

# CHILDREN'S RIGHTS - LEGAL RIGHTS

## IV. CONCLUDING OBSERVATIONS, CONTINUED

### CERD

- Albania, CERD, A/58/18 (2003) 53 at para. 312.

312. The Committee is concerned about information that members of the Roma minority, especially the young, are generally regarded with suspicion and subjected to ill-treatment and the improper use of force by police officers.

The Committee recommends that the State party take measures to halt such practices and to increase law enforcement officials' sensitivity to and training in matters involving racial discrimination.

### ICCPR

- Philippines, ICCPR, A/59/40 vol. I (2003) 15 at paras. 63(10) and 63(17).

(10) ...The Committee notes that the death penalty is prohibited for persons under 18 years of age, but is concerned that minors have been sentenced to death, seven of whom are currently detained on death row.

...[T]he State party...should...ensure compliance with article 6, paragraph 5, of the Covenant prohibiting the imposition of the death sentence for crimes committed by persons below 18 years of age.

...  
(17) The Committee is concerned that the measures of protection of children are inadequate and the situation of large numbers of children, particularly the most vulnerable, is deplorable. While recognizing that certain legislation has been adopted in this respect, many problems remain in practice, such as:

(a) the absence of adequate legislation governing juvenile justice and the deplorable situation of children in detention, including those held without evidence for prolonged periods of time;

(b) persistent reports of ill-treatment and abuse, including sexual abuse, in situations of detention and children being detained together with adults where conditions of detention may amount to cruel, inhuman and degrading treatment (art. 7);

...  
The State party should:

(a) Expedite the adoption of legislation governing juvenile justice which complies with

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international standards of juvenile justice in accordance with article 10, paragraph 3, of the Covenant. The Committee recommends that training for professionals in the area of administration of juvenile justice be enhanced and that human and financial resources for effective implementation of the new legislation be secured;

...

- Russian Federation, ICCPR, A/59/40 vol. I (2003) 20 at para. 64(25).

(25) The Committee is concerned about the long delay in the processing of asylum claims, in particular in Moscow and the surrounding region, where asylum-seekers may have to wait for more than two years before being able formally to initiate the application procedure. It is also concerned that the Migration Service in Moscow reportedly has not allowed unaccompanied children to lodge asylum claims unless they have a legal guardian.

The State party should ensure timely access of asylum-seekers to the refugee status determination procedure, in particular in Moscow and its region, as well as proper documentation of asylum-seekers throughout the procedure, including the appeal stage. The State party should ensure that the relevant authorities appoint a legal guardian for unaccompanied children seeking asylum (arts. 13 and 24).

- Germany, ICCPR, A/59/40 vol. I (2004) 39 at para. 68(4).

(4) The Committee appreciates the measures taken to improve the protection of children, in particular legislation granting children a right to education in a non-violent environment, the removal of remaining differences in the legal status of children born in and out of wedlock, and the introduction of elements of *jus soli* for children born in Germany to foreign parents.

- Namibia, ICCPR, A/59/40 vol. I (2004) 64 at para. 74(9).

(9) The Committee welcomes the Married Persons Equality Act, which eliminates discrimination between spouses. It nevertheless remains concerned at the large number of customary marriages that are still not registered and about the consequent deprivation of women and children of their rights, in particular with regard to inheritance and land ownership.

The State party should take effective measures to encourage the registration of customary marriages and to grant the spouses and the children of registered customary marriages the

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same rights as are granted to the spouses and children of marriages under civil law. The future Bill on Intestate Inheritance and Succession and the future Bill on Recognition of Customary Law Marriages should take these considerations into account.

- Albania, ICCPR, A/60/40 vol. I (2004) 25 at para. 82(16).

(16) The Committee is concerned about inhumane conditions of detention, e.g. in police custody, about the number of persons on remand and conditions of detention, the condition of juvenile and female detainees as well as the lack of compensation for unlawful arrest or detention (arts. 9 and 10).

The State party is urged to improve the conditions of detention for those held on remand and for convicted persons. Individuals held in remand detention should be segregated from convicted persons. The State party should also provide the necessary measures for victims of unlawful arrest or detention to claim compensation. The State party is reminded that, under article 9, paragraph 3, it shall not be the general rule that suspected persons are detained while awaiting trial. The State party should develop an effective system of bail.

- Benin, ICCPR, A/60/40 vol. I (2004) 30 at para. 83(20).

(20) The Committee is concerned that few people, including minors, are assisted by a lawyer during criminal proceedings, and that such assistance is mandatory only in the Assize Court. It further notes with concern that in the Assize Court a lawyer is appointed only during the final questioning before the actual hearing, a situation that does not guarantee that the right to a defence is respected (article 14 of the Covenant).

The State party should ensure that lawyers are trained in adequate numbers, facilitate the access of individuals to legal assistance in criminal proceedings and ensure that lawyers are involved in proceedings from the time of arrest onward.

- Kenya, ICCPR, A/60/40 vol. I (2005) 44 at para. 86(24).

(24) The Committee is concerned about the extremely low age of criminal responsibility, namely 8 years (paragraph 190 of the report), which cannot be considered compatible with article 24 of the Covenant.

The State party is urged to raise the minimum age of criminal responsibility.

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### ICESCR

- Malta, ICESCR, E/2005/22 (2004) 45 at paras. 349 and 367.

349. The Committee notes with concern the distinction made between “legitimate” and “illegitimate” children in the Civil Code of the State party and the fact that children born out of wedlock do not have the same rights as children born in wedlock.

...

367. The Committee urges the State party to expedite the planned revision of the Civil Code so as to abolish the terminology “legitimate” and “illegitimate” children and ensure equality in the enjoyment of rights of children - born both in and out of wedlock.

### CEDAW

- Turkey, CEDAW, A/60/38 part I (2005) 58 at paras. 363 and 364.

363. The Committee is concerned that some provisions of the Penal and Civil Codes continue to discriminate against women and girls. In particular, the Committee is concerned that genital examinations of women, or virginity tests, may still be carried out under certain circumstances without the consent of the woman; and that the use of the term “custom killing” instead of “honour killing” in the Penal Code may result in less vigorous prosecution of, and less severe sentences for, the perpetrators of such crimes against women. It is also concerned that the penalization of consensual sexual relations among young people between 15 and 18 years of age may have a more severe impact on young women, especially in the light of the persistence of patriarchal attitudes. The Committee is further concerned that the amendment to the Civil Code regarding joint ownership of acquired property as the default legal property arrangement does not apply retroactively.

364. The Committee calls upon the State party to give priority to amending remaining discriminatory legal provisions without delay so as to bring its legislation into line with article 2 of the Convention. In particular, it urges the State party to ensure that the consent of the woman be made a prerequisite for genital examinations under all circumstances; that any crime committed in the name of custom or honour be classified as aggravated homicide and the severest penalties provided for it by the law; and that the penalization of consensual sexual relations among young people between 15 and 18 years of age be reconsidered. It also recommends that the State party consider the impact on women of the lack of retroactive applicability of the amendment to the Civil Code regarding joint ownership of acquired property, with a view to remedying the law's disadvantageous consequences for women who were married prior to its entry into force.

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### CAT

- Egypt, CAT, A/58/44 (2002) 22 at paras. 41 and 42.

41. The Committee is concerned about the following:  
...  
(d) The many reports of abuse of under-age detainees, especially sexual harassment of girls, committed by law enforcement officials, the lack of monitoring machinery to investigate such abuse and prosecute those responsible, and the fact that minors kept in places of detention have contact with adult detainees;  
...  
42. The Committee recommends that the State party:  
...  
(j) Halt all practices involving abuse of minors in places of detention and punish the perpetrators, and ban the holding of under-age detainees with adult detainees;  
...
- Spain, CAT, A/58/44 (2002) 29 at paras. 63 and 69.

63. The Committee...expresses its concern at the following:  
...  
(c) Cases of ill-treatment during enforced expulsion from the country, particularly in the case of unaccompanied minors;  
...  
69. The Committee encourages the State party to take the necessary measures to ensure that the process of expulsion from the country, in particular in the case of minors, is in keeping with the Convention.
- Belgium, CAT, A/58/44 (2003) 49 at paras. 128, 129 and 131.

128. The Committee notes with satisfaction the following elements:  
...  
(e) The repeal in 1999 of article 53 of the Act of 8 April 1965 allowing minors to be placed in detention centres for a period of not more than 15 days, and the efforts being made by the Flemish and French communities to solve problems of overcrowding in specialized establishments for juvenile delinquents.

129. The Committee is concerned about:  
...

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(f) The possibility of extending the detention of foreigners for as long as they do not cooperate in their repatriation, the possibility of placing unaccompanied minors in detention for lengthy periods, and information that asylum-seekers who have been formally released have been transferred to the transit area of the national airport, without assistance and without being allowed to leave;

...

(l) The possibility of ordering the isolation of juvenile delinquents aged 12 years and over, for up to 17 days;

...

131. The Committee recommends that the State party:

...

(e) Set a time limit for the detention of foreigners against whom an expulsion order is issued, draft specific legislation on unaccompanied minors that takes account of the best interests of the child, and monitor asylum-seekers who have been released;

...

(k) Ensure that the isolation of juvenile delinquents is imposed only in entirely exceptional cases, and for a limited period;

...

- Republic of Moldova, CAT, A/58/44 (2003) 53 at paras. 138 and 139.

138. The Committee expresses concern about:

...

(l) The poor material conditions prevailing in police detention facilities and prisons and the lack of independent inspections of such places. The Committee expresses particular concern at reports alleging that juveniles are in some cases held together with adults where they lack education and meaningful activities;

...

139. The Committee recommends that the State party:

...

(l) Improve the conditions of detention in police stations and prisons so as to bring them into conformity with article 16 of the Convention, and establish an independent and systematic system to monitor the treatment in practice of persons arrested, detained or imprisoned;

...

- Czech Republic, CAT, A/59/44 (2004) 42 at paras. 86 and 87.

86. The Committee expresses concern about the following:

...

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(c) The fact that minors are not kept separately from adults in all situations of detention;

...

(j) The amendments to the law on the right to asylum which amplified the grounds for rejecting asylum requests and allows for the detention of persons in the process of being removed to be held in aliens' detention centres for a period of up to 180 days; as well as the restrictive nature of the conditions in these centres which are comparable to those in prisons;

...

87. The Committee recommends that the State party:

...

(e) Ensure that persons under 18 years of age are detained separately from adults in all circumstances;

...

(m) Review the strict regime of detention for illegal immigrants with a view to its repeal and ensure that all children held in these detention centres are removed with their parents to family reception centres;

...

- Argentina, CAT, A/60/44 (2004) 12 at paras. 34 and 35.

34. The Committee expresses its concern at the following:

...

(f) The reports of arrests and detention of children below the age of criminal responsibility, most of them "street children" and beggars, in police stations, where they are held together with adults, as well as on the alleged torture and ill-treatment suffered by such children, leading to death in some cases;

...

35. The Committee recommends that the State party take all necessary steps to prevent acts of torture and ill-treatment in the territory of the State of Argentina, and in particular that it:

...

(g) As promised by the delegation of the State party in the case of the province of Buenos Aires, guarantee that the holding of minors in police units will be immediately banned, that minors currently in police units will be transferred to special centres, and that a nationwide ban will be imposed on the detention of minors by police personnel on "welfare grounds";

...

- Albania, CAT, A/60/44 (2005) 34 at paras. 83 and 84.

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83. The Committee expresses concern:

...

(i) At the lack of implementation of the fundamental legal safeguards for persons detained by the police, including guaranteeing the right to inform a relative, access to a lawyer and a doctor of their own choice, the provision of information about their rights and, for juveniles, the presence of their legal guardians during interrogation;

...

84. The Committee recommends that the State party:

...

(i) Implement the fundamental legal safeguards for persons detained by the police, guaranteeing their rights to inform a relative, to have access to a lawyer and a doctor of their own choice and to be provided with information about their rights and, for juveniles, to have their legal guardians present during interrogation;

...

### CRC

- Mauritania, CRC, CRC/C/111 (2001) 8 at paras. 78 and 79.

78. The Committee, while noting that the Government is in the process of drawing up a new criminal code and a code of criminal procedure specific to juveniles, expresses its concern that adult offenders and juvenile delinquents are treated the same and that the budget allocated to juvenile justice is small. It further notes that judges are not informed about alternatives to detention and that there is little resort to diversion programmes or similar out-of-court procedures for dealing with juvenile delinquents. While noting the positive development of the establishment of the Beyla Centre for the recovery and reintegration of children in conflict with the law in Nouakchott, it remains concerned at the high rates of recidivism, and further notes that children detained in the interior of the country are often kept with adults and subjected to ill-treatment.

79. The Committee recommends that the State party:

(a) Undertake all necessary measures to ensure the prompt adoption of a new criminal code and a code of criminal procedure specific to juveniles, i.e. all persons under 18, and allocate adequate human and financial resources for their implementation;

(b) Take additional steps to reform the system of juvenile justice in the spirit of the Convention, in particular articles 37, 40 and 39, and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines



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for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;

(c) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time; protect the rights of children deprived of their liberty, including those pertaining to conditions of detention; and ensure that children are separated from adults and remain in regular contact with their families while in the juvenile justice system;

(d) Use alternative measures to pre-trial detention and other forms of deprivation of liberty whenever possible;

(e) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

(f) Make every effort to establish a programme of rehabilitation and reintegration of juveniles following justice proceedings; and

(g) Request technical assistance in the area of juvenile justice and police training from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

- Kenya, CRC, CRC/C/111 (2001) 21 at paras. 110, 111, 116, 117, 144 and 145.

110. The Committee notes with concern that, *inter alia*, traditional practices and attitudes still limit the full implementation of article 12 of the Convention.

111. The Committee recommends that the State party develop a systematic approach to increasing public awareness of the participatory rights of children, particularly at the local level and in traditional communities, and encourage respect for the views of the child in the family, in schools and care institutions, and in the judicial system. The Committee further recommends that the State party introduce child-sensitive hearings for placement decisions and in courts and take into account the views of the child, according to their maturity and age.

...

116. The Committee is concerned about the incidence of police brutality, particularly against street children, refugee children and those in conflict with the law. Concern is also expressed at the inadequate enforcement of existing legislation to ensure that all children are treated with respect for their physical and mental integrity and their inherent dignity.

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117. The Committee strongly recommends that all appropriate measures be taken to implement fully the provisions of articles 37 (a) and 39 of the Convention. In this regard, the Committee recommends that greater efforts be made to prevent all forms of torture and inhuman or degrading treatment by the police and facilitate the recovery of child victims through, *inter alia*, rehabilitation and reintegration. Additionally, it is recommended that the State party effectively investigate these cases and ensure that perpetrators of such brutality against children are brought to justice.

...

144. The Committee notes with concern that the juvenile justice system does not cover the entire country and that there is only one juvenile court in the State party. While acknowledging the State party's efforts to implement a Diversion Programme for children in conflict with the law, the Committee also expresses its concern about the quality of the juvenile justice system generally.

145. The Committee recommends that the State party:

(a) Take all appropriate measures, including the enactment of the Children Bill, to implement a juvenile justice system in conformity with the Convention, in particular articles 37, 39 and 40, and of other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System;

(b) Use deprivation of liberty (institutionalization) only as a measure of last resort and for the shortest possible time and, in that regard, implement the Diversion Programme fully and with the widest scope possible, as an alternative to deprivation of liberty;

(c) Ensure that children remain in contact with their families while in the juvenile justice system;

(d) Introduce training programmes on relevant international standards for all professionals involved in the administration of juvenile justice;

(e) Abolish the use of corporal punishment in the juvenile justice system;

(f) Improve the conditions in detention facilities;

(g) Strengthen reparation, rehabilitation and reintegration programmes;

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- (h) Ensure that cases involving children in need of care and protection are not treated as criminal cases; and
- (i) Consider seeking technical assistance from, *inter alia*, OHCHR, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Co-ordination Panel on Technical Advice in Juvenile Justice.

- Portugal, CRC, CRC/C/111 (2001) 48 at paras. 226, 227, 256 and 257.

226. The Committee notes the State party's ongoing efforts to ensure child participation and welcomes the fact that the age at which a child's opinions must be heard in administrative and judicial proceedings affecting the child has been defined under relevant legislation and taken into consideration in accordance with the age and maturity of the child...

227. In the light of article 12, the Committee encourages the State party to continue to enhance child participation and respect for the opinions of the child, including at national and local levels and in accordance with the age and maturity of the child.

...

256. The Committee welcomes the State party's implementation of the Committee's 1995 recommendations with regard to reform of the juvenile justice system and the social welfare and security systems. However, the Committee remains concerned that:

(a) Children over 16 may not receive the full benefit of relevant protections in the context of juvenile justice proceedings for criminal acts (see, for example, paragraphs 473 and 501 of the State party's report);

(b) Juvenile justice reforms have not been fully implemented;

...

257. The Committee recommends that the State party:

(a) Continue its efforts to fully implement juvenile justice reform;

(b) Ensure that the reform process is conducted with a view to ensuring, for all children, full compliance with international standards, in particular articles 37, 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);

(c) Ensure, in particular, that children aged 16 and over benefit from full protection of their rights in the context of juvenile justice proceedings.

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- Uzbekistan, CRC, CRC/C/111 (2001) 117 at paras. 562, 563, 592 and 593.

562. The Committee is deeply concerned by numerous and continuing reports of ill-treatment of persons under 18 by the militia, including psychological intimidation, corporal punishment, including for purposes of extorting confessions. The Committee deplores the insufficient efforts to investigate allegations of torture, as well as the failure to prosecute alleged perpetrators.

563. In the light of article 37 of the Convention, and recalling the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly in its resolution 34/169 of 17 December 1979, the Committee urges the State party to:

(a) Take all necessary effective steps to prevent incidents of ill-treatment from occurring;

...

(d) Ensure children are adequately informed of their rights when they are arrested and detained;

(e) Ensure that complaints procedures are simplified so that responses are appropriate, timely and child-sensitive, and provide rehabilitative support for victims.

...

592. The Committee is concerned about insufficient information in the area of juvenile justice, and it is particularly concerned about:

Children arrested and held in custody without being able to exercise their right to a lawyer;

Children subjected to ill-treatment and unlawful investigative methods;

The length of pre-trial detention;

Conditions in detention centres and penal colonies in Uzbekistan;

Treatment in special schools for juveniles (for example, the Special School for Girls No. 4, Kokand).

593. The Committee recommends that the State party:

(a) Establish a minimum age of criminal responsibility in accordance with the principles and provisions of the Convention;

(b) Ensure that the criminal justice system fully integrates into its legislation and practice

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the provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System;

(c) Ensure that children are not arbitrarily arrested, that deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by the court and that persons under 18 are not detained with adults;

(d) Ensure that children have access to legal aid and independent and effective complaints mechanisms;

(e) Consider alternative measures to deprivation of liberty, such as probation, community service or suspended sentences;

(f) Train professionals in the area of rehabilitation and social reintegration of children;

(g) Seek assistance from, among others, the Office of the High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

### *See also:*

- Cameroon, CRC, CRC/C/111 (2001) 71 at paras. 391 and 393.
- Malawi, CRC, CRC/C/114 (2002) 104 at paras. 446 and 448.
- Niger, CRC, CRC/C/118 (2002) 37 at paras. 195 and 197.
  
- Cape Verde, CRC, CRC/C/111 (2001) 135 at paras. 660 and 661.

660. The Committee is concerned that, in practice, juvenile justice standards are not applied because of severe weaknesses in the functioning of the Commission for the Protection of Minors, the absence of appropriate institutions for the implementation of some juvenile justice measures, the insufficient capacity of courts and the backlog of cases, and an overall lack of financial and human resources. The Committee is concerned, *inter alia*, by the lack of alternative measures to detention for children over 16, the incarceration of children with adults, and the fact that detained children do not receive any formal education.

661. The Committee recommends that the State party:

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- (a) Proceed with its efforts to strengthen the system of juvenile justice in the spirit of the Convention, in particular articles 37, 40 and 39, and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System;
  - (b) Consider deprivation of liberty only as a measure of last resort, for all children up to the age of 18 and for the shortest possible period of time, limit by law the length of pre-trial detention, and ensure the availability of suitable alternatives to detention;
  - (c) Provide children with legal assistance at an early stage of proceedings;
  - (d) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including by solving the problem of overcrowded prisons and establishing special facilities for children with conditions suitable to their age and needs; and in the meantime, ensure that children are separated from adults in prison and in pre-trial detention facilities;
  - (e) Ensure that children up to the age of 18 in conflict with the law are not treated like, and do not receive the same sanctions as adults.
  - (f) Ensure that children are able to remain in regular contact with their families while in the juvenile justice system;
  - (g) Establish an independent child-sensitive and accessible system for complaints for children;
  - (h) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;
  - (i) Establish a programme of rehabilitation and reintegration of juveniles following justice proceedings;
  - (j) Request technical assistance in the area of juvenile justice and police training from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.
- Greece, CRC, CRC/C/114 (2002) 25 at paras. 121, 122, 130, 131, 170 and 171.

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121. Taking note of the State party's indication of its intention to change legislation and define the age of majority uniformly as 18, and noting the Special Committee that has been appointed in this regard, the Committee is concerned:

(a) At inconsistencies in the definitions of a child within the State party's legislation, including that under civil law a minor is a person who has not reached age 18 while under penal law a minor is a person who has not reached 17;

...

122. The Committee recommends that the State party:

(a) Clarify the age of majority, with particular regard to penal law and the international practice that juvenile justice standards are extended to children up until age 18;

...

130. The Committee is concerned that children's opinions are insufficiently taken into consideration in the context of judicial or administrative decisions, including in the context of child custody procedures following parental separation and decisions to place a child in a State institution, foster care, or other form of alternative care...

131. The Committee recommends that the State party:

(a) Strengthen its efforts, including in respect of legislation, to ensure that children's views are heard and taken into consideration in all judicial, administrative and other decisions affecting them and in accordance with the child's age and maturity;

...

170. Noting that the State party has a system of special juvenile justice courts and that a committee was established to look into issues of concern in the criminal justice system and a new bill relating to the care of juvenile delinquents and children at risk, the Committee remains concerned:

(a) That children are protected by the juvenile justice system only up to age 17;

(b) At the prosecution of children for begging;

(c) At the lack of respect for juvenile justice standards with regard to arrest and detention proceedings, including the occasional detention of children with adults;

(d) At the proportionally high number of children from distinct ethnic, religious, linguistic and cultural groups involved in juvenile justice proceedings, especially involving arrest and imprisonment;

(e) That the right of children to legal representation or other appropriate assistance is

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not always systematically guaranteed;

- (f) At the large number of juveniles detained pending trial, on non-felony offences, in spite of the fact that domestic legislation prohibits such detention unless the alleged crime is one that would carry a sentence of 10 years' imprisonment or more;
- (g) At delays in judicial proceedings leading to long periods of pre-trial detention;
- (h) That under the law children can be given a sentence of 20 years' imprisonment;
- (i) That the right of appeal is restricted to sentences of imprisonment of more than one year;
- (j) At the lack of a sufficient number of probation officers in all cities and regions of the country.

171. The Committee recommends that the State party:

- (a) Develop laws, policies and mechanisms for all children under 18 and provide adequate resources to ensure the full implementation of juvenile justice standards and in particular articles 37, 40 and 39 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's day of general discussion on the administration of juvenile justice held in 1995;
- (b) Decriminalize begging by children while taking steps to ensure that such a change would not be exploited by adults who may use children to beg;
- (c) Conduct juvenile justice and child rights training for, among others, police officers, detention officials, judges, social workers, psychologists and other personnel involved in the juvenile justice process;
- (d) Ensure respect for all juvenile justice standards including the rights of children during arrest and detention procedures, minimum conditions of detention, the non-restricted rights of appeal and to legal representation, free interpretation where needed and other relevant assistance;
- (e) Ensure that detention, including pre-trial detention, is used only as a measure of last resort and with due consideration for the seriousness of the crime, and that greater efforts be made to provide alternatives to detention;



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- (f) Abolish provisions allowing for a child to be imprisoned for a period of 20 years;
- (g) Increase the number of trained probation officers and other relevant professionals.

- Mozambique, CRC, CRC/C/114 (2002) 65 at paras. 321 and 322.

321. The Committee is concerned that:

(a) Some laws, policies and practices in the State party's juvenile justice system are incompatible with the principles and provisions of the Convention, including articles 37, 40 and 39;

(b) Children aged 16 and 17 do not benefit from the protections afforded by juvenile justice standards;

(c) The list of punishable acts described by the State party in its initial report, including begging, vagrancy and promiscuity, may lead to the inappropriate targeting of children by the judicial system;

(d) While the illegal detention of minors and violence by the police have decreased, such incidents continue;

(e) In particular, the detention of minors persists "due to the poor training and ignorance of legal norms on the part of the policemen involved", as indicated in the State party's initial report, and that minors are incarcerated with adult detainees;

(f) There is a serious lack of capacity within the judicial system to provide rapid intervention or trial, as needed, for juvenile offenders;

(g) There have been incidents of mistaken detention of children below the age of age 16.

322. The Committee recommends that the State party:

(a) Develop laws, policies and mechanisms and provide adequate resources to ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's 1995 day of discussion on the administration of juvenile justice;

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- (b) Ensure that all persons under 18 benefit from the protection of international juvenile justice provisions;
- (c) Review the list of acts or behaviour for which juveniles may be prosecuted under penal law, with a view to reducing the list and establishing non-judicial responses, notably through social assistance;
- (d) Ensure that all acts of violence by the police towards minors are ended, and that independent investigation and prosecution of police officers guilty of such acts are carried out in an effective manner;
- (e) Ensure that no children are detained illegally and that, when detention is necessary as a measure of last resort, children are detained for the shortest time necessary and separately from adults;
- (f) Strengthen the capacity of the juvenile justice system to provide a timely response, in accordance with international standards;
- (g) Implement its own recommendations, as set out in its initial report, including:

“To strengthen legal provisions and ethical procedures in order to ensure that, in cases where detention is inevitable, treatment appropriate to the age and needs of the minors involved is guaranteed, they are allowed frequent contact with their family, they have immediate access to all necessary legal assistance, and they have the freedom and right to ensure their defence” (paragraph 565 of the State party’s report);

“To strengthen training in national and international legislation on minors for all those involved in the administration of juvenile justice, as well as the managers and staff of the units where children may eventually be subject to detention measures” (para. 566);

“To establish ‘mechanisms for the physical and psychological recovery and social reintegration of children who infringe the law’” (para. 567);

“To create alternatives to detention, particularly with a view to providing the relevant assistance to which the child is entitled, as well as greater articulation with other social sectors such as social action, education and civil society organizations that are able to incorporate such children into their juvenile rehabilitation programmes” (para. 567);

“To establish mechanisms of cooperation between the authorities

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responsible for justice administration for minors and communities, which have the potential to support the recovery and reintegration of juvenile delinquents. There is also an urgent need to fill the vacuum by creating occupational and recreational centres as well as special services that can respond to the needs of children at risk" (para. 568).

(h) Seek technical assistance in this regard from, *inter alia*, UNICEF, OHCHR and the United Nations Office for Drug Control and Crime Prevention, through the Coordination Panel on Technical Assistance and Cooperation on Juvenile Justice.

- Chile, CRC, CRC/C/114 (2002) 90 at paras. 332, 333, 353, 354, 359, 360, 377 and 378.

332. The Committee notes with concern that the Juvenile Act of 1967, which is based on the doctrine of "irregular situation" and thus does not make a clear distinction, in terms of judicial procedures and treatment, between children in need of care and protection and those in conflict with the law, is still in force. It further notes that two draft laws intended to reform the Juvenile Act, one on the protection of children who need assistance and the other on children in conflict with the law, have been under preparation since 1994 but have not been introduced yet before Parliament.

333. The Committee, in line with its previous recommendation (CRC/C/15/Add.22 of 25 April 1994, para. 14), recommends that the State party:

(a) Take all the necessary measures for the adoption without delay of the laws amending the Juvenile Act of 1967;

(b) Ensure the full implementation of the amended Juvenile Act in compliance with the Convention, paying particular attention to the need for adequate structures by allocating the necessary human and financial resources;

(c) Seek technical assistance from, among others, UNICEF.

...  
353. The Committee notes with concern that, due to traditional and paternalistic attitudes still widespread in the country, children are not encouraged to express their views and that, in general, their views are not heard nor given due weight in decisions affecting them in the family, at school, in the community and in social life at large. In particular, it notes with deep concern that, according to article 30 of the Juvenile Act, the juvenile judge may impose a protection measure on children without summoning them to appear when the case does not constitute a crime, ordinary offence or minor offence.

354. In light of articles 12 to 17 of the Convention, the Committee recommends that the State party undertake measures in order to take into account the views of children, in

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accordance with the concept of their evolving capacities, in all matters affecting them, in particular in judicial and administrative proceedings, and integrate this principle in the new legislation and in policies and programmes affecting children, including the National Policy. It encourages the State party to seek technical cooperation from, among others, UNICEF.

...

359. While noting that there are plans to reform the National Service for Minors (SENAME), the Committee notes with concern that at present SENAME is still in charge of both children in need of care and protection as well as those in conflict with the law, and that social services need to be more decentralized. Further, it notes that a bill for the establishment of family courts has been before Congress since 1997.

360. The Committee recommends that the State party:

(a) Establish two clearly separated systems (in terms of administration and implementation) for children in need of care and protection and for children in conflict with the law, by adopting the two draft laws, one on the protection of children who need assistance and the other on children in conflict with the law, intended to reform the 1967 Juvenile Act;

(b) Create and strengthen adequate and decentralized structures by providing enough human and financial resources; and

(c) Take measures to establish family tribunals.

...

377. The Committee reiterates its concern that the Juvenile Act of 1967, based on the doctrine of "irregular situation", which does not make a clear distinction, in terms of judicial procedures and treatment, between children in need of care and protection and those in conflict with the law, is still in force. It also notes with concern that detention is not used as a last resort, especially in the case of children who are poor and socially disadvantaged, and that often children are detained in detention centres for adults. The Committee further expresses its concern at the fact that the criminal law and procedure for adults can be applied also to children aged between 16 and 18 who acted with discernment and that the Committee's previous recommendation on addressing the question of the minimum age of criminal responsibility ([CRC/C/15/Add.22 of 25 April 1994], para. 17) was not implemented.

378. In line with its previous recommendation ([CRC/C/15/add.22 of 25 April 1994], para. 17), the Committee recommends that the State party:

(a) Expedite the adoption of the draft law on children in conflict with the law and increase the budget allocations for the administration of juvenile justice;

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- (b) Address the question of the minimum age of criminal responsibility in light of article 40, paragraph 3 (a);
  - (c) Continue reviewing laws and practices regarding the juvenile justice system in order to bring it as soon as possible into full compliance with the Convention, in particular articles 37, 40 and 39, as well as with other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);
  - (d) Ensure that all persons under 18 benefit from special protection measures in the field of administration of juvenile justice;
  - (e) Use pre-trial detention only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law and ensure that children are separated from adults in every case;
  - (f) Use alternative measures to pre-trial detention and other forms of deprivation of liberty whenever possible;
  - (g) Strengthen preventive measures, such as supporting the role of families and communities, in order to help eliminate the social conditions leading to such problems as delinquency, crime and drug addiction;
  - (h) Incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, in particular to guarantee them access to effective complaints procedures covering all aspects of their treatment;
  - (i) Take appropriate rehabilitative measures to promote the social reintegration of the children involved in the juvenile justice system;
  - (j) Seek assistance from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.
- Malawi, CRC, CRC/C/114 (2002) 104 at paras. 408 and 409.

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408. The Committee welcomes the introduction of the principle of respect of the views of the child in several laws such as the Children and Young Persons Act, the Adoption Act and the establishment of the Children's Parliament, but it remains concerned that, *inter alia*, traditional attitudes still limit the full implementation of article 12 of the Convention.

409. The Committee recommends that the State party develop a systematic approach to increasing public awareness of the participatory rights of children in the best interests of the child, particularly at the local levels and in traditional communities, with the involvement of community and village leaders, and ensure that the views of the child are heard and taken into consideration in accordance with their age and maturity in families, communities, schools, care institutions, and the judicial and administrative systems. In that regard, the Committee recommends that the State party launch campaigns to change the traditional attitude and values which do not allow children to express their views.

- Bahrain, CRC, CRC/C/114 (2002) 122 at paras. 497 and 498.

497. The Committee is concerned that:

(a) There is no minimum age of criminal responsibility: although article 32 of the 1976 Penal Code provides that persons under 15 are not criminally responsible, they can nevertheless be subject to sanctions under the 1976 Juvenile Act, such as detention in social welfare centres for up to 10 years for felonies (e.g. article 12 of the 1976 Juvenile Law);

(b) Under article 2 of the 1976 Juvenile Law, persons who commit status offences (e.g. begging, dropping out, misbehaviour, etc.) are subject to legal sanctions;

(c) Under the 1976 Penal Code and 1966 Criminal Procedure Codes persons under 18 may be prosecuted for crimes in the same manner as adults (i.e. without special procedures), and be subject to the same penalties as adults.

498. The Committee recommends that the State party:

(a) Review and reform all existing legislation to ensure that, with respect to persons under 18 years, the criminal justice system fully integrates into its procedures and practices the provisions of the Convention, in particular articles 37, 40 and 39, as well as with other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System;

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- (b) Establish a minimum age of criminal responsibility in accordance with the principles and provisions of the Convention;
  - (c) End the criminalization of status offences;
  - (d) Ensure that the deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorised by the court, and that persons under 18 are not detained with adults;
  - (e) Ensure that children have access to legal aid and independent and effective complaints mechanisms;
  - (f) Consider alternative measures to deprivation of liberty, such as probation, community service or suspended sentences;
  - (g) Train professionals in the area of rehabilitation and social reintegration of children; and
  - (h) Seek assistance from, among others, the Office of the High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.
- Belgium, CRC, CRC/C/118 (2002) 29 at paras. 97-100, 112, 113, 118 and 119.

97. The Committee appreciates the fact that the State party has reviewed its declaration on article 2 and its reservation to article 40.2(v) of the Convention, pursuant to the previous concluding observations. Nevertheless, it is concerned that the State party does not intend to withdraw them. With respect to article 2, the Committee, noting that the general principle of non-discrimination in the Convention prohibits differences in treatment on grounds that are arbitrary and objectively unjustifiable, including nationality, is concerned that the declaration on article 2 may restrict the enjoyment of non-Belgian children in Belgium of rights contained in the Convention. The Committee emphasizes that the guarantee of non-discrimination in the Convention applies to "each child within [the State party's] jurisdiction". With respect to the reservation to article 40, the Committee is concerned that the possibility of appeal to the Court of Cassation against judgements and measures imposed by the Court of Assizes (sitting here as the court of first and last instance) is strictly limited to points of law and therefore deprives the defendant of a full review of his case by a higher court, which is all the more important in that the Court of Assizes handles the most severe cases and imposes relatively heavy sentences.

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98. The Committee encourages the State party to review its declaration and reservation with a view to withdrawing them in accordance with the Declaration and Programme of Action of the Vienna World Conference on Human Rights (1993).

99. The Committee welcomes the information provided by the State party on draft laws concerning the rights of the child, including with respect to adoption, guardianship for unaccompanied minors, access to courts and guarantees of due process.

100. The Committee recommends that the State party:

(a) Rigorously review these laws and ensure that they and other laws concerning children, as well as administrative regulations, are rights-based and conform to international human rights standards, including the Convention;

(b) Ensure that adequate provision is made for their effective implementation, including budgetary allocation;

(c) Ensure their speedy promulgation.

...

112. ...With respect to court or administrative proceedings affecting the child, the Committee is concerned that the right to be heard is largely discretionary under article 931 of the Judicial Code, and is not adequately guaranteed to the child. The Committee welcomes the information concerning a draft law in this regard.

113. The Committee recommends...that legislation governing procedure in courts and administrative proceedings ensure that a child capable of forming his/her own views has the right to express those views and that they are given due weight.

...

118. The Committee welcomes the creation of a special bureau for unaccompanied minors in the Aliens Office for handling their requests to stay. It also notes a number of other activities, among others: concerning the establishment of special reception centres for unaccompanied minors; a draft law on the creation of a guardianship service, access to education and missing persons, which contains provisions on unaccompanied minors. But there are not yet, as the Government acknowledges, specific regulations for unaccompanied minors, whether seeking asylum or not.

119. In accordance with the principles and provisions of the Convention, especially articles 2, 3 and 22, and with respect to unaccompanied persons under 18 years of age, the Committee recommends that the State party:

...

(c) Approve as soon as possible the draft law on the creation of a guardianship service, in order to ensure the appointment of a guardian for an unaccompanied minor from the



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beginning of the asylum process and thereafter as long as necessary, and make sure that this service is fully independent, allowing it to take any action it considers to be in the best interests of this minor;

(d) Ensure unaccompanied minors are informed of their rights and have access to legal representation in the asylum process;

...

- Belarus, CRC, CRC/C/118 (2002) 54 at paras. 231, 232, 254 and 255.

231. Noting the provisions which allow the child to be heard, the Committee is concerned that judges or other decision-making bodies have too much discretionary power in that regard.

232. In light of article 12, the Committee recommends that the State party:

(a) Make sure that all children mature enough to express their views are heard in all judicial and administrative procedures affecting them; and

(b) Undertake campaigns to make parents, professionals working with and for children and the public at large aware that children have the right to be heard and to have their views taken seriously.

...

254. The Committee reiterates its serious concern ([CRC/C/15/Add.17], para.10) regarding the situation in relation to the administration of juvenile justice. While noting that under the new Penal and Penal Procedure Codes juvenile cases can be considered by specially trained judges and that there is a debate about whether to set up a separate branch for juvenile justice, it expresses its concern that a comprehensive system has not yet been established, that prosecutors and lawyers are not trained to handle juvenile cases, that detention is not used as a last resort and that alternative measures to detention are seldom applied. Further, it is noted that conditions in juvenile detention centres are very poor and offer little possibility of rehabilitation.

255. The Committee recommends that the State party:

(a) Expedite the establishment of a specific system of juvenile justice, and ensure its full independence and adequate human and financial resources;

(b) Continue to review laws and practices regarding the juvenile justice system in order to bring it as soon as possible into full compliance with the Convention, in particular articles 37, 40 and 39, as well as with other relevant international standards in this area,

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such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);

(c) Ensure that all persons under 18 benefit from special protection measures in the field of the administration of juvenile justice;

(d) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law, and ensure that children are always separated from adults;

(e) Use alternative measures to pre-trial detention and other forms of deprivation of liberty whenever possible;

(f) Strengthen preventive measures, such as supporting the role of families and communities in order to help eliminate the social conditions leading to such problems as delinquency, crime and drug addiction;

(g) Incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, in particular to guarantee them access to effective complaints procedures covering all aspects of their treatment;

(h) In light of article 39, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system;

(i) Seek assistance from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

### *See also:*

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 57 and 58.
- Republic of Moldova, CRC, CRC/C/121 (2002) 89 at paras. 422 and 423.
  
- Switzerland, CRC, CRC/C/118 (2002) 78 at paras. 310, 311, 354 and 355.

310. The Committee is concerned at the reservations made by the State party to articles 5, 7, 10, 37 and the four reservations made with regard to article 40, but welcomes the information that the State party is considering the withdrawal of most of these reservations thanks to recent and current revisions of the Constitution and other relevant laws, following a tentative timetable presented during the dialogue. Despite this

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information, the Committee remains concerned at the rather slow pace of this withdrawal process and even more at the fact that some reservations may not be withdrawn at all, or only in the distant future.

311. In light of the 1993 Vienna Declaration and Programme of Action, the Committee recommends that the State party:

(a) Expedite as much as possible the process for the withdrawal of the reservations regarding the provision of an interpreter free of charge (article 40(2)(b)(vi)) and use this process to withdraw as soon as possible the reservation to article 5, given the fact that this reservation is, according to the State party, only an interpretative declaration that is not intended to affect the meaning of article 5;

...

(c) Expedite the current revision of the Foreign Nationals Act (formerly Federal Act concerning the Permanent and Temporary Residence of Foreigners) and withdraw as soon as possible after the approval of the revision the reservation made to article 10, paragraph 1, regarding family reunification;

(d) Expedite the approval and enactment of the new Juvenile Penal Law in order to start as soon as possible thereafter the withdrawal of the reservation to article 40(2)(b)(ii) regarding legal assistance and to article 37(c) regarding separation of juveniles deprived of their liberty from adults;

(e) Reconsider the reservation made with regard to the possibility of having the same juvenile judge as an investigating and a sentencing judge since the requirement of an independent and impartial authority or judicial body (article 40(2)(b)(iii)) does not necessarily and under all circumstances mean that investigating and sentencing juvenile judges cannot be the same person;

(f) Expedite the current legal reform which abolishes the competence of the Federal Tribunal as a court of first instance and withdraw as soon as possible after approval of that reform the reservation made to article 40(2)(b)(v).

...

354. While welcoming the entry into force of the federal asylum legislation (Federal Asylum Act and Ordinance 1 on Asylum Procedure) on 1 October 1999, the Committee remains concerned that the procedure used for unaccompanied minors is not always in their best interests nor fully in line with relevant provisions of the Convention. In addition, in relation to reservation made to article 10 of the Convention, the Committee is concerned that the right to family reunification is too restricted.

355. The Committee recommends that the State party simplify its approach regarding the procedures for requesting asylum and take all necessary measures to expedite them and to ensure they take into account the special needs and requirements of children, in

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particular unaccompanied children; these include the designation of a legal representative, the placement of such children in centres, and their access to health care and education. In addition, the Committee recommends that the State party review its system for family reunification, notably for refugees who stay for a long period in the State party.

- Saint Vincent and the Grenadines, CRC, CRC/C/118 (2002) 101 at paras. 463 and 464.

463. While recognizing the State party's efforts in this domain the Committee remains concerned that:

(a) The age of criminal responsibility, fixed at 8 years of age, is too low and that juvenile justice protections are not afforded to all persons under the age of 18;

(b) With only very limited exceptions, the State party does not provide legal assistance to children, and that children from disadvantaged backgrounds are frequently left without such support;

(c) Children are sometimes forced by the police to confess to criminal offences when they are held in custody at police stations, and are sometimes subject to ill-treatment;

(d) Juveniles are not usually deprived of their liberty as a "last resort" and, because legislation does not provide for a sufficient range of sentencing alternatives to deprivation of liberty, juveniles and young people, especially from 16 years upwards, are sometimes sent to prison when a lesser punishment could have been applied;

(e) Children who have been charged are detained with adult persons charged with crimes, in police stations and for long periods of time, because there are no juvenile criminal detention facilities;

(f) Children who are charged jointly with adults are tried in regular courts;

(g) There is no institution used exclusively for children where children purging a prison sentence can be sent, that the "Approved Schools" provided for in the Juvenile Act do not exist and that, as a consequence, convicted children over 16 are sent to adult prison;

(h) The Corporal Punishment of Juveniles Act allows for the caning of juveniles who have been found guilty of crime.

464. The Committee recommends that the State party:

(a) Significantly raise the age of criminal responsibility and ensure that all children under the age of 18 benefit from the special protection measures recognized by juvenile justice

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standards;

(b) Ensure that all children benefit from free legal assistance in the context of juvenile justice proceedings;

(c) Ensure that deprivation of liberty is used only as a last resort and that provision is made for adequate alternatives to deprivation of liberty, such as community service orders;

(d) Ensure the protection of child detainees from ill-treatment and/or being forced to make confessions by the police;

(e) Establish a system through which children who are detained or imprisoned are separated from adults, and establish alternative institutions to prisons, suited to the education and rehabilitation of delinquents;

(f) Urgently prohibit the corporal punishment of children in the context of the juvenile justice system;

(g) In this regard and in the light of the Committee's day of discussion on juvenile justice, develop mechanisms and provide adequate resources to ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);

(h) Seek assistance from, *inter alia*, the Office of the High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

- Spain, CRC, CRC/C/118 (2002) 117 at paras. 512 and 513.

512. The Committee is deeply alarmed about the conditions of unaccompanied foreign children, mostly Moroccans, especially in the autonomous cities of Ceuta and Melilla. In particular, it expresses its concern at reports of:

(a) Ill-treatment of children by police during forced expulsion to the country of origin where, in some cases, they were deported without access to legal assistance and interpretation;

(b) Failure to provide for these children the temporary legal residency status to which

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they are entitled to under the law because the Department of Social Welfare, as their legal guardian, did not apply for it;

...

(d) Denial of access to health care and education, although guaranteed by law;

(e) Summary expulsions of children without ensuring that they are effectively returned to family or social welfare agencies in their country of origin.

513. The Committee recommends that the State party urgently take the necessary measures in order to:

(a) Ensure the implementation of Organizational Act 4/2000 and other laws by providing to unaccompanied foreign children access to residential care, education, emergency services and other health care, and temporary residency documents;

...

(d) Take all measures to prevent irregular procedures in the expulsion of unaccompanied foreign children;

(e) Investigate in an effective way reported cases of ill treatment of these children;

(f) Provide unaccompanied foreign children with information about their rights under Spanish and international law, including the right to apply for asylum;

...

- The Netherlands (Antilles), CRC, CRC/C/118 (2002) 129 at paras. 546, 547, 587 and 588.

546. The Committee is concerned that specific protection is only afforded to children of 16 years and below in the administration of the justice system.

547. The Committee recommends that specific protection be provided in the area of the administration of justice to all children up to the age of 18, in conformity with the Convention.

...

587. The Committee is seriously concerned about the implications of the reservation entered by the State party on the applicability of adult criminal law to children over 16 years of age which is applicable to the Netherlands Antilles, and the reservation to article 40, which stipulates that for minor offences children need not be heard in the presence of a legal representative. The Committee is further concerned at reports that minors below 16 are held together with adults in detention facilities. In addition, the Committee is concerned that there are insufficient facilities for children in conflict with the law, limited

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training programmes for professionals working in the juvenile justice system, no available complaint mechanism directly accessible for children whose rights have been violated, and a lack of statistical data on the juvenile justice system.

588. The Committee recommends that the State party:

(a) Develop laws, policies and mechanisms and provide adequate resources to ensure the full implementation of juvenile justice standards and in particular articles 37, 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's 1995 day of general discussion on the administration of juvenile justice (see CRC/C/46, chap. III, sect. C);

(b) Apply the special protection of the juvenile justice system to all children below 18;

(c) Ensure that minors are always heard in the presence of a legal representative; consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time; protect the rights of children deprived of their liberty, including those pertaining to conditions of detention; and ensure that children are always separated from adults and remain in regular contact with their families while in the juvenile justice system;

(d) Seek assistance from, among others, OHCHR, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 57, 58, 65, 66, 87 and 88.

65. The Committee is deeply concerned that Law N.10.903 of 1919 and Law N.22.278, which are currently still in force and based on the doctrine of "irregular situation", do not distinguish between children in need of care and protection and those in conflict with the law, in terms of judicial procedures and treatment.

66. The Committee recommends that the State party establish appropriate mechanisms and procedures to address the situation of children in need of care and protection that can be implemented immediately once the draft law on the comprehensive protection of the rights of the child currently under consideration (*media sanción*) comes into force, replacing Laws N.10.903 and N.22.278.

...

87. The Committee notes with satisfaction the enactment of the Bill on the Criminal

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Responsibility of Juveniles which establishes limits on juvenile criminal responsibility and procedures to be followed, in accordance with article 40, paragraph 3, of the Convention. However, it reiterates its deep concern that Law N.10.903 of 1919 and Law N.22.278, currently in force and based on the doctrine of “irregular situation”, do not make a clear distinction between children in need of care and protection and those in conflict with the law. In this regard, the Committee notes that there are several draft laws for the reform of the juvenile justice system under discussion before Parliament, under which a judge can order the detention of children without due process only because of their social situation and that this decision cannot be appealed. In addition, it expresses its concern at the fact that, under article 205 of the Code of Criminal Procedure, a child may be held in *incommunicado* detention for a maximum of 72 hours. It further notes with concern the poor conditions of children in detention, including the lack of adequate basic services such as education and health, the absence of adequately trained staff, and the use of corporal punishment and isolation.

88. The Committee recommends that the State party:

...

(c) Ensure that there is a clear distinction in terms of procedures and treatment between children in conflict with the law and children in need of protection;

(d) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law and ensure that children are always separated from adults;

(e) Use alternative measures to pre-trial detention and other forms of deprivation of liberty whenever possible;

(f) Incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, in particular to guarantee them access to effective complaint procedures covering all aspects of their treatment;

(g) Take the necessary measures to improve detention conditions;

(h) In light of article 39, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system;

...

- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/121 (2002) 23 at paras. 117, 118, 121, 122, 139-142, 151, 152 and 154.

117. While noting that the “welfare” of the child is included in child care and protection legislation, the Committee is concerned that the principle of primary consideration for the



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best interests of the child is not consistently reflected in legislation and policies affecting children throughout the State party, notably in the juvenile justice system and immigration practices.

118. The Committee, in line with its previous recommendations ([CRC/C/15/Add.34], para. 24) recommends that the State party adopt the best interests of the child as a paramount consideration in all legislation and policy affecting children throughout its territory, notably within the juvenile justice system and in immigration practices.

...

121. The Committee welcomes the increasing encouragement of participation of and consultation with children in government, local authorities and civil society throughout the State party, the establishment of a consultative process with children in local authority service planning, the establishment of a youth advisory forum in the Children and Young People's Unit and other platforms for children and young people in all parts of the State party, such as the Scottish Youth Parliament. However, the Committee is concerned that the obligations of article 12 have not been consistently incorporated in legislation, for example in private law procedures concerning divorce, in adoption, in education and in protection throughout the State party. In addition, the Committee is concerned that the right of the child to independent representation in legal proceedings, as laid down in the Children Act 1989, is not systematically exercised...

122. The Committee recommends that the State party, in accordance with articles 12 to 17 of the Convention, take further steps to promote, facilitate and monitor systematic, meaningful and effective participation of all groups of children in society, including in schools, for example through school councils. Furthermore, it recommends that the State party take further steps to consistently reflect the obligations of both paragraphs of article 12 in legislation, and that legislation governing court procedures and administrative proceedings (including divorce and separation proceedings) ensure that a child capable of forming his/her own views has the right to express those views and that they are given due weight. The Committee further recommends that procedures be established that would allow the views expressed by children to be taken into account in and to have an impact on developing programmes and policies affecting them.

...

139. ...The Committee is concerned at the still high rate of temporary and permanent exclusion from school affecting mainly children from specific groups (ethnic minorities, including black children, Irish and Roma travellers, children with disabilities, asylum-seekers, etc.), and the sharp differences in educational outcomes for children according to their socio-economic background and to other factors such as gender, disability, ethnic origin or care status...The Committee is particularly concerned that children deprived of their liberty in prisons and juvenile detention centres do not have a statutory right to education, that their education is not the responsibility of the departments responsible for education, and that they do not have support for special

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education needs...

140. In light of articles 2, 12, 28 and 29 of the Convention, and in line with its previous recommendations ([CRC/C/15/Add.34], para. 32), the Committee recommends that the State party:

...

(b) Take appropriate measures to reduce temporary or permanent exclusion, ensure that children throughout the State party have the right to be heard before exclusion and to appeal against temporary and permanent exclusion, and ensure that children who are excluded do continue to have access to full-time education;

(c) Take all necessary measures to eliminate the inequalities in educational achievement and in exclusion rates between children from different groups and to guarantee all children an appropriate quality education;

(d) Ensure that children in detention have an equal statutory right to education and improve education for children in care;

...

141. The Committee welcomes the establishment in 1994 of the Children's Panel of Advisers and is aware of the increasing number of children claiming asylum, either with their families or on their own. The Committee is concerned that detention of these children is incompatible with the principles and provisions of the Convention. The Committee is further concerned that the dispersal system may impede better integration and lead to an escalation in racially related incidents; that placement in temporary accommodation of children seeking asylum may infringe their basic rights such as access to health or education; that processing applications may take several years; that the Children's Panel of Advisers is not always adequately funded; and that the ongoing reform of the asylum and immigration system fails to address the particular needs and rights of asylum-seeking children.

142. In accordance with the principles and provisions of the Convention, especially articles 2, 3, 22 and 37, and with respect to children, whether seeking asylum or not, the Committee recommends that the State party:

(a) Refrain, as a matter of policy, from detaining unaccompanied minors and ensure the right to speedily challenge the legality of detention, in compliance with article 37 of the Convention. In any case, detention must always be a measure of last resort and for the shortest appropriate period of time;

(b) Ensure that refugee and asylum-seeking children have access to basic services such as education and health, and that there is no discrimination in benefit entitlements for asylum-seeking families that could affect children;

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- (c) Consider the appointment of guardians for unaccompanied asylum-seeking and refugee children;
- (d) Take all necessary measures to prevent children who have settled in a particular area being forced to leave when they reach the age of 18 years;
- (e) Undertake efforts to expedite the procedure for dealing with asylum applications and to avoid placing children in temporary accommodation which are inappropriate, accommodating them rather as “children in need” under the childcare legislation;
- (f) Carry out a review of the availability and effectiveness of legal representation and other forms of independent advocacy for unaccompanied minors and other children in the immigration and asylum systems;
- (g) Address thoroughly the particular situation of children in the ongoing reform of the immigration and asylum systems to bring them into line with the principles and provisions of the Convention.

...

151. The Committee welcomes the State party's initiatives to introduce restorative justice and other constructive community-based disposals for juvenile offenders, the almost complete inclusion of 17-year-olds in the juvenile justice system and the creation of multidisciplinary teams to respond to child offenders' behaviour, but notes with serious concern that the situation of children in conflict with the law has worsened since the consideration of the initial report. The Committee is particularly concerned that the age at which children enter the criminal justice system is low with the age of criminal responsibility still set at 8 years in Scotland and at 10 years in the rest of the State party and the abolition of the principle of *doli incapax*. The Committee welcomes the different approach reflected in the Children's Hearings in Scotland and the debate on including young people of 16 to 18 years of age in the Children's Hearings. The Committee is particularly concerned that since the State party's initial report, children between 12 and 14 years of age are now being deprived of their liberty. More generally, the Committee is deeply concerned at the increasing number of children who are being detained in custody at earlier ages for lesser offences and for longer sentences imposed as a result of the recently increased court powers to issue detention and restraining orders. The Committee is therefore concerned that deprivation of liberty is not being used only as a measure of last resort and for the shortest appropriate period of time, in violation of article 37 (b) of the Convention. The Committee is also extremely concerned at the conditions that children experience in detention and that children do not receive adequate protection or help in young offenders' institutions (for 15- to 17-year-olds), noting the very poor staff-child ratio, high levels of violence, bullying, self-harm and suicide, the inadequate rehabilitation opportunities, the solitary confinement in inappropriate

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conditions for a long time as a disciplinary measure or for protection, and the fact that girls and some boys in prisons are still not separated from adults.

152. In addition, the Committee notes with concern that:

- (a) The Crime and Disorder Act 1998 has introduced in England and Wales measures that may violate the principles and provisions of the Convention;
- (b) Children can be tried in adult courts in certain circumstances;
- (c) Children in custody do not always have access to independent advocacy services and to basic services such as education, adequate health care, etc.;
- (d) The privacy of children involved in the criminal justice system is not always protected and their names are, in cases of serious offences, often published;
- (e) Young people of 17 years of age are considered as adults for the purpose of remand.

...

154. ...[T]he Committee recommends that the State party:

- (a) Considerably raise the minimum age of criminal responsibility;
- (b) Review the new orders introduced by the Crime and Disorder Act 1998 and make them compatible with the principles and provisions of the Convention;
- (c) Ensure that no child can be tried as an adult, irrespective of the circumstances or the gravity of his/her offence;
- (d) Ensure that the privacy of all children in conflict with the law is fully protected in line with article 40 (2) (b) (vii) of the Convention;
- (e) Ensure that detention of children is used as a measure of last resort and for the shortest appropriate period of time and that children are separated from adults in detention, and encourage the use of alternative measures to the deprivation of liberty;
- (f) Ensure that every child deprived of his or her liberty has access to independent advocacy services and to an independent, child-sensitive and accessible complaint procedure;
- (g) Take all necessary measures, as a matter of urgency, to review the conditions of detention and ensure that all children deprived of their liberty have statutory rights to education, health and child protection equal to those of other children;

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(h) Review the status of young people of 17 years of age for the purpose of remand with a view to giving special protection to all children under the age of 18 years;

(i) Allocate appropriate resources for the Children's Hearings in Scotland to allow the number of cases dealt with to be substantially increased and to allow young offenders of 16 to 18 years of age to be included in the Children's Hearings system.

- Seychelles, CRC, CRC/C/121 (2002) 41 at paras. 185, 186, 189, 190, 193, 194, 213 and 215.

185. Noting the recognition of the best interests principle in the Children's Act, the Committee remains concerned that the principle is not fully recognized and implemented in all legislation, policies and programmes for children.

186. In light of article 3, the Committee recommends that the State party ensure that the best interests principle is reflected in all relevant legislation, policies and programmes for children, in particular in the proceedings and decisions of the Family Tribunal.

...

189. The Committee is concerned that the right of children born out of wedlock to know their biological fathers can be limited, *inter alia*, owing to the right of the mother not to reveal the name of the father, and that children of divorced or separated parents may not be able to preserve their identity.

190. In light of article 8, the Committee recommends that the State party review its legislation in order to ensure that all children born out of wedlock have, as far as possible, the legal right to know and maintain contact with both their biological parents, and that all children of divorced or separated parents have the legal right to maintain their identity.

...

193. While acknowledging the State party's efforts to destigmatize and streamline judicial proceedings with respect to family issues through the creation of the Family Tribunal, the Committee is concerned that the functioning of the Tribunal is not always in conformity with the principles and provisions of the Convention.

194. The Committee recommends that the State party:

(a) Ensure that the general principles of the Convention, in particular the best interests principle and respect for the views of the child, are integrated into all proceedings and decisions of the Family Tribunal;

...

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213. The Committee is concerned that although the minimum age for criminal responsibility is 12 years, prosecution of children between the ages of 8 and 12 is possible under certain conditions. In addition, the Committee is concerned that conditions at the Youth Residential Treatment Centre are very poor, that it has few programmes for rehabilitation or education and that its location limits contact between children and their families. Finally, the Committee is also concerned about the lack of community-based rehabilitation alternatives for juvenile offenders.

...

215. The Committee...recommends that the State party:

(a) Increase the number of probation officers and community-based alternatives to detention for juvenile offenders;

(b) Establish a clear minimum age of criminal responsibility at an internationally acceptable level and ensure that children under that age are not held in police custody or other forms of detention;

(c) Improve the conditions at the Youth Rehabilitation and Treatment Centre and ensure that rehabilitation and education programmes are provided while continuing consideration of the possibilities of relocating the Centre to the main island in order to facilitate contact between children and their families.

- Sudan, CRC, CRC/C/121 (2002) 53 at paras. 288 and 289.

288. Noting the reference to a juvenile court project in the State party's response to the list of issues, the Committee is concerned that the holistic approach to addressing the problem of juvenile crime advocated in the Convention, including with respect to prevention, procedures and sanctions, has not been sufficiently taken into consideration by the State party. The Committee is concerned that the age of criminal responsibility is too low as a child may be punishable by detention in a reformatory from the age of 7.

289. The Committee recommends that the State party:

(a) Raise the minimum age of criminal responsibility;

...

(c) Ensure that all children under 18 years of age benefit from the protection of juvenile justice standards;

(d) Guarantee that sentences of capital punishment are not given for acts committed when the perpetrator was a child under 18 and that sentences of life imprisonment without possibility of release are likewise not handed down;

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(e) End the imposition of corporal punishment, including flogging, amputation and other forms of cruel, inhuman or degrading treatment or punishment, on persons who may have committed crimes while under 18;

(f) Ensure that children who are homeless, unaccompanied, begging and in other similar situations are not criminalized.

- Ukraine, CRC, CRC/C/121 (2002) 70 at paras. 328-330.

328. The Committee is concerned that the definition of torture in the Criminal Code 2001 is not compatible with the definition of torture in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as it does not explicitly include acts of torture, including psychological torture, committed by State officials. The Criminal Code also fails to declare evidence extracted under torture inadmissible.

329. The Committee is also concerned at continued allegations of children, in particular Roma children, being ill-treated and tortured by law enforcement officials and that these allegations are not effectively investigated by an independent authority.

330. The Committee recommends that the State party:

(a) Amend the legislation defining torture to bring it into line with article 37 (a) of the Convention;

(b) Respond to allegations of torture and other cruel, inhuman or degrading treatment or punishment of children;

(c) Ensure the inadmissibility of evidence obtained through the use of torture;

(d) Take measures to ensure follow-up to the recommendations made by the Human Rights Committee and the Committee against Torture as they relate to the Convention on the Rights of the Child;

(e) Take immediate measures to stop police violence against children belonging to minorities, in particular the Roma, and challenge the prevailing impunity for such acts of harassment;

(f) Take all legislative measures to prohibit all forms of torture and other cruel, inhuman or degrading treatment or punishment;

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(g) Provide support for the care, recovery, reintegration and compensation of victims.

- Burkina Faso, CRC, CRC/C/121 (2002) 103 at paras. 487 and 489.

487. The Committee is concerned at the absence of juvenile courts and juvenile judges, and at the limited number of social workers and teachers working in this field. In addition, the Committee is deeply concerned at the possibility that children of 16 and 17 years of age are treated like adults and can be subjected to the death penalty or life imprisonment, which is a serious violation of article 37 of the Convention; the failure to separate children from adults in jails (with the exception of the jails in Ouagadougou and Bobo Dioulasso); the poor conditions of detention; the frequent recourse to and excessive length of pre-trial detention (often because of the long time needed for inquiries); the absence of a formal obligation to inform parents about the detention; the possibility for children to appeal only through their parents; the very limited possibilities for the rehabilitation and reintegration of juveniles following judicial proceedings; and the sporadic training of judges, prosecutors and prison staff.

...

489. ...[T]he Committee particularly recommends that the State Party:

- (a) Ensure that persons of 16 and 17 years of age are not treated like adults and enjoy the full protection of the Convention;
- (b) Undertake all necessary measures to ensure that juvenile courts are established and trained juvenile judges appointed in all regions of the State party;
- (c) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time, limit by law the length of pre-trial detention, and ensure that the lawfulness of this detention is reviewed by a judge without delay and regularly thereafter;
- (d) Provide children with legal and other assistance at an early stage of the procedure;
- (e) Amend legislation to allow children to appeal a decision without their parents;
- (f) Provide children with basic services (e.g. schooling);
- (g) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, notably by establishing special prisons for children with conditions suitable to their age and needs and by ensuring the presence of social services in all detention centres in the country, and in the meantime by ensuring that they are separated from adults in all prisons and in pre-trial detention places throughout the country;



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...

- Poland, CRC, CRC/C/121 (2002) 120 at paras. 518, 519, 523, 524, 543 and 544.

518. The Committee is concerned that there is no clear minimum age of criminal responsibility and that, in some cases, children as young as 10 years of age can be sentenced to educational measures.

519. The Committee recommends that, as the 1982 Law on Procedures in Cases Involving Juveniles considers juveniles to be between the ages of 13 and 17 years, the State party establish 13 years as the minimum age for criminal responsibility in all cases, below which children cannot be sentenced to either correctional or educational measures.

...

523. The Committee notes the State party's efforts to require administrative and judicial proceedings to take into account the views of the child, but is concerned that in practice this principle is not always implemented, particularly in proceedings involving unaccompanied children applying for refugee status, juvenile offenders and children placed in institutions, as well as in custody hearings.

524. The Committee recommends that the State party:

(a) Take effective measures, including legislation, to promote and facilitate respect for the views of children, by courts and all administrative bodies and the participation of children in all matters affecting them, in accordance with article 12 of the Convention;

(b) Provide educational information to, among others, parents, teachers, government administrative officials, the judiciary, the Roman Catholic Church and other religious groups, and society at large, on children's right to have their views taken into account and to participate in matters affecting them.

...

543. The Committee is concerned at the high number of juveniles spending extensive periods of time in emergency blocks either as a pre-trial detention measure or as punishment for their actions in the juvenile reform centres. In addition, the Committee is concerned that not all juvenile detention centres guarantee the child's right to maintain contact with his or her family or provide adequate living standards.

544. The Committee recommends that the State party:

...

(b) Enforce the regulations allowing a maximum stay of three months in emergency blocks;

(c) Use deprivation of liberty only as a measure of last resort and protect the rights of

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children deprived of their liberty, including those pertaining to conditions of detention.

- Israel, CRC, CRC/C/121 (2002) 131 at paras. 553, 586, 587, 612 and 613.

553. The Committee welcomes:

...

(b) The enactment of progressive legislation, including the 2002 law on information regarding the influence of legislation on children's rights, and laws on minor victims' rights and legal assistance for children;

(c) The prohibition of corporal punishment in homes, schools and other institutions;

...

586. The Committee is seriously concerned at allegations and complaints of inhuman or degrading practices and of torture and ill-treatment of Palestinian children by police officers during arrest and interrogation and in places of detention (i.e. Ma'ale Adummim, Adorayim, Beit El, Huwarra, Kedumin, Salem and Gush Etzion police station and prisons such as Terza, Ramleh, Megiddo and Telmond).

587. The Committee strongly recommends that the State party:

(a) Establish and strictly enforce instructions for full compliance with the principles and provisions of the Convention by all persons involved in the arrest, interrogation and detention of Palestinian and other children in the State party;

(b) Investigate effectively all cases of torture and inhuman or degrading treatment or punishment by police officers or other government officials and bring the perpetrators to justice;

(c) Pay full attention to the victims of these violations and provide them with opportunities for adequate compensation, recovery and social reintegration...

...

612. The Committee is concerned about:

(a) The differential application of law concerning children, such as with respect to the definition of a child in Israel and in the occupied Palestinian territories;

(b) The practice relating to the arrest and interrogation of children in the occupied Palestinian territories;

(c) Military Orders Nos. 378 and 1500, as well as all other military orders which may allow prolonged *incommunicado* detention of children, and which do not provide due process guarantees, access to legal assistance and family visits.

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613. The Committee recommends that the State party:

...

(b) Ensure that deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults;

(c) Ensure that children have access to legal aid and independent and effective complaint mechanisms;

(d) Train professionals in the area of rehabilitation and social recovery of children;

(e) Rescind all provisions in the military orders which violate international standards on the administration of juvenile justice.

- Estonia, CRC, CRC/C/124 (2003) 9 at paras. 72 and 73.

72. The Committee notes the existence of the Crime Prevention Council and a new training council to train judges and prosecutors, and appreciates that the minimum age of criminal responsibility has recently been raised to 14 years. However, the Committee is concerned:

(a) That there are no special courts, specially trained judges or prosecutors established for criminal proceedings against juveniles;

(b) That there have been several cases recently where the child's right to privacy in criminal proceedings has not been respected by the media;

...

(e) That in practice the handling of cases by juvenile committees is very limited and that most cases are processed by the general court system;

...

73. The Committee recommends that the State party:

...

(b) Ensure that children have access to legal aid and independent and effective complaints mechanisms;

...

(d) Ensure that deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults;

...

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- Republic of Korea, CRC, CRC/124 (2003) 24 at paras. 87, 88, 134 and 135.

87. The Committee remains very concerned at the State party's reservations to articles 9, paragraph 3, 21, paragraph (a), and 40, paragraph 2 (b) (v).

88. The Committee, noting that juveniles sentenced for having committed a crime have the right to appeal, encourages the State party to withdraw, as soon as possible, the reservations made to article 40, paragraph 2 (b) (v)...

...  
134. The Committee is concerned that juveniles accused of violating the law and subject to protective measures may be deprived of their liberty without undergoing criminal proceedings or having access to legal assistance.

135. The Committee recommends that the State party:

...  
(b) Use deprivation of liberty only as a measure of last resort and ensure that all juveniles involved in protection measures that may result in deprivation of liberty have access to legal counsel at an early stage;

(c) Amend legislation in order to eliminate the discretionary power of the public prosecutor to decide whether a minor is subject to criminal proceedings or protective measures.

- Italy, CRC, CRC/124 (2003) 36 at paras. 192 and 194.

192. The Committee notes that a reform of the juvenile justice system is pending. It is concerned at the existing discrimination against children of foreign origin and Roma children within the juvenile justice system; the lack of independent structures to monitor the conditions of detention of children; and at the inadequate training of the personnel involved in the juvenile justice system.

...  
194. ...[T]he Committee recommends that the State party:

...  
(b) Allow periodic visits to the reception centres and penal institutes for minors by impartial and independent bodies and ensure that every child deprived of his or her liberty has access to an independent, child-sensitive and accessible complaint procedure;

...

- Romania, CRC, CRC/124 (2003) 49 at paras. 260 and 261.

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260. Although encouraged by information from the delegation that the State party is undertaking reforms in the area of juvenile justice, the Committee remains concerned that:

- (a) There are no judges specially trained and appointed for cases involving minors, nor are there prosecutors specializing in investigating juvenile delinquents;
- (b) A high number of children are in pre-trial detention;
- (c) The prosecutor has discretionary powers to deny a detainee access to a lawyer for up to five days in the interest of an investigation;
- (d) Very few children are dealt with by diversionary or alternative measures;
- (e) There is a serious lack of capacity within the judicial system to provide rapid intervention or trial, as needed, for juvenile offenders.

261. The Committee recommends that the State party:

...

- (c) Ensure that no children are detained illegally and that when detention is necessary, as a measure of last resort, children are detained separately from adults;
- (d) Promote alternative measures for dealing with children without resorting to judicial proceedings, provided human rights safeguards are respected;
- (e) Strengthen the capacity of the juvenile justice system to provide a timely response;
- (f) Guarantee that children in pre-trial detention will not be denied access to a lawyer.

- Viet Nam, CRC, CRC/C/124 (2003) 67 at paras. 290 and 291.

290. The Committee is concerned that, although acting in the best interests of the child is a priority for the Government, the best interests principle is not expressly included in all legislation concerning children.

291. The Committee recommends that the State party, in accordance with article 3 of the Convention, review and, where appropriate, amend its legislation in order to ensure that "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration".

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- Czech Republic, CRC, CRC/C/124 (2003) 78 at paras. 356, 357, 386 and 387.

356. The Committee welcomes the amendment to the Civil Procedure Code, including the information by the State party referring to the regulation of the respect for the child's views in the Act on Social and Legal Protection of Children and by amendment to the Act on the Family. The Committee is concerned that children's participation in other areas, such as school and institutions, is not regulated by legislation or sufficiently observed in practice. Furthermore, the Committee is concerned that awareness of these provisions is quite low, thus contributing to weak observance.

357. The Committee recommends that the State party introduce a comprehensive legal provision establishing the right of the child to participate that would be applicable to courts, administrative bodies, institutions, schools, childcare institutions and families in matters affecting children, and guarantee the right to appeal the decisions, in accordance with article 12 of the Convention. Awareness-raising and educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions of children as objects rather than subjects of rights.

...

386. The Committee notes the information provided in the State party's report (para. 293) related to discussions by the Recodification Commission on the non-existence of a juvenile justice system leading to treatment which may not be in conformity with the provisions and principles of the Convention, and welcomes the information provided by the delegation that a bill for juvenile justice reform will be submitted to parliament soon.

At the same time the Committee is concerned at the rise in delinquency and crimes committed by children.

387. The Committee recommends that the State party:

...

(b) Clarify the minimum age of criminal responsibility in the light of the legal provisions authorizing protective custody for children under the age of 12;

(c) Develop child-oriented proceedings for adjudicating cases involving children in conflict with the law, including specialized training for judges as well as all other personnel;

...

(e) Ensure that no children are detained illegally and that when detention is necessary as a measure of last resort, that persons under 18 are detained separately from adults;

(f) Develop mechanisms and provide adequate resources.

- Haiti, CRC, CRC/124 (2003) 95 at paras. 420 and 421.

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420. The Committee is concerned that the principle of the best interests of the child is not fully recognized and implemented in the relevant legislation and in decisions relevant to children. The Committee is especially concerned that the existing legislation, as referred to in the State party's report (para. 51), allows parents to send their children to prison for a period of up to six months, without the involvement of a court or similar body, which constitutes a violation of article 37, paragraph (d), of the Convention. However, the Committee welcomes the information that this rule is rarely applied in practice.

421. The Committee recommends that the State party ensure that the principle of the best interests of the child is reflected in all relevant legislation, policies, programmes and otherwise in the implementation of the Convention. The Committee particularly recommends that the State party abolish the rule of *correction paternelle*, which allows parents to place a child in prison.

- Iceland, CRC, CRC/124 (2003) 109 at paras. 464 and 465.

464. The Committee notes the information provided by the delegation concerning steps being taken by the State party to comply fully with articles 9 and 37 of the Convention (namely the provisions in the 2002 Child Protection Act and a proposed law expected to be passed soon giving courts the sole power to decide in child protection cases; and the 1998 agreement between the Prison and Probation Administration and the Governmental Agency for Child Protection to allow prisoners under 18, at their request, to be detained in treatment homes under the supervision of the Agency). Nevertheless, the Committee regrets that the State party has not yet withdrawn its declaration on article 9. Moreover, it considers that the 1998 agreement falls short of a legal guarantee of separation from adults, as contained in article 37 (c) of the Convention.

465. The Committee recommends that the State party:

- (a) Expedite the promulgation of legislation to ensure full compliance with article 9 of the Convention;
- (b) Guarantee by law the separation of detained children and adults, in accordance with article 37 (c) of the Convention.

- Eritrea, CRC, CRC/C/132 (2003) 8 at paras. 83 and 84.

83. The Committee is concerned that the minimum age of criminal responsibility of 9

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years is too low; that children between the ages of 15 and 18 in conflict with the law are tried as adults; and that juvenile offenders who have been deprived of their liberty are not separated from adults and there are no programmes for their rehabilitation and integration.

84. The Committee recommends that the State party:

...

(c) Set a clear minimum age of criminal responsibility which is at an internationally acceptable level;

(d) Ensure that all children from that minimum age till the age of 18 are accorded the special protection guaranteed under the Convention;

(e) Establish juvenile courts;

...

- Zambia, CRC, CRC/C/132 (2003) 32 at paras. 221 and 223.

221. The Committee notes the establishment of the Child Justice Forum and the Pilot Arrest, Reception and Referral Services. However, it is deeply concerned at the possibility that a child may be sentenced at the President's pleasure. The Committee is also concerned at the low age of criminal responsibility, the absence of juvenile courts and juvenile judges, the detention of children with adults, the lack of social workers, the very poor conditions of detention, due mainly to overcrowding, the frequent recourse to and excessive length of pre-trial detention, the very limited rehabilitation and reintegration services for juveniles following judicial proceedings and the limited training of judges, prosecutors and prison staff.

...

223. ...[T]he Committee specifically recommends that the State party:

(a) Prohibit the use of penalty at the President's pleasure;

(b) Raise the age of criminal responsibility;

(c) Establish an adequate number of juvenile courts all over the country and appoint trained juvenile judges;

(d) Ensure that the right of children to legal representation or other appropriate assistance is guaranteed;

(e) Ensure that detention, including pre-trial detention, is used only as a measure of last



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resort and with due consideration for the seriousness of the crime, and that greater efforts be made to provide alternatives to detention;

(f) Separate children from adults in prison and in pre-trial detention places all over the country;

(g) Strengthen rehabilitation and reintegration programmes;

(h) Ensure that the right to privacy of juvenile offenders is guaranteed and take all necessary measures to ensure that the identity of the juvenile offender is not revealed by the media;

(i) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice, including journalists;

(j) Consider seeking technical assistance.

- Kazakhstan, CRC, CRC/C/132 (2003) 129 at paras. 617, 619, 649 and 650.

617. The Committee concurs with the content of the recommendations adopted by the Committee against Torture which are relevant to the situation of children below the age of 18. The Committee further notes that the Head of State expressed his concern that torture and ill-treatment of suspects and detainees by law enforcement officers were becoming widespread and common practices, and welcomes the recent efforts to broaden the scope of punishment for offences committed against children. However, the Committee remains deeply concerned by continuing allegations that the torture of persons under 18, including for purposes of extorting confessions, is widespread, and that the existing procedure for investigating such allegations is ineffective and does not provide for the protection of the victims.

...

619. In light of article 37 of the Convention and the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169), the State party should take all necessary and effective steps to prevent incidents of ill-treatment of children. The Committee recommends that the State party provide training to law enforcement officials, in particular on how to deal with persons under 18 years; ensure that children are adequately informed of their rights when they are detained; ensure that complaint procedures are simplified so that responses are appropriate, timely, child-friendly and sensitive to victims; and provide rehabilitative support to victims. The Committee further recommends that the State party implement the recommendations made by the Committee against Torture (A/56/44, para. 129), in particular as they relate to persons under 18 years of age.

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...

649. The Committee is concerned at the general lack of comprehensive information on the Criminal Code and the Criminal Procedure Code. The Committee notes, *inter alia*, that disorderly conduct has been defined as a serious crime constituting a danger to society, leading to the criminalization of behavioural problems.

650. The Committee recommends that the State party review its classification of serious crimes in order to reduce criminal law prosecution of 14 to 16-year-old children and abolish provisions that criminalize the behavioural problems of children (so-called status offences).

- Canada, CRC, CRC/C/133 (2003) 14 at paras. 74, 75, 96, 97, 106 and 107.

74. The Committee values the fact that the State party holds the principle of the best interests of the child to be of vital importance in the development of all legislation, programmes and policies concerning children and is aware of the progress made in this respect. However, the Committee remains concerned that the principle that primary consideration should be given to the best interests of the child is still not adequately defined and reflected in some legislation, court decisions and policies affecting certain children, especially those facing situations of divorce, custody and deportation, as well as Aboriginal children. Furthermore, the Committee is concerned that there is insufficient research and training for professionals in this respect.

75. The Committee recommends that the principle of "best interests of the child" contained in article 3 be appropriately analysed and objectively implemented with regard to individual and groups of children in various situations (e.g. Aboriginal children) and integrated in all reviews of legislation concerning children, legal procedures in courts, as well as in judicial and administrative decisions and in projects, programmes and services that have an impact on children. The Committee encourages the State party to ensure that research and educational programmes for professionals dealing with children are reinforced and that article 3 of the Convention is fully understood, and that this principle is effectively implemented.

...

96. The Committee welcomes the incorporation of the principle of the best interests of the child in the new Immigration and Refugee Protection Act (2002) and the efforts being made to address the concerns of children in the immigration process, in cooperation with the Office of the United Nations High Commissioner for Refugees and non-governmental organizations. However, the Committee notes that some of the concerns previously expressed have not been adequately addressed, in particular, in cases of family reunification, deportation and deprivation of liberty, priority is not accorded to those in greatest need of help. The Committee is especially concerned at the absence of:

...

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- (b) Standard procedures for the appointment of legal guardians for these children;
- (c) A definition of "separated child" and a lack of reliable data on asylum-seeking children;

...

97. In accordance with the principles and provisions of the Convention, especially articles 2, 3, 22 and 37, and with respect to children, whether seeking asylum or not, the Committee recommends that the State party:

...

- (b) Implement a process for the appointment of guardians, clearly defining the nature and scope of such guardianship;

- (c) Refrain, as a matter of policy, from detaining unaccompanied minors and clarify the legislative intent of such detention as a measure of "last resort", ensuring the right to speedily challenge the legality of the detention in compliance with article 37 of the Convention;

...

106. The Committee is encouraged by the enactment of new legislation in April 2003. The Committee welcomes crime prevention initiatives and alternatives to judicial procedures. However, the Committee is concerned at the expanded use of adult sentences for children as young as 14; that the number of youths in custody is among the highest in the industrialized world; that keeping juvenile and adult offenders together in detention facilities continues to be legal; that public access to juvenile records is permitted and that the identity of young offenders can be made public...

107. ...[T]he Committee urges the State party:

- (a) To ensure that no person under 18 is tried as an adult, irrespective of the circumstances or the gravity of his/her offence;

- (b) To ensure that the views of the children concerned are adequately heard and respected in all court cases;

- (c) To ensure that the privacy of all children in conflict with the law is fully protected in line with article 40, paragraph 2 (b) (vii) of the Convention;

- (d) To take the necessary measures (e.g. non-custodial alternatives and conditional release) to reduce considerably the number of children in detention and ensure that detention is only used as a measure of last resort and for the shortest possible period of time, and that children are always separated from adults in detention.

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- New Zealand, CRC, CRC/C/133 (2003) 27 at paras. 132 and 133.

132. The Committee notes with concern that the minimum age of criminal responsibility of 10 years is too low, that all persons under 18 in conflict with the law are not afforded special protection and that there is no minimum age of employment.

133. The Committee recommends that the State party review the age limits set by different legislation affecting children to ensure its conformity with the principles and provisions of the Convention. The Committee also specifically recommends that the State party:

(a) Raise the minimum age of criminal responsibility to an internationally acceptable level and ensure that it applies for all criminal offences;

(b) Extend the Children, Young Persons and Their Families Act of 1989 to all persons under the age of 18;

...

- Singapore, CRC, CRC/C/133 (2003) 84 at paras. 417 and 418.

417. The Committee welcomes the State party's efforts to provide counselling and assistance to families and children and to resolve difficulties between parents and children without resorting to the courts and in a manner consistent with the best interests of the child. Nevertheless, it is concerned that children in such circumstances are not afforded the full protection of the law because parents are able to file complaints that their children are "beyond parental control", which, according to the law, can lead to the placement of these children in institutions for juvenile delinquents...

418. The Committee recommends that the State party continue its efforts to provide support and counselling for families at risk, and amend its legislation to ensure the full protection of children in difficult circumstances while eliminating the possibility for parents to initiate court proceedings against their children because they are "beyond parental control"...

- Bangladesh, CRC, CRC/C/133 (2003) 93 at paras. 458, 459, 499, 500, 509 and 510.

458. The Committee is concerned about the various legal minimum ages, which are inconsistent, discriminatory and/or too low. The Committee is also deeply concerned at the fact that the Majority Act 1875, setting the age of majority at 18 years, has no effect "on the capacity of any person in relation to marriage, dowry, divorce and adoption or on

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the religion and religious customs of any citizen" (CRC/C/65/Add.22, para. 45). The Committee is particularly concerned at the very low age of criminal responsibility (7 years).

459. The Committee strongly recommends that the State party:

- (a) Raise the minimum age of criminal responsibility to an internationally acceptable level;
- (b) Fix a minimum age for admission to employment, in line with internationally accepted standards;
- (c) Ensure that domestic legislation on minimum ages is respected and implemented throughout the country.

...

499. The Committee is very concerned about the difficult conditions under which some refugee children, especially children belonging to the Rohingya population from Myanmar, are living, and that many of these children and their families do not have access to legal procedures that could grant them legal status...

500. The Committee recommends that the State party:

- (a) Adopt a national refugee legislation and accede to the Convention relating to the Status of Refugees of 1951 and its Protocol of 1967;
- (b) Grant all refugee children and their families immediate access to relevant procedures determining refugee status;

...

509. The Committee acknowledges the efforts made by the State party to improve the juvenile justice system. However, the Committee remains concerned at the limited progress achieved in establishing a functioning juvenile justice system throughout the country. In particular, the Committee is concerned at:

- (a) The minimum age of criminal responsibility (7 years), which remains far too low;
- (b) The sentencing to life imprisonment of children from the age of 7 years and to the death penalty of children from the age of 16 years;
- (c) The absence of juvenile courts and judges in some parts of the State party;
- (d) The extensive discretionary powers of the police, reportedly resulting in incarceration of street children and child prostitutes;

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(e) The use of caning and whipping as a sentence for juvenile offenders;

(f) The failure to ensure full respect for the right to a fair trial, including legal assistance for alleged child offenders and the very long periods of pre-trial detention;

...

510. ...[T]he Committee recommends that the State party:

(a) Raise the minimum age of criminal responsibility to an internationally acceptable level;

(b) Ensure that the imposition of the death penalty, of life imprisonment without possibility of release, and of caning and whipping as sanctions for crimes committed by persons while under 18 is explicitly prohibited by law;

(c) Ensure the full implementation of the right to a fair trial, including the right to legal or other appropriate assistance;

(d) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including by guaranteeing separation of children from adults in prisons and in pre-trial detention places all over the country;

(e) Establish an independent child-sensitive and accessible system for the reception and processing of complaints by children;

...

- Georgia, CRC, CRC/C/133 (2003) 34 at paras. 582 and 583.

582. The Committee welcomes the transfer of the penitentiary system from the Ministry of the Interior to the Ministry of Justice, as well as the ongoing cooperation of the State party with the Council of Europe's Committee for the Prevention of Torture. The Committee is, however, deeply concerned by allegations of ill-treatment of children by the police and the lack of follow-up to the previous recommendations of the Committee relating to juvenile justice.

583. The Committee reiterates its previous recommendations that the State party:

...

(b) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible, and develop alternative measures, such as community service and half-way homes to deal with juvenile delinquents in a more effective and appropriate manner;

...

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- Indonesia, CRC, CRC/C/137 (2004) 8 at paras. 96 and 98.

96. The Committee is very concerned at the very large number of children sentenced to jail even for petty crimes and despite article 66, paragraph 4, of Law No. 39 of 1999 on Human Rights, and that these children are often detained with adults and are detained in poor conditions, even when in detention centres for children.

...

98. The Committee recommends that the State party:

...

(b) Ensure that detained children are always separated from adults, and that deprivation of liberty is used only as a last resort, for the shortest appropriate time and in appropriate conditions;

(c) In cases where deprivation of liberty is unavoidable, improve procedures of arrest and conditions of detention and establish special units within the police for the handling of cases of children in conflict with the law;

- Guyana, CRC, CRC/C/137 (2004) 26 at paras. 152 and 153.

152. The Committee takes note of the study conducted and the project developed in collaboration with UNICEF addressing violence and children in Guyana. The Committee is deeply concerned about the generally violent environment where Guyanese children are living and the increased reporting of ill-treatment and abuse of children, including sexual abuse. The Committee is also deeply concerned that section 67 of the Criminal Law (Offences) Act (chapter 8:01) criminalizes a girl of 16 years or older for having sexual intercourse with a relative like a grandfather or brother and makes her liable to imprisonment for a period of seven years.

153. The Committee recommends that the State party pay particular attention to child abuse and neglect in and outside the family by, *inter alia*:

(a) Abolishing, as a matter of priority, the provision mentioned above...by taking the necessary measures to prevent incest;

(b) Developing an effective reporting system with timely and adequate investigations and child-sensitive protection in order to bring perpetrators to justice;

...

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- Armenia, CRC, CRC/C/137 (2004) 36 at paras. 239-242, 247 and 248.

239. The Committee reiterates its concern about the increasing use of and traffic in illicit drugs among persons under 18 years. The Committee also notes with concern that child drug abusers are considered as criminals under article 231 of the Criminal Code and not as children in need of care and protection.

240. The Committee recommends that the State party develop a national drug control plan, or a Master Plan, with the guidance of the United Nations Drug Control Programme... The Committee urges the State party to ensure that child drug abusers are not criminalized, but treated as victims in need of assistance towards recovery and reintegration, and that the State party develop preventive and reintegration programmes for children who are victims of substance abuse. The Committee recommends cooperation with and assistance from WHO and UNICEF.

241. ...[T]he Committee is deeply concerned that persons under 18 years of age engaged in prostitution are prosecuted under the Criminal Code, rather than assisted as victims.

242. ...The Committee urges the State party to review its legislation with a view to ensuring that children engaged in prostitution are not criminalized, but rather seen as victims of their circumstances...

...

247. The Committee reiterates its concern about the absence of a system of juvenile justice, in particular the absence of specific laws, procedures and juvenile courts. The Committee is also concerned about: the length of pre-trial detention and the limited access to visitors during this period; the use of detention not as a measure of last resort, and the often disproportionate length of sentences in relation to the seriousness of offences; the conditions of detention; and the absence of facilities for the physical and psychological recovery and social reintegration of juvenile offenders.

248. The Committee...encourages the State party:

- (a) To give priority attention to proposals to establish specific courts to deal with all persons under the age of 18;
- (b) To develop and implement alternative measures to reduce the use and length of pre-trial detention and other custodial sentences;
- (c) To ensure that the deprivation of liberty of juveniles is only used as a measure of last resort, for the shortest possible time, and that children have access to legal aid;
- (d) To ensure that training of prosecutors, judges, lawyers and others involved in the



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administration of justice is carried out systematically and consistently;

(e) To develop programmes and provide facilities for the physical and psychological recovery and social reintegration of juveniles;

- The Netherlands (Netherlands and Aruba), CRC, CRC/C/137 (2004) 63 at paras. 368, 369, 373 and 374.

368. The Committee is concerned that in the Netherlands the definition of an unaccompanied minor seeking asylum does not conform to international standards and may make access to basic services more difficult for the child while in the country. It is also concerned that the determination and rejection of a significant and increasing proportion of applications for refugee status through the 48-hour accelerated procedure are not in keeping with article 22 of the Convention and international standards. Finally, the Committee is concerned that children whose applications for refugee status have been rejected are detained in closed camps with limited possibilities for education and leisure activities. Finally, the Committee is concerned about the lack of formal asylum and protection procedures in Aruba and the current practices with respect to the detention and deportation of illegal migrants.

369. The Committee recommends that the State party in the Netherlands:

- (a) Review the Aliens Act of 2001 and its application to ensure full conformity with international standards applicable to refugees and with the Convention;
- (b) Change the definition in the Act of unaccompanied minors seeking asylum so as to bring it into line with international standards;
- (c) Ensure that the determination of refugee status of minors conforms to international standards, and consequently reconsider the 48-hour accelerated procedure;
- (d) Ensure that the detention of children whose applications for refugee status have been rejected is used only as a measure of last resort, and that all children awaiting expulsion receive adequate education and housing.

...

373. The Committee is concerned that in the State party:

- (a) Children in conflict with the law between the ages of 16 and 18 may be sentenced as adults;
- (b) An increasing proportion of children in conflict with the law in the Netherlands are

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being sentenced to detention;

(c) Juvenile offenders, in the Netherlands, are sometimes detained with children institutionalized for behavioural problems;

(d) There are limited alternatives to detention available in Aruba.

374. The Committee recommends that the State party:

...

(b) Amend legislation in the Netherlands and Aruba so that life imprisonment cannot be imposed on anyone between the age of 16 and 18 and fix a maximum limit for their detention;

(c) Ensure that the detention of juvenile offenders is used only as a measure of last resort;

(d) Avoid detention of juvenile offenders with children institutionalized for behavioural problems;

(e) In Aruba, expedite efforts to create more alternatives to detention for children in conflict with the law;

...

- India, CRC, CRC/C/137 (2004) 75 at paras. 456 and 458.

456. The Committee notes the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2000 but remains concerned that no minimum age of criminal responsibility is fixed in the new Act and that the minimum age of 7 years found in the Penal Code is still in force. The Committee is further concerned that the Supreme Court has decided that the date of the commission of one offence is irrelevant for determining whether the alleged offender is a juvenile (CRC/C/93/Add.5, box 8.7). The Committee is further concerned that the mechanisms to enforce the Act have not been set up in most states and that the Act does not apply to the State of Jammu and Kashmir. In addition, the Committee expresses its concern at the fact that deprivation of liberty is not used only as a measure of last resort. Finally, the Committee is deeply concerned that the Prevention of Terrorism Act, 2002 allows for the prosecution of children by special courts and that the procedure used in these cases does not respect articles 37, 40 and 39 of the Convention.

...

458. ...[T]he Committee recommends that the State party:

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- (a) Amend the Juvenile Justice (Care and Protection of Children) Act, 2000 to set a minimum age of criminal responsibility that shall be higher than that fixed in the Penal Code and reflect internationally accepted norms, and consider this age as the age when the offence was committed;
  - (b) Extend the application of the Juvenile Justice (Care and Protection of Children) Act, 2000 to the State of Jammu and Kashmir;
  - (c) Amend the Prevention of Terrorism Act, 2002 so that it fully respects articles 37, 40 and 39 and other related provisions of the Convention when it is applied to children;
  - (d) Take all necessary steps to establish, as a measure of urgency, the executing state mechanisms necessary for the full implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000;
  - (e) Strengthen training programmes on relevant international standards for all professionals involved with the system of juvenile justice;
  - (f) Strengthen rehabilitation and reintegration programmes;
  - (g) Use deprivation of liberty only as a measure of last resort; and
  - (h) Consider seeking technical assistance from, among others, OHCHR and UNICEF.
- Slovenia, CRC, CRC/C/137 (2004) 104 at paras. 555, 556, 587, 588 and 590.

555. The Committee notes with interest the adoption of the new Civil Procedure Act in 2003, which provides children aged 15 or over and capable of understanding the meaning and legal consequences of their actions with the opportunity to be engaged independently in legal proceedings. The Act also prescribes that the court, when ruling on the upbringing and care of children, must notify a child aged 10 years or over of his or her right to express his or her views. However, the Committee is concerned that children are still often not allowed a possibility to present their views when they are in contact with public institutions and social services, including Social Work Centres.

556. The Committee recommends, in the light of article 12 of the Convention, that measures be taken to ensure that children are given the opportunity to be heard not only in civil law procedures (such as those relating to custody and visitation rights) but in all other legal procedures and decision-making processes, including at Social Work Centres.

Furthermore, the Committee recommends that the right to be heard should be extended also to children below the age of 10 who are able to understand the significance of the

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proceedings.

...

587. The Committee welcomes the Law on Asylum of 1999 and the amendments to the Law on Aliens of 2002 which stipulate that cases involving children and adolescents should be given priority and processed quickly and that a legal guardian should be appointed to separated children in deportation procedures. The Committee is, however, concerned about reports that unaccompanied children are not provided with adequate support during the asylum procedure and that the appointment of a legal guardian to such children takes too long.

588. The Committee recommends that the State party ensure the effective implementation of the Law on Asylum and the amendments to the Law on Aliens concerning asylum claims involving children and the appointment of a guardian to unaccompanied children. The State party should ensure that reception centres have special sections for children and that necessary support, including access to education, is given to children and families throughout the process with the involvement of all authorities concerned with a view to finding durable solutions in the best interests of the child.

...

590. The Committee recommends that the State party ensure the effective implementation of the Rules of Police Authorization under the Police Act, and encourages the State party to ensure that regular special training is provided for police officers on how to deal with children and minors.

- Rwanda, CRC, CRC/C/140 (2004) 36 at paras. 229-231 and 233.

229. The Committee is extremely concerned that persons below the age of 18 at the time of their alleged war crime have not yet been tried, have been detained in very poor conditions, some for a very long time, and are not provided with appropriate services to promote their rehabilitation. The Committee notes the establishment of *gacaca* courts but is deeply concerned that no specific procedure has been established for those who were under 18 at the time of their alleged crime, as required by article 40, paragraph 3, of the Convention, and are still in what could be considered as pre-trial detention.

230. In the light of articles 37, 40 and 39 of the Convention and other relevant international standards, the Committee recommends that the State party take all necessary measures to complete within six months all pending legal proceedings against persons who were below the age of 18 at the time they allegedly committed war crimes.

231. While recognizing the State party's efforts in this domain, including through adopting legislation, decrees and ministerial circulars, the Committee is concerned at the limited progress achieved in establishing a functioning juvenile justice system throughout

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the country. In particular, the Committee is concerned at the lack of juvenile courts, juvenile judges and social workers in this field. In addition, it is deeply concerned at the very poor conditions of detention, due notably to overcrowding in detention and prison facilities, overuse and extremely long periods of pre-trial detention, the length of time before the hearing of juvenile cases, the lack of assistance towards the rehabilitation and reintegration of juveniles following judicial proceedings and the lack of systematic training of judges, prosecutors and prison staff.

...

233. ...[T]he Committee recommends that the State party:

(a) Undertake all necessary measures to ensure that juvenile courts are established and trained juvenile judges appointed in all regions of the country;

(b) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period and limit by law the length of pre-trial detention;

(c) Provide persons under 18 with legal assistance at an early stage of legal proceedings;

(d) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including by addressing the problem of overcrowding in prisons and establishing special prisons for children with conditions suited to their age and needs, and in the meantime guarantee that all persons under 18 are separated from adults in prisons and places of pre-trial detention throughout the country;

(e) Ensure that all persons under 18 in conflict with the law do not receive the same sanctions as adults;

(f) Ensure that persons under 18 remain in regular contact with their families while in the juvenile justice system;

(g) Introduce regular medical examination of inmates by independent medical staff;

(h) Establish an independent child-sensitive and accessible system for individual complaints for persons under 18;

(i) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

(j) Make every effort to establish a programme of rehabilitation and reintegration of juveniles following judicial proceedings; and

(k) Request technical assistance in the area of juvenile justice and police training from,

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among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF.

- Liberia, CRC, CRC/C/140 (2004) 67 at paras. 328, 329, 368 and 370.

328. The Committee is seriously concerned that respect for the inherent right to life of a person under 18 is not fully guaranteed under the law in the State party. The Committee is particularly concerned about the applicability of the death penalty for crimes committed by children aged 16 and 17 years of age and emphasizes that such a penalty is in violation with article 37 (a) of the Convention.

329. The Committee urges the State party to amend its Penal Law in accordance with article 37 (a), and to abolish by law the imposition of the death penalty for crimes committed by persons under 18 years of age and replace the already issued death sentences for children under 18 with a sanction in accordance with the Convention.

...

368. The Committee is concerned that the juvenile justice system does not conform to international norms and standards. While noting that the minimum age for criminal responsibility is set at 16, the Committee is concerned that children under the age of 16 are nevertheless held criminally responsible in juvenile court procedures. In particular, it is concerned about the lack of separate detention facilities for persons below the age of 18 and the poor living conditions in these facilities. The fact that capital punishment and imprisonment without possibility of release can be applied under Penal Law to children aged 16 and 17 years at the time the crime was committed is also a major issue of concern for the Committee.

...

370. ...[T]he Committee recommends that the State party:

(a) With regard to the minimum age of criminal responsibility, make sure that children under 16 years of age who have committed an offence and are dealt with through the present procedure only face protective and educative measures;

(b) In the light of article 37, subparagraph (a), urgently amend the Penal Law to ensure that neither capital punishment nor life imprisonment without possibility of release can be imposed for offences committed by persons below the age of 18;

(c) Take all necessary measures to establish juvenile courts and appoint trained juvenile judges in all regions of the State party and ensure that all children accused of a crime are accorded their right to due process;

(d) Take all necessary measures to establish separate detention facilities for juveniles,

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including through technical cooperation.

- Myanmar, CRC, CRC/C/140 (2004) 81 at paras. 399 and 400.

399. The Committee notes that the 1993 Child Law makes a distinction between a child (up to the age of 16 years) and a youth (between 16 and 18 years) and is concerned that youth as defined by the Law do not have the same rights as children. The Committee is further concerned that the minimum age of criminal responsibility is set at 7 years of age, which is much too low, and that children between 16 and 18 years are treated as adults under the penal law of the State party. Furthermore, the Committee is concerned that there is no minimum age for marriage for boys and that marriage of girls as young as 14 is allowed with parental consent.

400. The Committee recommends that the State party recognize that all persons below the age of 18 are entitled to special protection measures and specific rights as enshrined in the Convention, and that it raise the minimum age for criminal responsibility to an internationally acceptable age. The Committee also recommends that the State party raise the minimum age for marriage for girls to an internationally acceptable age.

- Dominica, CRC, CRC/C/140 (2004) 101 at paras. 503 and 505.

503. The Committee is concerned at the lack of juvenile courts and at the fact that children may be sentenced to a penalty at the "President's pleasure", to life imprisonment and to whipping in private.

...

505. The Committee...recommends that the State party:

(a) Review the sentencing of children at the "President's pleasure" so that the decision is in the hands of the judge;

(b) Abolish the sentences of whipping and life imprisonment;

(c) Separate children from adults in detention, including in pre-trial detention centres.

- Democratic People's Republic of Korea, CRC, CRC/C/140 (2004) 111 at paras. 575 and 576.

575. The Committee takes note that most persons under the age of 17 in conflict with the law are dealt with without resorting to judicial proceedings, but the Committee remains unclear on how the safeguards enshrined in the Convention, especially in articles

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37 and 40, are fully respected in this regard. In particular, it is concerned about the independence and impartiality of the authority taking the sentencing decisions. The Committee remains also unclear about the type of sentencing, called “public education measures”, which is applied to persons under 17. Furthermore, the Committee is very concerned that persons aged 17 are considered and treated as adults in the justice system, and therefore do not benefit from the special protection measures recognized in the Convention and can be sentenced to “reform through labour”.

576. The Committee recommends that the State party:

(a) Review its legislation and policies to ensure that the treatment of all persons in conflict with the law under the age of 18 conforms entirely to international juvenile justice standards and, in particular, articles 37, 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and ensure its full implementation;

(b) Amend the law so that persons under 18 are not sentenced to “reform through labour”;

...

(e) Develop programmes for the reintegration of juvenile offenders, including those that were subject to education measures instead of detention; and

...

- France, CRC, CRC/C/140 (2004) 124 at paras. 600, 601, 629 and 630.

600. The Committee welcomes the legislative efforts made by the State party to reinforce the rights of the child to express her/his views freely in all matters concerning her/him and have them duly taken into account. However, the Committee remains concerned at inconsistencies in legislation as well as the fact that in practice, the interpretation of the legislation, and determination of which child is “capable of discernment”, may leave possibilities of denying a child this right or make it subject to the child’s own request and may give rise to discrimination. In addition, the Committee is concerned at the conclusion of the Special Rapporteur on the sale of children, child prostitution and child pornography that, in practice, most judges are not willing to hear children and that in the past, justice has failed child victims of sexual abuse (E/CN.4/2004/9/Add.1, paras. 85 and 89).

601. The Committee recommends that the State party review legislation with a view to removing inconsistencies related to the respect for the views of the child. Furthermore, it is encouraged to continue to promote and facilitate, within the family, schools, institutions as well as in judicial and administrative proceedings, respect for the views of children and their participation in all matters affecting them, in accordance with article 12



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of the Convention, as a right they are informed of, not merely a possibility. It further encourages the State party to provide educational information to parents, teachers and headmasters, government administrative officials, the judiciary, children themselves and society-at-large with a view to creating an encouraging atmosphere in which children can freely express their views, and where in turn, these are given due weight.

...

629. The Committee notes the efforts of the State party to address the situation of unaccompanied minors by providing them assistance during their time in the holding area by an "ad hoc administrator" who replaces a legal representative. However, the Committee also notes that the number of minors in such situations has been steadily increasing, and that the implementation of the new legislation remains a challenge. Foreign unaccompanied minors continue to be deprived of their liberty and placed in detention with adults. The Committee is also concerned that unaccompanied children arriving at the airport may be returned to the country of origin without judicial intervention and without an evaluation of their family situation. It is further concerned at the absence of clear instructions to coordinate and facilitate access to basic services by these children for the protection of their rights. In addition to this, the age determination process allows for errors which may lead to minors not being accorded protection they are entitled to.

630. The Committee recommends that the State party pursue its efforts in this area, and, in particular:

(a) To ensure a coordinated approach to the collection of information and statistics, allowing a response commensurate to the needs;

(b) To establish norms that orient and coordinate actions aimed at guaranteeing access to basic services, in particular education, health and legal assistance;

(c) To consider introducing recent methods of age determination which have proven more accurate than the method in use.

- Kyrgyzstan, CRC, CRC/C/143 (2004) 50 at paras. 278, 279 and 306-308.

278. The Committee is concerned that persons below 18 allegedly continue to be subjected to torture and cruel treatment, in many cases when in police custody or awaiting trial. Access to legal counsel and/or medical services and communication with their families also seems limited for young persons in police custody. The Committee is also concerned that the complaint procedures for these abuses are not child-sensitive and have not proven to be efficient as no sanctions seem to have been applied.

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279. The Committee recommends that the State party:

(a) Undertake all necessary measures to prevent acts of torture and inhuman or degrading treatment or punishment, in particular through training of the police forces;

(b) Take measures to investigate, prosecute and sanction those involved in committing acts of torture and inhuman or degrading treatment or punishment against children and young persons;

...

(d) Establish programmes for the rehabilitation and reintegration of the victims.

...

306. The Committee is concerned that the State party has not yet established specific procedures and courts to deal separately with juvenile offenders under the justice system.

Parents, doctors and lawyers are not guaranteed access to those persons below 18 who are arrested. The Committee is also concerned at the lack of vocational training or rehabilitation programmes for those below 18 who have been detained.

307. The long pre-trial detention periods, the harshness of the punishments given to those below 18 when found guilty (up to 15 years in prison) and the lack of alternative penalties to deprivation of liberty for those under the age of 14 are also of concern to the Committee. The Committee notes that when determining the criminal responsibility of a minor, differences exist between those under the age of 14 years and those under 16 years. The Committee is also concerned at the fact that juveniles, in particular girls, are being detained with adults.

308. The Committee recommends that the State party ensures the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's 1995 day of general discussion on the administration of juvenile justice. In this regard, the Committee encourages the State party as a matter of priority:

(a) To expedite its work on reform of the system of juvenile justice in order for children to be tried under a specific juvenile justice system and not the ordinary justice system;

(b) To review the existing distinction regarding criminal responsibility of minors under 14 years and those under 16 years, and ensure that alternative penalties to the deprivation of liberty exist for all minors;

(c) To ensure that pre-trial detention is used only in exceptional cases, and when this does occur, that access to relatives/representatives and to doctors and lawyers is

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guaranteed;

(d) To undertake all necessary measures, including through technical cooperation, to establish separate detention facilities for juveniles;

(e) To review the mandate and restructure the Commission on Minors' Affairs with a view to removing its punitive functions;

(f) To ensure that the Akzakal Courts (Elders' Courts), when dealing with children in conflict with the law, fully apply the principles and provisions of the Convention; and

(g) To seek technical assistance from the OHCHR and UNICEF in this regard.

- Equatorial Guinea, CRC, CRC/C/143 (2004) 64 at paras. 371 and 372.

371. The Committee is deeply concerned about the lack of a juvenile justice system in the country. In particular, the Committee is concerned about the lack of juvenile courts and about the detention of persons below 18 with adults, in very poor conditions and without access to basic services.

372. The Committee recommends that the State party ensure the full implementation of juvenile justice standards, and in particular articles 37, 40 and 39 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, and of the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238). In this regard, the Committee recommends that the State party, in particular:

(a) Set up independent and effective juvenile courts;

(b) Limit by law the length of pre-trial detention and ensure that the lawfulness of such detention is reviewed by a judge without delay and regularly;

(c) Improve the conditions of detention and imprisonment of persons below 18, notably by establishing special institutions for them with conditions suitable to their age and needs;

(d) Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prison guards, and establish an independent,

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child-sensitive and accessible system for the receipt and processing of complaints by children;

(e) Ensure that children deprived of their liberty remain in regular contact with their families while in the juvenile justice system, notably by informing parents when their child is detained;

(f) Request technical assistance in the area of juvenile justice and police training from, *inter alia*, OHCHR and UNICEF.

- Antigua and Barbuda, CRC, CRC/C/143 (2004) 93 at paras. 520 and 521.

520. The Committee is concerned at the very low minimum age of criminal responsibility, which is set at 8, and at the possibility that a person under 18 years can be sentenced to life imprisonment for murder. The Committee is further concerned that persons under 18 are not separated from adults when in detention, and that other problems in the administration of juvenile justice exist in the State party, including:

(a) A juvenile (defined as a person under the age of 16 years) can be tried as an adult if charged with an adult for a homicide;

(b) A juvenile as young as 8 can be requested to appear before the court;

(c) There are no separate facilities for persons under 18 and that they can be placed in adult prisons, which are reported to be overcrowded and in poor condition;

(d) Section 7 of the Juvenile Court Act stipulates that a juvenile can be detained in "any place of safety, including a prison" if he/she is deemed to be "of such an unruly character or so depraved a character"; and

(e) Persons under 18 years of age can be sent to prison, possibly for life, for murder or treason, since, by the State party's own admission, the law does not stipulate the length of such incarceration.

521. The Committee recommends that the State party review its legislation and policies to ensure the full implementation of juvenile justice standards, in particular article 37 (b) and article 40, paragraph 2 (b) (ii)-(iv) and (vii), of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), and in the light of the Committee's 1995 day of general

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discussion on the administration of juvenile justice (see CRC/C/46). In this regard, the Committee recommends that the State party, in particular:

- (a) Raise the minimum age of criminal responsibility to an internationally accepted level;
- (b) Amend legislation so that juveniles are not brought before an adult court;
- (c) Ensure that detained children are always separated from adults and that deprivation of liberty is used only as a last resort, for the shortest appropriate time and in appropriate conditions; and
- (d) In cases where deprivation of liberty is unavoidable and used as a last resort, improve procedures of arrest and conditions of detention and establish special units within the police for the handling of cases of children in conflict with the law.

- Sweden, CRC, CRC/C/146 (2005) 8 at paras. 47 and 48.

47. The Committee welcomes the various programmes and legislative reforms, such as the “influence forums” and the right of the child to have his/her views heard in legal proceedings and in school matters, established by the State party to reinforce the rights of the child to express her/his views freely in all matters concerning her/him and have them duly taken into account. However, the Committee remains concerned that, despite the remarkable efforts, some children and young persons do not feel they have any real influence in matters concerning their life in society.

48. The Committee recommends that the State party:

- (a) Ensure that administrative or other decisions relevant to children contain information on how the views of the children were solicited, on the degree to which the views of children were adopted and why;
- (b) Consider providing children in very conflicting custody and visitation disputes with appropriate assistance.

- Albania, CRC, CRC/C/146 (2005) 19 at paras. 96, 97, 151 and 152.

96. The Committee welcomes the information that the age of marriage is now 18 years for all children and that discrimination contained in previous legislation has been removed. However, the Committee notes the lack of clarity related to the status of

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children between 14 and 18 years (e.g. in the areas of sexual abuse or exploitation, juvenile justice) and is concerned that children in this age group may not be accorded the special protection or the rights they are entitled to in accordance with the Convention.

97. The Committee recommends that the State party take all necessary measures to clarify the definition of the child in Albania and that existing legislation be reviewed to ensure that all children under 18 years of age receive the protection they need as provided for in the Convention.

...

151. The Committee welcomes the information provided by the State party on legislative measures taken to improve compliance with the provisions of the Convention.

But the Committee is concerned at the lack of implementation of the existing provisions and the lack of an effective juvenile justice system of specialized police prosecutors, judges and social workers to deal with children in conflict with the law.

152. The Committee recommends that the State party:

(a) Ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the Committee's day of general discussion, held in 1995, on the administration of juvenile justice;

(b) Pay in this effort, as a matter of priority, particular attention to:

i) The need to take measures to prevent and reduce the use of pre-trial and other forms of detention and to make this detention as short as possible, *inter alia*, by developing and implementing alternatives to detention such as community service orders, interventions of restorative justice, etc.;

ii) The need to train police officers, prosecutors, judges and others involved in the process of dealing with children in conflict with the law, in order to, *inter alia*, make sure that these children are interrogated by trained police officers who notify parents immediately about their child's arrest and who encourage the presence of legal assistance for the child;

iii) The need to promote, in accordance with article 40, paragraph 1, of the Convention, social reintegration of children in the society;

(c) Strengthen preventive measures, such as supporting the role of families and

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communities in order to help eliminate the social conditions leading to problems such as delinquency, crime and drug addiction;

(d) Seek technical assistance from, among others, OHCHR and UNICEF.

- Luxembourg, CRC, CRC/C/146 (2005) 36 at paras. 192, 193, 216 and 217.

192. While the Committee notes that placements are reviewed every three years and that Youth Court judges frequently visit minors in institutions, it is concerned that decisions to place young people either in “open centres” (State Socio-Educational Centres) or in “closed centres” (Luxembourg Prison) are given for indeterminate periods and that review intervals are very long.

193. The Committee recommends that the State party introduce the rule that placement of children in foster care or in institutions may only be ordered for a fixed period, e.g. one year, with the possibility of prolonging the placement for another fixed period, which should provide for a regular review of the conditions of and the need for placement.

...

216. While the Committee notes the positive steps taken by the State party through the recent adoption of the Act of 16 June 2004, it remains concerned about:

(a) The placement of persons under 18 in detention centres for adults, resulting in frequent contacts between both groups (even if they live in separate cells);

(b) The fact that persons under 18 who are in conflict with the law and those having social or behavioural problems are placed in the same structures;

(c) The fact that persons between 16 and 18 years of age may be referred to ordinary courts and judged as adults in case of crimes of particular gravity;

(d) The placing of persons under 18 in solitary confinement...

217. ...[T]he Committee recommends that the State party, in particular:

(a) Establish separate detention facilities for persons under 18;

(b) Take measures to prevent and reduce the use of pre-trial and other forms of detention and to make this detention as short as possible, inter alia, by developing and implementing alternatives to detention, such as community service orders, interventions of restorative justice, and so on;

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- (c) Keep persons under 18 who are in conflict with the law separate from persons under 18 with social or behavioural problems;
  - (d) Avoid, in all cases, persons under 18 being tried as adults;
  - (e) Set up an independent monitoring body to inspect regularly juvenile facilities.
  
- Austria, CRC, CRC/C/146 (2005) 47 at paras. 269 and 270.
  - 269. While the Committee acknowledges the efforts undertaken by the State party at the Federal and Länder level to increase the number of adequate accommodation places for unaccompanied and separated asylum-seeking children, it remains concerned that the existing reception facilities are still insufficient compared to the number of applicants and that unaccompanied and separated asylum-seeking children are not systematically assigned guardians.
  - 270. The Committee recommends that the State party:
    - (a) Ensure that guardians are systematically assigned to unaccompanied and separated asylum-seeking children and that the best interests of the child are duly taken into account;
    - (b) Ensure that all interviews with unaccompanied and separated asylum-seeking children are carried out by professionally qualified and trained personnel;
    - (c) Provide for adequate accommodation, taking into account the state of development of all unaccompanied and separated asylum-seeking children;
    - (d) Fully take into account the principle of the best interests of the child when deciding on the deportation of unaccompanied and separated asylum-seeking children and to avoid their placement in custody pending deportation.
  
- Belize, CRC, CRC/C/146 (2005) 59 at paras. 315, 316, 362 and 363.
  - 315. The Committee is deeply concerned about the practice of early marriages and the low minimum age for marriage (14 years), criminal liability (7 years), admission to hazardous work (14 years) and to part-time work (12 years). With regard to the age-limit for sexual consent (16 years; females only), the Committee is concerned that persons under 18 years are not allowed to have any medical counselling, including



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counselling on reproductive health, without parental consent. The Committee welcomes the information from the Government's delegation that efforts are being made to improve the situation.

316. The Committee recommends that the State party continue and strengthen its efforts:

- (a) To raise the minimum age of criminal responsibility to an internationally acceptable level;
- (b) To raise the minimum age for admission to hazardous work to 18 years;
- (c) To raise the minimum legal age of marriage for both girls and boys and to undertake awareness-raising campaigns concerning the many very negative consequences resulting from early marriages in order to reduce and prevent this practice;
- (d) To regulate the possibility for children of a certain age to seek and receive legal and medical counselling without parental consent;
- (e) To make all provisions for minimum ages more consistent with the provisions and principles of the Convention.

...

362. While noting with appreciation the establishment of the Community Rehabilitation Department in 2001, the Committee reiterates its serious concern at the low minimum legal age of criminal responsibility and the large number of children in detention. The Committee notes the improvements made in the Family Court of Belize, but notes that a juvenile court only exists in Belize City, while juveniles living in other districts are tried in magistrate's courts. The Committee shares the State party's concern that the district-based magistrate's courts continue to fall short of being child-sensitive and adequately trained to be sensitive enough to the provisions of the Convention. With respect to domestic legislation for the administration of juvenile justice, including alternative forms of punishment, the Committee expresses its concern about the deficiencies in the implementation of the said provisions. The Committee is deeply concerned about the fact that children as young as 9 years of age can be sentenced to life imprisonment without provision for parole. Furthermore, the Committee is concerned about the inadequate conditions of the Boot Camp detention unit at the Hattieville Prison.

363. The Committee recommends that the State party establish a system of juvenile justice that fully integrates into its legislation, policies and practice the provisions and principles of the Convention, in particular articles 37, 39 and 40, and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the

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United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the Day of General Discussion on the Administration of Juvenile Justice, held by the Committee in 1995. In this regard, the State party is recommended to take measures, in particular:

- (a) To establish juvenile courts staffed with appropriately trained professional staff in each district of the country;
- (b) To raise the minimum age of criminal responsibility to an internationally accepted level;
- (c) As regards life imprisonment of children without provision for parole, to urgently review its domestic legislation, particularly the provisions of the Indictable Procedures Act (chapter 96 of the Laws of Belize) and the Court of Appeal Act (chapter 90 of the Laws of Belize), in order to bring its domestic laws into full conformity with the provisions and principles of the Convention;
- (d) To ensure that detained persons under the age of 18, including in pre-trial detention, are always separated from adults, and that deprivation of liberty is used only as a measure of last resort, for the shortest period of time and in appropriate conditions;
- (e) In cases where deprivation of liberty is unavoidable and used as a last resort, to improve procedures of arrest and conditions of detention and establish special units within the police for the handling of cases of juveniles in conflict with the law;
- (f) To seek technical assistance from, among others, OHCHR, the United Nations Office on Drugs and Crime and UNICEF.

- Bahamas, CRC, CRC/C/146 (2005) 77 at paras. 373 and 374.

373. The Committee welcomes the adoption of the Status of Children Act in 2002 which, *inter alia*, abolished the distinction between children born in wedlock and children born out of wedlock, particularly in relation to intestacy.

374. The Committee also notes with appreciation the adoption of the Inheritance Act in 2002, which makes provision for all children to have equal rights or entitlement in circumstances where property is distributed on intestacy.

- Togo, CRC, CRC/C/146 (2005) 104 at paras. 587 and 588.

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587. The Committee is concerned about the absence of a juvenile justice system compatible with the provisions and principles of the Convention, particularly about:

- (a) The very limited number of qualified judges for juveniles;
- (b) The long pre-trial detention periods;
- (c) The lack of alternatives to detention for persons under 18 in conflict with the law;
- (d) The lack of access to free legal advice;
- (e) The fact that persons under 18 are often detained with adults and in very poor conditions.

588. The Committee recommends that the State party review its legislation, policies and budgets to ensure the full implementation of juvenile justice standards, in particular article 37(b) and article 40, paragraph 2(b)(ii)-(iv) and (vii) of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the Committee's day of general discussion on the administration of juvenile justice, held in 1995. In this respect, it is specifically recommended that the State party:

- (a) Take immediate measures to ensure that deprivation of liberty is used only as a last resort and for the shortest appropriate period of time and in appropriate conditions;
- (b) Develop alternative measures to deprivation of liberty;
- (c) In cases where deprivation of liberty is unavoidable:
  - (i) Improve procedures of arrest and conditions of detention;
  - (ii) Ensure that persons under 18 are not detained with adults;
  - (iii) Ensure that children are only detained for the shortest time possible;
- (d) Establish special units within the police for the handling of cases of persons under 18 in conflict with the law;

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- (e) Guarantee availability of legal advice and of specialized judges for juveniles in all jurisdictions;
  - (f) Establish rehabilitation and reintegration programmes;
  - ...
  - (h) Seek technical cooperation from, among others, OHCHR and UNICEF.
- Bolivia, CRC, CRC/C/146 (2005) 121 at paras. 650, 651, 660 and 661.
    - 650. The Committee notes with concern the lack of specific procedures for providing special care and assistance to children, in particular unaccompanied minors and separated children, under the refugee determination system.
    - 651. The Committee recommends that the State party establish a fully functioning and comprehensive refugee status determination mechanism, ensuring full respect for the principle of *non-refoulement*, and, in particular, introduce specific procedures for the treatment of unaccompanied and separated minors.
    - ...
    - 660. The Committee welcomes the legislative improvements in the rules applicable to children in conflict with the law. However, it is concerned that the juvenile justice system still has serious shortcomings in practice, such as the lack of adequate alternatives to pre-trial and other forms of detention, the very poor living conditions of juveniles detained in police stations or other institutions, the length of pre-trial detention and the fact that according to the information provided in the written replies thousands of persons below the age of 18 are detained with adults.
    - 661. The Committee recommends that the State party take the necessary measures to ensure that the rules, regulations and practice of the juvenile justice system are in conformity with articles 37, 39 and 40 of the Convention and other relevant international standards and are applied with respect to all persons below 18 years who are in conflict with the law. In this regard, the Committee more specifically recommends that the State party:
      - (a) Develop and implement alternatives to pre-trial and other forms of detention in order to ensure that deprivation of liberty is really a measure of last resort for the shortest time possible;
      - (b) Develop and implement adequate socio-educational programmes and appropriate probation and parole arrangements for juvenile offenders;
      - (c) Take the necessary measures to significantly improve the living conditions of juveniles deprived of their liberty and ensure that they are separated from adults;

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- (d) Ensure that new detention centres for juveniles are not located in remote areas and are equipped with the necessary facilities for the rehabilitation of juveniles;
  - (e) Continue and strengthen the training on the Convention and other relevant legislation for those responsible for administering juvenile justice;
  - (f) Seek assistance from OHCHR, the Centre for International Crime Prevention, regional institutions and UNICEF.
- Nigeria, CRC, CRC/C/146 (2005) 135 at paras. 742 and 745.

742. The Committee notes with appreciation the efforts made by the State party to reform the Juvenile Justice Administration (JIA), including the establishment of a National Working Group on Juvenile Justice Administration in 2002 and the introduction of the draft National Policy on Child Justice Administration in Nigeria for discussion. However, the Committee remains gravely concerned that the juvenile justice system in the State party, in particular, the sharia court system, does not conform to international norms and standards, in particular that:

    - (a) Until the enactment of the Child Rights Act in all states, wide disparities remain in the minimum age of criminal responsibility, some much too low by international standards;
    - (b) Juvenile offenders are frequently subjected to physical assaults by the police and custodial officers;
    - (c) Placement of persons below 18 in the same detention and prison facilities with adults;
    - (d) Excessive length of detention, which in some cases can last as long as eight years;
    - (e) Excessive length of time before the hearing of cases;
    - (f) Persons below 18 are often tried in adult courts;
    - (g) Persons below 18 are often not legally represented during their trials;
    - (h) Some children are detained for “status offences” such as vagrancy, truancy or wandering, or at the request of parents for “stubbornness or for being beyond parental control”;

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- (i) Serious overcrowding and the poor conditions of homes and juvenile centres for persons below 18 in conflict with the law, as well as prisons in which they are placed;
- (j) Lack of trained professionals working in such institutions;
- (k) Absence of assistance towards the rehabilitation and reintegration of persons below 18 following judicial proceedings; and
- (l) Article 12 of the Child and Young Persons Act and article 319 (2) of the Criminal Code, as well as the sharia Penal Codes in 12 northern states which allow for imposition of death penalty on persons below 18.

...

745. ...[T]he Committee urges the State party to, in particular:

- (a) Ensure that the minimum age for criminal responsibility is applicable in all 36 states forming the State party by taking measures and actions as recommended in paragraph 676 above;
- (b) Guarantee that all persons below 18 have the right to appropriate legal assistance and defence and ensure speedier fair trials for them;
- (c) Develop and implement alternative measures for deprivation of liberty in order to really make detention a measure of last resort for the shortest possible time;
- (d) In cases where deprivation of liberty is unavoidable, ensure that the conditions of detention are in full compliance with, in particular, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;
- (e) Amend, as a matter of urgency, the Child and Young Persons Act and the Criminal Code, as well as the sharia Penal Codes to abolish death penalty as well as cruel, inhuman and degrading treatment on juvenile offenders, and in the meantime take measures, as a matter of priority, to ensure that persons under 18 are not sentenced to torture, cruel, inhuman and degrading forms of sanction such as flogging and amputation by sharia courts;
- (f) Introduce, as a matter of priority, training programmes on relevant international standards for all professionals involved in the system of juvenile justice and establish special units within the police for the handling of cases of persons below 18 in conflict with the law;
- (g) Make every effort to establish a programme of rehabilitation and reintegration of juveniles following judicial proceedings;

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(h) Enact an amendment to the Children and Young Persons Act, prohibiting all forms of corporal punishment in penal institutions;

(i) Seek technical assistance from, among others, OHCHR and UNICEF.

- Saint Lucia, CRC, CRC/C/150 (2005) 10 at paras. 97 and 98.

97. The Committee is concerned that the legal provisions and the practice of the administration of juvenile justice do not fully comply with the provisions of articles 40, 39 and 37 of the Convention and other relevant international standards, in particular the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (General Assembly resolution 40/33) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (General Assembly resolution 45/112). The Committee is further concerned:

(a) At the lack of State provisioning for females below 18 years in conflict with the law;

(b) That the sentence of life imprisonment is not excluded for persons below the age of 18 years as stated in the State party report ([CRC/C/28/Add.23,] para. 285);

(c) That rehabilitation and social reintegration for those persons below the age of 18 years who have been in conflict with the law is not emphasized within services meant to provide these benefits and that facilities and programmes for the rehabilitation and social reintegration of female juveniles who have been involved in the administration of the juvenile justice system do not exist.

98. The Committee recommends that the State party continue to strengthen its efforts to improve the juvenile justice system in order to ensure the full implementation of juvenile justice standards, in particular article 37 (b), articles 40 and 39 of the Convention as well as the above-mentioned international standards and in the light of the Committee's day of general discussion on the administration of juvenile justice. In this regard, the Committee particularly recommends that the State party:

(a) Abolish the provisions which allow the imposition of a life sentence on children aged 16 or 17 at the time of the commitment of the crime and ensure that children aged 16 and 17 are not considered as adults and are afforded the same protection as younger children under the justice system;

(b) Abolish the criminalization of behavioural problems such as truancy and vagrancy (State offence);

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- (c) Develop and implement alternative sanctions such as community service or restorative justice, in order to make deprivation of liberty a measure of last resort;
  - (d) Establish a separate facility for custodial care of female juvenile offenders;
  - (e) Improve the quality of the Boy's Training Centre in terms of its housing conditions and the quality of the care as well as education provided to juveniles in that Centre;
  - (f) Establish a system of well-trained advocates, legal administrators for juveniles in conflict with the law and train professionals such as police officers, prosecutors and judges dealing with persons below the age of 18 in conflict with law;
  - (g) Seek technical assistance from, *inter alia*, UNICEF and the Office of the United Nations High Commissioner for Human Rights.
- Philippines, CRC, CRC/C/150 (2005) 24 at paras. 141, 142 and 192-194 .

141. The Committee notes that the Constitution of the Philippines prohibits torture and that the provisions of the Child and Youth Welfare Code (Presidential Decree No. 603) provide protection for children against torture and ill-treatment and that all hospitals, clinics, related institutions and private physicians are obliged to report in writing all cases of torture and ill-treatment of children. Nevertheless, the Committee is deeply concerned at a number of reported cases of torture, inhuman and degrading treatment of children, particularly for children in detention. The Committee reiterates its previous recommendation on prohibiting and criminalizing torture by law and it is of the view that existing legislation does not provide children with an adequate level of protection against torture and ill-treatment.

142. As regards torture and other cruel, inhuman or degrading treatment or punishment, the Committee urges the State party to review its legislation in order to provide children with better protection against torture and ill-treatment in the home and in all public and private institutions and to criminalize torture by law. The Committee recommends that the State party investigate and prosecute all cases of torture and ill-treatment of children, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected. The State party should ensure that child victims are provided with appropriate services for care, recovery and reintegration. The Committee recommends that the State party continue its efforts in training professionals working with and for children, including teachers, law enforcement officials, care providers, judges and health personnel in the identification, reporting and management of cases of ill-treatment.

...



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192. The Committee is seriously alarmed at the high level of crime and the high number of persons below 18 years of age in detention in the State party, the persistent violations of the rights of children in conflict with the law, the alleged cases of torture, abuse, including sexual abuse and other forms of degrading treatment of persons below 18 years of age in detention, and the overall deficiencies in the administration of the Philippine juvenile justice system. The Committee notes with deep concern that adequate legislation governing juvenile justice is lacking and that a proposed bill on the Comprehensive Juvenile Justice System and Delinquency Prevention Programme has been pending in Congress since 1999. While noting that an Administrative Order issued in February 2000 designated Regional Trial Courts as Family Courts, the Committee is concerned about the lack of child-sensitive and adequately trained juvenile courts.

193. Furthermore, the Committee is concerned about the very low minimum age of criminal responsibility (9 years). Referring to the provisions on youth detention homes of the Child and Youth Welfare Code and the Rules and Regulations on the Apprehension, Investigation, Prosecution and Rehabilitation of Youth Offenders (Presidential Decree No. 603), the Committee is concerned about the inadequate implementation of these provisions and the placement of persons below 18 years of age together with adults in detention. Unlawful detention of children, street children for instance, for the extended period of time and limited, or lacking access to appropriate legal aid and assistance and adequate social and health services give cause for serious concern. In addition, the Committee is concerned about unreasonable amounts requested for bail, which cause insurmountable financial obstacles for children and their parents, limitations as regards the suspension of sentences and poor detention conditions, including so-called secret cells.

194. The Committee urges the State party to ensure that its legislation and practice concerning juvenile justice is in full compliance with the provisions of the Convention, in particular articles 37, 39 and 40, as well as other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (General Assembly resolution 40/33), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (General Assembly resolution 45/112), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113) and the Guidelines for Action on Children in the Criminal Justice System (annexed to Economic and Social Council resolution 1997/30 of 21 July 1997). In this regard, the Committee recommends to the State party in particular that it:

(a) Adopt, as a matter of urgency, a proposed bill on Comprehensive Juvenile Justice System and Delinquency Prevention Programme and raise the minimum age of criminal responsibility to an internationally acceptable level;

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- (b) Ensure that deprivation of liberty is used only as a measure of last resort, for the shortest possible time and in appropriate conditions, and that persons below 18 years of age are not detained with adults;
  - (c) Establish juvenile courts staffed with sufficient, appropriately trained professional personnel;
  - (d) Ensure that persons below 18 years of age have access to legal aid and independent and effective complaints mechanisms;
  - (e) Implement alternative measures to deprivation of liberty, such as probation, community service or suspended sentences;
  - (f) Train professionals in the area of recovery and social reintegration of children;
  - (g) Continue to seek technical assistance from, *inter alia*, the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and UNICEF.
- Bosnia and Herzegovina, CRC, CRC/C/150 (2005) 49 at paras. 275 and 276.

275. The Committee notes the information that all courts have councils for persons under 18 and that first-instance courts also have judges for persons under 18, but that specific juvenile courts do not exist *per se*. The Committee is concerned at:

    - (a) The lack of sufficient data concerning the number of persons under 18 in conflict with the law;
    - (b) The inadequate research, studies or evaluation mechanisms on prevention activities or on the adequacy of existing measures;
    - (c) The stigmatization of children in conflict with the law;
    - (d) The lack of alternative measures to detention and forms of rehabilitation for children in conflict with the law;
    - (e) The lack of appropriate places for deprivation of liberty for persons under 18, who are often detained together with adults;
    - (f) The poor material conditions of detention of persons under 18 deprived of their liberty;

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(g) The inadequate access to education for persons under 18 held in detention.

276. The Committee recommends that the State party bring the system of juvenile justice fully in line with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System; and the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238). In this regard, the Committee recommends the State party in particular to:

(a) Ensure systematic training for judges and councils for persons under 18;

(b) Take all necessary measures to ensure that persons under 18 are only deprived of liberty as a last resort and for the shortest appropriate period of time and that when in custody they are in any case separated from adults;

(c) Provide that persons under 18 placed in prisons - including remand prisons - are given a full programme of educational activities (including physical education);

(d) Take urgent steps to substantially improve the conditions of detention of persons under 18 deprived of their liberty in conformity with international standards;

(e) Set up more precise legal regulation on the process of diversion, as provided by article 40, paragraph 3, of the Convention;

(f) Define more clearly the conditions of supervision of juvenile detainees ordered by the juvenile judge;

(g) Consider amending the current prison sentences applicable to persons between 16 and 18 who have committed a crime, by eliminating the 1-year minimum term of imprisonment as well as by reducing the 10-year maximum term;

(h) Establish the right to a defence counsel from the beginning of the criminal proceedings in the Republika Srpska;

(i) Seek technical assistance from the UNICEF and OHCHR, among others.

- Nepal, CRC, CRC/C/150 (2005) 66 at paras. 334, 335, 379 and 381.

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334. Given the significant number of Nepalese children who are adopted by foreigners and in the context of the current armed conflict in the State party, the Committee is concerned at the lack of a clear policy and appropriate legislation on intercountry adoption, which results in various practices, such as trafficking and smuggling of babies.

The Committee is particularly concerned about the absence of due judicial process, including technical assessment of the capacity of the parents or guardians, in cases involving termination of the parental responsibility. The Committee also expresses concern regarding the practice of the so-called informal adoption, which may entail exploitation of children as domestic servants.

335. The Committee recommends the State party to develop and implement policies and legal provisions regarding intercountry adoption to guarantee that the practice of this form of adoption is in full conformity with the principles and provisions of the Convention, in particular, article 21. In this regard, the Committee recommends the State party to, in particular:

(a) Ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, in order to *inter alia*, prevent trafficking and smuggling of children;

(b) Review the current mechanisms and procedures for domestic and intercountry adoption, particularly the role and the responsibilities of the national and district level decision-making bodies with a view to ensuring that professionals responsible for adoption cases are fully equipped with the technical expertise needed to review and process cases in the light of the Hague Convention;

(c) Develop and implement strict criteria for the adoption of Nepalese children, ensuring in particular that reasonable time is given for an effective tracing of the parents or close relatives of children separated from them as a result of the armed conflicts, and abolish the provisions in the Conditions and Procedures made to provide Nepalese Children to Foreign Nationals for Adoption (2000), that states that poverty of the parents of a child can be a legal ground for adoption;

(d) Ensure that exhaustion of all means to prevent termination of parental responsibility and/or separation of the child is set as a clear criteria in all cases involving adoption;

(e) Regulate and monitor the practice of placing children with close relatives or others, to prevent children from being exploited, and to ensure that all their rights, including the right to education and to health care are fully respected.

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379. The Committee is also concerned about the reports of persons under 18 held under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance which has no

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set minimum age and grants security forces wide powers to arrest and detain any person suspected of being associated with the armed groups, including children.

381. The Committee recommends the State party to amend or repeal the Terrorist and Disruptive Activities (Control and Punishment) Ordinance in the light of international juvenile justice standards and norms.

- Nicaragua, CRC, CRC/C/150 (2005) 132 at paras. 630 and 631.

630. While the Committee welcomes the National Plan of Action 2001-2006 for the prevention of domestic and sexual violence and the fact that children who are victims of abuse can directly file a complaint, it is concerned that domestic violence and abuse of children is an increasing phenomenon in Nicaraguan society.

631. The Committee, reiterating its previous recommendation, urges the State party to strengthen its efforts in order to address ill-treatment of children within the family and reinforce the mechanisms monitoring the extent of the forms of violence, injury or abuse, neglect, maltreatment or exploitation considered by article 19, including within the family, schools, in institutional or other care, of a welfare, educational or penal nature. The Committee also recommends that the State party ensure adequate protection of child victims of abuses and avoid re-victimization of children who are involved in legal procedures, inter alia, by accepting videotaped testimony of children as admissible evidence in court.