

LEGAL RIGHTS -JUVENILE OFFENDERS AND CHILDREN

IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

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

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

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

- 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

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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 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;

...

- Latvia, ICCPR, A/59/40 vol. I (2003) 25 at para. 65(10).

(10) While acknowledging the State party's admission that the average length of pre-trial detention is unsatisfactory and its attempt to remedy the situation in the proposed code of criminal procedure, the Committee is concerned about the length of pre-trial detention, which is often incompatible with articles 9, paragraph 3, and 14. While being aware of the draft criminal procedure law intended, *inter alia*, to speed up trials, the Committee remains concerned at the length and frequency of pre-trial detention, particularly with regard to juvenile offenders.

The State party should take all legislative and administrative measures to ensure compliance with articles 9, paragraph 3, and 14 as a matter of priority.

- 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.

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- Uganda, ICCPR, A/59/40 vol. I (2004) 47 at para. 70(18).

(18) The State party has acknowledged the deplorable prison conditions in Uganda. The most common problems are overcrowding, scarcity of food, poor sanitary conditions and inadequate material, human and financial resources. The treatment of prisoners continues to be a matter of concern to the Committee. There are reported incidents of corporal punishment for disciplinary offences. Solitary confinement and deprivation of food are also used as disciplinary measures. Juveniles and women are often not kept separate from adults and males. The Committee has taken note of the measures implemented by the State party to counteract these shortcomings, including the introduction of community service as an alternative to imprisonment. However, it notes that they are inadequate to overcome the problems. It is also concerned about the high percentage of persons detained on remand (almost 70 per cent of inmates) (arts. 7 and 10).

The State party should terminate practices contrary to article 7 and bring prison conditions into line with article 10 of the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners. It should also take immediate action to reduce overcrowding in prisons as well as the number of persons detained on remand.

- 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.

- 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

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system in order to ensure that juveniles are treated in a manner commensurate with their age.

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

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

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

- Benin, ICCPR, A/60/40 vol. I (2004) 30 at paras. 83(17) and 83(20).

(17) The Committee, while taking note of the efforts made by the State party to improve conditions of detention, continues to be concerned by the situation in prisons, particularly in the areas of sanitation and access to health care and food. It 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).

The State party must guarantee the right of detainees to be treated humanely and with respect for their dignity, particularly their right to live in hygienic facilities and to have access to health care and adequate food. Detention should be viewed only as a last resort, and provision should be made for alternative measures. As the State party is unable to meet the needs of detainees, it must reduce the prison population as soon as possible. Lastly, special protection should be provided for juveniles, and all juveniles, including girls, should be systematically separated from adults.

...

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

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

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involved in proceedings from the time of arrest onward.

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

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

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

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

(16) The Committee is concerned at the overcrowding and general conditions of places of detention, particularly with regard to sanitation and access to health care and adequate food. The Committee is also concerned that the right of detainees of access to lawyers and members of the family is not always observed in practice. The Committee considers the duration of detention before a person is brought before a judge to be incompatible with the requirements of the Covenant. The Committee deplores the continued shackling of death row prisoners and reports of prolonged solitary confinement. Pre-trial detainees frequently are not segregated from convicted prisoners. Furthermore, 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).

The State party should bring prison conditions into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners as a matter of priority. The State party should guarantee the right of detainees to be treated humanely and with respect for their dignity, particularly with regard to hygienic conditions, access to health care and adequate food. Detention should be viewed only as a last resort, and provision should be made for alternative measures. The use of shackling and long periods of solitary confinement should be stopped immediately. Special protection should be provided for juveniles, including their compulsory segregation from adults.

ICESCR

- Jamaica, ICESCR, E/2002/22 (2001) 130 at para. 935.

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935. The Committee expresses its concern about the situation of boys in the State party, where serious problems exist such as increasing rates of school dropout, juvenile criminality and delinquency, a high suicide rate, drug addiction and unemployment among the youth.

- Malta, ICESCR, E/2005/22 (2004) 45 at paras. 350 and 368.

350. The Committee expresses its concern at the relatively low age of criminal responsibility in the State party.

...

368. The Committee encourages the State party to review its legislation with a view to raising the age of criminal responsibility.

CEDAW

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

363. The Committee is concerned that some provisions of the Penal and Civil Codes continue to discriminate against women and girls...It is also concerned that the penalization of consensual sexual relations among young people between 15 and 18 years of age may have a more severe impact on young women, especially in the light of the persistence of patriarchal attitudes...

364. The Committee calls upon the State party to give priority to amending remaining discriminatory legal provisions without delay so as to bring its legislation into line with article 2 of the Convention. In particular, it urges the State party to ensure that...the penalization of consensual sexual relations among young people between 15 and 18 years of age be reconsidered...

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

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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;

...

- Zambia, CAT, A/57/44 (2002) at para. 61.

61. The Committee notes with satisfaction the following elements:

...

(d) The implementation of a Juvenile Justice Administration Transformation Scheme, which aims to improve the handling of juveniles within the criminal justice system;

...

- 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:

...

(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;

...

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

41. The Committee is concerned about the following:

...

(d) The many reports of abuse of under-age detainees, especially sexual harassment of girls, committed by law enforcement officials, the lack of monitoring machinery to investigate such abuse and prosecute those responsible, and the fact that minors kept in places of detention have contact with adult detainees;

...

42. The Committee recommends that the State party:

...

(j) Halt all practices involving abuse of minors in places of detention and punish the perpetrators, and ban the holding of under-age detainees with adult detainees;

...

- Spain, CAT, A/58/44 (2002) 29 at paras. 63 and 69.

63. The Committee...expresses its concern at the following:

...

(c) Cases of ill-treatment during enforced expulsion from the country, particularly in the case of unaccompanied minors;

...

69. The Committee encourages the State party to take the necessary measures to ensure that the process of expulsion from the country, in particular in the case of minors, is in keeping with the Convention.

- Belgium, CAT, A/58/44 (2003) 49 at paras. 128, 129 and 131.

128. The Committee notes with satisfaction the following elements:

...

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

...

129. The Committee is concerned about:

...

(f) The possibility of extending the detention of foreigners for as long as they do not cooperate in their repatriation, the possibility of placing unaccompanied minors in detention for lengthy periods, and information that asylum-seekers who have been formally released

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have been transferred to the transit area of the national airport, without assistance and without being allowed to leave;

...

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

...

131. The Committee recommends that the State party:

...

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

...

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

...

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

138. The Committee expresses concern about:

...

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

...

139. The Committee recommends that the State party:

...

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

...

- Cameroon, CAT, A/59/44 (2003) 23 at paras. 39 and 44.

39. The Committee takes note with satisfaction of the following:

...

(e) The assurance given by the delegation that the verification of the individual situations of detainees and appellants will eventually result in the release of the range of persons held in pre-trial detention, notably juveniles, women and sick persons;

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...

44. The Committee urges the State party to take all necessary measures to end the practice of torture on its territory. It recommends that the State party should:

...

(c) Adopt urgent measures to reduce overcrowding in prisons. The State party should enact a law establishing the maximum duration of pre-trial detention, and consider immediately releasing offenders or suspects imprisoned for the first time for petty offences, particularly if they are under 18 years of age; such persons should not be imprisoned until the problem of prison overcrowding has been solved;

...

- Croatia, CAT, A/59/44 (2004) 38 at paras. 77 and 78.

77. The Committee is concerned about the following:

...

(e) The alleged failure of the State party to address the issue of violence and bullying between children and young adults placed in social care institutions;

...

78. The Committee recommends that the State party:

...

(k) Increase the protection of children and young adults placed in social care institutions, *inter alia* by ensuring that violent acts are reported and investigated, providing support and treatment for children and young adults with psychological problems, and ensuring that these institutions employ trained personnel, such as social workers, psychologists and pedagogues;

...

- 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.

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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;

...

- Morocco, CAT, A/59/44 (2003) 58 at para. 125.

125. The Committee takes note of the following positive new developments:

...

(b) ...[T]he establishment of the Human Rights Documentation, Information and Training Centre; the prison reform, including the adoption of measures to assist persons subjected to any form of detention or imprisonment, notably juveniles in the child protection centres, and the implementation of measures to ensure medical care and training for detainees and prisoners;

(c) The substantial reform of the relevant legislation initiated by the State party, in particular the Code of Criminal Procedure and the draft reform of the Criminal Code, in consultation with CCDH and the competent human rights associations, notably with regard to the presumption of innocence, the right to a fair trial, the right of appeal and consideration of the specific needs of women and juveniles;

...

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

134. The Committee expresses concern about:

...

(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:

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...

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

(f) Report on the results of the development strategy aimed at ensuring that minors are not subjected to unreasonable searches;

...

- 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;

...

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

34. The Committee expresses its concern at the following:

...

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

...

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

...

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

...

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- Albania, CAT, A/60/44 (2005) 34 at paras. 82-84.

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

...

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

...

83. The Committee expresses concern:

...

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

...

84. The Committee recommends that the State party:

...

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

...

CRC

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

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

79. The Committee recommends that the State party:

(a) Undertake all necessary measures to ensure the prompt adoption of a new criminal code and a code of criminal procedure specific to juveniles, i.e. all persons under 18, and allocate

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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.

- Kenya, CRC, CRC/C/111 (2001) 21 at paras. 103, 104, 116-119, 144 and 145.

103. The Committee is concerned about the various legal minimum ages which are inconsistent, discriminatory and/or too low. In particular, the minimum age of eight years for criminal responsibility is too low.

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

(a) To increase the legal age for criminal responsibility and for sexual consent;

...

116. The Committee is concerned about the incidence of police brutality, particularly against street children, refugee children and those in conflict with the law. Concern is also

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expressed at the inadequate enforcement of existing legislation to ensure that all children are treated with respect for their physical and mental integrity and their inherent dignity.

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

118. The Committee expresses concern at the increasing number of children deprived of a family environment and at the absence of a distinction between children in need of special protection and child offenders in legal proceedings. Concern is also expressed at the inadequate facilities and services for children in need of special protection, as well as at the State practice of placing such children in juvenile remand facilities or police stations, which are considered places of safety. The Committee also notes with concern the absence of an independent complaint mechanism for children in alternative care institutions, the inadequate review of their placement in institutions and the lack of trained personnel in this field. Concern is also expressed at the insufficient financial and human resources allocated for alternative care.

119. The Committee recommends that the State party take effective measures to improve alternative care, including through the allocation of adequate financial and human resources. It further recommends that the State party provide additional training, including in children rights, for social and welfare workers, ensure the periodic review of placements in institutions and establish an independent complaints mechanism for children in alternative care institutions. Additionally, the Committee recommends that the State party take effective measures to ensure that children in need of care are not kept in juvenile remand facilities or police stations and encourages the efforts to make procedural and substantive distinction between children in need of special protection and child offenders.

...

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

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40, and of other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System;

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

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

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

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

(f) Improve the conditions in detention facilities;

(g) Strengthen reparation, rehabilitation and reintegration programmes;

(h) Ensure that cases involving children in need of care and protection are not treated as criminal cases; and

(i) Consider seeking technical assistance from, *inter alia*, OHCHR, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Co-ordination Panel on Technical Advice in Juvenile Justice.

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

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

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

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

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(c) Data are insufficient with regard to the placement of children with other families or in institutions.

257. The Committee recommends that the State party:

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

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

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

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

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.

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, 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.

...

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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:

- (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

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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.

- Gambia, CRC, CRC/C/111 (2001) 89 at paras. 464 and 466.

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,

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through the Coordination Panel on Technical Advice in Juvenile Justice.

- Uzbekistan, CRC, CRC/C/111 (2001) 117 at paras. 547, 548, 562, 563, 592 and 593.

547. The Committee notes the important role of the *Makhallas* at the local level in all matters of family law and protection of children, including juvenile justice. However, the Committee is concerned at the lack of information on their role in the implementation of the general principles of the Convention.

548. The Committee recommends that the State party:

(a) Educate *Makhalla* committees on the principles and provisions of the Convention, and ensure that those principles and provisions are reflected in the decision-making procedures of these committees...

...

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

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

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

(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.

...

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

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

Children subjected to ill-treatment and unlawful investigative methods;

The length of pre-trial detention;

Conditions in detention centres and penal colonies in Uzbekistan;

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

593. The Committee recommends that the State party:

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

(b) Ensure that the criminal justice system fully integrates into its legislation and practice the provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System;

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

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

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

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

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

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

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

661. The Committee recommends that the State party:

- (a) Proceed with its efforts to strengthen the system of juvenile justice in the spirit of the Convention, in particular articles 37, 40 and 39, and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System;
- (b) Consider deprivation of liberty only as a measure of last resort, for all children up to the age of 18 and for the shortest possible period of time, limit by law the length of pre-trial detention, and ensure the availability of suitable alternatives to detention;
- (c) Provide children with legal assistance at an early stage of proceedings;
- (d) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including by solving the problem of overcrowded prisons and establishing special facilities for children with conditions suitable to their age and needs; and in the meantime, ensure that children are separated from adults in prison and in pre-trial detention facilities;
- (e) Ensure that children up to the age of 18 in conflict with the law are not treated like, and do not receive the same sanctions as adults.
- (f) Ensure that children are able to remain in regular contact with their families while in the juvenile justice system;
- (g) Establish an independent child-sensitive and accessible system for complaints for children;
- (h) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

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(i) Establish a programme of rehabilitation and reintegration of juveniles following justice proceedings;

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

- Lebanon, CRC, CRC/C/114 (2002) 11 at paras. 50, 51, 55 and 56.

50. ...[I]n light of its previous concluding observations, the Committee is concerned at the very low age of criminal responsibility, which is set at 7 years ([CRC/C/15/Add.54], para. 23)...

51. The Committee recommends that the State party:

...

(b) Raise the minimum age for criminal responsibility and other minimum age requirements in accordance with the principles and provisions of the Convention, and ensure that they are gender neutral and are enforced by law;...

...

55. The Committee is concerned that the comparative studies regarding the compatibility between the Convention and domestic legislation have not examined the implications of the general principle of the best interests of the child in relation to the State party's laws, as previously recommended (CRC/C/15/Add.54, para. 35), its policies on issues such as institutionalization and imprisonment, and its practices with regard to children with disabilities.

56. The Committee reiterates its recommendation to the State party to take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated in all legislation, as well as in judicial and administrative decisions and in policies, programmes and services which have an impact on children.

- Greece, CRC, CRC/C/114 (2002) 25 at paras. 121, 122, 170 and 171.

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

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

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penal law a minor is a person who has not reached 17;

...

122. The Committee recommends that the State party:

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

...

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

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

(b) At the prosecution of children for begging;

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

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

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

...

(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 paras. 207 and 208.

207. The Committee is deeply concerned that torture is still used by law enforcement personnel during police investigation and in detention centres as mentioned in the State party's report (para. 159).

208. The Committee urges the State party to take all necessary measures:

(a) To immediately put an end to these forms of torture or violence against children and to address their causes in order to prevent their recurrence;

(b) To prevent cases of torture through, *inter alia*, the presence of social workers during investigations and in places of detention;

(c) To establish an independent mechanism to investigate reports of torture and to bring to justice the persons responsible;

(d) To adopt legislative measures for the fullest compensation and rehabilitation of child victims of torture;

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(e) To establish accessible and child-sensitive structures to receive and address complaints of children; and

(f) To train systematically the police forces, prison staff and the judiciary on the human rights of children.

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

321. The Committee is concerned that:

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

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

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

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

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

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

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

322. The Committee recommends that the State party:

...

(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;

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(d) Ensure that all acts of violence by the police towards minors are ended, and that independent investigation and prosecution of police officers guilty of such acts are carried out in an effective manner;

(e) Ensure that no children are detained illegally and that, when detention is necessary as a measure of last resort, children are detained for the shortest time necessary and separately from adults;

(f) Strengthen the capacity of the juvenile justice system to provide a timely response, in accordance with international standards;

(g) Implement its own recommendations, as set out in its initial report, including:

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

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

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

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

“To establish mechanisms of cooperation between the authorities 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

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United Nations Office for Drug Control and Crime Prevention, through the Coordination Panel on Technical Assistance and Cooperation on Juvenile Justice.

- Chile, CRC, CRC/C/114 (2002) 90 at paras. 332, 333, 346, 347, 353, 354, 359, 360, 377 and 378.

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

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

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

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

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

...

346. The Committee...notes that the Committee’s previous recommendation on addressing the question of the minimum age of criminal responsibility ([CRC/C/15/Add.22 of 25 April 1994], para. 17) was not implemented.

347. The Committee recommends that the State party review its legislation with a view to making the minimum age for marriage of girls the same as that for boys and to bring it into full conformity with the provisions and principles of the Convention, and to setting a minimum age for criminal responsibility.

...

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

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constitute a crime, ordinary offence or minor offence.

354. In light of articles 12 to 17 of the Convention, the Committee recommends that the State party undertake measures in order to take into account the views of children, in accordance with the concept of their evolving capacities, in all matters affecting them, in particular in judicial and administrative proceedings, and integrate this principle in the new legislation and in policies and programmes affecting children, including the National Policy. It encourages the State party to seek technical cooperation from, among others, UNICEF.

...

359. While noting that there are plans to reform the National Service for Minors (SENAME), the Committee notes with concern that at present SENAME is still in charge of both children in need of care and protection as well as those in conflict with the law, and that social services need to be more decentralized...

360. The Committee recommends that the State party:

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

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

...

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

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

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

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(b) Address the question of the minimum age of criminal responsibility in light of article 40, paragraph 3 (a);

...

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

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

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

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

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

(i) Take appropriate rehabilitative measures to promote the social reintegration of the children involved in the juvenile justice system;

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

- Malawi, CRC, CRC/C/114 (2002) 104 at paras. 397, 398, 446 and 448.

397. The Committee is concerned about the various legal minimum ages, 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 16 years, at the too low minimum age of criminal responsibility (7 years), and the absence of a clear minimum age for employment.

398. 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

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principles and provisions of the Convention;

(b) To increase the legal age of criminal responsibility in accordance with the best interests of the child;

...

446. While noting that section 42 (2) (g) of the Constitution provides for special protection of children in conflict with the law, the Committee remains deeply concerned at the generally poor quality of the juvenile justice system, including the too-low age of criminal responsibility, the non-respect of the rights of children during the penal procedure, the overuse and length of pre-trial detention, the appalling conditions of detention conducive to all forms of abuse, the very limited number of skilled personnel, the lack of access to assistance towards the rehabilitation and reintegration of juveniles following justice proceedings, and the sporadic training of judges, prosecutors and prison staff.

...

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

(a) Increase the minimum 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 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 then regularly;

(d) 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 guaranteeing separation from adults in all prisons and in pre-trial detention places all over the country;

(e) Provide children with legal and other assistance at a early stage of the procedure;

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

(g) Introduce regular medical examination of children by independent medical staff and address issues of individual health care in prisons, including with regard to HIV/AIDS;

(h) Establish an independent child-sensitive and accessible system for complaints for children;

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- (i) Strengthen diversion programmes and alternative measures to punishment, such as community service and family group conferences to involve families in the process;
- (j) Introduce all over the country 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 social reintegration for juveniles following justice proceedings; and
- (l) Request technical assistance in the area of juvenile justice and police training from, among others, the Office of the High Commissioner for Human Rights, 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.

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

497. The Committee is concerned that:

- (a) There is no minimum age of criminal responsibility: although article 32 of the 1976 Penal Code provides that persons under 15 are not criminally responsible, they can nevertheless be subject to sanctions under the 1976 Juvenile Act, such as detention in social welfare centres for up to 10 years for felonies (e.g. article 12 of the 1976 Juvenile Law);
- (b) Under article 2 of the 1976 Juvenile Law, persons who commit status offences (e.g. begging, dropping out, misbehaviour, etc.) are subject to legal sanctions;
- (c) Under the 1976 Penal Code and 1966 Criminal Procedure Codes persons under 18 may be prosecuted for crimes in the same manner as adults (i.e. without special procedures), and be subject to the same penalties as adults.

498. The Committee recommends that the State party:

...

- (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;

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- (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.

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.

- Belgium, CRC, CRC/C/118 (2002) 29 at paras. 97 and 98.

97. The Committee appreciates the fact that the State party has reviewed its declaration on article 2 and its reservation to article 40.2(v) of the Convention, pursuant to the previous concluding observations. Nevertheless, it is concerned that the State party does not intend to withdraw them...With respect to the reservation to article 40, the Committee is concerned that the possibility of appeal to the Court of Cassation against judgements and measures imposed by the Court of Assizes (sitting here as the court of first and last instance) is strictly limited to points of law and therefore deprives the defendant of a full review of his case by a higher court, which is all the more important in that the Court of Assizes handles the most

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severe cases and imposes relatively heavy sentences.

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

- Niger, CRC, CRC/C/118 (2002) 37 at paras. 195 and 197.

195. The Committee welcomes the adoption of the Ordinance 99-11 of 14 May 1999 on the creation of juvenile courts, but remains concerned at the absence of juvenile courts and at the limited number of juvenile judges, social workers and teachers to work in this field. In addition the Committee is deeply concerned at the non-separation of children and adult in jails (with the exception of the jail in Niamey), the very poor conditions of detention, mainly due to the overcrowding in detention and prison facilities, the frequent recourse to and excessive length of pre-trial detention, the very limited rehabilitation and reintegration of juveniles following judicial proceedings and the sporadic training of judges, prosecutors and prison staff.

...

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

(a) Undertake all necessary measures to ensure the establishment of juvenile courts and the appointment of trained juvenile judges in all regions of the country;

(b) Consider deprivation of liberty only as a measure of last resort and for the shortest possible time, limit by law the length of pre-trial detention and ensure that the lawfulness of this detention is reviewed by the judge without delay and then regularly;

(c) Develop alternative measures to deprivation of liberty;

(d) Provide children with legal and other assistance at an early stage of the procedure;

(e) Provide children with basic services (e.g. health care, schooling);

(f) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, in particular by establishing special prisons for children with conditions suited to their age and needs and by ensuring the provision of social services in all detention centres in the country, and, in the meantime, by guaranteeing separation of children from adults in all prisons and in pre-trial detention places throughout the country;

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

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- (h) Introduce regular medical examination of children by independent medical staff;
- (i) Establish an independent child-sensitive and accessible complaints system 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 recovery and social reintegration for juveniles in conflict with the law;
- (l) Take into consideration the recommendations of the Committee presented during its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238);
- (m) Consider requesting technical assistance in the area of juvenile justice and police training from, *inter alia*, the Office of the High Commissioner for Human rights, 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.

- Belarus, CRC, CRC/C/118 (2002) 54 at paras. 253 and 254.

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

254. The Committee recommends that the State party:

- (a) Expedite the establishment of a specific system of juvenile justice, and ensure its full independence and adequate human and financial resources;
- ...
- (c) Ensure that all persons under 18 benefit from special protection measures in the field of the administration of juvenile justice;
- (d) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law, and ensure that

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children are always separated from adults;

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

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

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

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

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

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

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.

302. The Committee recommends that the State party:

...

(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

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Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Juvenile Justice.

- Switzerland, CRC, CRC/C/118 (2002) 78 at paras. 310, 311, 334 and 335.

310. The Committee is concerned at the reservations made by the State party to articles 5, 7, 10, 37 and the four reservations made with regard to article 40, but welcomes the information that the State party is considering the withdrawal of most of these reservations thanks to recent and current revisions of the Constitution and other relevant laws, following a tentative timetable presented during the dialogue. Despite this information, the Committee remains concerned at the rather slow pace of this withdrawal process and even more at the fact that some reservations may not be withdrawn at all, or only in the distant future.

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

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

...

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

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

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

...

334. The Committee is deeply concerned about allegations of instances of ill-treatment by law enforcement officers against foreign children and at the prevalence of abuse.

335. The Committee endorses the recommendations made by the Committee against Torture

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in that regard (A/53/44, para. 94) and, in light of article 37 of the Convention, recommends that the State party:

(a) Set up child-sensitive mechanisms in all cantons to receive complaints against law-enforcement officers regarding ill-treatment during arrest, questioning and police custody; and

(b) Systematically train the police force on the human rights of children.

- 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;

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(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;

(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. 520 and 521.

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

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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.

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

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

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

...

587. The Committee is seriously concerned about the implications of the reservation entered by the State party on the applicability of adult criminal law to children over 16 years of age which is applicable to the Netherlands Antilles, and the reservation to article 40, which stipulates that for minor offences children need not be heard in the presence of a legal representative. The Committee is further concerned at reports that minors below 16 are held together with adults in detention facilities. In addition, the Committee is concerned that there are insufficient facilities for children in conflict with the law, limited training programmes for professionals working in the juvenile justice system, no available complaint mechanism directly accessible for children whose rights have been violated, and a lack of statistical data on the juvenile justice system.

588. The Committee recommends that the State party:

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...

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

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

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

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 61, 62, 65, 66, 87 and 88.

61. The Committee expresses its deep concern about institutional violence and specific reports of torture and ill-treatment of children held at police stations (*commissarias*) which, in some cases, have resulted in death. It is also extremely concerned at additional reports of police brutality, specifically the phenomenon of *gatillo fácil* (easy trigger syndrome), especially in the Province of Buenos Aires, which has led to the death of many children. It notes that, according to the Supreme Court of Justice of the Province of Buenos Aires, several of the children who died had previously reported pressures and torture by the provincial police and that the majority of the cases are not adequately investigated and the perpetrators not brought to justice.

62. In light of article 37 (a) of the Convention, the Committee urges the State party:

(a) To undertake a study on the above-mentioned issues in order to assess their extent, scope and nature;

(b) To enforce the recently signed National Plan of Action for the Prevention and Elimination of Institutional Violence;

(c) To investigate, in an effective way and within a reasonable time, reported cases of killings, torture and ill-treatment of children;

(d) Urgently to take measures to transfer from active duty or suspend, as appropriate, alleged perpetrators while they are under investigation, and release them from service if convicted;

(e) To provide systematic training of law enforcement personnel in human and children's

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rights and ways to avoid the use of force;

(f) To establish a complaint mechanism, which should be easily accessible and child-sensitive and inform children about their rights, including the right to complain;

(g) To ensure that independent and qualified medical personnel are required to carry out regular examinations of child detainees;

(h) In light of article 39, to take all appropriate measures to ensure possibilities for physical and psychological recovery and social reintegration for child victims of torture and/or ill-treatment, and that they receive compensation.

...

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

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

...

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

88. The Committee recommends that the State party:

(a) Review its laws and practices regarding the juvenile justice system in order to bring

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them, as soon as possible, into full compliance with the Convention, in particular articles 37, 40 and 39, as well as with other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);

- (b) Expedite the above, including by allocating adequate human and financial resources;
- (c) Ensure that there is a clear distinction in terms of procedures and treatment between children in conflict with the law and children in need of protection;
- (d) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law and ensure that children are always separated from adults;
- (e) Use alternative measures to pre-trial detention and other forms of deprivation of liberty whenever possible;
- (f) Incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, in particular to guarantee them access to effective complaint procedures covering all aspects of their treatment;
- (g) Take the necessary measures to improve detention conditions;
- (h) In light of article 39, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system;
- (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.

- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/121 (2002) 23 at paras. 98, 99, 117, 118, 125, 126, 139, 140, 145, 146, 151, 152 and 154

98. ...[T]he Committee is concerned that the State party is not in a position to withdraw its reservation to article 37 (c) owing to the fact that children are still detained with adults in the State party. In that regard, the Committee is concerned that, while the State party has made efforts to reduce the number of children detained with adults, it appears that only resource considerations now prevent the withdrawal of the reservation.

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99. The Committee, in line with its previous recommendation (CRC/C/15/Add.34, paras. 22 and 29), and in light of the Vienna Declaration and Programme of Action, recommends that the State party take all necessary measures to end the detention of children in the same facilities as adults and to withdraw its reservation to article 37 (c)...

...

117. While noting that the “welfare” of the child is included in child care and protection legislation, the Committee is concerned that the principle of primary consideration for the best interests of the child is not consistently reflected in legislation and policies affecting children throughout the State party, notably in the juvenile justice system and immigration practices.

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

...

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.

...

139. ...The Committee is particularly concerned that children deprived of their liberty in prisons and juvenile detention centres do not have a statutory right to education, that their education is not the responsibility of the departments responsible for education, and that they do not have support for special education needs...

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

...

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

...

145. ...The Committee remains concerned at the negative impact of the conflict in Northern Ireland on children, including in the use of emergency and other legislation in force in Northern Ireland.

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146. The Committee recommends that the State party:

...

(c) In line with its previous recommendations ([CRC/C/15/Add.34], para. 34), review the emergency and other legislation, including in relation to the system of administration of juvenile justice, at present in operation in Northern Ireland to ensure its consistency with the principles and provisions of the Convention.

...

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

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(d) The privacy of children involved in the criminal justice system is not always protected and their names are, in cases of serious offences, often published;

(e) Young people of 17 years of age are considered as adults for the purpose of remand.

...

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

(a) Considerably raise the minimum age of criminal responsibility;

(b) Review the new orders introduced by the Crime and Disorder Act 1998 and make them compatible with the principles and provisions of the Convention;

(c) Ensure that no child can be tried as an adult, irrespective of the circumstances or the gravity of his/her offence;

(d) Ensure that the privacy of all children in conflict with the law is fully protected in line with article 40 (2) (b) (vii) of the Convention;

(e) Ensure that detention of children is used as a measure of last resort and for the shortest appropriate period of time and that children are separated from adults in detention, and encourage the use of alternative measures to the deprivation of liberty;

(f) Ensure that every child deprived of his or her liberty has access to independent advocacy services and to an independent, child-sensitive and accessible complaint procedure;

(g) Take all necessary measures, as a matter of urgency, to review the conditions of detention and ensure that all children deprived of their liberty have statutory rights to education, health and child protection equal to those of other children;

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

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

- Seychelles, CRC, CRC/C/121 (2002) 41 at paras. 213 and 215.

213. The Committee is concerned that although the minimum age for criminal responsibility is 12 years, prosecution of children between the ages of 8 and 12 is possible under certain conditions. In addition, the Committee is concerned that conditions at the Youth Residential

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Treatment Centre are very poor, that it has few programmes for rehabilitation or education and that its location limits contact between children and their families. Finally, the Committee is also concerned about the lack of community-based rehabilitation alternatives for juvenile offenders.

...

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

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

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

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

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

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

289. The Committee recommends that the State party:

(a) Raise the minimum age of criminal responsibility;

...

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

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

(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

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committed crimes while under 18;

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

- Ukraine, CRC, CRC/C/121 (2002) 70 at paras. 328-331, 333, 365 and 366.

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

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

330. The Committee recommends that the State party:

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

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

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

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

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

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

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

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331. The Committee notes with deep concern that, as noted in the State party's report, family disintegration, including high rates of divorce, growing numbers of single-parent families and cases of parental neglect, is a growing phenomenon...

...

333. In light of article 18, the Committee recommends that the State party:

...

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

...

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.

- Republic of Moldova, CRC, CRC/C/121 (2002) 89 at paras. 422 and 423.

422. While welcoming the adoption of the new Penal Code, the Committee expresses its concern that there is no separate system for juvenile justice or special juvenile personnel or trained judges, and that the special provisions for juveniles contained in the law have no implementation mechanism owing to lack of capacity and expertise. Furthermore, the Committee notes that there is no legal provision limiting the period of pre-trial detention, that conditions in juvenile detention centres are very poor and offer little possibility for rehabilitation, and that girls are detained in the same facilities as adult women.

423. The Committee recommends that the State party:

(a) Establish, as soon as possible, a specific system of juvenile justice;

...

(c) Take legislative measures to set limited and short periods for pre-trial detention, in accordance with the provisions and principles of the Convention;

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

(e) Use alternative measures to all forms of deprivation of liberty whenever possible and strengthen the role and capacities of the Commission for Minors at the municipal and district levels, while ensuring that they act in full compliance with the Convention;

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

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

(h) Ensure access to education for girls and boys in detention;

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

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

- Burkina Faso, CRC, CRC/C/121 (2002) 103 at paras. 457, 458, 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 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.

...

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

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

...

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

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

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

(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, 523, 524, 543 and 544.

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

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

...

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

524. The Committee recommends that the State party:

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

...

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.

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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. 586, 587, 612 and 613.

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

587. The Committee strongly recommends that the State party:

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

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

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

...

612. The Committee is concerned about:

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

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

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

613. The Committee recommends that the State party:

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...

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

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

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

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

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

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

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

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

(c) That the period for investigation and pre-trial detention can be prolonged for up to six months;

(d) That only Tartu and Tallinn have separate rooms and facilities for the questioning of children;

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

(f) That the situation at Maardu Prison is difficult and there is not sufficient opportunity for learning or working or participating in social, educational or arts courses. In addition, there are no programmes to protect the youngest and weakest prison inmates from violent behaviour.

73. The Committee recommends that the State party:

...

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- (b) Ensure that children have access to legal aid and independent and effective complaints mechanisms;
 - (c) Train professionals in the area of social recovery and reintegration of children;
 - (d) Ensure that deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults;
 - (e) Continue and strengthen efforts to improve conditions at Maardu Prison.
- Republic of Korea, CRC, CRC/124 (2003) 24 at paras. 87, 88, 134 and 135.
 - 87. The Committee remains very concerned at the State party's reservations to articles 9, paragraph 3, 21, paragraph (a), and 40, paragraph 2 (b) (v).
 - 88. The Committee, noting that juveniles sentenced for having committed a crime have the right to appeal, encourages the State party to withdraw, as soon as possible, the reservations made to article 40, paragraph 2 (b) (v)...
 - ...
 - 134. The Committee is concerned that juveniles accused of violating the law and subject to protective measures may be deprived of their liberty without undergoing criminal proceedings or having access to legal assistance.
 - 135. The Committee recommends that the State party:
 - ...
 - (b) Use deprivation of liberty only as a measure of last resort and ensure that all juveniles involved in protection measures that may result in deprivation of liberty have access to legal counsel at an early stage;
 - (c) Amend legislation in order to eliminate the discretionary power of the public prosecutor to decide whether a minor is subject to criminal proceedings or protective measures.
- Italy, CRC, CRC/124 (2003) 36 at paras. 172, 173, 192 and 194.
 - 172. The Committee is deeply concerned about allegations of instances of ill-treatment by law enforcement officers against children and at the prevalence of abuse, in particular against foreign and Roma children.
 - 173. In line with its previous recommendations ([CRC/C/15/Add.41], para. 20), the

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Committee recommends that the State party:

- (a) Incorporate the crime of torture or other cruel, inhuman or degrading treatment or punishment into criminal law;
- (b) Set up child-sensitive mechanisms for receiving complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and within detention centres;
- (c) Systematically train the police and carabinieri forces, as well as professionals at detention centres, on the human rights of children.

...

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

...

194. The Committee recommends that the State party:

- (a) Take all necessary measures, including through awareness-raising campaigns and adequate training of the personnel involved, to prevent and eliminate discrimination against children of foreign origin and Roma children;
- (b) Allow periodic visits to the reception centres and penal institutes for minors by impartial and independent bodies and ensure that every child deprived of his or her liberty has access to an independent, child-sensitive and accessible complaint procedure;
- (c) Provide training on children's rights to those responsible for administering juvenile justice.

- Romania, CRC, CRC/124 (2003) 49 at paras. 232, 233, 256, 257, 260 and 261.

232. The Committee is concerned at the high number of allegations of children being ill-treated and tortured by law enforcement officials received by the Special Rapporteur on the question of torture. The Committee regrets that the majority of these allegations have not been responded to and is concerned that they may not have been effectively investigated by an independent authority. Furthermore, the Committee is concerned that cooperation with the Special Rapporteur in this respect has been insufficient.

233. The Committee recommends that the State party:

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- (a) Investigate all allegations of torture and other cruel, inhuman or degrading treatment or punishment of children and make all efforts to cooperate fully with the Special Rapporteur on the question of torture;
- (b) Ensure the inadmissibility of evidence obtained through the use of torture;
- (c) Bearing in mind the previous recommendation of the Committee ([CRC/C/15/Add.16], para. 20), undertake measures to follow up on the recommendations made by the Human Rights Committee (CCPR/C/79/Add.111, para. 12);
- (d) Take immediate measures to stop police violence against all children and challenge the prevailing culture of impunity for such acts;
- (e) Take legislative or other measures to prohibit all forms of torture and other cruel, inhuman or degrading treatment or punishment;
- (f) Provide care, recovery, reintegration and compensation for victims of torture.

...

256. ...[T]he Committee is concerned that Romania continues to be a country of origin, of transit and, to a lesser extent, of destination for trafficked children, as also noted by CEDAW in June 2000 (A/55/38, paras. 308-309).

257. The Committee recommends that the State party:

...

(b) Ensure that all persons under 18 years involved in prostitution and the production of pornographic materials are not criminalized and enjoy full protection;

...

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

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

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261. The Committee recommends that the State party:

...

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

- Viet Nam, CRC, CRC/C/124 (2003) 67 at paras. 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:

...

- (b) Consider adopting a separate legal code for juvenile justice and establishing a system of juvenile courts;
- (c) Improve conditions in juvenile detention centres and ensure that deprivation of liberty is used only as a last resort;
- (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;
- (e) Ensure that all children accused of having violated the law have legal counsel or other appropriate assistance;
- (f) Request technical assistance in this regard from, *inter alia*, the OHCHR and other members of the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

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- Czech Republic, CRC, CRC/C/124 (2003) 78 at paras. 347, 348, 360, 362, 365, 366, 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. ...[T]he Committee is concerned at the ill-treatment and abuse committed against children in the family, the school and other 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. The Committee is further concerned that certain groups of children, such as Roma, are specifically targeted, and that a very small portion of reported cases of suspicion of abuse and neglect are investigated...

...

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*:

...

(b) Ensuring that allegations of ill-treatment by the police and police misconduct are promptly, thoroughly and impartially investigated by an independent authority and that those responsible are identified and brought before a competent tribunal that will apply sanctions provided for by the law;

...

365. The Committee notes the adoption of the Act of Residential Care in 2002, but is concerned that it has not addressed the full range of rights covered by the Convention. The Committee also notes that children may be placed in institutions under the jurisdiction of three different ministries and that a court may order reformatory (preventive) upbringing of a child below the age of 15, which means in practice that such a child will be placed in the same institution as juvenile delinquents. The Committee welcomes the policy of deinstitutionalization, but remains deeply concerned at the increasing number of children placed in institutions by preliminary injunction and at the frequent use of this special measure, which can be revoked only after a lengthy and complex procedure. Furthermore, the Committee is concerned that the general principles of the Convention are not always observed in such situations and that:

(a) Institutional responses to providing assistance to children in difficulty are predominantly

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used and a disproportionately large number of children are placed in a residential institutional care environment;

(b) Temporary measures may be extended for lengthy periods and that there are no regulations for review of placement;

(c) Children are often placed at significant distances from parents, who, in turn, may not be aware of their visiting rights; punitive measures such as limitation of phone calls or meetings with parents may also be used;

(d) Contacts with parents are sometimes made conditional upon the behaviour of children in care;

(e) The conditions and treatment of children in some institutions may not be provided in a manner consistent with the evolving capacities of the child and the obligation to ensure his or her survival and development to the maximum extent possible;

(f) Institutions are large and an individual approach to each child is lacking, child participation is minimal, and treatment in some institutions (such as diagnostic institutions) may have undesirable effects.

366. The Committee recommends that the State party:

(a) Establish or strengthen, at the local level, the mechanism for alternative care within the system of social welfare and take effective measures to facilitate, increase and strengthen foster care, family-type foster homes and other family-based alternative care and correspondingly decrease institutional care as a form of alternative care;

(b) Take effective measures to strengthen preventive efforts aimed at reducing the number of children deprived of a family environment due to social problems or in other crisis situations, and ensure that placement in an institution is for the shortest time possible, subject to regular review in accordance with article 25;

(c) Ensure that issuance of preliminary orders by courts is used as a temporary measure and that the best interests of the child remain a primary consideration;

(d) Ensure that children under 15 years of age are not placed in the same institutions as juvenile delinquents, in conformity with the principles and provisions of the Convention;

(e) Take all necessary measures to improve conditions in institutions, in accordance with article 3 of the Convention, and increase the participation of children;

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(f) Provide support and training for personnel in institutions, including social workers;

(g) Provide adequate follow-up and reintegration support and services for children leaving institutional care.

...

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;

(d) Ensure that all acts of violence by the police towards minors are ended, including through the prosecution of police officers guilty of such acts;

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

(f) Develop mechanisms and provide adequate resources.

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

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

421. The Committee recommends that the State party ensure that the principle of the best interests of the child is reflected in all relevant legislation, policies, programmes and otherwise in the implementation of the Convention. The Committee particularly

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recommends that the State party abolish the rule of *correction paternelle*, which allows parents to place a child in prison.

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

464. The Committee notes the information provided by the delegation concerning steps being taken by the State party to comply fully with articles 9 and 37 of the Convention (namely the provisions in the 2002 Child Protection Act and a proposed law expected to be passed soon giving courts the sole power to decide in child protection cases; and the 1998 agreement between the Prison and Probation Administration and the Governmental Agency for Child Protection to allow prisoners under 18, at their request, to be detained in treatment homes under the supervision of the Agency)...[I]t considers that the 1998 agreement falls short of a legal guarantee of separation from adults, as contained in article 37 (c) of the Convention.

465. The Committee recommends that the State party:

...

(b) Guarantee by law the separation of detained children and adults, in accordance with article 37 (c) of the Convention.

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

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

...

(b) Ensure, as a matter of urgency, that juveniles in detention are kept separately from adults;

(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;

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(f) Seek technical assistance from, among others, UNICEF and OHCHR in reforming the juvenile justice system, in particular with regard to juvenile detention and rehabilitation services.

- Cyprus, CRC, CRC/C/132 (2003) 21 at paras. 111, 112, 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.

...

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, 181-184, 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).

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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 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.

183. The Committee is deeply concerned about allegations of ill-treatment by law enforcement officers against street children and children in custody in police stations and other detention centres, despite the circular of 27 December 1999 ordering prison authorities to stop the practice of caning.

184. The Committee recommends that the State party:

(a) Set up child-sensitive mechanisms to receive complaints against law enforcement officers regarding ill-treatment during arrest, questioning and police custody, and make sure that perpetrators are brought to justice;

(b) Systematically train the police force and prison staff and other authorities on the human rights of children;

(c) Ensure the physical and psychological recovery and social reintegration of child victims of such ill-treatment.

...

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

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

- (a) Prohibit the use of penalty at the President's pleasure;
- (b) Raise the age of criminal responsibility;
- (c) Establish an adequate number of juvenile courts all over the country and appoint trained juvenile judges;
- (d) Ensure that the right of children to legal representation or other appropriate assistance is guaranteed;
- (e) Ensure that detention, including pre-trial detention, is used only as a measure of last resort and with due consideration for the seriousness of the crime, and that greater efforts be made to provide alternatives to detention;
- (f) Separate children from adults in prison and in pre-trial detention places all over the country;
- (g) Strengthen rehabilitation and reintegration programmes;
- (h) Ensure that the right to privacy of juvenile offenders is guaranteed and take all necessary measures to ensure that the identity of the juvenile offender is not revealed by the media;
- (i) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice, including journalists;
- (j) Consider seeking technical assistance.

- 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...

- 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;

(d) Guarantee that all children have right to legal and other appropriate assistance;

(e) Set up a system of juvenile courts;

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- (f) Review legislation to ensure that children cannot be sentenced to life imprisonment;
 - (g) Ensure that children in detention are separated from adults;
 - (h) Ensure that children remain in regular contact with their families while in the juvenile justice system;
 - (i) Review the powers of the police in criminal proceedings;
 - (j) Seek assistance from, among others, OHCHR, the Centre for International Crime Prevention and UNICEF.
- 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:

(a) Conditions in detention, including pre-trial detention, are poor;

(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.

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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;
- (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, 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.

...

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

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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. ...[T]he 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 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.

- Morocco, CRC, CRC/C/132 (2003) 100 at paras. 516 and 517.

516. The Committee welcomes the hosting by the State party of the Arab-African Forum Against the Sexual Exploitation of Children in preparation for the Yokohama Conference and notes that the Penal Code is under review regarding this issue, but remains concerned

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at the high incidence of sexual exploitation in the State party...The Committee is further concerned at the status of child victims of sexual exploitation who may be treated as offenders.

517. In light of article 34 and other related articles of the Convention, the Committee recommends that the State party:

...

(b) Ensure that child victims of sexual exploitation are never considered as offenders but rather benefit from programmes for their rehabilitation and recovery;

...

- Kazakhstan, CRC, CRC/C/132 (2003) 129 at paras. 617, 619 and 646-650.

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

...

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

...

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

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the law in full compliance with the Convention, but is concerned at the existing shortcomings in the juvenile justice system, *inter alia*:

- (a) The absence of specialized juvenile judges and/or courts and the insufficient number of legal professionals, social workers, community educators and supervision officers working in this field;
- (b) The parents or guardians of children kept in pre-trial detention are not immediately informed about such detention (in fact, often only after a lengthy period of time), which can last for 18 months;
- (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 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:

...

- (b) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible;
- (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;

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(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).

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

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;
- (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. 132 and 133.

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

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

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

...

- Pakistan, CRC, CRC/C/133 (2003) 37 at paras. 206 and 207.

206. Although the State party is undertaking some training of police officers and other professionals working with children to promote respect for children's rights, the Committee is deeply concerned at the numerous reports of torture, serious ill-treatment and sexual abuse of children, including children belonging to religious or other minority groups, by police officers in detention facilities and other State institutions.

207. The Committee recommends that the State party:

(a) Assess the scope, nature and causes of violence against children, in particular sexual violence against girls, with a view to adopting a comprehensive strategy and effective measures and policies and to changing attitudes;

(b) 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 against perpetrators, with due regard given to guaranteeing the right to privacy of the child;

(c) Add a definition of torture to the Constitution and ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

...

- 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

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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.

- Singapore, CRC, CRC/C/133 (2003) 84 at paras. 417, 418, 427 and 428.

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

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

...

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;

...

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- 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;

(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;

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...

(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;
- (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

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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. 582 and 583.

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

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

...

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

(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. 93, 94, 96 and 98.

93. The Committee is concerned at the large number of children who use drugs or narcotics and that those children are treated as criminals rather than victims.

94. The Committee recommends that the State party:

...

(b) Ensure that children using drugs and narcotics are treated as victims and not as criminals;

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...

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

...

98. The Committee recommends that the State party:

...

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

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

- Guyana, CRC, CRC/C/137 (2004) 26 at paras. 135, 136, 170 and 171.

135. The Committee is concerned at the low minimum age of sexual consent (13 years) and 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.

...

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;

...

(c) Provide children with legal assistance at an early stage of the proceedings;

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

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

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

241. While welcoming that penalties have been introduced under the Criminal Code for enticing girls into prostitution and keeping brothels, the Committee reiterates its concern at the insufficient data on and awareness of the phenomenon of sexual exploitation of children in Armenia, and at the absence of a comprehensive and integrated approach to preventing and combating this phenomenon. Furthermore, the Committee is deeply concerned that persons under 18 years of age engaged in prostitution are prosecuted under the Criminal Code, rather than assisted as victims.

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

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- (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. 327, 328, 373 and 374.

327. ...[T]he Committee is concerned that some domestic legislation in the Netherlands and in Aruba does not yet fully conform with the principles and provisions of the Convention, *inter alia*, with regard to education in minority languages and juvenile justice as well as compulsory education in Aruba.

328. The Committee recommends that the State party take all necessary measures to ensure that its domestic legislation in the Netherlands and in Aruba conforms fully with the principles and provisions of the Convention, in particular with regard to education in minority languages, juvenile justice as well as compulsory education in Aruba.

...

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

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institutionalized for behavioural problems;

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

374. The Committee recommends that the State party:

...

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

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

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

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

...

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

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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 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.

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- Slovenia, CRC, CRC/C/137 (2004) 104 at paras. 589 and 590.

589. The Committee welcomes the adoption in 2000 of the Rules of Police Authorization under the Police Act, which instruct police officers to act with particular restraint when dealing with children and minors and provide for a complaints procedure, and takes note of the acknowledgment in the State party's report ([CRC/C/70/Add.19,] para. 23) of the need to provide regular professional training for all police officers on these issues.

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

- 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;

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(g) Strengthen rehabilitation and reintegration programmes.

- El Salvador, CRC, CRC/C/140 (2004) 8 at paras. 57, 58, 79, 80, 89 and 90.

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;

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

...

79. ...The lack of access to educational and vocational programmes of juvenile offenders is...a cause for concern.

80. The Committee encourages the State party:

...

(f) To ensure that juvenile offenders have access to adequate educational and vocational programmes in detention centres and that teachers who educate juvenile offenders receive adequate specialized training;

...

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 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. 229-231 and 233.

229. The Committee is extremely concerned that persons below the age of 18 at the time of their alleged war crime have not yet been tried, have been detained in very poor conditions,

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

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

231. While recognizing the State party's efforts in this domain, including through adopting legislation, decrees and ministerial circulars, the Committee is concerned at the limited progress achieved in establishing a functioning juvenile justice system throughout the country. In particular, the Committee is concerned at the lack of juvenile courts, juvenile judges and social workers in this field. In addition, it is deeply concerned at the very poor conditions of detention, due notably to overcrowding in detention and prison facilities, overuse and extremely long periods of pre-trial detention, the length of time before the hearing of juvenile cases, the lack of assistance towards the rehabilitation and reintegration of juveniles following judicial proceedings and the lack of systematic training of judges, prosecutors and prison staff.

...

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

- (a) Undertake all necessary measures to ensure that juvenile courts are established and trained juvenile judges appointed in all regions of the country;
- (b) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period and limit by law the length of pre-trial detention;
- (c) Provide persons under 18 with legal assistance at an early stage of legal proceedings;
- (d) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including by addressing the problem of overcrowding in prisons and establishing special prisons for children with conditions suited to their age and needs, and in the meantime guarantee that all persons under 18 are separated from adults in prisons and places of pre-trial detention throughout the country;
- (e) Ensure that all persons under 18 in conflict with the law do not receive the same sanctions as adults;
- (f) Ensure that persons under 18 remain in regular contact with their families while in the

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juvenile justice system;

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

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

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

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

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

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

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

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

...

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

...

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

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

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

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

(d) Take all necessary measures to establish separate detention facilities for juveniles, including through technical cooperation.

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

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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...

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

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

...

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

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

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

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

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

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

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“reform through labour”.

576. The Committee recommends that the State party:

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

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

...

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

...

- France, CRC, CRC/C/140 (2004) 124 at paras. 595, 596, 629 and 630.

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...

...

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

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

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particular:

- (a) To ensure a coordinated approach to the collection of information and statistics, allowing a response commensurate to the needs;
- (b) To establish norms that orient and coordinate actions aimed at guaranteeing access to basic services, in particular education, health and legal assistance;
- (c) To consider introducing recent methods of age determination which have proven more accurate than the method in use.

- Brazil, CRC, CRC/C/143 (2004) 10 at paras. 67, 68, 93 and 95.

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 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;

...

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(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. 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;

...

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

...

306. The Committee is concerned that the State party has not yet established specific procedures and courts to deal separately with juvenile offenders under the justice system. Parents, doctors and lawyers are not guaranteed access to those persons below 18 who are

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arrested. The Committee is also concerned at the lack of vocational training or rehabilitation programmes for those below 18 who have been detained.

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

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

- (a) To expedite its work on reform of the system of juvenile justice in order for children to be tried under a specific juvenile justice system and not the ordinary justice system;
- (b) To review the existing distinction regarding criminal responsibility of minors under 14 years and those under 16 years, and ensure that alternative penalties to the deprivation of liberty exist for all minors;
- (c) To ensure that pre-trial detention is used only in exceptional cases, and when this does occur, that access to relatives/representatives and to doctors and lawyers is guaranteed;
- (d) To undertake all necessary measures, including through technical cooperation, to establish separate detention facilities for juveniles;
- (e) To review the mandate and restructure the Commission on Minors' Affairs with a view to removing its punitive functions;
- (f) To ensure that the Akzakal Courts (Elders' Courts), when dealing with children in conflict with the law, fully apply the principles and provisions of the Convention; and
- (g) To seek technical assistance from the OHCHR and UNICEF in this regard.

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

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

- (a) Set up independent and effective juvenile courts;
- (b) Limit by law the length of pre-trial detention and ensure that the lawfulness of such detention is reviewed by a judge without delay and regularly;
- (c) Improve the conditions of detention and imprisonment of persons below 18, notably by establishing special institutions for them with conditions suitable to their age and needs;
- (d) Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prison guards, and establish an independent, 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*

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alia, OHCHR and UNICEF.

- Antigua and Barbuda, CRC, CRC/C/143 (2004) 93 at paras. 493, 495, 520 and 521.

493. The Committee is seriously concerned that no safe houses or places of alternative care exist for boys who suffer from parental neglect or who need to be removed from their family environment, and that they are generally placed in the facility for boys in conflict with the law.

...

495. The Committee recommends that the State party immediately review the current practice of placing boys in need of alternative care in the institution for juvenile offenders, and consider establishing a Government-run institution designed to accommodate boys in need of care, ensuring that their physical and psychological needs are appropriately met, including in the domains of health, education and safety.

...

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

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

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

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

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

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

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

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the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), and in the light of the Committee's 1995 day of general discussion on the administration of juvenile justice (see CRC/C/46). In this regard, the Committee recommends that the State party, in particular:

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

- Sweden, CRC, CRC/C/146 (2005) 8 at paras. 69 and 70.

69. The Committee welcomes the enactment in 2002 of a law on mediation in connection with criminal offences in order to reduce the injurious effects of the crimes, the introduction in 1999 of custodial care and of community youth service as sanctions for young offenders. Nonetheless, the Committee is concerned about the lack of specialized prosecutors and judges to deal with children's issues.

70. 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 day of general discussion on the administration of juvenile justice, held by the Committee in 1995. In this respect, it is specifically recommended that the State party:

- (a) Ensure that prosecutors and judges dealing with children's issues are all appropriately trained;
- (b) Ensure that punitive measures are taken only by judicial authorities, with due process and legal assistance;

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

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

96. ...[T]he Committee notes the lack of clarity related to the status of children between 14 and 18 years (e.g. in the areas of sexual abuse or exploitation, juvenile justice) and is concerned that children in this age group may not be accorded the special protection or the rights they are entitled to in accordance with the Convention.

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

...

151. The Committee welcomes the information provided by the State party on legislative measures taken to improve compliance with the provisions of the Convention. But the Committee is concerned at the lack of implementation of the existing provisions and the lack of an effective juvenile justice system of specialized police prosecutors, judges and social workers to deal with children in conflict with the law.

152. The Committee recommends that the State party:

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

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

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

ii) The need to train police officers, prosecutors, judges and others involved in the process of dealing with children in conflict with the law, in order to, *inter alia*, make

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sure that these children are interrogated by trained police officers who notify parents immediately about their child's arrest and who encourage the presence of legal assistance for the child;

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

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

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

- Luxembourg, CRC, CRC/C/146 (2005) 36 at paras. 188, 189, 192, 193, 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...

...

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

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

...

216. While the Committee notes the positive steps taken by the State party through the

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recent adoption of the Act of 16 June 2004, it remains concerned about:

- (a) The placement of persons under 18 in detention centres for adults, resulting in frequent contacts between both groups (even if they live in separate cells);
- (b) The fact that persons under 18 who are in conflict with the law and those having social or behavioural problems are placed in the same structures;
- (c) The fact that persons between 16 and 18 years of age may be referred to ordinary courts and judged as adults in case of crimes of particular gravity;
- (d) The placing of persons under 18 in solitary confinement (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. 275 and 276.

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 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

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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. 362 and 363.

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:

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- (a) To establish juvenile courts staffed with appropriately trained professional staff in each district of the country;
 - (b) To raise the minimum age of criminal responsibility to an internationally accepted level;
 - (c) As regards life imprisonment of children without provision for parole, to urgently review its domestic legislation, particularly the provisions of the Indictable Procedures Act (chapter 96 of the Laws of Belize) and the Court of Appeal Act (chapter 90 of the Laws of Belize), in order to bring its domestic laws into full conformity with the provisions and principles of the Convention;
 - (d) To ensure that detained persons under the age of 18, including in pre-trial detention, are always separated from adults, and that deprivation of liberty is used only as a measure of last resort, for the shortest period of time and in appropriate conditions;
 - (e) In cases where deprivation of liberty is unavoidable and used as a last resort, to improve procedures of arrest and conditions of detention and establish special units within the police for the handling of cases of juveniles in conflict with the law;
 - (f) To seek technical assistance from, among others, OHCHR, the United Nations Office on Drugs and Crime and UNICEF.
- Islamic Republic of Iran, CRC, CRC/C/146 (2005) 88 at paras. 443, 444, 464, 465, 480, 481, 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. It further recommends that the State party continue to strengthen its legislative efforts by undertaking a comprehensive review of its domestic legislation so as to ensure its full conformity with the principles and provisions of the Convention.

...

464. The Committee notes the statement made by the delegation of the State party during

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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 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.

...

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-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

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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;
 - (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:

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

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

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

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(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. 626, 627, 646, 647, 660 and 661.

626. The Committee is concerned at reported cases of police brutality against children in the State party.

627. The Committee recommends that the State party adopt measures to prevent and eliminate all kinds of institutional violence. It also recommends that the State party ensure that alleged cases of police brutality against children are duly investigated and that those responsible for such crimes are prosecuted.

...

646. ...The lack of access to educational programmes for juvenile offenders is...a cause of concern.

647. The Committee encourages the State party:

...

(f) To ensure that all juvenile offenders have access to adequate educational and vocational programmes in detention centres;

...

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;

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- (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;
 - (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, 742, 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;

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- (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, 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;

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- (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;
- (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

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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;

(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. 50, 51, 97 and 98.

50. The Committee welcomes the State party's definition of a child as any person under 18 years. However, it remains concerned at the definition of juveniles as persons under 16 years of age which in practice means that children of 16 and 17 years old do not receive the protection provided for persons under the age of 16.

51. The Committee recommends that the State party change its laws to ensure that all persons under 18 are provided with the same protection and guarantees, *inter alia*, in the area of child protection, child maintenance and juvenile justice.

...

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

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these benefits and that facilities and programmes for the rehabilitation and social reintegration of female juveniles who have been involved in the administration of the juvenile justice system do not exist.

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

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

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

(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 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 also 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.

...

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

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

194. The Committee urges the State party to ensure that its legislation and practice concerning juvenile justice is in full compliance with the provisions of the Convention, in particular articles 37, 39 and 40, as well as other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (General Assembly resolution 40/33), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (General Assembly resolution 45/112), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113) and the Guidelines for

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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:

 - (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;

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- (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 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;

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(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. 332, 333, 362, 363 and 378-381.

332. The Committee is concerned about the significant number of children who are living in adult prisons with their parents, often in poor conditions that fall short of international standards.

333. The Committee recommends to the State party that it review the current practice of children living with their parents in prison, with a view to limiting the stay to instances in which it is in his/her best interest, and to ensuring that the living conditions are suitable for his/her needs for the harmonious development of his/her personality. The Committee also recommends that children of parents in prison should be provided with adequate alternative care, for instance, within the extended family and be allowed regular contact with their parents.

...

362. The Committee is highly alarmed by the number of children who were killed in armed conflicts in the State party. The Committee notes with grave concern the reports of abduction and forcible conscription of children by the armed groups for political indoctrination and for use as combatants, informants, cooks or porters and as human shields. The Committee is equally concerned that Government forces target under 18s suspected of being members of the armed groups and about the highly alarming reports of disappearances and arbitrary detention and of Government forces allegedly using children as spies and messengers. The Committee is also deeply concerned that there are reports of detention of children under the 2004 amendment to the Terrorist and Disruptive Activities (Control and Punishment) Ordinance. The Committee is concerned at the direct effects of this violence on child victims, including child combatants, and about the severe physical and psychological trauma inflicted upon them. The Committee also expresses concern about children who were separated due to the conflict, including children who have fled to India, and that little efforts have been taken by the State party to reunite these families. The Committee is also concerned about the negative impact of the armed conflict on food supplies, education and health care.

363. The Committee recommends that the State party develop a comprehensive policy and programme for implementing the rights of children who have been affected by conflict, and allocate human and financial resources accordingly. In particular, the Committee recommends that the State party:

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- (a) Criminalize abduction, recruitment and use of children for military purposes by any armed forces or armed group;
- (b) Establish a separate Rule of Engagement for its security forces with regard to children;
- (c) Amend or repeal the Terrorist and Disruptive Activities (Control and Punishment) Ordinance in the light of the international juvenile justice standards and norms;
- (d) Develop, in collaboration with NGOs and international organizations, a comprehensive system of psychosocial support and assistance for children affected by conflict, in particular child combatants, unaccompanied internally displaced persons and refugees, returnees;
- (e) Take effective measures to ensure that children affected by conflict can be reintegrated into the education system, including through the provision of informal education programmes and by prioritizing the rehabilitation of school buildings and facilities and provision of water, sanitation and electricity in conflict-affected areas;
- (f) Ratify the Hague Convention on the Civil Aspects of International Child Abduction;
- (g) Ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict as a matter of priority;
- (h) Seek technical assistance from, *inter alia*, OHCHR and UNICEF in this regard, and provide maximum possible cooperation to the newly established office of OHCHR in Nepal.

...

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.

379. The Committee is also concerned about the reports of persons under 18 held under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance which has no set minimum age and grants security forces wide powers to arrest and detain any person

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suspected of being associated with the armed groups, including children.

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;
- (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.

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

- Mongolia, CRC, CRC/C/150 (2005) 113 at paras. 577 and 578.

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577. The Committee regrets that the State party report did not provide it with adequate information about the situation of street children. While noting with appreciation the establishment of centres for children living in the street, the Committee is concerned at the increasing number of street children living in very harsh conditions and that the causes leading to this phenomenon are often abusive family situations. According to the Law on Temporary Detention of Children without Supervision adopted in July 1994, a runaway child can be detained up to one week. The Committee is concerned that the State party's domestic legislation does not remain in full conformity with the principles and provision of the Convention in this respect...

578. The Committee recommends that the State party:

...

(b) As regards the implementation of the Law on Temporary Detention of Children without Supervision, adopted in July 1994, refrain as a matter of policy from detaining runaway children and seek alternative forms, which are fully compatible with the provisions of the Convention, for their detention;

...

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

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...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

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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. 722 and 723.

722. While noting the provision of the Juvenile Justice Law allowing the rehabilitation of convicted children and/or adolescents suffering from drug addiction as an alternative to imprisonment, the Committee is concerned at the scarcity of treatment centres for drug addiction which also limits the possibility of placing children in conflict with the law.

723. The Committee recommends that the State party continue with the development of voluntary drug rehabilitation programmes. The Committee further recommends that the State party take administrative, social and educational measures to protect children from substance abuse and prevent the use of children in the illicit production and trafficking of such substances.