Twentieth Anniversary of the Convention on the Rights of the Child

Dignity, Development, Dialogue

Theme II: Development

Sub-theme 1: States parties' obligations: realizing economic, social and cultural rights

STATES PARTIES OBLIGATIONS RELATED TO CHILD'S RIGHT TO HEALTH

Caritas Internationalis[1] joined by the International Catholic Child Bureau (Bice), Dominicans for Justice and Peace (Order of Preachers), the Association Comunità Papa Giovanni XXIII, the International Institute Maria Ausiliatrice (IIMA) and VIDES International[2] wish to state their urgent concern about the failure of many States Parties to implement adequately the provisions contained in article 24 of the CRC (child's right to health), in particular with respect to children living with HIV and with HIV/TB co-infection.

It is our firm conviction that, when a State ratifies the Convention on the Rights of the Child (CRC), it assumes the responsibility to ensure that all children are able to enjoy fully the rights recognized by the Convention. Moreover, we recognize that, as established by the CRC, States should undertake all appropriate legislative, administrative, and other measures to implement the rights specified by the Convention. In relation to economic, social and cultural rights, the CRC specifies that States shall provide for their realization by implementing necessary and relevant measures to the maximum extent possible within their available resources and, where needed, within the framework of international cooperation. This means that States Parties must provide for children to be given access to adequate and safe nutritious food, essential primary health care, needed and life-saving medicines, basic education, and adequate shelter and, in so doing, must pay special attention to disadvantaged groups within the overall population of children living in the respective country.

Children living with HIV and with HIV/TB co-infection can be counted among the most vulnerable populations in many places, but most especially in low- and middle-income countries. Today, 2.1 million children under the age of 15 years are living with HIV. Our organizations are concerned that the vast majority of such children have been deprived from access to early diagnosis and effective treatment of HIV and related life-threatening infections. Most of these children were infected during pregnancy, birth or breastfeeding, even though treatment is available to prevent the transmission of HIV from an HIV-positive mother to her child. Indeed, mother-to-child transmission of HIV can be reduced to less than 2% by a package of interventions comprising ARV prophylaxis and treatment, elective caesarean section and avoidance of breastfeeding, when appropriate. Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary

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[1] Caritas Internationalis is a global Confederation, based in Vatican City State, and comprised of 164 national Catholic humanitarian assistance, development, and social services organizations working in more than 200 countries and territories in the world. Since 1987, Caritas Internationalis has prioritized its actions in response to HIV and AIDS and other related illnesses and on the economic, social, emotional, and human rights-related impact of the pandemic and enjoys a Memorandum of Understanding with UNAIDS in this regard. It has been estimated that Catholic Church-related organizations carry the burden of more than 25% of HIV treatment, care, and support for people living with or affected by this pandemic, most especially among those located in developing countries, rural areas, and those among the poorest and most marginalized populations (Statement of the Holy See Delegation to the 2006 UN General Assembly Special Session on HIV/AIDS). For further information on Caritas, visit: www.caritas.org

[2] Caritas Internationalis has general consultative status with ECOSOC. The International Catholic Child Bureau (Bice), Dominicans for Justice and Peace (Order of Preachers), the Association Comunità Papa Giovanni XXIII, the International Institute Maria Ausiliatrice (IIMA) and VIDES International have special consultative status with ECOSOC.

protection and assistance so that it can fully assume its responsibilities within the community, we take particular note that article 24 (2.d.) of the CRC mandates States Parties to take appropriate measures to ensure appropriate pre-natal and post-natal care for mothers.

Moreover, article 24 (2.b.) of the CRC stipulates that States parties shall take appropriate measures to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care. However, while the 30 percent of adults living with HIV have access to treatment, only 15 percent of children in need of anti-retrovirals (ARVs) are afforded access to them. On a daily basis, this causes the deaths of more than 800 children under the age of 15[3]. Without access to such life-saving and life-prolonging medications, at least 50% of HIV-infected children die before their second birthday[4].

Until recently, no formulations of anti-retroviral medications were available for specific use among children. Thus caregivers were forced to break in half or crush adult tablets, with consequent risk of under- or over-dosing. Even at the present time, there is a severe lack of "child-friendly", fixed-dose combinations of anti-retroviral medications for paediatric use.

One major barrier related to paediatric treatment of HIV involves the difficulty to diagnose the infection in children younger than 18 months. For the most part, this is due to the limited availability of diagnostic tests capable of identifying the infection in such children and adapted to use in resource-limited settings. Thus, in 2007, only 8 percent of children born to HIV-positive women were tested before they were two months of age[5]. Consequently, the vast majority of HIV-positive children did not receive access to early treatment and its proven ability to strengthen the immune systems and improve the quality of life and life expectancy of such children.

The fulfillment of a child's right to health is linked to the protection and implementation of other provisions in the CRC, which may have direct or indirect implications on the right to health[6]. The obstacles in access to appropriate diagnosis and treatment of children living with HIV or with HIV/TB co-infection, and to means of prevention of vertical transmission of HIV by pregnant women living with the virus, call for immediate and effective action by States Parties as they strive to fulfill their responsibilities under article 24 of the CRC.

Governments have the primary responsibility to enhance access to medicine for children. Yet, to a significant degree, children remain forgotten in global and national efforts to address HIV and AIDS. Many countries, including high-income countries, have no data on the number of children living with HIV or with TB, or on the number of children in need of treatment and on those who receive it. The data related to children living with HIV often are limited to those

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[3] World Health Organization. 2007, *Towards universal access scaling up priority HIV/AIDS interventions in the health sector.* www.who.int/hiv/mediacentre/universal_access_progress_report_en.pdf

[4] United Nations Economic and Social Council, *Report of the Executive Director to the Joint United Nations Programme on HIV/AIDS,* Substantive Session of 2009, Geneva 6-31 July 2009, E/2009/70.

[5] United Nations Children's Fund, Joint United Nations Programme on HIV/AIDS and the World Health Organization, *Towards Universal Access: Scaling up priority HIV services for women and children in the health sector – Progress Report 2008*, UNICEF, New York, 2008, p. 24.

[6] These provisions, together with the four general principles, include States parties' obligations to guarantee: the right to life (article 6); the right to seek, receive and impart information and ideas of all kinds (article 13); freedom of thought, conscience and religion (article 14); freedom of association and peaceful assembly (article 15); the right to privacy and confidentiality (article 16); the right to benefit from social security (article 26); a standard of living adequate for the child's physical and mental development, which includes States parties' obligations to provide material assistance in providing nutrition, clothing and housing (article 27); the right to education (articles 28–29); and the right to rest and leisure (article 31).

below the age of 15 years. Insufficient data collection makes it impossible to assess the extent to which the Convention has been implemented.

Moreover, government departments frequently fail to measure the proportion of their respective budgets that is allocated to paediatric diagnosis, treatment, and related services. No State can provide evidence of safeguarding the child's right to health to the maximum extent of its available resources, unless it identifies the proportion of budget allocated to fulfilling such a responsibility. Information also should be given on the resources received from development aid and international assistance for the purpose of advancing the child's right to health.

Recommendations

In developing its Outcome Framework for 2009-2011, UNAIDS has included the following among its nine priority and cross-cutting strategies: "We can prevent mothers from dying and babies from becoming infected with HIV"[7] **.** Our organizations affirm this goal as well as the call, issued to Member States by the United Nations Economic and Social Council to "significantly scale up efforts toward meeting the goal of universal access to HIV prevention, treatment, care and support by 2010" and to scale up "efforts for integrated management and care of child health, including actions to address the main causes of child mortality…"[8]

In view of the above-cited considerations, our organizations submit the following recommendations for consideration and appropriate action by the Committee on the Rights of the Child and by States Parties to the CRC.

a) To the Committee on the Rights of the Child

The committee should:

- Ask States' Parties to include, within the context of their respective reports:
    - Description of action taken to ensure that children have sustained and non-discriminatory access to comprehensive treatment and care, including necessary HIV-and TB-related drugs, goods and services;
    - Accounting for resources allocated to fulfill and protect the right of children living with HIV and HIV/TB co-infection to access to appropriate diagnosis and treatment;
    - Delineation of actions taken to anti-retroviral and tuberculosis medicines available locally at the lowest cost possible, including negotiations with pharmaceutical companies;
    - Description of measures taken to eliminate the clinical, social, and information barriers to timely diagnosis and treatment of paediatric HIV or HIV/TB co-infection, as well as to Prevention of Mother-to-Child Transmission of HIV (PMTCT); and of action to address the unacceptable state of health systems in the countries hardest hit by the HIV and TB pandemics as well as the lack of skilled health care workers familiar with and skilled in paediatric treatment;

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[7] *Joint Action for Results: UNAIDS Outcome Framework 2009-2011*, Geneva, Switzerland, UNAIDS, 2009.

[8] *Ministerial Declaration of the Economic and Social Council presented by the President of the Council: Implementing the Internationally Agreed Goals and Commitments in regard to Global Public Health,* 10 July 2009, E/2009/L.12 http://daccessdds.un.org/doc/UNDOC/LTD/N09/399/96/PDF/N0939996.pdf?OpenElement

- Prepare a General Comment on the interpretation of article 24 of the CRC and on the obligations of States Parties, with special reference to the access of children to primary health care and comprehensive treatment;

- Promote greater partnership between governments and civil society, including Faith Based Organizations (FBOs) active in implementing article 24 of the CRC.

To governments:

- Develop, within their respective national strategic plans in response to HIV and AIDS, a strong focus on Prevention of Mother-to-Child Transmission of HIV, as well as of early diagnosis and "child-friendly" treatment of HIV or of HIV/TB co-infection;

- Take measures to increase food security in children as lack of food is a major barrier to successful treatment of children living with HIV or HIV/TB co-infection;
- Identify early HIV diagnosis as a priority activity in child health programming, to be implemented by such actions as:

  - Offering early infant diagnosis at vaccination sites

  - Building national and local laboratory capacities to facilitate HIV diagnosis in infants, including skilled staff

  - Revision of child health cards to include HIV-related information in order to treat children in a timely and effective manner

  - Integration of PMTCT programmes into existing public health systems

  - Ensuring accessibility of clinics, for instance, by providing travel services and changing opening hours

  - Use of rapid testing with same-day results

  - Increase of efforts to reach pregnant women who deliver at home

  - Treatment, with anti-retroviral medications, of babies born to HIV-positive women immediately after birth

  - Provision of counseling and support on infant feeding options to women living with HIV.