, religious and linguistic fields. Further rights are specified in the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. While the Declaration is not legally binding, it contains a series of political commitments to ensure that the persons have adequate opportunities to develop their identity, learn their mother tongue, participate effectively in public affairs and in the economic progress of their country. Indigenous peoples benefit from additional rights laid down in the Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO Convention No. 169), which relates to issues such as self-determination, land, resources, environment, development, intellectual and cultural property. International law has also sought to address the question of maltreatment and discrimination of migrant workers and their families, who are often unprotected by national legislation. So far, the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families has not entered into force. However, other international instruments drafted by the UN and its specialised agencies protect the human rights of migrants.

### 3. Ethnic discrimination of children

This illustrative case refers to the Batwa Pygmies group of Burundi. Batwa is the name for the whole group whereas Mutwa is the name for a single person of the group.

"They insult us because we do not eat proper food, before we were ignorant, we ate wild animals. The Bahutu repudiated us, anything they grab to us could never go back to them. Food, plates, beer, they would pour beer into our open hands. Slowly today we are more tolerated. Since a long time, we stopped hunting. But because we have not houses, others still do not respect us. They just see us as animals." *Mutwa child, aged 15, Burundi, July 1999.*

While access to education is a major problem for many Mutwa, those with a full secondary education represent less than 0.5% of the Batwa population. Education has been a privileged activity since colonial times. It is generally in areas where the other ethnic groups are already well educated that Mutwa children start going to school and even there Mutwa children often stay for a year or two. Mutwa children rarely complete the primary cycle. The importance of cultural events, like the honey season or collecting clay, are never taken into account in curricula and timetable planning, not even in schools providing for Mutwa communities. "How can we study when our stomachs are empty?" was frequently heard from Mutwa children when asked why they were not in school.

Those Mutwa who manage to find the money and are admitted to school frequently suffer discrimination, teasing and bullying. Their lunch boxes may be examined by other children. Other ethnic groups who get too friendly with Mutwa will be teased and criticised by their peers. Being seen eating with a Mutwa may mean rejection by their own community. In many cases, some children will not play with Mutwa, nor eat or sit with them at lunchtime.

"I had a horrible teacher, one day I came late. He asked me why I was late, so I told him. He sent me home. When he called me back, he beat me so badly that I cried the whole day. He told me I would just have to become beggar like all other Mutwa and sent me home again. Even now when I see him I feel so frightened." *Mutwa girl, aged 16, Burundi 1999.*

*Ghassan Salim Rabah, Racism, Trafficking and the Human Rights of Children, Background Paper, Asia-Pacific Seminar of Experts on Migrants and Trafficking in Persons with particular Reference to Women and Children, Bangkok, 5–7 September 2000.*

#### 3.1 Overview of the Convention on the Rights of the Child

All of the main international human rights instruments, listed in the previous section of this guide, prohibit discrimination on various grounds and all of them are relevant to children in that they apply to everybody: adults as well as children.

However, given the particular vulnerability of children and their specific needs, the Convention on the Rights of the Child is the international instrument which is solely devoted to protect and promote the human rights of children.

According to Article 2, all children are equally entitled to enjoy all the rights set out in the Convention with no discrimination whatsoever, including on ethnic grounds. In addition, the rights recognised in the CRC are applicable with respect to all children within the jurisdiction of a state party. This means that the enjoyment of children's

rights must not depend on the nationality or residence status of the child or of his/her family.<sup>16</sup>

The Committee on the Rights of the Child, the body in charge of monitoring States' compliance with their obligations under the Convention, emphasised that the principle of non-discrimination is among the four fundamental pillars of the Convention. This means that the principle of non-discrimination must inspire and underpin the implementation of all other articles of the Convention together with the principles of the best interest of the child, survival and participation.

In principle, the Convention allows for progressive, step-by-step implementation of economic, social and cultural rights. However, the prohibition against discrimination is subject to neither progressive realisation nor the availability of resources. The obligation of non-discrimination in the field of education, for example, must be implemented fully and immediately by States parties.<sup>17</sup>

The Committee on the Rights of the Child has given the principle of non-discrimination a dynamic interpretation. It has suggested that proactive measures are often necessary to ensure that all children have a genuine chance to enjoy their rights. The Committee has argued that differentiation is sometimes necessary in order to counter disparities effectively.

The Committee has indicated that the non-discrimination principle should be written into legislation as well as into any national policies on children. It has also emphasised that there should be the possibility to challenge discrimination before the courts. In addition, the Committee has emphasised the need for States to review their Constitutions and all existing legislation to ensure that these do not involve discrimination. Finally the Committee has stated that the principle of non-discrimination applies equally to private institutions and individuals as well as to the States and that this must be reflected in legislation.<sup>18</sup>

Article 30 of the CRC is devoted to minority and indigenous children and guarantees their right to enjoy their culture, practise their religion and use their language together with other members of their group. It follows closely the wordings of Article 27 of the Covenant on Civil and Political Rights, mentioned in the previous chapter. The Committee has raised issues covered by this article in relation to its consideration of several States' reports.

The Committee has recommended to Senegal that special attention be paid to the situation of talibé children. Further measures should be adopted to ensure the effective enjoyment of their fundamental rights and that they are protected against any form of discrimination. Efforts should be made to ensure an effective monitoring system of their situation by the State in close co-operation with religious and community leaders. *CRC/C/15/Aff.44, 27 November 1995.*

The Committee expressed its deep concern to China in connection with violations of human rights of the Tibetan religious minority. State intervention in religious principles and procedures seems to be most unfortunate for the whole generation of boys and girls among the Tibetan population. In addition the Committee raised concerns about reports that school attendance in minority areas, including the Tibetan Autonomous Region, is lagging behind, that the quality of education is inferior and that insufficient efforts have been made to develop a bilingual education system which would include adequate teaching in Chinese. These shortcomings may disadvantage Tibetan and other minority pupils applying to secondary and higher level schools. *CRC/C/15/Add.56, 7 June 1996.*

Concerning Myanmar (Burma), the Committee recommended that the State allocate resources to translate school materials into minority languages with the objective to encourage, in the appropriate regions, schools and teachers to provide education in minority languages. *CRC/C/15/Add.69, 24 January 1997.*

The Committee raised concerns at the situation of Albanian-speaking children in Kosovo, especially with regard to their health and education as well as the degree to which this population is protected from abuse by the police. *CRC/C/15/Add.49, 13 February 1996.*

In relation to Finland, the Committee was worried about the insufficient number of teachers capable of working with minority children and encouraged the relevant authorities to undertake all appropriate measures to ensure that sufficient teachers for minority are available in all regions of the country. *CRC/C/15/Add.53, 13 February 1996.*

### 3.2 Specific issues related to education

Children may encounter discrimination in relation to any of the rights laid down in the Convention on the Rights of the Child. However, special mention should be made of education, since it is absolutely fundamental for the development of the child. The denial of education stops the child from acquiring basic skills, such as literacy and numeracy, but also from developing as a human being, integrating into society at large and, later in life, from gaining access to the labour market. In addition, education is one of the most reliable antidotes to racism, racial discrimination, xenophobia and related intolerance.

The Committee on the Rights of the Child has recently adopted a General Comment on the aims of education, mentioned in Article 29.1. The article underlines the individual and subjective right to a specific quality of education. The child's right to education is not only a matter of access but also of content, the educational processes, the pedagogical methods and the environment within which education takes place, whether it be the home, school, or elsewhere.<sup>19</sup> Education policies that attempt to assimilate minority and migrant children within the majority or that overemphasise

the majority culture, history or language in school curricula are forms of ethnic discrimination in school which can lead to a denial of the rights to culture, to education and to freedom of expression.<sup>20</sup>

Ethnic discrimination in the field of education can be institutionalised in education policy, or it can result from the actions of individuals – teachers, or fellow students. It can be overt (where, for example, minority and migrant children are segregated from mainstream schools and classes), covert (where, for example, there are failures to take action against racist bullying, to provide for bilingual classes, teachers' training, etc.) or subtle (where, for instance, teachers have low expectations of abilities and prospects of children from ethnic origin in school)<sup>21</sup>.

Children from the relevant groups are often over represented among the categories of out-of-school children and are disadvantaged in their access to schooling. This is partly because remote areas, which rural minority children tend to inhabit, contain fewer schools and schools of low quality or a perceived lack of curricular relevance.<sup>22</sup>

Where children from these groups are in school, achievement tends to be lower than that of their counterparts. Poverty is one of the contributing factors. Another problem is that the language of schooling is often not the child's mother tongue.<sup>23</sup> In addition ethnic discrimination may have a negative impact on the performance of children at school. If school curricula, for example, are not relevant, children may lose interest and become bored at school which in turn increases the risk that children will drop out early or even fail to attend school. If the children are subject to verbal, physical, mental violence and bullying in schools and these are rarely challenged, they are likely to be distressed and lag behind in their achievement and eventually drop out.<sup>24</sup>

The Committee has highlighted the role of education in the fight against racism. In its General Comment on Article 29, the Committee states that "education should [...] be accorded one of the highest priorities in all campaigns against the evils of racism and related phenomena. Emphasis must also be placed upon the importance of teaching about racism as it has been practised historically, and particularly as it manifests or has manifested itself within the communities in question." The effective promotion of the article in question requires, inter alia, "the fundamental re-working of curricula to include the various aims of education and the systematic revision of textbooks and other teaching materials and technologies, as well as school policies. Approaches which do no more than seek to superimpose the relevant aims and values on the existing system without encouraging any deeper changes are clearly inadequate".<sup>25</sup>

### 3.3 Collection of data and its problematic aspects

In order to detect disparities and discrimination between population groups, some governments have monitored their socio-economic indicators by disaggregating the relevant data along ethnic lines.<sup>26</sup> Monitoring disaggregated data has also been used to identify disparities in other areas such as gender based discrimination.<sup>27</sup>

However statistical data come with strings attached. They may provide great power for clarity but also for distortion. Furthermore effective collection and monitoring of disaggregated data, particularly along ethnic lines, is still a controversial strategy. In particular, objections have been raised that such measures will only serve to reinforce difference, through heightening consciousness of separate ethnic identities. In addition, in order for this kind of monitoring to be rendered meaningful, there is a need for complementary data on the ethnic profile of the population as a whole. In many countries this is not currently available.<sup>28</sup> There may also be problems of ethnic classifications.<sup>29</sup> Conscious of these problems, the Committee on the Elimination of Racial Discrimination (independent experts who monitor compliance with ICERD) has recommended that identification of individuals belonging to racial and ethnic groups be based upon self-identification by the individuals concerned.<sup>30</sup>

In addition, gathering data along the lines of ethnic origin is very sensitive as past history shows that these statistics have been misused and abused by policy makers and others.<sup>31</sup> In this regard, international human rights bodies have recommended that in any data collection process, the participation of those persons affected by this exercise<sup>32</sup> as well as their participation in monitoring the later use of such data in policies and projects be ensured. In any such data collection exercises, it is also generally recommended to ensure the correct use of such data and the protection of privacy according to the relevant international and national legislation.<sup>33</sup>

Despite the dangers which collecting disaggregated data along ethnic lines may entail, some international human rights bodies, such as the Committee on the Rights of the Child, have stressed the importance of comprehensive data collection processes, systems and analysis. The Committee has also repeatedly suggested that States disaggregate statistics, including in terms of trends over time, so that it is possible to assess and expose discriminatory tendencies.<sup>34</sup> In addition, UNICEF has recommended in its 1996 Progress of Nations Report that: “when the most obvious of needs have been met for the great majority of a nation’s children, say 80% or 90%, then the emphasis must shift away from aggregate national figures and towards the kind of disaggregated monitoring that will help to identify those who have been excluded from the progress that has been made. In short, the task should be one of monitoring the disparity reduction”.<sup>35</sup>

### 3.4 Multiple discrimination

#### Ethnic Discrimination of Girls

The International Convention on the Elimination of All Forms of Discrimination against Women is primarily aimed at combating discrimination against women. Although ICEDAW does not mention girls, it has been applied to guarantee rights throughout a woman’s lifetime and therefore to both women and girls.<sup>36</sup> In addition, the Committee on the Elimination of Discrimination against Women (CEDAW), which monitors implementation of the Convention, has spelled out, through its

interpretation of the Convention articles, the particular relevance of some of them to the girl child. For instance, Article 10 mentions pre-school education and Article 5 on customary practices has been interpreted as including female genital mutilation, early marriages, son preference, etc.

In addition the multiple discrimination based on gender and ethnic grounds is not adequately acknowledged by the Convention. However, this gap was addressed by the Beijing Women Conference.

The Beijing Declaration and Platform for Action states that: "Many women face additional barriers to the enjoyment of their human rights because of such factors as their race, language, ethnicity, culture, religion, disability or socio-economic class or because they are indigenous people, migrants, including women migrant workers, displaced women or refugees. They may also be disadvantaged and marginalised by a general lack of knowledge and recognition of their human rights as well as by the obstacles they meet in gaining access to information and recourse mechanisms in cases of violation of their rights."

In addition CERD, in its guidelines on the reporting obligations by states, indicated that the inclusion of information on the situation of women is crucial for the Committee to understand whether racial discrimination has an impact upon women different from that upon men. Therefore CERD has encouraged the governmental reporting officers to describe in quantitative and qualitative terms, factors and experiences affecting the rights of women to be free from racial discrimination.<sup>37</sup>

The gender dimensions of ethnic discrimination must be clearly recognised, fully considered and systematically addressed in order to remove all obstacles to equality. Ethnic discrimination does not always affect men and women, boys and girls equally or in the same way.<sup>38</sup> For example, women and girls members of a particular minority, indigenous or migrant group are targeted for trafficking or sexual slavery; women and girls members of these groups are targeted for sexual abuse in armed conflict or in detention; indigenous women and women of colour are subjected to forcible or coerced sterilisation<sup>39</sup>.

In the context of recent ethnic-based conflicts in Bosnia and Rwanda, rape and sexual violence have been used to target women of particular ethnic groups and as an instrument of genocide. In Rwanda, during the genocide, the targeted use of sexual violence, including rape, forced marriages and sexual slavery, against Tutsi women and girls was fuelled by both ethnic and gender stereotypes.<sup>40</sup> Reports from East Timor also confirm the use of rape in retaliation against East Timorese women believed to have supported the vote for East Timorese independence and decolonization from Indonesia. A more historical example is the World War II Japanese military practice of forcing women from Korea, the Philippines, Taiwan, Malaysia, and Indonesia into sexual servitude. Women who are refugees or internally displaced struggle with gender-related issues such as increased vulnerability to sexual violence, newly acquired head



of household status, gender and racial economic inequality, increased domestic violence, and gender-based limitations on freedom of movement.<sup>41</sup> Some of these examples mention only women but it cannot be excluded that girls may also be involved in such practices.

Girls of minority and indigenous groups may face special discriminations. For example, girls in the northern hill-tribes of Thailand are more likely to be enticed or trafficked into prostitution. Interviews conducted in 1994 with children leaving primary school in the northern districts revealed that a high number did not regard staying in school as an option because their parents had made prior prepaid agreements with agents to send them to work in Bangkok or elsewhere. Very early and forced marriage may be another practice which affects girls from minority and indigenous groups disproportionately excluding them from schools.<sup>42</sup> Cases of systematic rape of young Albanian girls during the conflict in Kosovo have also been reported as part of the ethnic cleansing occurred between 1998 and 1999.<sup>43</sup>

Intersection of race and gender also has implications for the enjoyment of girls' economic, social and cultural rights. Seventy-three million out of the 130-million school-age children who do not receive an education are girls, or about two out of three. Of all 960 million illiterate adults, two-thirds are women. Although these statistics are not disaggregated by race, other evidence suggests that women and girls of disadvantaged racial, ethnic, immigrant and indigenous groups have fewer educational resources.<sup>44</sup>

Often, data collection on ethnic discrimination is not disaggregated along gender lines and vice versa. Ethnic discrimination against women and girls frequently goes unnoticed and unaddressed in the absence of data according to ethnicity and gender.<sup>45</sup>

#### Ethnic Discrimination of Children with Disability

All articles of the CRC and of the other human rights instruments apply equally to disabled children. The disabled child is first and foremost a child. However, the CRC devotes its Article 23 exclusively to the protection of children with disability. This article and the whole of the Convention need to be interpreted in the light of the UN Standard Rules. The rules complement the CRC in that they are part of a whole document on disability policy, containing a much higher degree of specification and giving more guidance on what should be done and how it should be done.<sup>46</sup> These rules are not legally binding but they provide clear standards and guidelines which have been generally recognised and accepted at the international level. In addition they imply a strong moral and political commitment on behalf of States to take action for the equalisation of opportunities for persons with disabilities. The Standard Rules indicate that special attention may need to be directed towards particular groups such as migrant workers, indigenous people and ethnic minorities. In addition the Rules highlight that there are large numbers of refugees with disabilities who have special needs requiring attention.<sup>47</sup>

Children from minority, indigenous and migrant groups who are disabled are often doubly discriminated against. Information about disabled children of these groups is scarce and this may lead to these children “falling between two stools”. In addition, the rights of linguistic minorities have so far not been extended to protect those hearing-impaired individuals who use the sign language, although it is being spoken by millions all over the world.<sup>48</sup>

Refugees with a disability often find themselves in a particularly vulnerable situation. In refugee camps, they are frequently the last ones to receive food, water and care..<sup>49</sup>

In the UK little is known about minority ethnic deaf people and their families. A research on this topic highlighted that parents were concerned about ensuring that deaf children learned about family culture and religion. Schools, however, were seen not to be sufficiently concerned about children and their ethnic identity. As a result, many deaf people felt marginalised from their own cultures and communities as well as within the white deaf culture which many felt did not respect ethnic and religious diversity. Deaf people and their families also felt marginalised by services which were not always responsive to their needs. For example access was hampered because of limited provision of community language interpreters or sign language interpreters. These sometimes are not aware of certain cultural practices. In addition, very few minority ethnic deaf professionals were identified. Waqar Ahmad, Aliya Darr, Lesley Jones, Gohar Nisar, *Deafness and Ethnicity: Services, Policy and Politics*, 1998.

Another research was carried out to find out more about minority ethnic families caring for a severely disabled child in the UK. This research followed a 1995 study which explored the experiences of about 1,000 white families caring for a severely disabled child. In comparing the findings, this research showed that, with few exceptions, minority ethnic families were much more disadvantaged in all the areas considered such as living circumstances, provisions for information, family support and other experiences, and had higher levels of unmet needs than the white families in the 1995 study. Rampaul Chamba, Waqar Ahmad, Michael Hirst, Dot Lawton, Bryony Beresford, *On the Edge: Minority Ethnic Families Caring for a Severely Disabled Child*, 1999.

Ayesha, at the age of 14 arrived in the UK from India and started attending a residential school for the blind which was all white apart from her and an Asian boy. In that school “I experienced physical and verbal abuse from the children and less favourable treatment from some of the staff. I could hardly speak English, I wore Indian clothes and as a Muslim I needed a special diet. Gradually and in subtle ways, I was persuaded to wear English clothes and eat English food. The staff promised that they would not tell my father about it. I had to eat the food. If I had not, I would have starved as the only alternative they would give me was salad”. Sunita tells how the children at her mainstream school used to call her “Paki” and picked on her because she was deaf and Asian. “I just had to ignore it; the teachers did not help at all.” Vernon A., *A Stranger in Many Camps: The Experience of Disabled Black and Ethnic Minority Women in Feminism and Disability*, 1996.

A young man with learning difficulties was assumed by his service providers to have no language. Much of his time was spent mumbling “incoherently”. Once, a Jewish visitor to the home realised that he was using Hebrew, reciting prayers he had learnt in childhood. His service was subsequently changed to give him access to the Jewish community. *Celebrating Diversity, in Talking Sense*, Vol. 45, No. 2, Summer 1999.

## 4. Reporting procedures

All of the major international human rights treaties provide for a reporting system whose principal aim is to monitor states' compliance with their obligations under international human rights law.

These reporting systems usually require that States parties report at periodic intervals on their activities to implement their obligations. These reports are supposed to discuss all constitutional, legal, administrative and other measures that states have taken to promote and protect the rights specified in the treaty. They form the basis of discussion with the committee concerned.

For the purpose of this guide, only two specific reporting systems will be examined in detail, namely the reporting systems under the CRC and CERD. This is because these instruments are particularly relevant in reporting on ethnic discrimination of children.

### 4.1 Reporting procedure under CRC

Under the CRC, the Committee on the Rights of the Child, the body responsible for examining states' reports, evaluates governments' progress in the implementation of children's rights at the national level. The purpose of this reporting process is to help implement child rights, to help monitor the implementation of child rights and to help mobilise action and changes to improve implementation.<sup>50</sup>

When a country has ratified the Convention, it has to report to the Committee within two years. Thereafter, it must report every five years.

The Committee has provided a set of guidelines for writing the reports whereby the various articles of the Convention are clustered in broader headings, including:

- general measures of implementation
- definition of the child
- general principles
- civil rights and freedoms
- family environment and alternative care
- basic health and welfare
- education, leisure and cultural activities
- special protection measures.

The report is, first, examined by a working group of the Committee in a meeting which takes place before its plenary sessions.<sup>51</sup> Leading up to the pre-session meeting, the Committee gathers also information from other UN agencies, human rights organisations and NGOs. Non-governmental organisations may be invited by the Committee to attend the pre-session meeting and present their information.

After the pre-sessional meeting, the Committee draws up a list of questions which are sent to the government in order to supplement the information contained in its report. The government is asked to provide the answers in writing and is invited to the plenary session of the Committee to discuss about its report and any additional information provided to the Committee.

In relation, for example, to the principle of non-discrimination the list of issues of the Committee normally addresses the following points:

- National legislation against discrimination;
- Measures to combat discrimination against, inter alia, children belonging to minorities or indigenous communities/refugee children/asylum-seeking children;
- Efforts to collect disaggregated data for the different groups of children.
- Disaggregated data on school enrolment; access to school in remote areas;
- Whether children may be taught in local/minority/indigenous languages
- Affirmative action against discrimination favouring children belonging to a minority or an indigenous group

After the examination and discussion of the report, the Committee adopts its Concluding Observations which highlight the positive aspects and difficulties in the implementation of children's rights, as well as recommendations for future action.

The NGO Group for the CRC is based in Geneva. It is a body made up of various international NGOs promoting children's rights whose main function is to facilitate contacts and dialogue between the Committee and national and regional NGOs. The NGO Group drafted the Guide for NGOs Reporting to the Committee on the Rights of the Children (available at: [www.crin.org/crc/guidelns.htm](http://www.crin.org/crc/guidelns.htm)) and have been compiling a database of NGOs reports which is available on the Internet at: [www.crin.org](http://www.crin.org).

Further information may be obtained upon request from the NGO Group for the Convention on the Rights of the Child, c/o Defence for Children International, rue de Varembe 1, B.P. 88, CH-1211 Geneva, Switzerland, Telephone: +41.22.734 05 58, Fax: +41.22.740 11 45, E-mail: [dcj-ngo.group@pingnet.ch](mailto:dcj-ngo.group@pingnet.ch).

## 4.2 Reporting procedure under ICERD

The Committee on the Elimination of Racial Discrimination (CERD) is the body responsible for monitoring and reviewing actions by states to fulfil their obligations under ICERD. CERD is composed of 18 independent experts.

States parties are required to submit an initial report within one year after the entry into force of the Convention; comprehensive reports every four years and brief updating reports at intervening two-year periods. States parties may also have to submit special reports whenever the Committee so requests.

CERD has provided guidelines to states parties on the preparation of their reports. The Committee expects that the initial and comprehensive reports will include information on: states' compliance with the prohibition of racial discrimination, the ethnic characteristics of the country and the text of the relevant laws, judicial decisions and regulations which have been adopted to implement the various articles of the Convention.<sup>52</sup>

Leading up to the examination and discussion of states' reports in plenary sessions, CERD now takes into consideration additional information and alternative reports submitted by NGOs.

Although the flow of information from NGOs that reaches the Committee is not systematically collected, channelled or analysed, the Anti-Racism Information Service – ARIS, based in Geneva, has undertaken the task of connecting NGOs with the Committee and of assisting its members in their search for relevant information beyond the States' reports.

ARIS has a database of all the information submitted by NGOs to the Committee. In addition, it provides the Committee with a list of useful reference material and documentation during its plenary sessions.

Further information can be obtained from ARIS, 14 avenue Trembley, 1209 Geneva, Switzerland, Tel. +41.22.740 35 30, Fax. +41.22.740 35 65, Email: [aris@antiracism-info.org](mailto:aris@antiracism-info.org). Homepage: [www.antiracism-info.org](http://www.antiracism-info.org).

## 5. Reporting checklist

The following checklist is intended as an aid for non-governmental organisations and others who wish to report on ethnic discrimination under the Convention on the Rights of the Child. It is more broadly formulated than, for instance, the reporting guidelines of the Committee on the Rights of the Child. In addition to strictly legal questions, the checklist takes into account potential threats to the principle of non-discrimination and whether all measures have been taken to achieve full and effective equality. In other words, it takes into consideration the psychological environment, the propensity for tolerance, the possible need for affirmative action and whether adequate measures have been taken to protect the cultural, linguistic and religious identity of all children in society.

The checklist will as far as possible follow the structure of the reporting guidelines to states issued by the Committee on the Rights of the Child. While the main focus will be on the CRC, the checklist may also be used for alternative reporting under other human rights conventions (e.g. ICERD, ICEDAW, ICESCR). The checklist should be used, read and eventually developed bearing in mind the gender dimension of ethnic discrimination, as well as other forms of multiple discrimination, although this will not be repeated under every heading of the checklist. In addition, the reader is advised to consult the official reporting guidelines of the Committee on the Rights of the Child, as well as those of other relevant treaty bodies.

### Background information on statistics and data

- ✓ Can you describe the ethnic, linguistic, religious and cultural characteristics of your country?
- ✓ Are there any official statistics disaggregated by age, gender and socio-economic status concerning children of minority, indigenous and migrant groups?
- ✓ Is the purpose and procedures of collecting such data in line with recognised principles of human rights and fundamental freedoms?
- ✓ What are the guarantees to protect the privacy of the individual?

### General measures of implementation (CRC Articles 4, 42, 44.6)

- ✓ Has your government made any reservations or declarative statements, upon accession of the Convention of the Rights of the Child, which are likely to circumvent the principle of non-discrimination?

*The right to acquire a nationality and be registered immediately after birth*

In all countries in Africa where the Batwa Pygmies groups live, most of their neighbours have birth certificates for their children, almost all have identity cards, health cards and other documents concerning their relationship with the state. Batwa rarely have these documents. *Minority Rights Group International, the Batwa Pygmies of the Great Lakes Region, June 2000.*

CERD criticised the government of the Syrian Arab Republic for maintaining laws in which Syrian-born Kurds are considered either as foreigners or as "marktoumeen" (unregistered and thus deprived of any nationality). *CERD/C/55/CRP.1/Add.3.*

- ✓ Are children allowed to wear their traditional religious clothes and other insignia?
- ✓ Are children allowed to express and practice their faith and religion?
- ✓ Do schools impose instruction of one religion only? If so are there any opt-out classes?
- ✓ Does the state provide public funding for privately established religious schools? If so, does it provide equal funding to all religious communities wishing to establish such schools?

*Freedom of thought, conscience and religion*

In Canada, Ontario is the only province that provides full public funding for the religious schools of just one group-Roman Catholics. Although 8% of the provincial population is from other religious minorities-mostly Jewish, Sikh and Muslim-there is no public funding for them to establish schools. In the absence of public funding, Ontario's students attend private religious schools at an average cost per pupil of more than \$5,000 a year. One parent from a minority religion took his case to the Human Rights Committee, which decided that this was a case of religious discrimination. *UNDP Report, 2000.*

Concerning Myanmar (Burma), the Committee on the Rights of the Child noted with concern that "children considered poor are channelled towards monastic Buddhist schools and are offered no alternative educational opportunity. This might challenge the right to freedom of religion for non-Buddhist children who are enrolled in those schools. *CRC/C/15/Add.69, 24 January 1997.*

It is reported that children in the Tibetan capital are being discouraged from expressing their religious faith and practising devotional activities as part of a campaign by the authorities in middle schools and some primary schools. It is alleged that in some schools children have been given detention or forced to pay fines when they failed to observe a ban on wearing traditional Buddhist "protection cords". *Tibet Information Network, 20 February 2001.*

- ✓ Are there in your country children's newspapers, books, radio and television programmes in other languages than the majority languages?

- ✓ Does the media ensure that the terms it uses about children from minority, indigenous and migrant groups are not insulting or perpetuating stereotypes?
- ✓ Have Internet Service Providers adopted codes of conduct which include prohibition of incitement to ethnic discrimination? If so, have they been made widely known to children and young people?
- ✓ Has any provider or association of providers set up a hotline system to monitor racism on the Internet?
- ✓ Are children warned during their computer courses or whilst using computers at

#### *Racism on the Internet*

The Internet and White Noise music are used by racist organisations to recruit young people into their ranks. During the first half of the 1990s, Swedish White Noise music producers were among the leading producers of the world. In the Spring of 1999, there were 34 Swedish racist Websites according to a report of the security police. The number of white power magazines and other propaganda material has also grown. Thus, for instance, in 1998 there were six white power magazines all of them photocopied. In 1999 the number is at least twenty-five, and half of them are professionally produced. *Swedish National Council for Crime Prevention, "White Noise Music", BRÅ-rapport 1999:10.*

In addition to CD:s, other products are sold on the Internet, including news-papers, books, stickers, videos, T-shirts, tags and similar items. According to a report published in 1997, 17.1 per cent of all youth have some time been in contact with products from racist organisations. Furthermore, 12.2 per cent declare that they occasionally or often listen to racist music, while 7.8 per cent report that they some time read a racist paper. *Government of Sweden, National Plan of Action against Racism, Xenophobia, Homophobia and Discrimination, Skr 2000/01:59.*

#### Family environment and alternative care (CRC Articles 5, 9, 10, 11, 18, 19 20, 21, 25, 27.4 and 39)

- ✓ Does legislation and practice provide opportunities for refugees and asylum seekers to bring their children into the country?
- ✓ Are all children entitled to have access to childcare services irrespective of language, culture, residence in the country concerned?
- ✓ Are child-care personnel trained to work in a multicultural environment?
- ✓ Is due regard paid to the cultural, religious and linguistic identity of children who are placed in foster care, orphanages or similar residential institutions?



In Italy, the lack of affordable housing and long working hours (for example in the case of domestics) and of adequate support to families cause many parents either to repatriate their children or to place them in institutions. Up until June 1998, out of 14,300 minors in residential structures, 1,800 (12%) were children from minority/migrant groups. *Save the Children Italia, I diritti dell'infanzia: invisibili o dimenticati?*, November 2000.

## Basic health and welfare (CRC Articles 6, 18, 23, 24, 26, 27)

- ✓ What are the different health needs for the various minority, indigenous and migrant groups living in your country?
- ✓ Are medical services accessible in law and in practice to children who are refugees, illegal immigrants and internally displaced persons?
- ✓ Is the quality of medical and other social services the same as for other children?
- ✓ Is there information in various languages about social and medical services?

### *Illustrative case: The health situation of indigenous children in Canada*

A recent Royal Commission on Aboriginal Peoples in Canada revealed that, on average, an indigenous child in Canada is more likely to suffer from a preventable birth defect, become injured as a child, contract HIV/AIDS, or commit suicide than his/her non-native peers. Similarly recent statistics gathered by UNICEF Mexico indicate that children living in Mexican States with a high number of indigenous peoples (e.g. Chiapas, Oaxaca) have significantly less access to basic services and experience chronic shortage of water and malnutrition in comparison to Mexican States with low numbers of indigenous peoples. In Latin America as a whole, a disturbing trend is emerging in which increasing numbers of children from targeted groups are involved in economic migration. This increases the vulnerability of these children as they are removed from the protective mechanisms of their communities, and are exposed to potentially dangerous working conditions and various forms of exploitation and abuse. *UNICEF, 1989–1999. No Ordinary Decade for Children's Rights, 10 December 1999.*

- ✓ Do children from minority, indigenous and migrant groups generally have access to adequate housing?
- ✓ Do they live in segregated areas?
- ✓ Is the housing environment conducive to their right to play and does it provide good opportunities for them to carry out their homework and other learning activities?

*The impact of residential segregation on education*

"Residential segregation leads to segregation in schools and reduces contacts between children belonging to different ethnic groups. In many immigrant-receiving societies, especially in towns, parents now have greater opportunities to select schools for their children. Competition for schools with the best examination results is intense. Parents tend to shun schools with a high proportion of pupils from racial and ethnic minorities so that de facto segregation can appear in the school system. The Habitat Agenda adopted at the United Nations Conference on Human Settlements in 1996 highlighted the priority due to the avoidance of discrimination in settlement patterns but failed to underline the way that patterns of inequality, once established, can then be a major cause of the transmission of the inequality from one generation to the next". "The Causes of, and remedies for, racial discrimination." *Background paper prepared by Mr. Michael Banton, member of the Committee on the Elimination of Racial Discrimination, UN Doc. E/CN.4/1999/WG.1/BR.6, par 28.*

## Education, leisure and cultural activities (CRC Articles 28, 29, 31)

- ✓ Have all measures been taken to guarantee equal access in law and in practice to all levels of education within your country?
- ✓ Do children have the right to speak their mother tongue in public and in schools?
- ✓ Does the law provide for the study of the minority language or does it provide for all or part of the schooling in the minority language? Is the law implemented in practice?
- ✓ Are there any boarding schools or mobile teaching units for areas where populations are nomadic?
- ✓ Do school calendars take into account farming seasons affecting children from minority, indigenous and migrant groups?
- ✓ Have textbooks been revised to correct any erroneous assessment of historical, geographical or social data?
- ✓ Does the curricula place emphasis on human rights, tolerance, the dangers of racism and aggressive nationalism?
- ✓ Does education adequately foster knowledge of the culture, history, languages and religion of minority children?
- ✓ Do schools have a specific policy in relation to racism?
- ✓ Does the staff adequately reflect a multicultural society?
- ✓ Are teachers trained to prevent racism?

- ✓ Is there a specific procedure to report racist incidents in schools?
- ✓ Are disciplinary measures adopted against the perpetrators of racist incidents? If not how are they dealt with?

*Educational rights in practice*

Many schools follow a rigid academic calendar that does not take into consideration the seasonal variations observed by the Indians, like the massive floods common in most Amazonian areas or the demands on children for labour during harvest. *UNICEF, ICDC, Children of Ethnic Minorities: Equal or Different?, R. Stavenhagen.*

In the Czech Republic, Roma/Gypsy children are almost fifteen times more likely than non-Roma children to be designated 'intellectually deficient' and placed in special schools. In this way, more than two-thirds of Roma/Gypsy children are institutionally deprived of the education and leaving qualifications necessary for them to hold their own in Czech society. *Save the Children, Denied a Future? The Right to Education of Roma/Gypsy and Traveller Children, October 2000.*

The pupil in Turkey is to be educated so that: "He/she knows that the territory and people of the Turkish state constitutes an indivisible whole, that the Turkish republic is a national democratic, secular, social and legal state, and that he/she feels the individual glory of the Turkish nation and understands his/her responsibilities". Furthermore the aim is to teach the pupil "to read, write and speak correct Turkish, and to know, adopt and defend the basics of Turkism". One former teacher remembers as an 8-year-old being beaten severely by his teacher for saying some words in Kurdish. *Minority Rights Group International, Education Rights and Minorities, 1994.*

In indigenous areas in Bolivia, there are teachers who change the names of their students and impose Western names on them. A Guarani Indian Leader of Bolivia's Oriente region remembers: "I suffered when I went to school. I could not understand Spanish: the teachers treated me like a donkey, saying I was stupid, but if they had spoken to me in Guarani, I could have answered them well. When they taught me how to read, well, I read but did not understand anything. That is why we have seen the need to study in our own language, because here in our land, we speak Guarani from the time we are born until our death. Few people speak Spanish, especially the women, they do not know this language, and with our mothers it is even worse". *UNICEF, ICDC, Children of Ethnic Minorities: Equal or Different?, R. Stavenhagen.*

A research project carried out by the Children's Legal Centre in the UK examined the adequacy with which teachers address the issues of racism and multiculturalism in schools with small numbers of ethnic minority pupils. This research revealed that most of the schools taken into consideration by the project lacked coherent disciplinary measures to deal with racist incidents. Some of the teachers in these schools ignored racist comments, others spoke with the pupil who made the racist comment, and others said they handled it like they would any bullying incident. Teachers generally did not react seriously to the use of racist language or teasing by pupils. Generally speaking the teachers did not recognise the possibility of racist language leading on to physical abuse and often failed to differentiate racist incidents from other forms of bullying, although some of them recognised that pupils were more sensitive about racist bullying. Pupils, especially those representing minority/migrant groups, interviewed by the project said that racist incidents were occurring more frequently than their teachers realised. These pupils said that they rarely reported such incidents because they believed nothing would be done about them and/or were concerned that the perpetrator would take action against them either inside or out of school. *Children's Legal Centre, Racism and Race Relations in Predominantly White Schools: Preparing Pupils for Life in a Multicultural Society.*

- ✓ Are children from minority, indigenous and migrant groups granted effective access to play grounds and sporting facilities?
- ✓ Are there toys (e.g. dolls) which reflect a multiethnic society?
- ✓ Have all measures been taken to prevent discrimination on ethnic grounds in access to public places such as discos and night-clubs?

*Discrimination in the fields of leisure and cultural activities*

The right of access to any place or service intended for use by the general public is prohibited by the International Convention on the Elimination of All Forms of Racial Discrimination. While discrimination on ethnic grounds in the areas of leisure and cultural activity is in no sense formalised in France, it does exist in people's unwillingness to allow access to particular activities. The most common example is that of night-clubs, to which young people of migrant origin are sometimes refused entry. Shops that cater for leisure activities, such as sports, book or music stores, have also been known to label all young black people as thieves and refuse entry on these grounds. *International Save the Children Alliance, Children's Rights: Equal Rights?, 2000.*

Special protection measures  
(CRC Articles 22, 30, 38, 39, 40, 32–36, 37)

- ✓ Are children from minority, indigenous and migrant background in your country at a significantly high risk of being exposed to any of the following dangers:
  - hazardous work and economic exploitation?
  - sexual exploitation and abuse?
  - sale, trafficking and abduction?
  - recruitment into armed forces or opposition groups?
  - torture or other cruel, inhuman or degrading treatment or punishment?
  - capital punishment and life imprisonment?
  - arbitrary stop and search actions?
  - arbitrary arrest, detention and conviction?
  - denial of the right to interpretation, legal representation and other services related to the juvenile justice system?

*Children from minority groups are vulnerable to some of the most serious forms of human rights abuses*

Racial discrimination, xenophobia and intolerance may play its part throughout the trafficking process. Groups made vulnerable by racial discrimination are marginalised and less protected in the state of origin and therefore more likely to be trafficked. In the receiving state these children may be illegal or may not have equal protection to citizens and so fall outside the usual safeguards for children. They immediately belong to a minority group by virtue of their national origin. *Asia-Pacific Seminar on Migrants and Trafficking in Persons with Particular Reference to Women and Children, Bangkok, 5-7 September 2000, Background Paper, Ghassan Salim Rabah, Racism, Trafficking and the Human Rights of Children.*

The old practice of "criadito" service still persists in some part of Bolivia. Criaditos are indigenous children of both sexes, usually 10 to 12 years old, whom their parents indenture to middle and upper class families to perform household work in exchange for education, clothing, room and board. There are no controls over the benefits to, or treatment of, such children, who may become virtual slaves for the years of indenture. *Bureau of Democracy, Human Rights and Labour, US Department of State, Report on Bolivia, 1999 Country Report on Human Rights Practice, February 2000.*

In May 1998, in Jakarta, Indonesia, Chinese women and girls were specifically targeted and subjected to sexual mutilation, rape or even being burnt alive for being Chinese and non-Muslim. Reports indicate, for example, that women have been gang raped in front of crowds and on buses, have been separated along ethnic lines, forced to get off and then take off their clothes. *Save the Children UK, Children, Torture and Power, 2000.*

Paramilitary and guerrilla groups have been known to force indigenous peoples, including children into their ranks. Some guerrilla groups reportedly favoured indigenous peoples as guides and communicators, due to their knowledge of the geography of their historical lands and knowledge of generally unfamiliar languages. *Bureau of Democracy, Human Rights and Labour, US Department of State, Report on Colombia, 1999 Country Report on Human Rights Practices, February 2000.*

The Committee on the Rights of the Child noted in relation to Australia that "unjustified, disproportionately high percentage of Aboriginal children are in the juvenile system and that there is a tendency normally to refuse applications for bail for them". In addition, the Committee noted with concern the "enactment of new legislation in two states, where a high percentage of Aboriginal people live, which provides for mandatory detention and punitive measures of juveniles, thus resulting in a high percentage of Aboriginal juveniles in detention." *CRC/C/15/Add.79, 10 October 1997.*

Like the death penalty as a whole, the juvenile death penalty of today is not as overtly racist as it once was. However, racial and ethnic minorities continue to make up a disproportionate number of the juvenile offenders on death row, and race of defendant and victim can still play a role. Between 1990 and 1998, six juvenile offenders were executed in the US, of which 5 were black, 1 Latino and 3 whites. David Baldus and George Woodworth, experts on race and the US death penalty, have written: "Many citizens consider it insensitive and immoral, for a country with our historical record on slavery and race discrimination, to persist in using a punishment that is administered and controlled almost exclusively by whites and serves no demonstrated penological function, but has profound adverse impact, physically, psychologically and symbolically on its black citizens". *Amnesty International, On the Wrong Side of the History. Children and the Death Penalty in the USA, 1998.*

# Endnotes

1. International Save the Children Alliance, *Children's Rights: Equal Rights?*, 2000.
2. It seems that only the Guatemalan Ombudsperson on Children has dealt extensively with the issue of ethnic discrimination against children. Even in South Africa, a country where racial discrimination was institutionalised through the apartheid system, the paucity of studies on the reality of racism in the lives of South African children is a fact. See: South African Human Rights Commission (SAHRC), *Racism, Racial Integration and Desegregation in South African Public Secondary Schools*, Conference on Racial Integration in Schools, February 1999.
3. Study on the Effects of Racial Discrimination against the Children of Minorities and those of Migrant Workers in the Fields of Education, Training and Employment, Report of the Secretary General, UN Doc. A/CONF.189/PC.1/11, February 2000, paragraph 6.
4. A treaty body is usually a committee of independent experts established by an international human rights instrument to monitor its implementation by states parties. One of these Committee's main functions consists in examining the regular reports submitted by states parties on their compliance with international human rights standards.
5. Supranote 3, paragraph 48.
6. Bulmer M. and Solomos J. (Eds), *Racism*, Oxford University Press, 1999.
7. See: Diaconu I., *The Definitions of Racial Discrimination*, UN Doc. E/CN.4/1999/WG.1/BP.10.
8. Maiellano G., *The Penumbra of Race*, in *Roma Rights*, 4/2000.
9. It is worth recalling that CERD may also deal with religious discrimination if this refers to particular groups which are also subject to other forms of ethnic discrimination. This means that CERD will not take into consideration religious discrimination per se but only when it is linked to other ethnic discriminatory practices. In addition, it is at the discretion of the Committee whether to take up religious discrimination or not.
10. UNICEF, ICDC, *Children of Migrants and Ethnic Minorities: An Overview and Conceptual Framework*, Innocenti Occasional Papers, 1992. The working definition of the term migrant as adopted by the UN Special Rapporteur on the human rights of migrants includes the following persons:
  - those who are outside the territory of their State of nationality and not subject to its legal protection and are in the territory of another State;
  - those who do not enjoy general legal recognition of the rights inherent in the status of refugee, permanent resident, naturalised citizen or other similar status granted by the host State;
  - those who do enjoy general legal protection of their fundamental rights by virtue of diplomatic agreements, visas or other accords.
 See, UN Special Rapporteur on the human rights of migrants, *Discrimination against migrants – migrant women: in search of remedies*, UN Doc. A/CONF.189/PC.1/19, 14 March 2000.
11. UN, OHCHR, *The Rights of Indigenous Peoples*, Fact Sheets No. 9 (Rev.1), July 1997.
12. General Comment No. 18, adopted by the Human Rights Committee at its Thirty-seventh session, 1989.
13. One example would be the selection of a head of school on the basis of religion for a school with religious denomination. See: *Human Rights Reference Handbook*, Netherlands Ministry of Foreign Affairs, The Hague, January 1999 and the *Belgian Linguistic Case* of the European Court of Human Rights.
14. Lerner N., *Group Rights and Discrimination in International Law*, Martinus Nijhoff Publishers, Dordrecht-Boston-London, 1991.

15. Eide A., Working Paper on the Protection of Minorities: Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities, UN Doc. E/CN.4/Sub.2/1993/34, paras. 168–184.
16. Detrick S., A Commentary on the UN Convention on the Rights of the Child, 1997.
17. Committee on Economic, Social and Cultural Rights, General Comment No. 11, UN Doc. E/C.12/1999/4, 10 May 1999.
18. Hodgkin R. and Newell P. (Eds), Implementation Handbook for the Convention on the Rights of the Child, UNICEF, New York- Geneva, 1998.
19. Committee on the Rights of the Child, General Comment No. 1, 2001.
20. For example, a textbook used in one European country to teach children the alphabet illustrates the letter “t” as follows: “the Tsigane (Gypsy) has stolen the goose”. See: Save the Children UK, Denied a Future? The Right to Education for Roma/Gypsy and Traveller children, forthcoming publication.
21. Supranote 3.
22. UNICEF, ICDC, Children and Families of Ethnic Minorities, Immigrants and Indigenous Peoples, 1996.
23. Ibidem.
24. Supranote 3.
25. Supranote 19.
26. Some of the socio-economic indicators monitored and disaggregated along ethnic lines by some governments include: infant mortality, presence in detention/correctional facilities, enrolment rates in non-mandatory pre-school and other levels of schooling, drop-out rates, delays (age/level), exclusion/expulsion from school, over-representation in certain schools and tiers participation rates in extra-curricular activities.
27. UNDP Report 2000.
28. There is a certain consensus on the fact that population censuses represent an acceptable form for the collection of ethnic data, insofar as the identification of ethnic origins is made on the basis of a voluntary declaration and it is a data collection exercise which involves the whole population. See: Council of Europe, Roma and Statistics, Report of the Conference held on 22-23 May 2000, MG-S-ROM (2000).
29. European Parliament, Directorate General for Research, Working Document, EU Anti-Discrimination Policy: From Equal Opportunities between Women and Men to Combating Racism, 1998.
30. CERD, General Recommendation VIII in A/45/18.
31. For example, administrative data on the criminality rates of Roma has been often used to reinforce stereotypes against this group. See: Supranote 26.
32. This is recommended, for example, by the UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities in relation to data collection concerning this group. UN Doc. A/RES/48/96, 4 March 1994.
33. For example, Article 6 of Council of Europe Convention 108 of 1981 on the protection of individuals with regard to automatic processing of personal data stipulates that sensitive data, including data on racial origin, are subject to special rules and may be collected only where domestic law provides appropriate safeguards. This means in particular the need to have the explicit and written consent of the person concerned by the collection of data. See: Supranote 26 and [www.coe.fr/dataprotection/edocs.htm](http://www.coe.fr/dataprotection/edocs.htm).
34. Save the Children Sweden, UNICEF Regional Office for South Asia, Children's Rights. Turning Principles into Practice, 2000.
35. UNICEF, Adamson P. (Ed.), 1996 Progress of Nations Report, New York, 1996.



36. IWRAW, Women, Children and Human Rights: The CEDAW and the CRC, 1998 and UNICEF, Save the Children, Division of the Advancement of Women, IWRAW, The Human Rights of Women and Children. Challenges & Opportunities.
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38. McDougall G., An Analysis of the Gender Dimensions of Racial Discrimination, Background Paper prepared for the 1st session of the Prep.Com. of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, CERD/C/56/Misc19, 1 March 2000.
39. In the US, for example, thousands of Puerto Rican and African American women have been sterilised without their knowledge or consent. These abuses were particularly prevalent in the 1950s but have also occurred in more contemporary periods as well. The forced sterilisation of women all over the world has not been addressed as a race issue though when examined carefully there are usually race, class or other risk factors that distinguish women likely to suffer such abuses from others who are not. In reviewing Peru's periodic report, CERD noted, as a principal subject of women, "allegations of forced sterilisation of women belonging to indigenous communities". See: The African American Policy Forum, Position Paper on Gender and Race Discrimination, November 2000.
40. Human Rights Watch, Shattered Lives. Sexual Violence during the Rwandan Genocide and its Aftermath, 1996.
41. UNIFEM, Integrating Gender into the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.
42. UNICEF, ICDC, Children and Families of Ethnic Minorities, Immigrants and Indigenous Peoples, 1996.
43. Human Rights Watch, Kosovo: Rape as a Weapon of Ethnic Cleansing, March 2000.
44. Some examples are listed here. In South Africa, where the educational system is still fairly segregated by race, girls of racially disadvantaged groups are doubly affected because they tend to work earlier to support their families, and have little education due to the expectation that they will marry. In the Peruvian Amazon, there are more boys than girls in primary schools and twice as many boys as girls in secondary schools. In Guyana, Indian women are less likely to have attended school than any other group in the region. In the Bolivian Amazon, illiteracy is reported among 18% to 28% of the population rising in some areas to 70% and is particularly prevalent among indigenous women. Illiteracy is more extensive in the Amazon region than elsewhere in the respective countries. UNICEF, ICDC, Children of Ethnic Minorities: Equal or Different?, R. Stavenhagen.
45. Supranote 41.
46. General Discussion on the Rights of Children with Disabilities, in CRC/C/69.
47. Supranote 32.
48. SHIA Human Rights & Disability Network, Human Rights and Persons with Disabilities by Annika Akerberg. This is despite the fact that in Europe, for example, all minority language users communicate in a sign language. See: European Centre for Minority Issues, Evaluating Policy Measures for Minority Languages in Europe: Towards Effective, Cost-Effective and Democratic Implementation, by F. Grin, Flensburg, 23-24 June 2000.
49. International Disability Foundation, The World Disability Report, 1999.
50. Vitit Muntarbhorn, A Sourcebook for Reporting under the Convention on the Rights of the Child, UNICEF, EAPRO, and Child Rights Asianet.
51. There are normally three plenary sessions per year.
52. IMADR, MRG, The International Convention on the Elimination of All Forms of Racial Discrimination: A Guide for NGOs, 2001.

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