

# CHILDREN'S RIGHTS - PUNISHMENT

## IV. CONCLUDING OBSERVATIONS, CONTINUED

### CERD

- Australia, CERD, A/60/18 (2005) 13 at para. 25.

25. The Committee notes with great interest the diversionary and preventative programmes aimed at reducing the number of indigenous juveniles entering the criminal justice system, as well as the development of culturally sensitive procedures and practices among the police and the judiciary.

### 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 international standards of juvenile justice in accordance with article 10, paragraph 3, of the

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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;

...

- Sri Lanka, ICCPR, A/59/40 vol. I (2003) 30 at para. 66(11).

(11) While noting that corporal punishment has not been imposed as a sanction by the courts for about 20 years, the Committee expresses concern that it is still statutorily permitted, and that it is still used as a prison disciplinary punishment. Moreover, despite directives issued by the Ministry of Education in 2001, corporal punishment still takes place in schools (art. 7).

The State party is urged to abolish all forms of corporal punishment as a matter of law and effectively to enforce these measures in primary and secondary schools, and in prisons.

- Suriname, ICCPR, A/59/40 vol. I (2004) 43 at para. 69(17).

(17) The Committee is concerned about the compatibility with the Covenant of the low age of criminal responsibility in Suriname (10 years), having regard in particular to reliable information about the ill-treatment of children in detention and the long delays in pending trials.

The State party should revise its legislation with regard to the age of criminal responsibility, which at its present level is unacceptable under international standards. The State party should inform the Committee as to how its practice complies with articles 10, paragraph 2 (b), 14, paragraph 4, and 24 of the Covenant.

- Lithuania, ICCPR, A/59/40 vol. I (2004) 52 at para. 71(11).

(11) The Committee is concerned that under article 12 of the Law on Pre-Trial Detention and the Code on Enforcement of Punishment adults may be detained together with minors in "exceptional cases". While noting the State party's explanation that separation of minors and adults is the norm, the Committee observes that the law does not contain criteria for determining which cases are exceptional.

The State party should ensure that juveniles accused of criminal offences and deprived of their liberty are separated from adults, in accordance with article 10, paragraph 2 (b), of the Covenant.

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- Namibia, ICCPR, A/59/40 vol. I (2004) 64 at para. 74(19).

(19) The Committee takes note of the draft Child Status Bill, aimed at enabling children born out of wedlock to have the same rights as those born within marriage. The Committee notes with concern, however, that children do not get the type of special protection that they require in the area of the administration of justice, in particular in the criminal justice system.

The State party should take measures to establish an appropriate juvenile criminal justice system in order to ensure that juveniles are treated in a manner commensurate with their age.

- Benin, ICCPR, A/60/40 vol. I (2004) 30 at para. 83(17).

(17) The Committee...is concerned at the extreme overcrowding of prisons and at the fact that juveniles are not always held separately from adults (articles 7, 10 and 24 of the Covenant).

...[S]pecial protection should be provided for juveniles, and all juveniles, including girls, should be systematically separated from adults.

- Kenya, ICCPR, A/60/40 vol. I (2005) 44 at paras. 86(6) and 86(24).

(6) The Committee welcomes the information that Kenya has now prohibited all forms of corporal punishment of children, and notes that implementation of the prohibition should be accompanied by public information and education campaigns.

...

(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.

- Greece, ICCPR, A/60/40 vol. I (2005) 60 at para. 90(16).

(16) While noting that a legislative amendment to ban corporal punishment in secondary schools has been tabled in Parliament, the Committee is concerned at reports of a widespread practice of corporal punishment of children in the schools (art. 24).

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The Committee recommends that the State party prohibit all forms of violence against children wherever it occurs, including corporal punishment in the schools, and undertake public information efforts with respect to appropriate protection of children from violence.

- Tajikistan, ICCPR, A/60/40 vol. I (2005) 70 at para. 92(23).

(23) The Committee is concerned about reports of persistent recourse to corporal punishment as a means of discipline in schools (art. 24).

The State party should take the necessary measures to prohibit this practice.

- Thailand, ICCPR, A/60/40 vol. I (2005) 83 at paras. 95(14) and 95(16).

(14) The Committee notes with concern that the death penalty is not restricted to the "most serious crimes" within the meaning of article 6, paragraph 2, and is applicable to drug trafficking. The Committee regrets that, despite the amendment in 2003 of the Penal Code, which prohibits imposition of the death penalty on persons below 18 years of age, the State party has not yet withdrawn its declaration to the Covenant on article 6, paragraph 5 (art. 6).

The State party should review the imposition of the death penalty for offences related to drug trafficking in order to reduce the categories of crime punishable by death. The State party should also consider the withdrawal of its declaration on article 6, paragraph 5, of the Covenant.

...

(16) ...The Committee is concerned at the significant number of women in the prison population and the fact that juveniles are often held in adult cells (arts. 7, 10 and 24).

...

Special protection should be provided for juveniles, including their compulsory segregation from adults.

## ICESCR

- Jamaica, ICESCR, E/2002/22 (2001) 130 at paras. 937 and 950.

937. The Committee is profoundly concerned about the violence that has apparently become widespread in the State party. It is reported that over 1,000 people have been murdered in the year 2001 alone and that "tribal" politics is such that warlords rule large sections of the capital city where they are involved in extortion, drugs and prostitution. The Committee is particularly concerned that violence - including domestic and sexual violence - is committed

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against women of all ages and against children. According to reports from non-governmental organizations, children are regularly flogged and even threatened with weapons and child-rearing practices include corporal punishment of children in the home and in schools. The fact that these acts are committed with impunity constitutes a serious violation by the State party of its Covenant obligations.

...

950. The Committee calls upon the State party to exercise the full authority of the law and all means at its command to eradicate the scourge of violence. The Committee reminds the State party that in undertaking measures to combat violence, respect for human dignity and protection of human rights must be ensured at all times...

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/2003/22 (2002) 39 at para. 239.

239. Given the principle of the dignity of the individual, which provides the foundation for international human rights law (see paragraph 41 of the Committee's general comment no. 13 (1999) on the right to education (art. 13 of the Covenant)) and in the light of article 10, paragraphs 1 and 3, of the Covenant, the Committee recommends that the physical punishment of children in families be prohibited, in line with the recommendation of the Committee on the Rights of the Child made in 1995<sup>25/</sup> in its concluding observations on the State party.

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### Notes

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<sup>25/</sup> See *Official Records of the General Assembly, Fifty-first Session, Supplement No. 41 (A/51/41)*, para. 497.

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- Trinidad and Tobago, ICESCR, E/2003/22 (2002) 45 at paras. 277 and 300.

277. While the Committee welcomes the abolition of corporal punishment in schools, it is concerned at the continued resort to corporal punishment at home and for adult males in the justice system.

...

300. The Committee calls on the State party to prohibit effectively the use of corporal punishment in all areas of life.

- Malta, ICESCR, E/2005/22 (2004) 45 at paras. 351 and 369.

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351. While corporal punishment is prohibited in schools and other institutions, the Committee notes that corporal punishment within the family, in the form of “reasonable chastisement”, is not prohibited by law.

...

369. The Committee encourages the State party to consider an explicit prohibition of corporal punishment within the family.

### CAT

- Israel, CAT, A/57/44 (2001) 27 at para. 52.

52. The Committee expresses concern about the following matters:

...

(d) Torture and ill-treatment of Palestinian minors is alleged, in particular of those detained in the Gush Etzion police station. The difference in the definition of a child in Israel and in the Occupied Territories is also a matter of concern. While under Israeli law majority is attained at the age of 18, military order No. 132 defines a minor as someone under the age of 16. (In Israel, including the Occupied Territories, no minors under the age of 12 years can be held criminally responsible);

...

(f) The continued use of incommunicado detention, even in the case of children, is a matter of grave concern to the Committee;

...

- Luxembourg, CAT, A/57/44 (2002) 39 at paras. 79 and 80.

79. The Committee expresses concern about the following:

(a) That minors ordered to be placed in disciplinary centres are put in adult prisons;

...

80. The Committee recommends that:

(a) The State party refrain from placing minors in adult prisons for disciplinary purposes;

...

- Russian Federation, CAT, A/57/44 (2002) 42 at paras. 92 and 94.

92. The Committee...expresses its concern about the following:

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...

(i) Reports of conditions amounting to inhuman or degrading treatment, of children in institutions or places of detention;

...

94. The Committee recommends that the State party:

...

(j) Distribute and ensure implementation of appropriate instructions to all relevant officials on the prohibition of ill-treatment and acts of torture against children in institutions and prisons under the jurisdiction of the State;

...

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

86. The Committee expresses concern about the following:

...

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

...

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;

...

- Latvia, CAT, A/59/44 (2003) 48 at para. 98.

98. The Committee notes with appreciation the ongoing efforts by the State party aimed at strengthening human rights in Latvia. In particular, the Committee welcomes the following:

(a) Legislative measures:

...

(vii) The draft new Amnesty Law, providing either for the release or the reduction of the term of imprisonment of those groups at risk, such as minors, pregnant women, women with infant children, disabled persons and the elderly;

...

- New Zealand, CAT, A/59/44 (2004) 61 at paras. 134 and 135.

134. The Committee expresses concern about:

...

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(e) The low age of criminal responsibility, and the fact that juveniles are sometimes not separated from adult detainees and have been detained in police cells, owing to a shortage of Child, Youth and Family Residential Facilities;

...

135. The Committee recommends that the State party:

...

(e) Implement the recommendations made by the Committee on the Rights of the Child (CRC/C/15/Add.216, paras. 30 and 50);

...

- Yemen, CAT, A/59/44 (2003) 64 at paras. 145 and 146.

145. The Committee expresses concern about the following:

...

(i) The Committee is concerned at the low minimum age of criminal responsibility and at the detention of child offenders as young as 7 years in specialized hospitals or social protection institutions.

146. The Committee recommends that the State party:

...

(l) Review the minimum age of criminal responsibility and ensure that all protective institutions and other places of detention meet international juvenile justice standards, including those of the Convention;

...

- Albania, CAT, A/60/44 (2005) 34 at para. 82.

82. ...[T]he Committee would like to commend:

...

(b) The separation of juveniles from adults in all detention facilities;

...

## 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



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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 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.

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- Kenya, CRC, CRC/C/111 (2001) 21 at paras. 114, 115, 144 and 145.

114. While the Committee notes that corporal punishment has been formally banned in schools (April 2001) as a matter of policy, it is deeply concerned that this form of punishment continues to be practised in schools, as well as in the juvenile justice system, in the family and in care institutions, with resulting cases of permanent injury and even death.

115. The Committee recommends that the State party take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment, in the juvenile justice system, in schools and care institutions, and in the family. The Committee also recommends that the State party monitor the ban on corporal punishment in schools. The Committee encourages the State party to reinforce its public awareness campaigns to promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society.

...

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;

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(f) Improve the conditions in detention facilities;

(g) Strengthen reparation, rehabilitation and reintegration programmes;

(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.

- Oman, CRC, CRC/C/111 (2001) 36 at paras. 183, 184, 195 and 196.

183. The Committee welcomes the introduction of the new system for reporting incidents of child abuse and neglect and the establishment of the Family Counselling and Guidance Department. However, the Committee remains concerned that there is insufficient information and awareness in Oman of the ill-treatment and abuse of children within the family and institutions.

184. The Committee recommends that the State party:

...

(b) Take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family and in institutions;

(c) Carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(d) Ensure that the new reporting system can effectively receive, monitor and investigate complaints, and that the authorities can intervene where necessary;

(e) Investigate and prosecute cases of ill-treatment, ensuring that the abused child is not further victimized in legal proceedings and that his/her privacy is protected;

(f) Provide care, recovery and reintegration for victims;

...

195. Noting that the Organizational Statutes of the General Education Schools ban corporal punishment, the Committee remains concerned that this issue is not effectively addressed.

196. The Committee recommends that the State party raise awareness of the negative impact of corporal punishment among teachers and other professionals working in schools, and take

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other appropriate measures for its prevention and elimination.

*See also:*

- Qatar, CRC, CRC/C/111 (2001) 59 at paras. 309, 316 and 317.
- Portugal, CRC, CRC/C/111 (2001) 48 at paras. 230 and 231.

230. Noting its 1995 concluding observations, the Committee is concerned that corporal punishment continues to be practised within the family, there is a lack of legislation prohibiting such punishment, and that insufficient measures have been adopted to prevent corporal punishment in this context.

231. The Committee recommends that the State party:

(a) Adopt legislation prohibiting corporal punishment in the family and in any other contexts not covered by existing legislation;

(b) Develop mechanisms to end the practice of corporal punishment, including the use of information campaigns targeting parents, teachers and children;

(c) Promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society;

(d) Develop mandatory reporting systems for professionals working with children who detect the use of corporal punishment in the family.

- Qatar, CRC, CRC/C/111 (2001) 59 at paras. 300, 301, 306 and 307.

300. The Committee is seriously concerned that under the 1994 Juvenile Act there is a possibility that the death penalty or life imprisonment may be imposed for offences committed by persons when they were under 18 years old, contrary to articles 6 and 37 (a) of the Convention.

301. The Committee strongly recommends that the State party take immediate steps to ensure that the law prohibits the imposition of the death penalty or life imprisonment for crimes committed by persons under 18.

...

306. The Committee is seriously concerned that, contrary to article 37 (a) of the Convention, under the 1994 Juvenile Act there is a possibility that persons under 18 may be subject to judicial sanctions such as flogging.

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307. The Committee recommends that the State party take immediate steps to ensure that the law prohibits the imposition of flogging and other forms of cruel, inhuman or degrading treatment or punishment on persons who may have committed crimes when they were under 18.

*See also:*

- United Arab Emirates, CRC, CRC/C/118 (2002) 90 at paras. 398 and 399.
- Cameroon, CRC, CRC/C/111 (2001) 71 at paras. 353, 354, 380, 391 and 393.

353. The Committee is deeply concerned at the living conditions of children detained in jails and prisons, which are so deplorable that they endanger their life.

354. The Committee recommends that the State party take all necessary measures to ensure that detained children are provided access to health and education services and with food, and that the conditions meet the needs of the children and are compatible with the rights under the Convention.

...

380. The Committee recommends that the State party:

...

(f) Monitor and enforce the ban of corporal punishment in schools and train teachers in regard to alternative measures of discipline;

(g) Take measures against teachers who are violent and abusive towards students;

(h) Establish child-sensitive structures for children to make complaints;

...

391. While recognizing the State party's efforts in this domain, including legislation, decrees and ministerial circulars, 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 the absence of juvenile courts and juvenile judges, and the lack of social workers and teachers to work in this field. In addition, the Committee is deeply concerned at the poor conditions of detention, due notably to overcrowding in detention and prison facilities, overuse and long periods of pre-trial detention, the length of time before the hearing of juvenile cases, the absence of assistance towards the rehabilitation and reintegration of juveniles following judicial proceedings, and the sporadic training of judges, prosecutors and prison staff. Noting that there are no criminal penalties for children below the age of 14 years, the Committee is still concerned that the minimum age for criminal responsibility is too low (10 years).

...

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

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- (a) Raise the age of criminal responsibility;
- (b) Undertake all necessary measures to ensure the establishment of juvenile courts and the appointment of trained juvenile judges in all regions of the country;
- (c) 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;
- (d) Provide children with legal assistance at an early stage of the proceedings;
- (e) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including through 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 the separation of children from adults in prisons and places of pre-trial detention throughout the country;
- (f) Ensure that children in conflict with the law do not receive the same sanctions as adults;
- (g) Ensure that children remain in regular contact with their families while in the juvenile justice system;
- (h) Introduce regular medical examination of inmates by independent medical staff;
- (i) Establish an independent child-sensitive and accessible system for complaints for children;
- (j) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;
- (k) Make every effort to establish a programme of rehabilitation and reintegration of juveniles following judicial proceedings; and
- (l) Request technical assistance in the area of juvenile justice and police training from, *inter alia*, 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:***

- Cape Verde, CRC, CRC/C/111 (2001) 135 at paras. 660 and 661.
  
- Gambia, CRC, CRC/C/111 (2001) 89 at paras. 464 and 466.

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464. ...[T]he Committee is deeply concerned at the possibility that a child may be sentenced to the death penalty. The Committee is also concerned at the low age of criminal responsibility (seven years), the absence of juvenile courts and juvenile judges, and the lack of social workers and teachers to work in this field.

...

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

- (a) Prohibit the use of the death penalty, life imprisonment and whipping;
- (b) Raise the age of criminal responsibility;
- (c) Undertake all necessary measures to ensure the establishment of juvenile courts and the appointment of trained juvenile judges;
- (d) Use deprivation of liberty (institutionalization) only as a measure of last resort and for the shortest possible period of time;
- (e) Guarantee separation from adults in prison and in pre-trial detention places all over the country;
- (f) Ensure that children remain in contact with their families while in the juvenile justice system;
- (g) Abolish the use of corporal punishment within the juvenile justice system;
- (h) Strengthen rehabilitation and reintegration programmes;
- (i) Consider seeking technical 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 in Juvenile Justice.

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

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

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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;
  - (b) Implement the recommendations made by the Human Rights Committee (CCPR/CO/71/UZB), and the Committee against Torture (A/55/44, paras. 76-81);
  - (c) Provide the militia with training on how to deal with persons under 18;
  - (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.
- Lebanon, CRC, CRC/C/114 (2002) 11 at paras. 63 and 64.
    - 63. The Committee is concerned at allegations that children as young as 15 have been subjected to torture and ill-treatment during *incommunicado* detention.
    - 64. In light of article 37 (a) of the Convention, the Committee strongly recommends that the State party:
      - (a) Enforce, or, when appropriate, review existing legislation with a view to preventing children being held *incommunicado*, and investigate in an effective way reported cases of ill-treatment of children;
      - (b) Ensure that alleged perpetrators are transferred from active duty or suspended while they are under investigation, that they are dismissed and punished if convicted, and that court proceedings and sentences are publicized;
      - (c) Train law enforcement personnel on child rights issues;
      - (d) In the light of article 39, take all appropriate measures to ensure the physical and psychological recovery and social integration of child victims of torture and/or ill-treatment.
  - Greece, CRC, CRC/C/114 (2002) 25 at paras. 170 and 171.
    - 170. Noting that the State party has a system of special juvenile justice courts and that a



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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 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

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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;

(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.

- Gabon, CRC, CRC/C/114 (2002) 47 at para. 230.

230. The Committee recommends that the State party:

...

(i) Implement the ban on corporal punishment in schools and train teachers in the use of alternative measures of discipline;

...

### *See also:*

- Burkina Faso, CRC, CRC/C/121 (2002) 103 at para. 478.

- 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;

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- (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;
- (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;

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(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 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.

- 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

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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;

(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.

- Andorra, CRC, CRC/C/114 (2002) 134 at paras. 545 and 546.

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545. While noting the improvements in the juvenile justice system as a result of the enactment of the Qualified Law on Minors' Jurisdiction, which partially amends the Penal Code and the Qualified Law on Justice of 22 April 1999, the Committee is concerned that juveniles aged 16 and 17 years are treated as adults and can be sentenced to up to 15 years of imprisonment.

546. The Committee recommends that the State party establish a juvenile justice system which is in 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), in particular by extending the applicability of the Qualified Law on Minors' Jurisdiction to all children under the age of 18 at the time the offence was committed.

- Guinea-Bissau, CRC, CRC/C/118 (2002) 12 at paras. 60 and 61.

60. The Committee is concerned that:

...

(b) Corporal punishment is widely practised in the family;

...

61. The Committee recommends that the State party:

...

(c) Combat the practice of corporal punishment of children in the family, including through the use of information campaigns on the harm it can cause and on the importance of alternative measures of discipline;

...

- Tunisia, CRC, CRC/C/118 (2002) 68 at paras. 289, 290, 301 and 302.

289. While noting the provision in the Code of Child Protection regarding ill-treatment (art. 24) and the relevant provision in the Penal Code (art. 224), as well as the Ministerial Circular of December 1997 banning all forms of corporal punishment and practices injuring the dignity of children, the Committee is concerned that, as noted by the delegation, corporal punishment is only a crime if it is prejudicial to the health of the child. It notes with concern that violence as a means of discipline in the home and at school continues to be acceptable in the State party. The Committee regrets that no follow-up to the Committee's previous recommendation has been initiated to protect children from ill-treatment

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([CRC/C/15/Add.39], para. 17). The Committee is furthermore concerned that there is insufficient information about and awareness of domestic violence and its harmful impact on children.

290. The Committee urges the State party to:

(a) Take all legislative measures to prohibit in the most effective way possible all forms of physical and mental violence, including corporal punishment and sexual abuse, against children in the family, in the schools and in institutions;

and furthermore recommends that the State party:

(b) Conduct a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address it;

(c) Carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(d) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervening where necessary;

(e) Investigate and prosecute instances of ill-treatment, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected;

(f) Provide care, recovery and reintegration for victims;

(g) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of ill-treatment cases;

(h) Take into consideration the recommendations of the Committee adopted at its days of general discussion on children and violence (CRC/C/100, para. 688, and CRC/C/111, paras. 701-745);

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

...

301. The Committee welcomes the adoption of the Child Protection Code as well as other legal provisions in the area of juvenile justice. However, the Committee is concerned at the failure of the State party to guarantee full implementation of all provisions (e.g. the fact that juvenile courts have not yet been established), in light of reports of detention and ill-treatment of children, as well as detention of juveniles with adults which has allegedly resulted in sexual abuse or other ill-treatment.

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302. The Committee recommends that the State party:

(a) Ensure the full implementation of the legislation governing the juvenile justice system, in accordance with articles 37, 40 and 39 and all other relevant provisions of the Convention, 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;

(b) Ensure that the deprivation of liberty is used only as a measure of last resort; that children have access to legal aid and independent and effective complaints mechanisms; and that persons under 18 are not detained with adults;

(c) Treat children or juveniles in conflict with the law and children or juveniles at risk in a different and distinct manner so that they are not placed in the same institutions with the same regime or restrictions; and

(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 Juvenile Justice.

***See also:***

- United Arab Emirates, CRC, CRC/C/118 (2002) 90 at paras. 400 and 401.
- Israel, CRC, CRC/C/121 (2002) 131 at paras. 588 and 589.
  
- Switzerland, CRC, CRC/C/118 (2002) 78 at paras. 336 and 337.

336. While noting that corporal punishment is prohibited in schools, the Committee is concerned that according to the jurisprudence of the Federal Tribunal, corporal punishment is not considered as physical violence if it does not exceed the level generally accepted by society. In addition, the Committee is concerned that corporal punishment within the family is not prohibited under law.

337. The Committee recommends that the State party explicitly prohibit all practices of corporal punishment in the family, schools and in institutions and conduct information campaigns targeting, among others, parents, children, law enforcement and judicial officials and teachers, explaining children's rights in this regard and encouraging the use of alternative forms of discipline in a manner consistent with the child's human dignity and in conformity with the Convention, especially articles 19 and 28, paragraph 2.



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- 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 standards;

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

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(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. 497, 498, 520 and 521.

497. In light of its previous recommendation ([CRC/C/15/Add.28], para.18), the Committee deeply regrets that article 154 of the Civil Code, stating that parents "may administer punishment to their children reasonably and in moderation", has not yet been revised. It acknowledges the information provided in the State party's replies to the list of issues that a draft law for the revision of article 154 is under development.

498. The Committee reiterates its previous recommendation to amend article 154 in order to delete the reference to reasonable chastisement. It further recommends that the State party:

(a) Prohibit all forms of violence, including corporal punishment, in the upbringing of children, in conformity with article 19 of the Convention;

(b) Conduct awareness campaigns and promote alternative forms of discipline in families.

...

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520. The Committee welcomes the adoption of the Organizational Act 5/2000 of 12 January on penal responsibility for minors and its educational character, but notes that it would need additional human and financial resource to be implemented effectively. It further notes with concern that the Organizational Act 7/2000 on terrorism increases the period of police custody and the length of prison terms for children accused of terrorism (to up to 10 years). It expresses its concern also at the fact that deprivation of liberty is not used as last resort and that in some cases detention centres are overcrowded.

521. In light of articles 37 to 40 and other relevant international standards, the Committee recommends that the State party:

(a) Allocate adequate human and financial resources in order to ensure the full implementation of the Organizational Act 5/2000;

(b) Align the period of police custody for children accused of terrorism with the provisions of the Act and review the length of prison terms for children accused of terrorism;

(c) Provide training on the new juvenile system to those responsible for administering juvenile justice;

(d) Encourage the use of alternative measures to the deprivation of liberty.

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 63, 64, 87 and 88.

63. The Committee notes with concern that there is no explicit prohibition of corporal punishment under law and that it is still widely practised in the home and in some institutions.

64. The Committee recommends that the State party expressly prohibit corporal punishment in the home and all institutions and carry out public education campaigns to promote positive, non-violent forms of discipline as an alternative to corporal punishment.

...

87. The Committee...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:

...

(d) Use detention, including pre-trial detention, only as a measure of last resort, for as short

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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;

(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:*

- Poland, CRC, CRC/C/121 (2002) 120 at paras. 527 and 528.
- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/121 (2002) 23 at paras. 125-130, 151, 152 and 154.

125. The Committee is particularly concerned at recent figures according to which between April 2000 and February 2002, 296 children sustained injuries as a result of restraints and measures of control applied in prison. In addition, the Committee is concerned at the frequent use of physical restraint in residential institutions and in custody, as well as at the placement of children in juvenile detention and in solitary confinement in prisons.

126. The Committee urges the State party to review the use of restraints and solitary confinement in custody, education, health and welfare institutions throughout the State party to ensure compliance with the Convention, in particular articles 37 and 25.

127. The Committee welcomes the abolition of corporal punishment in all schools in England, Wales and Scotland following its 1995 recommendations ([CRC/C/15/Add.34], para. 32), but is concerned that this abolition has not yet been extended to cover all private schools in Northern Ireland. It welcomes the adoption by the National Assembly for Wales of regulations prohibiting corporal punishment in all forms of day care, including child

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mindings, but is very concerned that legislation prohibiting all corporal punishment in this context is not yet in place in England, Scotland or Northern Ireland.

128. In light of its previous recommendation ([CRC/C/15/Add.34], para. 31), the Committee deeply regrets that the State party persists in retaining the defence of “reasonable chastisement” and has taken no significant action towards prohibiting all corporal punishment of children in the family.

129. The Committee is of the opinion that the Government’s proposals to limit rather than to remove the “reasonable chastisement” defence do not comply with the principles and provisions of the Convention and the aforementioned recommendations, particularly since they constitute a serious violation of the dignity of the child (see similar observations of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.79, paragraph 36). Moreover, they suggest that some forms of corporal punishment are acceptable, thereby undermining educational measures to promote positive and non-violent discipline.

130. The Committee recommends that the State party:

- (a) With urgency adopt legislation throughout the State party to remove the “reasonable chastisement” defence and prohibit all corporal punishment in the family and in any other contexts not covered by existing legislation;
- (b) Promote positive, participatory and non-violent forms of discipline and respect for children’s equal right to human dignity and physical integrity, involving children and parents and all those who work with and for them, and carry out public education programmes on the negative consequences of corporal punishment.

...

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

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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 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;

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(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;

(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.

- Sudan, CRC, CRC/C/121 (2002) 53 at paras. 254, 255, 288 and 289.

254. The Committee is concerned that corporal punishment is widely practiced in the State party, including within the family, schools and other institutions; that children have been the victims of violence by, among others, the police; and that acts of torture, rape and other cruel, inhuman or degrading treatment have been committed against children in the context of the armed conflict.

255. The Committee recommends that the State party:

(a) Prohibit under law the practice of corporal punishment in the family, in schools and in all other contexts and make use of legislative and administrative measures, as well as public education initiatives, to end the use of corporal punishment, including the provision of information on alternative non-violent methods of discipline;

...

(c) Immediately end the practice of detaining children in camps where they suffer torture and other cruel, inhuman or degrading treatment or punishment and make sure that those responsible for such acts are brought to justice;

...

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:

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(a) Raise the minimum age of criminal responsibility;

...

(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;

(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. 365 and 366.

365. The Committee is concerned at the general lack of comprehensive information on the Criminal Code 2001. The Committee is, however, particularly concerned at the information received in the written replies according to which disorderly conduct has been defined as a serious crime constituting a danger to society and leading to the criminalization of behavioural problems. The Committee is further concerned at the severe penalties imposed on minors under the Criminal Code 2001.

366. The Committee recommends that the State party review its classification of serious crimes in order to minimize the scope of criminal responsibility for 14 to 16-year-old children. The Committee further recommends, in light of articles 37, 39 and 40 of the Convention, that the State party review the Criminal Code 2001, so that penalties for children are conducive to the realization of the goals of juvenile justice, as spelled out in article 40, paragraph 1, of the Convention, and are at least not more severe than under the previous Criminal Code.

- Burkina Faso, CRC, CRC/C/121 (2002) 103 at paras. 457, 458, 463, 464, 487 and 489.

457. The Committee is concerned at the poor conditions of detention of children in police or gendarmerie stations, amounting in many instances to cruel, inhuman or degrading treatment as spelled out in article 37 (a) of the Convention. In addition, the Committee is concerned at methods used by law enforcement officials which may jeopardize the life of children.

458. The Committee urges the State party to take all necessary measures to improve the conditions of detention of children, particularly in police and gendarmerie stations, and to



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ensure that each case of violence and abuse is duly investigated, that perpetrators are brought to justice without undue delay and that victims receive compensation.

...

463. While noting that child abuse is prohibited under the Penal Code, the Committee is concerned at the incidence of abuse, including sexual abuse, and neglect of children in the State party and that insufficient efforts have been made to protect children. In addition, the Committee is concerned at the lack of statistical data and a comprehensive plan of action, as well as the insufficient infrastructure.

464. The Committee recommends that the State party:

- (a) Undertake a study on violence, including sexual violence, against children within the family, at school and in other institutions in order to assess the scope, nature and causes of this practice with a view to adopting and implementing a comprehensive plan of action and effective measures and policies, in conformity with article 19 of the Convention, and to changing attitudes;
- (b) Take all necessary steps to introduce the legal prohibition of the use of corporal punishment in schools and other institutions and at home;
- (c) Properly investigate cases of violence, through a child-sensitive judicial procedure, notably by giving appropriate weight to children's views in legal proceedings, and apply sanctions to perpetrators, having due regard to guaranteeing the right to privacy of the child;
- (d) Establish an appropriate complaint procedure and inform children about this mechanism;
- (e) Provide services for the physical and psychological recovery and social reintegration of victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention, and take measures to prevent the criminalization and stigmatization of victims;
- (f) Take into consideration the recommendations of the Committee adopted at its days of general discussion on violence against children (CRC/C/100, para. 688 and CRC/C/111, paras. 701-745);
- (g) Seek technical assistance from, among others, UNICEF and WHO.

...

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

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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;
- (h) Ensure that children remain in regular contact with their families while in the juvenile justice system, notably by informing parents when their child is detained;
- (i) Introduce regular medical examination of children by independent medical staff;
- (j) Establish an independent, child-sensitive and accessible complaint system for children;
- (k) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

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- (l) Make every effort to establish a programme of rehabilitation and reintegration of juveniles following judicial proceedings;
  - (m) Take into consideration the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238);
  - (n) Request technical assistance in the area of juvenile justice and police training from, among others, OHCHR and other members of the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.
- Poland, CRC, CRC/C/121 (2002) 120 at paras. 518, 519, 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.

...

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 children deprived of their liberty, including those pertaining to conditions of detention.
  - Israel, CRC, CRC/C/121 (2002) 131 at paras. 553, 612 and 613.

553. The Committee welcomes:

...

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

...

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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.

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. 52 and 53.

52. The Committee notes the information on the Tartu and Tallin support centres, as well as the recent studies on child sex abuse and bullying in schools. The Committee also notes that all violence against children is prohibited. However, it remains concerned that there is still insufficient information on and awareness of the ill-treatment and abuse of children within the family, in schools and in institutions, as well as of domestic violence and its impact on children. Moreover, it is concerned that current efforts in this regard may have limited impact because of the lack of a comprehensive strategy and the inadequate allocation of resources.

53. The Committee recommends that the State party:

...

- (b) Explicitly prohibit corporal punishment and take all measures to prevent all forms of physical and mental violence, including corporal punishment and sexual abuse of children

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in the family, in schools and in institutions;

(c) Continue to carry out public education campaigns on the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(d) Establish effective mechanisms and procedures for receiving, monitoring and investigating complaints, including intervention where necessary;

(e) Investigate and prosecute instances of ill-treatment, ensuring that the abused child is not further victimized in legal proceedings and that his or her privacy is protected;

(f) Give attention to addressing and overcoming sociocultural barriers that inhibit victims from seeking assistance;

(g) Provide counselling, care, recovery and reintegration services to victims and perpetrators alike;

(h) Train teachers, law enforcement officials, care and social workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment;

(i) Devise a comprehensive strategy for reducing and preventing violence in schools, whether among students or by teachers, including through peer groups;

(j) Take into account the Committee's recommendations adopted at its day of general discussion on "Violence against children within the family and in schools" (CRC/C/111, chap. V.).

- Republic of Korea, CRC, CRC/124 (2003) 24 at paras. 116 and 117.

116. The Committee notes with great concern that corporal punishment is officially permitted in schools. The Committee is of the opinion that corporal punishment does not conform with the principles and provisions of the Convention, particularly since it constitutes a serious violation of the dignity of the child (see similar observations of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.79, para. 36). The fact that the Ministry of Education guidelines leave the decision on whether to use corporal punishment in schools to the individual school administrators suggests that some forms of corporal punishment are acceptable and therefore undermines educational measures to promote positive, non-violent forms of discipline.

117. The Committee recommends that the State party:

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(a) Implement the recommendation of the National Commission on Human Rights that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions;

(b) Carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes towards corporal punishment, and promote positive, non-violent forms of discipline in schools and at home as an alternative to such punishment.

- Romania, CRC, CRC/124 (2003) 49 at paras. 240, 241, 260 and 261.

...

240. The Committee notes the recent efforts of NGOs related to prevention of child abuse and neglect, as well as the statement made by the Head of State to the special session of the General Assembly on children referring to envisaged special measures to prevent child abuse. Nevertheless, the Committee reiterates its previous concern [CRC/C/15/Add.16] at the apparent limited effectiveness of measures to raise awareness about the harmful consequences of neglect and abuse, including sexual abuse, in the family, schools and institutions, as well as to tackle these problems...It is also concerned that corporal punishment and other forms of abuse and neglect continue to exist in the family.

241. The Committee recommends that the State party:

(a) Expressly prohibit corporal punishment in the home, school and institutions;

(b) Promote alternative methods of discipline;

(c) Establish effective procedures and mechanisms for receiving, monitoring and investigating cases of abuse, ill-treatment and neglect and for prosecuting offenders, ensuring that the abused child is not victimized in legal proceedings and that his or her privacy is protected;

(d) Strengthen the reporting system, through the training of teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and handling of cases of ill-treatment;

(e) Ensure the provision of support services to child victims in legal proceedings;

(f) Ensure the physical and psychological recovery and social reintegration of child victims, in accordance with article 39 of the Convention;

...

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:

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...

(d) Very few children are dealt with by diversionary or alternative measures;

...

261. The Committee recommends that the State party:

...

(d) Promote alternative measures for dealing with children without resorting to judicial proceedings, provided human rights safeguards are respected;

...

- Viet Nam, CRC, CRC/C/124 (2003) 67 at paras. 318 and 319.

318. The Committee notes the amendments made in 1999 to the Criminal Code in the area of juvenile justice. However, it is concerned that the juvenile justice system is unable to cope effectively with increasing youth crime and that rehabilitation and reintegration services for young offenders are insufficient.

319. The Committee recommends that the State party:

...

(d) Expedite the development of a system for the provision of appropriate rehabilitation and reintegration services and increase the number of professional social workers providing such services to young offenders;

...

- Czech Republic, CRC, CRC/C/124 (2003) 78 at paras. 347, 348, 360-362, 386 and 387.

347. The Committee welcomes the amendment to section 216b of the Criminal Code concerning the deletion from the text of the words “unless such person has attained majority earlier” in the definition of the child as a person younger than 18 years of age. However, the Committee is concerned at the information received on the ongoing debate on the juvenile justice reform in the State party intended to lower the age of criminal responsibility.

348. In the spirit of the Convention, especially with reference to articles 3 (best interests of the child) and 12 (right to life, survival and development), the Committee urges the State party to retain the present age of criminal responsibility of 15 years.

...

360. The Committee notes the efforts of the State party aimed at increasing the protection of children from various forms of abuse and neglect, including sexual abuse, such as the amendment to the Act on Misdemeanours (Law No. 360/1999 Coll.), and welcomes the significant efforts by NGOs in this respect. However, the Committee is concerned at the ill-treatment and abuse committed against children in the family, the school and other

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institutions as well as by public officials in the streets and in places of detention, particularly in the context of a form of popular justice for an alleged crime such as theft...

361. The Committee is concerned that there is no legislation explicitly prohibiting corporal punishment, and that it is practised in the family, in schools and in other public institutions, including alternative care contexts.

362. The Committee recommends that the State party take action to address ill-treatment and abuse committed against children in the family, in schools, in the streets, in institutions and in places of detention through, *inter alia*:

...

(f) Taking all the necessary steps to enact legislation prohibiting the use of corporal punishment in schools, institutions, in the family and in any other context;

(g) Making use of legislative and administrative measures, as well as public education initiatives, to end the use of corporal punishment and ensure that this is adhered to;

...

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;

...

- Haiti, CRC, CRC/124 (2003) 95 at paras. 420, 421, 428 and 429.

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



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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.

...

428. The Committee welcomes the Act prohibiting corporal punishment (August 2001) within the family and at schools, but remains concerned at the persistent practice of corporal punishment by parents or teachers and the ill-treatment of child domestics (*restaveks*)...

429. The Committee recommends that the State party:

(a) Take all necessary measures for the effective implementation of the law prohibiting corporal punishment, in particular by making use of information and education campaigns to sensitize parents, teachers, other professionals working with children and the public at large to the harm caused by corporal punishment and to the importance of alternative, non-violent forms of discipline, as foreseen in article 28, paragraph 2, of the Convention;

...

- Eritrea, CRC, CRC/C/132 (2003) 8 at paras. 55, 56, 83 and 84.

55. The Committee is concerned at the lack of data on ill-treatment of children, including child abuse and corporal punishment. It also notes with concern that corporal punishment is not expressly prohibited by law and is widely practised in the home and in institutions.

56. The Committee recommends that the State party:

(a) Establish a mechanism to collect data on the victims and perpetrators of abuse, disaggregated by gender and age, in order to assess properly the extent of the problem and to design policies and programmes to address it;

(b) Carry out public education campaigns about the negative consequences of ill-treatment of children and, in collaboration with community leaders and others, promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(c) Expressly prohibit by law corporal punishment in the home, schools and other institutions;

(d) Establish effective procedures and mechanisms to receive, monitor and investigate

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complaints of abuse, including intervening where necessary, and ensure that victims have access to assistance for their recovery;

(e) Seek technical assistance from, among others, UNICEF in this regard.

...

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

...

- Cyprus, CRC, CRC/C/132 (2003) 21 at paras. 111, 112, 133, 134, 147 and 148.

111. The Committee notes that the age of criminal responsibility has been raised from 7 to 10 years, but continues to be concerned that the age of criminal responsibility remains low and unclear, with different ages mentioned in various legislation.

112. The Committee recommends that the State party raise the legal age of criminal responsibility to an internationally more acceptable age by amending its legislation in this regard and ensuring that all children below 18 years are accorded the protection of juvenile justice provisions.

...

133. The Committee welcomes the initiation of a comprehensive study to improve the understanding of the nature and scope of child neglect and abuse in Cyprus, as recommended by the Committee (CRC/C/15/Add.59, para. 29), as well as the new Law No. 3 (1) of 2000 on Combating of Trafficking in Persons and Sexual Exploitation of Children and the Violence in the Family Law for the prevention and protection of victims of domestic violence. The Committee regrets that information on the follow-up given to cases of abuse reported to social welfare services is not available...

134. The Committee recommends that the State party, in keeping with the findings of the

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study, adopt adequate measures and policies aimed at changing attitudes, including the prohibition of corporal punishment in the family, supported by well-targeted awareness campaigns on, *inter alia*, alternative ways of disciplining children...

...

147. The Committee welcomes the information that steps are being taken to harmonize legislation in the sphere of juvenile justice with the Convention. Furthermore, the Committee notes that probation is the most frequently used measure in dealing with young offenders and that prison facilities for minors are being renovated. However, the Committee regrets that information on the average length of pre-trial detention is not available. Furthermore, the statistics provided in the written replies to the list of issues demonstrate that the majority of juveniles are sentenced to a fine and that probation orders are rare.

148. The Committee recommends that the State party ensure that the reforms under way provide for the establishment of a juvenile justice system, including juvenile courts, that has adequate human and financial resources, and that fully integrates international juvenile justice standards, in particular articles 37, 39 and 40 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) and the Guidelines for Action on Children in the Criminal Justice System.

- Zambia, CRC, CRC/C/132 (2003) 32 at paras. 170, 171, 181, 182, 221 and 223.

170. The Committee is concerned about the various legal minimum ages of majority, which are inconsistent, discriminatory and/or too low. In particular, the Committee is concerned that the Constitution defines a child as any person below the age of 15 years and that customary laws use the criterion of puberty to determine the end of childhood. The Committee is further concerned at the too low minimum age of criminal responsibility (8 years).

171. The Committee recommends that the State party take the necessary legislative measures:

(a) To establish a clear definition of the child in accordance with article 1 and other related principles and provisions of the Convention;

(b) To increase the legal age of criminal responsibility;

...

181. The Committee notes that the Constitutional Court has outlawed the practice of corporal punishment (*John Banda v. the People*, HPA/6/1998), but remains concerned that corporal punishment is still practised and accepted in schools, families, and care and juvenile

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detention institutions.

182. The Committee recommends that the State party take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment, in schools and care institutions, as well as in families. The Committee encourages the State party to reinforce its public awareness campaigns to promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society.

...

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;

...

(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;

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

(g) Strengthen rehabilitation and reintegration programmes;

...

- Sri Lanka, CRC, CRC/C/132 (2003) 48 at paras. 255 and 256.

255. The Committee is deeply concerned that male child offenders can be sentenced to whipping or caning under the Corporal Punishment Ordinance of 1889, and that the Education Ordinance of 1939 permits corporal punishment to be used as a disciplinary measure for boys and girls in schools and that many teachers and principals consider corporal punishment to be an acceptable form of discipline.

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256. The Committee reiterates its previous recommendation that the State party repeal the Corporal Punishment Ordinance of 1889 and amend the Education Ordinance of 1939 to prohibit all forms of corporal punishment. Furthermore, the Committee recommends that the State party undertake well-targeted public awareness campaigns on the negative impact corporal punishment has on children, and provide teacher training on non-violent forms of discipline as an alternative to corporal punishment.

- Solomon Islands, CRC, CRC/C/132 (2003) 58 at paras. 302, 303, 341 and 342.

302. The Committee is concerned at the many inconsistencies in the minimum ages used in various areas of the law, and notes in particular that:

(a) The minimum age of criminal responsibility is too low (8 years);

...

303. The Committee recommends that the State party:

(a) Raise the minimum age for criminal responsibility to internationally accepted standards and ensure that juvenile justice protection is accorded to all children up to the age of 18;

...

341. The Committee notes that a number of juvenile offenders were provided with counselling or pardoned and not brought to court and that in those cases the principle of the best interests of the child was taken into consideration. The Committee is further encouraged that between 1991 and 1995 the number of cases involving juvenile offenders decreased by 47 per cent and would like to receive updated data on this issue. The Committee is, however, concerned that:

(a) The minimum age of criminal responsibility is too low (8 years);

(b) There exists no separate facility for juvenile offenders and that they may be detained along with adult criminals, as demonstrated by the police practice of transferring children or young persons who have not yet been formally charged to a remand cell at Central Prison in Rove where convicted criminals are also detained.

342. The Committee recommends that the State party:

...

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

(c) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time;

...

(f) Review legislation to ensure that children cannot be sentenced to life imprisonment;

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(g) Ensure that children in detention are separated from adults;

...

- Libyan Arab Jamahiriya, CRC, CRC/C/132 (2003) 74 at paras. 366, 367, 390 and 391.

366. The Committee is concerned that:

(a) Even though the age of criminal responsibility is formally said to be 14 years, in practice a measure of criminal responsibility is also imputable to children aged 7 to 14 years and is punishable by, *inter alia*, custodial sentences; in the Committee's view, this is incompatible with the Convention;

...

367. The Committee recommends that the State party:

(a) Enact legislation ensuring that the minimum age of criminal responsibility, in law and practice, is consonant with international standards;

...

390. In addition to the *de facto* age of criminal responsibility of 7 years, which is much too low, the Committee is concerned that:

...

(b) Status offences are criminalized (i.e. vagrant and street children may be placed in juvenile homes or other institutions);

(c) That the Collective Punishment Law, which may affect children, violates fundamental human rights principles;

(d) The holistic approach to addressing the problem of juvenile crime (e.g. addressing underlying social factors) advocated in the Convention, including prevention, special procedures, and diversion, has not been sufficiently taken into consideration by the State party.

391. The Committee recommends that the State party:

...

(b) End the criminalization of status offences;

(c) Take legislative measures formally to abolish flogging as a punishment;

(d) Ensure that the deprivation of liberty is used only 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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- (e) Ensure that persons under 18 are not tried as adults;
  - (f) Ensure that children have access to legal aid and independent and effective complaints mechanisms;
  - (g) Repeal the Collective Punishment Law;
  - (h) Train professionals in the area of social rehabilitation of children.
- Jamaica, CRC, CRC/C/132 (2003) 86 at paras. 415, 416, 426, 427, 450 and 451.

415. The Committee notes the preparation of the Child Care and Protection Act and thereby the efforts by the State party to bring the legal minimum ages into line with the Convention. On this aspect, it expresses its concern:

...

    - (b) About the low legal age of criminal responsibility (12 years).

416. The Committee recommends that the State party:

...

    - (b) Raise the minimum legal age of criminal responsibility to an internationally acceptable age.

...

426. The Committee is deeply concerned about:

    - (a) The generally violent environment in which Jamaican children are living;
    - (b) The stereotypical and discriminatory attitudes concerning the roles of women and children, including traditions of violence, abuse, including sexual abuse, and neglect.

427. The Committee urges the State party to strengthen considerably its efforts to address and condemn violence in society, including violence against women and children, particularly in the context of the family, as well as in schools and other environments. Further, it recommends that the State party take steps to monitor and address any incidents of violence and sexual or other abuse against children and take measures to ensure the rehabilitation of traumatized and victimized children by, *inter alia*:

    - (a) Carrying out public education campaigns about the negative consequences of violence and ill-treatment of children and promoting positive, non-violent forms of conflict resolution and discipline, especially within the family and in the educational system;
    - (b) Taking all legislative measures to prohibit all forms of physical and mental violence,

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including corporal punishment and sexual abuse, against children in all contexts in society, as well as taking effective measures for the prevention of violent acts committed within the family, in schools and by the police and other State agents, making sure that perpetrators of these violent acts are brought to justice, thereby putting an end to the practice of impunity;

(c) Providing care, recovery and reintegration for child victims of direct or indirect violence and ensuring that the child victim is not revictimized in legal proceedings and that his/her privacy is protected;

...

450. While recognizing the State party's efforts and achievements in this domain, the Committee remains concerned that:

(a) There is no independent mechanism to monitor and evaluate the situation of children in conflict with the law, including children deprived of their liberty, and the rehabilitation of juvenile offenders;

(b) The stereotypical inflexible attitudes concerning children's rights among police officers and members of the judiciary are impeding the full implementation of the Convention in this regard;

(c) Children are sometimes held in lock-ups by the police in sub-standard conditions, and that children in pre-trial detention may wait as long as a year before their case is dealt with by the court.

451. The Committee recommends that the State party, in the light of the Committee's day of general discussion on juvenile justice, develop mechanisms and provide adequate resources to ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 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). In particular, the Committee recommends that the State party:

(a) Establish an independent mechanism to monitor the situation of children in conflict with the law, including children in juvenile detention centres, and monitor preventive, recovery and evaluation policies in this regard;

(b) Amend the legislation to ensure that children are not sentenced to life imprisonment;

(c) Strengthen its efforts to educate and sensitize police personnel, judicial personnel and other staff within the justice system to the provisions of the Convention, especially concerning the special needs of children deprived of their liberty, to ensure that the rights of the child, *inter alia* to be separated from adults and to be treated in a manner consistent



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with the promotion of the child's sense of dignity and worth, are always respected;

(d) Take further measures to ensure that detainees under the age of 18 are not kept, or even placed, in police lock-ups in sub-standard conditions, *inter alia* by improving the living conditions of children on remand and encouraging communication between the police and children's officers responsible for the placement of detained children, and take further measures to introduce more alternatives to institutionalization of juvenile offenders. In this regard, the Committee wishes to emphasize that article 37 (b) of the Convention requires that detention shall be used only as a measure of last resort and for the shortest appropriate period of time;

(e) Evaluate and improve the standards of the juvenile institutions, such as the Places of Safety, including their living conditions, reintegration and psychological recovery programmes and the quality of the personnel;

(f) Seek assistance from, among others, OHCHR, the Centre for International Crime Prevention and UNICEF.

- Kazakhstan, CRC, CRC/C/132 (2003) 129 at paras. 646-650.

646. The Committee welcomes the adoption in 1998 of the new Criminal Code introducing a special chapter entitled "Special features of criminal responsibility and punishment of minors" which takes on the requirements set out in articles 37 and 40 of the Convention.

647. The Committee further welcomes the information about two pilot projects on juvenile justice aiming at the establishment of a rights-based approach to juveniles in conflict with the law in full compliance with the Convention, but is concerned at the existing shortcomings in the juvenile justice system, *inter alia*:

...

(c) The placement of children aged 11 to 14 in "special educational institutions" as a form of punishment provided for in the commentary to the Criminal Code and the vague legal provisions for the issuance of such decisions;

(d) The placement of children from 3 to 18 in centres for temporary isolation, adaptation and rehabilitation for juveniles (CITARJ), without legal grounds or procedure;

(e) The still large number of children sentenced to placement in corrective and other institutions and insufficient education and guidance provided in these institutions, and the lack of social and psychological recovery measures;

(f) The existence of subordinate norms and departmental regulations and instructions that

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allow the restriction of freedom of children without fully complying with the provisions of the criminal, criminal-procedural and criminal-executive legislation.

648. The Committee recommends that the State party:

...

(c) In light of article 39, take appropriate measures to promote the rehabilitation and social reintegration of children involved in the juvenile justice system, including adequate education and certification to facilitate their reintegration;

(d) Ensure that existing norms and regulations allowing the restriction of freedom of children conform to the laws of Kazakhstan and international standards;

(e) CITARJ should be transformed into centres for assistance and placement of lost, abandoned and homeless children, but only as a temporary measure and for the shortest time possible;

(f) Seek assistance from, among others, OHCHR and UNICEF through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

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).

- San Marino, CRC, CRC/C/133 (2003) 9 at paras. 43 and 44.

43. The Committee welcomes the information that article 234 of the Penal Code also includes the prohibition of corporal punishment, but is concerned at the lack of any concrete statistical data and other information on the prevention and prevalence of and intervention in cases of child abuse and neglect.

44. The Committee recommends that the State party undertake awareness-raising campaigns on the negative impact of corporal punishment. Furthermore, the State party should undertake studies to assess the prevalence and nature of violence against children and develop a comprehensive plan of action based on this study for the prevention of and intervention in cases of child abuse and neglect, including the provision of services for recovery and social reintegration of victims, taking into account the recommendations of the

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Committee adopted at its days of general discussion on children and violence (see CRC/C/100, para. 688 and CRC/C/111, paras. 701-745).

- Canada, CRC, CRC/C/133 (2003) 14 at paras. 82, 83, 95, 106 and 107.

82. The Committee welcomes the efforts being made by the State party to discourage corporal punishment by promoting research on alternatives to corporal punishment of children, supporting studies on the incidence of abuse, promoting healthy parenting and improving understanding about child abuse and its consequences. However, the Committee is deeply concerned that the State party has not enacted legislation explicitly prohibiting all forms of corporal punishment and has taken no action to remove section 43 of the Criminal Code, which allows corporal punishment.

83. The Committee recommends that the State party adopt legislation to remove the existing authorization of the use of "reasonable force" in disciplining children and explicitly prohibit all forms of violence against children, however light, within the family, in schools and in other institutions where children may be placed.

...

95. The Committee recommends that the State party further improve the quality of education throughout the State party in order to achieve the goals of article 29, paragraph 1, of the Convention and the Committee's general comment No. 1 on the aims of education by, *inter alia*:

...

(d) Adopting appropriate legislative measures to forbid the use of any form of corporal punishment in schools and encouraging child participation in discussions about disciplinary measures.

...

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. In addition, the public perceptions about youth crime are said to be inaccurate and based on media stereotypes.

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;

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(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.

- New Zealand, CRC, CRC/C/133 (2003) 27 at paras. 141 and 142.

141. The Committee is deeply concerned that despite a review of legislation, the State party has still not amended section 59 of the Crimes Act 1961, which allows parents to use reasonable force to discipline their children. While welcoming the Government's public education campaign to promote positive, non-violent forms of discipline within the home, the Committee emphasizes that the Convention requires the protection of children from all forms of violence, which includes corporal punishment in the family and which should be accompanied by awareness-raising campaigns on the law and on children's right to protection.

142. The Committee recommends that the State party:

(a) Amend legislation to prohibit corporal punishment in the home;

(b) Strengthen public education campaigns and activities aimed at promoting positive, non-violent forms of discipline and respect for children's right to human dignity and physical integrity, while raising awareness about the negative consequences of corporal punishment.

- Pakistan, CRC, CRC/C/133 (2003) 37 at paras. 208, 209, 226 and 229.

208. The Committee is deeply concerned that the State party's Penal Code (sect. 89) allows for corporal punishment to be used as a disciplinary measure in schools and at the fact that corporal punishment is widely practiced, especially within educational and other institutions and within the family, many times resulting in serious injuries. The Committee is further concerned that, despite the 1996 Abolition of the Punishment of Whipping Act, whipping is still used as a sentence for Hadood crimes.

209. The Committee recommends that the State party, as a matter of urgency:

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(a) Repeal section 89 of the Penal Code of 1860 and explicitly prohibit all forms of corporal punishment;

(b) Abolish the sentence of whipping, under any circumstance or law;

(c) Undertake well-targeted public awareness campaigns on the negative impact of corporal punishment on children, and provide teachers and parents with training on non-violent forms of discipline as an alternative to corporal punishment.

...

226. The Committee welcomes the measures taken to increase the attendance of girls at schools and the information that a national "Compulsory Primary Education Ordinance" has been promulgated (March 2002), and also notes the modest improvement in the gross primary enrolment rate. However, the Committee remains deeply concerned that:

...

(g) The code of conduct for teachers does not prohibit corporal punishment, nor does it deal with the problem of violence against children in school.

...

229. The Committee recommends that the State party:

...

(i) Take proactive measures to eliminate violence against children in schools, notably by including in the code of conduct for teachers the prohibition of corporal punishment and by limiting the role of school counsellors to those functions that help the pupil and revoking their disciplinary functions.

- Madagascar, CRC, CRC/C/133 (2003) 56 at paras. 289 and 290.

289. The Committee is concerned at the poor conditions of detention of children and at incidents of ill-treatment by prison guards, amounting in many cases to cruel, inhuman and degrading treatment prohibited under article 37 (a) of the Convention.

290. The Committee urges the State party to take all necessary measures to improve the conditions of detention of children, to provide these children with accessible and safe procedures for filing complaints to an independent body, and to ensure that each case of violence and abuse is duly investigated, that perpetrators are brought to justice without undue delay and that victims are provided with opportunities for social rehabilitation, full physical and psychological recovery and access to adequate procedures for seeking compensation. The Committee further recommends that the State party take the necessary steps to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

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- Singapore, CRC, CRC/C/133 (2003) 84 at paras. 427 and 428.

427. The Committee is concerned that the minimum age of criminal responsibility is too low, that all persons in conflict with the law under 18 are not afforded special protection, and that corporal punishment and solitary confinement are used to discipline juvenile offenders.

428. The Committee recommends that the State party:

...

(c) Amend the Children and Young Persons Act to ensure special protection for all offenders up to the age of 18;

(d) Prohibit the use of corporal punishment, including whipping and caning, and solitary confinement in all detention institutions for juvenile offenders, including police stations;

...

- Bangladesh, CRC, CRC/C/133 (2003) 93 at paras. 465, 466, 473, 474, 509 and 510.

465. Despite the information that the death penalty has never been carried out against juvenile offenders in the State party, the Committee remains seriously concerned that capital punishment may be imposed for offences committed by persons from the age of 16 years and over, contrary to article 37 (a) of the Convention.

466. The Committee strongly recommends that the State party take immediate steps to ensure that the imposition of the death penalty for crimes committed by persons while under 18 is explicitly prohibited by law.

...

473. While taking note of the efforts by the State party to raise public awareness of the ill-treatment of children, the Committee is concerned at reports of ill-treatment and violence against children in State institutions such as orphanages and rehabilitation centres, including by law enforcement agents, as well as at the solitary confinement of juvenile and child prisoners. The Committee is also concerned at reports of violence against street children. Furthermore, the Committee expresses its deep concern at the reported inhuman and degrading punishment carried out by order of traditional village councils (“shalishes”) as well as at the increasing incidents of acid attacks on women and girls.

474. The Committee strongly recommends that the State party:

(a) Review its legislation (*inter alia*, Code of Criminal Procedure, 1898) with the aim of prohibiting the use of all forms of physical and mental violence, also within educational and other institutions;

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- (b) Conduct a study to assess the nature and extent of torture, ill-treatment, neglect and abuse of children, to assess the inhuman and degrading treatment of children attributable to “shalishes”, and effectively to implement policies and programmes as well as to amend and adopt laws to address these issues;
- (c) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervening where necessary, and investigate and prosecute cases of torture, neglect and ill-treatment, ensuring that the abused child is not revictimized through legal proceedings and that his or her privacy is protected;
- (d) Undertake all necessary measures to prevent and punish police violence;
- (e) Take all necessary effective measures to ensure the implementation of the 2002 Acid Control Act and of the 2002 Acid Control Prevention Act;
- (f) Provide care, recovery, compensation and reintegration for victims;
- (g) Take into consideration the recommendations of the Committee adopted at its day of general discussion on the theme “Violence against children” (CRC/C/100, para. 688 and CRC/C/111, paras. 701-745);
- (h) Seek assistance from, *inter alia*, UNICEF and the World Health Organization (WHO).

...

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;
- (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;

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(g) The detention of children with adults and in very poor conditions, without access to basic services.

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;

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

- Georgia, CRC, CRC/C/133 (2003) 111 at paras. 548, 549, 582 and 583.

548. The Committee welcomes the Presidential Decree approving a Plan of Action against Torture for 2003-2005 and the related plan to amend the Criminal Code with a view to strengthening the protection from torture and inhuman or degrading treatment or punishment. However, it remains concerned at the information that children are subjected to torture and other forms of violence and abuse in police stations, institutions and schools.

549. The Committee urges the State party to take all necessary measures for the expeditious and effective implementation of the Plan of Action against Torture, ensuring full protection of children from all forms of violence, proper interrogation, prosecution and sentencing of perpetrators, and the provision of care, recovery and compensation for all child victims.

...

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,



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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;

(c) In light of article 39, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system, including adequate education and certification to facilitate their reintegration;

(d) Strengthen preventive measures, such as supporting the role of families and communities in order to prevent juvenile delinquency;

(e) Request technical assistance in the area of juvenile justice from, among others, the Office of the United Nations High Commissioner for Human Rights and UNICEF.

- Indonesia, CRC, CRC/C/137 (2004) 8 at paras. 63, 64, 96 and 98.

63. The Committee is deeply concerned that corporal punishment in the family and in schools is widespread, culturally accepted and still lawful.

64. The Committee recommends that the State party:

(a) Amend its current legislation to prohibit corporal punishment everywhere, including in the family, schools and childcare settings;

(b) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment.

...

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:

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...

(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. 135, 136, 152, 153, 170 and 171.

135. The Committee is concerned at the...low minimum legal age of criminal responsibility (10 years).

136. The Committee recommends that the State party:

...

(b) Raise the minimum age of criminal responsibility to an internationally acceptable level.

...

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;

(c) Ensuring that victims of violence have access to counselling and assistance with recovery and reintegration;

(d) Developing awareness-raising campaigns with the involvement of children in order to prevent and combat child abuse.

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...

170. While recognizing the efforts made by the State party in this domain, the Committee remains concerned at the incompatibility of the juvenile system with the provisions and principles of the Convention. It is especially concerned at the fact that the age of criminal responsibility, fixed at 10 years, is too low and that 17-years-olds are tried as adults. Furthermore, the Committee is concerned at the lack of remand homes for male and female juveniles and at the very harsh conditions of detention.

171. The Committee recommends that the State party:

(a) Raise the age of criminal responsibility and ensure that 17-years-olds are given adequate special protection so that they may not be tried as adults;

...

(d) Establish separate remand homes for boys and girls;

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

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

239. ...The Committee...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 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. ...[T]he 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. In this regard, the State party should ensure that proper social support structures are available to victims of sexual exploitation in the area of reintegration and recovery...

...

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

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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 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. 373 and 374.

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 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.

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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. 420, 421, 456 and 458.

420. The Committee is concerned at numerous reports of ill-treatment, torture and sexual abuse of children in detention facilities, and alleged instances of killings of children by law enforcement officials.

421. In line with its previous recommendations (CRC/C/15/Add.115, paras. 39-41), the Committee recommends that the State party:

(a) Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Set up child-sensitive mechanisms to receive complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and in detention centres;

(c) Investigate and prosecute complaints in a child-sensitive manner;

(d) Strengthen its efforts to train the law enforcement personnel on the human rights of children; and

(e) In light of article 39, take all appropriate measures to ensure the physical and psychological recovery and social integration of child victims of torture and/or ill-treatment.

...

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

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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:

(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. 571 and 572.

571. The Committee is concerned that there is no legislation explicitly prohibiting corporal punishment within the home and that the latest draft amendments to the Marriage and Family

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Relations Act do not envisage such a prohibition.

572. The Committee recommends that the State party strengthen its efforts to address ill-treatment of children in the family, including by raising awareness of alternative, non-violent forms of discipline through public campaigns. The Committee also urges the State party to consider introducing an explicit prohibition on corporal punishment of children in the family, either in the draft amendments to the Marriage and Family Relations Act or in the special act on preventing violence in the family currently in preparation.

- Japan, CRC, CRC/C/137 (2004) 116 at paras. 655 and 656.

655. While noting that the State party has undertaken a reform of the juvenile justice law since the Committee's consideration of its initial report, it is concerned that many of the reforms were not in the spirit of the principles and provisions of the Convention and international standards on juvenile justice, in particular, with regard to the minimum age of criminal responsibility, which was lowered from 16 to 14 years, and pre-trial detention, which was increased from four to eight weeks. It is concerned that an increasing number of juveniles are tried as adults and sentenced to detention, and that juveniles may be sentenced to life imprisonment. Finally, the Committee is concerned at reports that children exhibiting problematic behaviour, such as frequenting places of dubious reputation, tend to be treated as juvenile offenders.

656. The Committee recommends that the State party:

...

- (b) Amend legislation so as to abolish life imprisonment for juveniles;
- (c) Strengthen and increase the use of alternatives to detention, including pre-trial detention, in order to ensure that deprivation of liberty is used only as a measure of last resort;
- (d) Review the existing possibility for Family Courts to transfer a case against a child of 16 years or older to a criminal court for adults with a view to abolishing this practice;
- (e) Provide legal assistance to children in conflict with the law throughout the legal proceedings;
- (f) Ensure that children with problematic behaviour are not treated as criminals;
- (g) Strengthen rehabilitation and reintegration programmes.

- El Salvador, CRC, CRC/C/140 (2004) 8 at paras. 57, 58, 89 and 90.

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57. The Committee is deeply concerned about the incidence of torture and ill-treatment and the generalized disrespect for fundamental human rights in centres for juvenile offenders in the State party as documented by the Human Rights Procurator's Office, which has a constitutional mandate to monitor the situation of persons deprived of their liberty, in its special report of November 2003 on the conditions in centres of internment for juvenile offenders. The Committee notes with concern the inadequacy of the review procedure established under the Juvenile Offenders Act and of access to the complaint mechanisms for children whose rights have been violated. It is also concerned that the State party was not able to provide information on or give an estimate of the number of registered cases of torture and ill-treatment in such internment centres.

58. The Committee urges the State party to take immediate and effective measures to bring an end to the occurrence of torture and other cruel, inhuman and degrading treatment in internment centres, in particular of juvenile offenders. The State party must ensure that:

(a) The fundamental rights and guarantees of juveniles who have committed a criminal offence set out in the Juvenile Offenders Act are respected, in particular, the prohibition, under all circumstances, of inhuman or degrading disciplinary measures, including: corporal punishment, detention in dark cells or solitary confinement, reduction of food rations, denial of contact with relatives, collective punishment and punishment more than once for the same disciplinary offence;

(b) The monitoring of the situation in detention centres is strengthened and that a system is established to register all reported cases of torture and ill-treatment;

(c) Effective mechanisms to investigate and prosecute cases of torture and ill-treatment are created;

(d) Personnel working with juvenile offenders duly comply with the law and are properly trained and informed about their role and responsibilities;

(e) Disciplinary measures and other appropriate legal action are taken against personnel who have undertaken or authorized inhuman or degrading treatment;

(f) Preventive programmes are implemented to address the problems identified in the report of the Human Rights Procurator's Office;

(g) An integrated programme to prevent and eliminate institutional violence is implemented.

...

89. The Committee is deeply concerned that measures taken under the so-called "Tough Hand Plan" (*Plan Mano Dura*), adopted in July 2003, and the Anti-Gang Laws, in force



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since October 2003, including the second Anti-Gang Law (*Ley para el combate de las actividades delincuenciales de grupos o asociaciones ilícitas especiales*) of 1 April 2004, are in breach of the Convention. The Committee expresses concern at, *inter alia*, the notion of a “capable minor” (*menor habilitado*), which provides for the possibility of prosecuting a child as young as aged 12, as an adult; and the fact that the law criminalizes physical features, such as the use of signs or symbols as a means of identification and the wearing of tattoos or scars. Moreover, the Committee is concerned that the Anti-Gang Laws undermine the Juvenile Offenders Act by introducing a dual system of juvenile justice. The Committee also expresses concern at the large number of children who have been detained as a consequence of the “Tough Hand Plan” and the Anti-Gang Laws, and regrets the lack of social and educational policies to address the problems of gang involvement and violence and crime among adolescents.

90. The Committee urges the State party to immediately abrogate the second Anti-Gang Law and to apply the Juvenile Offenders Act as the only legal instrument in the area of juvenile justice. The Committee reaffirms the State party’s obligation to ensure that measures taken to prevent and combat crime are fully in conformity with international human rights standards and based on the principle of the best interests of the child. It recommends that the State party adopt comprehensive strategies which are not limited to penal measures but also address the root causes of violence and crime among adolescents, in gangs and outside gangs, including policies for social inclusion of marginalized adolescents; measures to improve access to education, employment and recreational and sports facilities; and reintegration programmes for juvenile offenders.

- Rwanda, CRC, CRC/C/140 (2004) 36 at paras. 195, 196, 229-231 and 233.

195. The Committee notes that Law No. 27/2001 on the Rights of the Child and Protection of Children against Abuse prohibits any act of torture and cruel, inhuman or degrading treatment or punishment against children, but remains concerned at the absence of a definition of those offences in the Penal Code and that Rwanda is not a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

196. The Committee recommends that the State party adopt appropriate measures to combat torture and cruel, inhuman or degrading treatment and that it ratify the Convention against Torture.

...

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

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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 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. In addition, the 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;

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

- Sao Tome and Principe, CRC, CRC/C/140 (2004) 54 at paras. 297 and 298.

297. The Committee notes with appreciation that the minimum age of criminal responsibility is set at 16 years. The Committee welcomes the modification, in 2003, of Decree 417 providing for the establishment of a juvenile court, the plan to establish a rehabilitation centre for juveniles, as well as the efforts made to provide information, raise awareness and train judges and other persons working with children about how to deal with juvenile delinquents. However, the Committee is concerned that Decree 417, as modified in 2003, has not yet been implemented and that no juvenile court exists in Sao Tome and Principe.

298. The Committee recommends that the State party:

(a) Implement adequate legislation on criminal or other procedures to deal with persons under the age of 18 in conflict with the law;

(b) Establish juvenile courts endowed with appropriately trained personnel, including judges;

(c) 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 last resort, for the shortest appropriate time period and in appropriate conditions;

- 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

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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, including through technical cooperation.

- Myanmar, CRC, CRC/C/140 (2004) 81 at paras. 381, 382, 399, 400, 412 and 413.

381. ...The Committee...welcomes the promulgation of Orders of 1999 and 2000 by which forced labour has been prohibited, the accession to ILO Forced Labour Convention, 1930

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(No. 29) and the comprehensive Plan of Action for the Elimination of Forced Labour established in collaboration with ILO, but remains concerned at the fact that the Village and Town Acts are still in existence. This concern is also reiterated regarding the existence of the Citizenship Act and the Whipping Act, despite previous recommendations of the Committee to amend or repeal them.

382. In light of its previous recommendations (CRC/C/15/Add.69, para. 28), the Committee recommends that the State party:

...

(b) Repeal the Whipping Act and amend the Citizenship Act and the Village and Town Acts; and

...

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...

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...

...

412. The Committee is deeply concerned that article 66 (d) of the 1993 Child Law provides for possible "admonition by a parent, teacher, or other person having the right to control the child" and that corporal punishment continues to be regarded as acceptable in society. The Committee is also concerned that the State party has not repealed the Whipping Act and that the orders prohibiting corporal punishment in schools do not seem to be effective.

413. The Committee strongly recommends that the State party repeal article 66 (d) of the 1993 Child Law and prohibit corporal punishment in the family, the schools and other institutions, and undertake education campaigns to educate families and professionals on alternative forms of discipline.

- Dominica, CRC, CRC/C/140 (2004) 101 at paras. 485, 486, 503 and 505.

485. The Committee is deeply concerned at the wide use of corporal punishment in the State party. It also notes with concern that corporal punishment is mentioned in the Education Act of 1997 and that the Magistrate Code of Procedure allows the whipping of a male child or a young person.

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486. The Committee recommends that the State party:

- (a) Remove all provisions from laws that allow corporal punishment and explicitly prohibit corporal punishment by law in the family, schools and other institutions;
- (b) Continue the constructive dialogue with political leaders and the judiciary with the aim of abolishing corporal punishment;

...

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 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

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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;...

...

- France, CRC, CRC/C/140 (2004) 124 at paras. 595 and 596.

595. The Committee is concerned that the State party has not established a minimum age of criminal responsibility in spite of the express provision of article 40, paragraph 3 (a) of the Convention...

596. The Committee recommends that the State party establish a minimum age of criminal responsibility which is at the internationally acceptable level and below which a child shall be presumed not to have the capacity to infringe the penal law...

- Brazil, CRC, CRC/C/143 (2004) 10 at paras. 65-68, 93 and 95.

65. The Committee notes that the 1997 Law on Torture, the Penal Code and the Statute of the Child and Adolescent (ECA) strongly prohibit torture and ill-treatment. Nevertheless, the Committee is deeply concerned by the gap existing between the law and its implementation, as a significant number of cases of torture, inhuman and degrading treatment have been reported over the last years, including by the Special Rapporteur on the question of torture (E/CN.4/2001/66/Add.2).

66. The Committee urges the State party to implement fully its legislation and to take into account the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, in particular with regard to effective measures to combat impunity...

67. The Committee expresses its concern that corporal punishment is widely practised in the State party and that no explicit legislation exists in the State party to prohibit it. Corporal punishment is used as a disciplinary measure in penal institutions, “reasonable” punishment is carried out in schools and “moderate punishment” is lawful in the family.

68. The Committee recommends that the State party explicitly prohibit corporal punishment in the family, school and penal institutions, and to undertake education campaigns that

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educate parents on alternative forms of discipline.

...

93. The Committee notes the establishment of juvenile courts. Nevertheless, it is concerned at the lack of clear guarantees for a fair and speedy trial and of the enforcement of rules for pre-trial detention. The Committee is also concerned that socio-educative measures are not frequently applied and therefore, as a result, a large number of persons below age 18 are in detention, and at the very poor conditions of detention. The Committee is also concerned at the numerous reports of ill-treatment of young inmates, the very limited possibilities for the rehabilitation and reintegration into society of juveniles following judicial proceedings; and the sporadic training of judges, prosecutors and prison staff in children's rights.

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

(a) Fully implement the relevant rules of the statute concerning juvenile justice, including the socio-educative measures in all the territory of the State party;

(b) Provide the means and encouragement so that persons under 18 in conflict with the law be handled, as far as possible, without resorting to judicial proceedings;

...

(e) Protect the rights of persons under 18 deprived of their liberty and improve their conditions of detention and imprisonment, notably by establishing special institutions for persons under 18 with conditions suitable to their age and needs and by ensuring the accessibility to social services in particular health care and education, in all detention centres in the State party; and in the meantime by guaranteeing separation from adults in all prisons and in pre-trial detention places all over the country;

(f) Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prisons guards, and establish an independent, child-sensitive and accessible system for receiving and dealing with complaints;

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

(h) Introduce regular medical examination of persons under 18 who are deprived of their liberty by independent medical staff;

...

- 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.



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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.

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;

...

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;

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...

(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 OHCR and UNICEF in this regard.

- Equatorial Guinea, CRC, CRC/C/143 (2004) 64 at paras. 332, 333, 371 and 372.

332. The Committee notes that the State party's legislation sets 18 years old as the age of majority, but is concerned about the application of the Spanish laws from before 1968 with regard to the minimum legal age for criminal responsibility and marriage...

333. The Committee recommends that the State party review the age limits set by different legislation affecting children, in particular the Spanish laws from before 1968, to fully ensure that they are in conformity with the principles and provisions of the Convention...

...

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 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, 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;

...

(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;

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

- Albania, CRC, CRC/C/146 (2005) 19 at paras. 125 and 126.

125. The Committee is concerned that corporal punishment remains lawful in the family, and continues to be used as a disciplinary method.

126. The Committee urges the State party to expressly prohibit by law all corporal punishment in the family. The State party is further encouraged to undertake awareness-raising campaigns and education programmes on non-violent forms of discipline, and to conduct research into the prevalence of corporal punishment of children in the family.

- Luxembourg, CRC, CRC/C/146 (2005) 36 at paras. 188, 189, 216 and 217.

188. While noting that the new Act of 16 June 2004 dealing with the reorganization of the State Socio-Educational Centre reduces to 10 days, instead of the previous 20 days, the maximum duration of solitary confinement as a disciplinary sanction for persons under 18 years of age, and provides the child with the possibility of appealing to the juvenile judge, the Committee is still deeply concerned at the use and length of this isolation and at the very harsh conditions depriving the child of almost all contact with the outside world and of any outdoor activity.

189. The Committee recommends that the State party develop and implement alternative disciplinary sanctions in order to avoid as much as possible the use of solitary confinement, to further reduce the length of this confinement and to improve its conditions, *inter alia*, by providing persons under 18 with access to an outdoor area for at least one hour a day and giving them access to some kind of recreational facilities...

...

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:

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- (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 (see paras. 188 and 189 above).

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;
- (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. 261, 262, 275 and 276.

261. The Committee appreciates that corporal punishment has been prohibited by law in all settings, including in the family, the penal system and institutions of childcare. However, the Committee is concerned that corporal punishment may still be practised in the family.

262. The Committee recommends that the State party continue its public education and awareness-raising campaigns on non-violent forms of discipline and child-rearing. The Committee also recommends that the State party undertake studies on the prevalence of violence in children's experiences and the negative effects of corporal punishment on the development of children.

...

275. The Committee is concerned about the increasing number of persons below 18 placed in detention, disproportionately affecting those of foreign origin, and that persons below 18

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are not always separated from adults.

276. The Committee recommends that the State party:

(b) ...undertake the following particularly recommended measures:

(i) Alternative measures for detention, including pre-trial detention, should be strengthened and applied as much as possible in order to ensure that this deprivation of liberty is really a measure of last resort for the shortest time possible;

(ii) Measures to ensure that persons below 18 held in detention are strictly separated from adult detainees, also during daytime activities;

(iii) Measures to ensure that the staff in juvenile detention centres are well trained to deal in a proper and adequate manner with the relatively high number of persons below 18 who are of foreign origin;

...

(c) In the light of article 40, paragraphs 1 and 4, of the Convention, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system, including through adequate education.

- Belize, CRC, CRC/C/146 (2005) 59 at paras. 332, 333, 362 and 363.

332. While noting the awareness-raising campaigns and the promotion of alternative methods of discipline, the Committee reiterates its deep concern that corporal punishment is still frequently practised in the family, in schools and in other institutions, that domestic legislation does not prohibit the use of corporal punishment and that the provisions of the Criminal Code and the Education Act legitimize the use of it.

333. The Committee, reiterating its previous recommendation, urges the State party:

(a) To critically review its current legislation with a view to abolishing the use of force for the purpose of correction and to introduce new legislation prohibiting all forms of corporal punishment of children in the family and within all institutions, including schools and the alternative care system;

(b) To extend and strengthen public education and social mobilization campaigns on alternative non-violent forms of discipline and child-rearing, with the participation of children, in order to change public attitudes to corporal punishment and to strengthen its cooperation with the NGOs in this respect;

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(c) To seek international technical assistance from, among others, UNICEF in this regard.

...

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 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;

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(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.

- Islamic Republic of Iran, CRC, CRC/C/146 (2005) 88 at paras. 443, 444, 464, 465, 480-483, 507 and 508.

443. The Committee notes the various legislative measures undertaken by the State party and referred to in its response to the list of issues (CRC/C/RESP/71) and welcomes, in particular, the information provided by the delegation that the Bill on the Establishment of Juvenile Courts has been approved by the Council of Ministers and has been submitted to the *Majlis*, a bill which, *inter alia*, abolishes the death penalty for crimes committed by persons under 18. The Committee also notes that this Bill has yet to be approved by the Council of Guardians before it becomes law.

444. The Committee recommends that the State party take, as a matter of the highest priority, all possible measures to secure the final official approval of this new law and to ensure its full implementation...

...

464. The Committee notes the statement made by the delegation of the State party during the consideration of the second periodic report that in view of the Bill on the Establishment of Juvenile Courts currently pending before Parliament, executions of persons for having committed crimes before the age of 18 have been suspended. The Committee deplores the fact that such executions have continued since the consideration of the State party's initial report, including one such execution on the day the second report was being considered.

465. The Committee urges the State party to take the necessary steps to immediately suspend the execution of all death penalties imposed on persons for having committed a crime before the age of 18, to take the appropriate legal measures to convert them into penalties in conformity with the provisions of the Convention and to abolish the death penalty as a sentence imposed on persons for having committed crimes before the age of 18, as required by article 37 of the Convention.

...

480. The Committee deeply regrets that, under existing laws, persons below the age of 18

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who have committed a crime can be subjected to corporal punishment and sentenced to various types of torture or other cruel, inhuman or degrading treatment or punishment, such as amputation, flogging or stoning, which are systematically imposed by judicial authorities and which the Committee considers to be totally incompatible with article 37 (a) and other provisions of the Convention.

481. In the light of the consideration of the Bill on the Establishment of Juvenile Courts, the Committee urges the State party to take all the necessary measures to ensure that persons who committed crimes while under 18 are not subjected to any form of corporal punishment and to suspend the imposition and the execution of sentences of amputation, flogging, stoning and other forms of cruel, inhuman or degrading treatment or punishment.

482. The Committee continues to be concerned about legislation that provides for corporal punishment within the family. While welcoming the new Law on the Protection of Children and Adolescents (2003), which includes the prohibition of all forms of molestation and abuse of children and the obligation to report cases of child abuse, the exceptions stated therein continue to legally allow various forms of violence against children. More particularly, several articles of the Civil and Penal Code have been excluded, including article 1179 of the Civil Law and article 59 of the Penal Code, which gives parents the right to physically discipline their children within non-defined "normal limits". In the Committee's view, such exceptions contribute to the abuse of children inside and outside the family and contravene the principles and provisions of the Convention, in particular article 19...

483. The Committee recommends that the State party:

(a) Continue and strengthen its efforts, including through legislative and other measures, to prohibit and prevent all forms of physical and mental violence against children, including corporal punishment and sexual abuse, in the family, in schools, and in other institutions...

(b) Initiate public education campaigns against the use of all forms of violence against children and encourage alternative forms of discipline;

(c) Promote and support the effective operation of the child helpline, established in 2001, to allow children to seek advice and counselling in cases of, *inter alia*, abuse and neglect;

...

507. The Committee welcomes the efforts of the State party to improve the laws with regard to persons below 18 in conflict with the law, in particular the Bill on the Establishment of Juvenile Courts mentioned in paragraph 443 above. However, it deplores the information referred to in paragraph 464 above that, despite the statement of the delegation made during the consideration of the second periodic report that in view of that bill, executions, torture and other cruel, inhuman or degrading treatment or punishment of persons for having committed crimes before the age of 18 have been suspended, such executions and ill-



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treatment have continued since the consideration by the Committee of the State party's initial report. The Committee remains concerned at the persisting poor quality of the rules and practices in the juvenile justice system, reflected, *inter alia*, in the lack of statistical data, the limited use of specialized juvenile courts and judges, the low age of criminal responsibility, the lack of adequate alternatives to custodial sentences, and the imposition of torture and other cruel or inhuman punishment and in particular of the death penalty.

508. The Committee repeats reiterates its recommendation contained in paragraph 444 above that the State party take, as a matter of the highest priority, the necessary measures for the approval and implementation of the Bill on the Establishment of Juvenile Courts and to ensure that it complies with the provisions of the Convention, in particular articles 37, 39 and 40, 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), 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 day of general discussion on the administration of juvenile justice, held by the Committee in 1995. In this respect, the Committee urges the State party, in particular:

- (a) To suspend immediately, for an unlimited period of time, the imposition and execution of the death penalty for crimes committed by persons under 18, and to take all measures to implement paragraph 465 of the present concluding observations;
- (b) To suspend immediately the imposition and execution of all forms of torture and other cruel, inhuman or degrading treatment or punishment, such as amputation, flogging or stoning, for crimes committed by persons under 18;
- (c) To continue to improve the quality and availability of specialized juvenile courts and judges, police officers and prosecutors;
- (d) To develop and implement alternatives to custodial sentences;
- (e) To ensure that persons under 18 are provided with legal assistance of good quality throughout the process;
- (f) To develop and implement adequate support, counselling and other services so as to promote integration into society of juveniles who have been in conflict with the law and in particular those who have been deprived of their liberty;
- (g) To train judges and other professionals also in the area of social rehabilitation of children;

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(h) To seek technical assistance from and cooperation with, among others, OHCHR and UNICEF.

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

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;

...

(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

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in conflict with the law;

(e) Guarantee availability of legal advice and of specialized judges for juveniles in all jurisdictions;

(f) Establish rehabilitation and reintegration programmes;

(g) Collect and analyse systematically information on the juvenile justice system and on cases of persons under 18 in situations of conflict with the law, with a view to obtaining reliable statistics and data;

(h) Seek technical cooperation from, among others, OHCHR and UNICEF.

- Bolivia, CRC, CRC/C/146 (2005) 121 at paras. 660 and 661.

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;

(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;

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(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. 696, 697, 702, 703, 743 and 745.

696. In the context of the respect for the inherent right to life of a person under 18, the Committee is seriously concerned about the applicability of the death penalty to persons below 18 under the sharia law, and emphasizes that such a penalty is a violation of articles 6 and 37 (a) of the Convention.

697. The Committee urges the State party 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 persons under 18 with a sanction in accordance with the Convention.

...

702. The Committee takes note that article 221 of the Child Rights Act prohibits corporal punishment in judicial settings, and that a ministerial note has been sent to schools notifying them of the prohibition of corporal punishment in schools. Nevertheless, in light of article 19 of the Convention, the Committee remains concerned that corporal punishment is still widely practised in the penal system as a sanction, as well as in the family, in schools and in other institutions. In particular, the Committee is concerned about:

(a) Articles 9 and 11 (2) of the Children and Young Persons Law which provides for the sentencing of juvenile offenders to whipping and corporal punishment;

(b) Article 18 of the Criminal Code which provides for whipping;

(c) Article 55 of the Penal Code which provides for the use of physical corrective measures;

(d) Sharia legal code to children prescribing penalties and corporal punishment such as flogging, whipping, stoning and amputation, which are sometimes applied to children; and

(e) Legal provisions that tolerate, if not promote, corporal punishment at home, in particular article 55 (1) (a) of the Penal Code and article 295 of the Criminal Code.

703. The Committee recommends that the State party:

(a) Abolish or amend all legislation prescribing corporal punishment as a penal sentence,

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in particular the Children and Young Persons Law;

(b) Expressly prohibit corporal punishment by law in all settings, in particular in the family, schools and other institutions; and

(c) Conduct awareness-raising campaigns to ensure that positive, participatory, non-violent forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention, especially article 28, paragraph 2, as an alternative to corporal punishment at all levels of society.

...

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";

(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;

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(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.

743. Despite the State party's claim that there are no discrepancies between the provisions of the Convention and the sharia laws with regard to the rights of children, the Committee remains deeply concerned by the sentencing of persons below 18 years to cruel, inhuman and degrading treatment such as stoning, flogging, whipping and amputation by sharia courts. The Committee is further concerned that under section 95 of the sharia Penal Code, persons aged 7 to 18 years can be subjected to the punishment of confinement in a reform institution, or 20 strokes of cane, or with fine, or both.

...

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...

(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. 59, 60, 97 and 98.

59. The Committee is concerned at the fact that corporal punishment is a lawful way of disciplining children, both under the Children and Young Persons Act and the Education Act. The Committee is further concerned that corporal punishment is widely practised as a highly-favoured method of punishment.

60. The Committee recommends that the State party:

(a) Amend its legislation to explicitly prohibit corporal punishment in the family, schools and institutions;

(b) Conduct awareness-raising campaigns to inform the public in general about the negative impact of corporal punishment on children and actively involve children and the media in the process;

(c) Ensure that positive, participatory, non-violent forms of discipline are administrated in a manner consistent with the Convention, in particular article 28 (2) as an alternative to corporal punishment at all levels of society.

...

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

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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);

(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. 127, 130, 141, 142, 144, 145, 146 and 192-194.

127. While noting that the provisions of the Revised Penal Code (Republic Act No. 3815) and the Act to Impose the Death Penalty on Certain Heinous Crimes, which amended the Revised Penal Code (Republic Act No. 7659), explicitly prohibit the imposition of the death penalty on persons below the age of 18 years at the time the crime was committed, the Committee expresses its deep concern at the cases where children, that is persons below the



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age of 18, have been placed on death row without definite proof of their age.

...

130. The Committee...urges the State party to take all necessary steps to prevent the execution of children sentenced to death and replace their death sentences with sanctions which are in compliance with the Convention and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (General Assembly resolution 40/33). The State party should also take immediate legislative and other measures to oblige authorities, such as police, prosecutors, defence, judges and social workers, to present evidence in courts regarding the precise age of an accused person, or if failing to do so give a person the benefit of the doubt, in order to ensure that persons under 18 years of age are not sentenced to death or another adult punishment.

...

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.

...

144. While noting the State party's efforts to prohibit the use of corporal punishment in schools, prisons, institutions and forms of childcare by implementing various relevant provisions, the prevalence of corporal punishment in society gives cause for serious concern. The Committee is concerned that a provision for corporal punishment is not included in the Child and Youth Welfare Code and regrets that corporal punishment in the home is not explicitly prohibited by law.

145. In the light of its general comment No. 1 (2001) on the aims of education and the

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recommendations adopted by the Committee on its day of general discussion on violence against children within the family and in schools (see CRC/C/111), the Committee reiterates that corporal punishment is not compatible with the provisions of the Convention and it is inconsistent with the requirement of respect for the child's dignity, as specifically required by article 28, paragraph 2, of the Convention. Therefore, the Committee recommends that the State party prohibit by law all forms of corporal punishment in the home, in schools and in private and public institutions, in the juvenile justice system and the alternative care system.

146. The Committee recommends to the State party that it conduct a comprehensive study to assess the nature and extent of corporal punishment in different settings, including the home environment. Furthermore, the Committee recommends that the State party sensitize and educate parents, guardians and professionals working with and for children by carrying out public education campaigns about the harmful impact of violent forms of "discipline" and promote positive, non-violent forms of discipline as an alternative to corporal punishment.

...

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.

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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;
- (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:

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- (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;
- (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

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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. 328, 329, 357, 378 and 380.

328. The Committee is concerned that corporal punishment and ill-treatment of children is prevalent in the family, in schools and in other institutions. The Committee is concerned about the provisions in the 1992 Children's Act and the 1963 Muluki Ain (Civil Code) which provide for corporal punishment in the home, in schools and in other institutions and forms of childcare, which is in clear contravention of article 19 of the Convention. The Committee underlines the importance of specific legal prohibition of traditional practices which are harmful to children by law.

329. The Committee recommends that the State party:

(a) Expressly prohibit corporal punishment and ill-treatment of children by law in the family, schools and other institutions;

(b) Expedite the process of amending the relevant provision of the Children's Act and the 1963 Muluki Ain to ensure compliance with article 19 of the Convention;

(c) Strengthen awareness-raising campaigns to inform parents, teachers and professionals working with children, particularly in institutions, as well as the public at large about the negative impact of corporal punishment and ill-treatment on children and actively involve children and the media in the process;

(d) Ensure that positive, participatory, non-violent forms of discipline are administrated in a manner consistent with the child's human dignity and in conformity with the Convention, in particular article 28 (2) as an alternative to corporal punishment at all levels of society.

...

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357. The Committee recommends that the State party carefully examine the budget allocations and measures taken within the [education] field, with regard to their impact on the progressive implementation of the child's right to education and leisure activities. In particular, the Committee recommends that the State party:

...

(i) Adopt appropriate legislative measures to combat the use of corporal punishment in schools;

...

378. While welcoming the establishment of Juvenile Benches in all the district courts to deal with cases relating to children in conflict with the law, and that training programmes have been organized for law enforcement officials, including the Police Academy, the Committee remains of the view that the legislation and policies of the State party are not in conformity with international juvenile justice standards. The Committee reiterates its concern that the minimum age of criminal responsibility is set as young as 10, and that there is no official system of age verification in place. The Committee is also concerned about conditions of detention, and that persons under 18 are in most cases not separated from adults while in detention due to lack of juvenile detention facilities. The Committee is also alarmed that children are often brought to trial "without any proper investigation" and that a large proportion of juvenile cases are dealt by District Administration Offices which are quasi-judicial. The Committee is also concerned at the lack of educational facilities in prisons.

...

380. 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) (General Assembly resolution 40/33) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (General Assembly resolution 45/112), and in the light of the Committee's 1995 day of general discussion on the administration of juvenile justice. In this regard, the Committee recommends the State party, in particular to:

(a) Ensure that detained persons below 18 years 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;

(b) Expedite the construction of separate facilities (child correction centre) and separate cells in detention facilities for persons below 18 to ensure that they exist in all districts;

(c) In cases where deprivation of liberty is unavoidable and used as a last resort, for the shortest appropriate time, 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;

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(d) Ensure that persons under 18 years are not held accountable, detained or prosecuted under anti-terrorism laws;

(e) Review, and where necessary amend, all (judicial, legal and protection) procedures, including those of District Administrative Offices, so as to ensure that all persons under 18 years who are alleged as, or been accused of, breaking the law are fully guaranteed the right to a fair trial provided for by article 40 (2) of the Convention;

(f) Provide formal training for judicial professionals on juvenile justice administration and human rights;

(g) Seek technical cooperation from, *inter alia*, UNICEF and OHCHR.

- Ecuador, CRC, CRC/C/150 (2005) 91 at paras. 459 and 460.

459. The Committee takes note of the various measures undertaken by the State party with regard to indigenous children, including the implementation of the bilingual intercultural education system. However, the Committee remains concerned about the limited enjoyment of rights by indigenous children, particularly with regard to access to education and health due to widespread poverty. It is also concerned that indigenous children:

...

(b) Are subjected to punishment, including forms of public shaming; and

...

460. The Committee recommends that the State party take all necessary measures to protect the rights of indigenous children against discrimination and to guarantee their enjoyment of the rights enshrined in domestic law and in the Convention. In this regard, the Committee refers the State party to its recommendations adopted following its day of general discussion on the rights of indigenous children at its thirty-fourth session in 2003. The Committee further recommends that the State party provide indigenous communities, including children with sufficient information regarding birth registration procedures, child labour, HIV/AIDS, child abuse and neglect, including corporal punishment.

- Norway, CRC, CRC/C/150 (2005) 105 at paras. 491 and 492.

491. The Committee is concerned that children who are exposed to violence within the family do not always receive sufficient care and assistance.

492. The Committee recommends that the State party continue to strengthen its efforts to provide adequate assistance to children who are exposed to violence within the family or whose parents are psychiatric patients and/or drug abusers, including through:

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- (a) Ensuring that all victims of violence have access to counselling and assistance with recovery and reintegration;
- (b) Providing adequate protection to child victims of abuse within their homes;
- (c) Strengthening measures to address the root causes of violence within the family, giving special attention to marginalized and disadvantaged groups;
- (d) Public education campaigns about the negative consequences of ill-treatment and preventive programmes, including family development programmes promoting positive, non-violent forms of discipline.

- Nicaragua, CRC, CRC/C/150 (2005) 132 at paras. 624, 625, 663 and 664.

624. The Committee notes that torture and other cruel, inhuman or degrading treatment or punishment is prohibited in the State party. However, the Committee is concerned by allegations of instances of ill-treatment of children by law enforcement officials, especially in police establishments.

625. In the light of article 37 (a) of the Convention, the State party should take all necessary measures to address the causes and to prevent incidents of ill-treatment of children while in State care, including by adopting a prevention strategy against institutional violence.

...

663. While the Committee notes some progress in the juvenile justice system in the country, including the creation of a number of juvenile criminal courts in the main departmental capitals, it is concerned at the insufficient human and financial resources that are devoted to a proper administration of juvenile justice, including the appropriate implementation of the Code on Children and Adolescents. It is also concerned at the remaining gaps in issues of defence, prosecution and the definition and implementation of measures or sanctions alternative to deprivation of liberty for persons below 18. Furthermore, it is also concerned about:

- (a) The fact that no special places for deprivation of liberty exist for persons below 18 in conflict with the law;
- (b) The poor conditions of detention - especially in police detention centres - including inappropriate cell space and lack of sufficient light and ventilation, inadequate hygienic standards and overcrowding.

664. The Committee reiterates its previous recommendation that the State party bring the system of juvenile justice fully in line with the Convention, in particular articles 37, 40 and



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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 that the State party in particular:

(a) Allocate sufficient resources and increase the efforts in order to adequately implement the Code on Children and Adolescents in all departments, including by creating juvenile courts throughout the country;

(b) Take all necessary measures to establish separate detention facilities for persons below 18, in accordance with articles 111 and 214 of the Code on Children and Adolescents and with article 37 (c) of the Convention;

(c) Ensure that deprivation of liberty is used only as a measure of last resort and improve the conditions of detention of persons below 18 - especially in police detention centres - notably by complying with the international standards as to surface area, ventilation, fresh air, natural and artificial light, proper food, drinking water and hygienic conditions;

(d) Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prison guards, and establish an independent child-sensitive and accessible system for the reception 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) Provide training for penitentiary staff on children's rights and special needs;

...

- Costa Rica, CRC, CRC/C/150 (2005) 149 at paras. 698-701.

698. While taking note that a bill prohibiting and penalizing torture is being examined by the Legislative Assembly, the Committee is concerned at the fact that the use of torture, in particular on children, is still not formally prohibited and criminalized in the Penal Code.

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699. The Committee reiterates its recommendation that the State party take all necessary measures to ensure the prohibition and penalization of torture in its legislation.

700. The Committee welcomes the efforts made by the State party to sensitize the different actors involved on the need to eradicate corporal punishment in the family, in school and in other institutions, and the fact that the Legislative Assembly is examining a bill prohibiting corporal punishment. The Committee remains however concerned at the fact that corporal punishment is still not explicitly prohibited in domestic law, as recommended by the Committee in its previous concluding observations, and still perceived as "sometimes necessary" by a large portion of the population (CRC/C/15/Add.117, para. 17).

701. The Committee reiterates its recommendation that the State party should incorporate the prohibition of corporal punishment in its legislation and continue to take appropriate measures to raise the awareness of the general public on the negative consequences of corporal punishment and other forms of violence in the upbringing of children, and to sensitize parents, teachers and others working with and for children about the alternative, non-violent means of discipline in the light of article 28 (2) of the Convention.

- Yemen, CRC, CRC/C/150 (2005) 161 at paras. 771-773.

771. The Committee is deeply concerned that corporal punishment is still used as a disciplinary measure in schools despite its official prohibition and is widely practised within the family and in other settings. The Committee is further concerned that corporal punishment, including flogging, is still lawful as a sentence for crime.

772. The Committee recommends that the State party, as a matter of urgency:

- (a) Review existing legislation and explicitly prohibit all forms of corporal punishment;
- (b) Abolish by law the possibility of sentencing a child to any form of physical punishment; and
- (c) Undertake well-targeted public-awareness campaigns on the negative impact of corporal punishment on children, and provide teachers and parents with training on non-violent forms of discipline as an alternative to corporal punishment.

773. The Committee also reiterates its previous concluding recommendations (CRC/C/15/Add.102, paras. 21 and 34) and joins its voice to those made by the Human Rights Committee (CCPR/C/75/YEM, para. 16) and the Committee Against Torture (CAT/C/CR/31/4, para. 7).