



Human Rights  
Institute

**Stakeholder Submission to the United Nations Committee  
on the Rights of the Child**

**Call for comments on the draft General Comment No 24  
on children's rights in juvenile justice**

**Submission by the International Bar Association's Human Rights Institute**

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## About the IBAHRI

Established in 1947, the International Bar Association (IBA) is the world's leading organisation of international legal practitioners, bar associations and law societies. The IBA influences the development of international law and shapes the future of the legal profession throughout the world. It has a membership of more than 80,000 individual lawyers and 190 bar associations and law societies, spanning more than 170 countries, and has considerable experience in providing assistance to the global legal community.

The IBA's Human Rights Institute (IBAHRI) was established in 1995 and works across the IBA helping to promote, protect and enforce human rights under a just rule of law and to preserve the independence of the judiciary and legal profession worldwide. The IBAHRI holds that lawyers and judges play a fundamental role in facilitating access to justice, ensuring accountability of the state and upholding the rule of law and human rights.

## Introduction and methodology

The recommendations presented below are based on the findings presented in the IBAHRI report [\*The Role of the Universal Periodic Review in Advancing Children's Rights in Juvenile Justice\*](#) (the 'IBAHRI report'), published in May 2018.

The IBAHRI report sheds light on the main juvenile justice-related issues addressed by recommending states on the occasion of the Universal Periodic Review (UPR) from 2008 to 2016. Four main findings are highlighted here:

1. Overall, children's rights are in the top five issues addressed at the UPR and eight per cent of these recommendations have addressed juvenile justice in the period of time considered.
2. Out of 193 states, 174 have received at least one recommendation on juvenile justice during the first two cycles of the UPR.
3. A very high number of states have received recommendations on the establishment of specific juvenile justice systems (112), the related issue of minimum age of criminal responsibility (57) and the use and conditions of detention conditions (118). This reveals an alarming situation in which the basic principles governing juvenile justice systems set up in the Convention on the Rights of the Child (CRC) still remain to be taken into account by states to foster and inform the necessary legal reforms and put in place a specific juvenile justice system.
4. Even more alarming is the scarce number and general character of the recommendations issued on prevention measures (12), diversion measures (14) and respect of children's fair trial rights (31). Reports from international non-governmental organisations (INGOs) and United Nations mechanisms converge to demonstrate that those principles are still to be implemented in most of the countries.

In light of these findings, the IBAHRI recommends sharpening and clarifying the fundamental principles governing juvenile justice systems as set up by the CRC. Specific recommendations are made below.

## **Recommendations**

### ***New issues introduced by the revised General Comment***

The IBAHRI welcomes the introduction of ‘Specific issues’ under Part G of the draft General Comment. However, it is concerned that the issues of radicalisation and counterterrorism have not been sufficiently and adequately addressed in the draft. The risk that measures taken by states to collect data and prevent radicalisation and terrorism violate children’s rights and cause stigmatisation was clearly established on the occasion of the 2018 World Congress on Juvenile Justice. Counterterrorism is only addressed in paragraph 52 focusing on the issue of non-retroactivity.

In view of this, the IBAHRI recommends addressing radicalisation and counterterrorism under Part V.A. on ‘Prevention of child offending’, paragraph 78 on ‘Full respect of privacy’ (Articles 16 and 40(2)(b)(vii)) and Part G on ‘Children recruited and used by non-state armed groups’.

### ***Terminology***

The IBAHRI would support consistency in the terminology used:

- ‘child offenders’, ‘children alleged as, accused of or recognized as having infringed the penal law’ and ‘children in conflict with the law’ are used seemingly interchangeably in the document; and
- ‘juvenile delinquency’ and ‘child offending’ are also used interchangeably.

The IBAHRI would also recommend avoiding expressions such as ‘it is obvious’ or ‘it goes without saying’, which depart from the legal tone.

### ***Drafting proposals***

Drafting proposals and erasures are outlined **in red** below.

#### **I. INTRODUCTION**

**Paragraph 1:** The IBAHRI recommends referring not only to the ‘Committee’s own jurisprudence and various concerns’, but also the monitoring and recommendations made by all UN human rights mechanisms, in an effort to build constructively on the work done by all UN human rights mechanisms in protection of children’s rights and the CRC in particular. The IBAHRI report shows the extent to which the UPR has consolidated some of the major principles of the CRC and, to a certain extent, additional principles from the Beijing and Havana Rules. This is the case for the establishment of a juvenile justice system, a minimum age for criminal responsibility and the standards related to the deprivation of liberty. The UPR has also been instrumental in consolidating the non-imposition of the death penalty for crimes committed by persons under 18. Finally, the UPR has gone beyond the existing international legal framework by calling upon states to ban detention for children (11 recommendations).

*Drafting proposal:* ‘This General Comment is a revision of General Comment No 10, which was adopted in 2007. It reflects the developments that have occurred during the intervening decade through the promulgation of various resolutions and other guiding documents on violence against children in juvenile justice, the knowledge about child and adolescent development, the Committee’s own jurisprudence and various concerns, **as well as recommendations adopted by other UN human rights mechanisms.**’

**Paragraph 3:** To ease the reading of the document, the IBAHRI would recommend merging the last sentence of paragraph 1 and paragraph 3 so as to bring together what is referred to as the ‘negative trends’ and the areas where states are not in ‘full compliance’ with the CRC.

*Drafting proposal:* ‘The Committee notes with appreciation the many efforts to establish an administration of juvenile justice systems in compliance with CRC. However, **as it appears from the monitoring and recommendations made by UN mechanisms,** many States parties still have a long way to go in achieving full compliance with CRC, eg, in particular in the areas of procedural rights, prevention, the development and expansive implementation of diversion measures for dealing with children in conflict with the law without resorting to judicial proceedings, ~~and~~, the setting of an appropriate minimum age of criminal responsibility, and ensuring the use of deprivation of liberty only as a measure of last resort and for the shortest appropriate period of time. **The Committee notes negative trends in that respect, as well as emerging issues, such as counterterrorism and preventive measures adopted by States parties to prevent radicalisation, children recruited and used by non-State armed groups, or terrorist or violent extremist groups, and children in customary justice systems.**’

## II. THE OBJECTIVES OF THE PRESENT GENERAL COMMENT

**Paragraph 5:** The IBAHRI notes that no paragraph is dedicated to the objectives of juvenile justice systems as set up in the CRC. Unless a new section is added, it is suggested to address those objectives in this section and under Part IV (see below and Annex).

*Drafting proposal:* ‘The objectives of the present General Comment are...

- **to highlight prevention, rehabilitation and restorative justice as key objectives of any juvenile justice system set up in accordance with the CRC;**
- to provide clarity on the setting of a minimum age of criminal responsibility, the upper age limit of the juvenile justice system, and related matters;
- to **provide clarity on the concept of diversion** and encourage the establishment and full implementation of **diversion to alternative measures** that can be applied at all stages of the process;
- to ensure that **any child is treated as subject of rights and not as object of protection**, with a particular emphasis on the **right to competent and effective assistance**, and guarantees for a fair trial for those children who are, **by exception**, not **diverted to alternative measures** and to ensure the application of appropriate dispositions for children who are convicted and the avoidance of deprivation of liberty, except as a measure of last resort, and if used, for the shortest appropriate period of time and in appropriate conditions.’

### III. TERMINOLOGY

**Paragraph 6:** The IBAHRI recommends including definitions of the key concepts used in the General Comment, such as ‘rehabilitation/reintegration’, ‘restorative justice’ and ‘customary justice’.

In light of the 2013 report of the Representative of the Secretary General on violence against children, some of these expressions could be defined as follows:

**‘Rehabilitation and reintegration’:** are defined as the promotion of the child’s sense of dignity and worth and the child’s respect for the human rights of others, with the aim of supporting the child to assume a constructive role in society. This goes hand in hand with the development of children’s abilities to deal with risk factors so as to function successfully in society, thereby improving the quality of life of the person and the community.<sup>1</sup>

**‘Restorative justice’:** means any process in which the victim and the offender and, where appropriate, any other individuals or community members affected by the crime participate actively together in the resolution of matters arising from that crime, generally with the help of a facilitator. Restorative processes may include mediation, conciliation, conferencing and sentencing circles.<sup>2</sup>

Further, the IBAHRI recommends that the definition provided of ‘juvenile justice’ be consistent with the rest of the General Comment, in particular paragraph 31, which refers to civil, administrative and criminal measures. The statement ‘this revised general comment does not refer to children as “juveniles”’ seems contradictory to the definition and ‘juvenile justice’ is the only expression used in the report.

### IV. JUVENILE JUSTICE: THE LEADING PRINCIPLES OF A COMPREHENSIVE POLICY

To clarify the content of the leading principles presented in this section, the IBAHRI recommends spelling out a list of requirements, in a similar manner as under the principle of human dignity (paragraph 15). A list of requirements is proposed in the Annex.

Furthermore, the IBAHRI strongly believes that criminal justice as a whole, not just criminal juvenile justice, should be geared towards rehabilitation and restorative justice. The drafting proposal made in the Annex reflects this positioning.

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<sup>1</sup> Office of the Representative of the Secretary General on Violence against Children, *Promoting Restorative Justice for Children* (2013), vi.

<sup>2</sup> *Ibid.*

## V. JUVENILE JUSTICE: THE CORE ELEMENTS OF A COMPREHENSIVE POLICY

### A. Prevention of child offending

**Paragraphs 18–20:** For the sake of clarity, the IBAHRI recommends addressing:

- parental responsibility and state responsibility with regard to parents' support, by merging the last sentence of paragraph 18 with paragraph 19; and
- states' responsibility in developing a prevention programme, by merging paragraphs 18 and 20.

**Paragraph 21:** The IBAHRI recommends referring to children's 'participation' and not only 'involvement' as extensively developed in the Committee's General Comment No 12 on Article 12.

*Drafting proposal:* 'States parties should ensure **the active and meaningful participation of children, fully promote and support the involvement of children, including the right to be heard stated in Article 12 of the CRC**, parents, community leaders and other key actors (eg, representatives of NGOs, probation services and social workers), in the development and implementation of prevention programmes. The quality of this **involvement participation** is a key factor in the success of these programmes.'

### B. Interventions/diversion

**Paragraph 22:** The IBAHRI recommends stating in this paragraph that priority should be given to diversion over judicial proceedings.

*Drafting proposal:* 'Two kinds of interventions can be used by the State authorities for dealing with children in conflict with the law. In accordance with Article 40(3) of the CRC, the States parties shall seek:

1. **in priority**, measures for dealing with children in conflict with the law without resorting to judicial proceedings (diversion);
2. **if not possible otherwise**, measures in the context of judicial proceedings.'

### C. Interventions in the context of judicial proceedings (disposition)

**Paragraph 28:** The IBAHRI recommends adopting for paragraph 28 a similar structure as the part above on 'interventions without resorting to judicial proceedings':

*Drafting proposal:* 'The Committee emphasizes the following:

- **Interventions in the context of judicial proceedings should constitute the exception, when no alternative measure can be found;**
- From the moment of arrest, and during the disposition phase of the proceedings, deprivation of liberty must be used only as a measure of last resort and for the shortest appropriate period of time (Article 37(b)).



- States parties should have in place a well-trained probation service to allow for the maximum and effective use of measures such as guidance and supervision orders, probation, community monitoring or day report centres, and the possibility of early release from detention.
- States should guarantee children’s fair trial rights, and in particular children’s access to competent and effective legal and other assistance.
- Pursuant to Article 40(1) of the CRC, promoting reintegration requires that a child who is or has been in conflict with the law should be protected from actions or attitudes that hamper the child’s full participation in his or her community, such as stigmatisation, social isolation or negative publicity.’

#### **D. The guarantees for a fair trial**

The IBAHRI report demonstrates that recommending states at the UPR have paid little attention to fair trial guarantees and procedural rights, which children are entitled to when deprived of their liberty. Furthermore, after those calling for the abolition of inhuman sentencing, recommendations relating to fair trial rights were the least accepted by states under review. Within this, the fundamental role of lawyers in representing and defending children in judicial processes has been particularly overlooked. Chapter 4 of the report sheds light on the role of lawyers in supporting concrete advances in juvenile justice systems. Highlighted by Beijing Rule 22, the training of professionals working on juvenile justice, especially lawyers, is essential to the adequate representation of children in the justice process. Children are specifically dependent on legal assistance to understand the juvenile justice process and to be represented so that their rights are respected. Without such representation, it would be much more challenging for children to claim these rights within the juvenile justice system. The 2016 Child Rights International Network (CRIN) report, *Rights, Remedies and Representation*, reveals that the lack of qualified and expert legal assistance is missing in most countries.<sup>3</sup>

The state must ensure that a lawyer appointed is qualified to represent the accused and has the necessary training, experience and skills commensurate with the nature and gravity of the offence allegedly committed and with the rights and particular needs of the accused, and that the lawyer is in a position to exercise the role effectively.<sup>4</sup> When an individual is represented by appointed counsel, the authorities must ensure that the lawyer has the requisite training, skills, experience and

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<sup>3</sup> See CRIN, *Rights, Remedies and Representation* (2016), 33.  
<https://archive.crin.org/en/library/publications/rights-remedies-and-representation-global-report-access-justice-children> accessed 4 January 2019.

<sup>4</sup> See HRC General Comment No 32, UN Doc CCPR/C/GC/32 (2007), para 38; Principle 13 of the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems; Principle 9 of the Basic Principles on the Role of Lawyers.

competence to represent the individual.<sup>5</sup> If appointed counsel is not effective, the court or other responsible authorities must ensure that counsel performs their duties or is replaced.<sup>6</sup>

The IBAHRI proposes the following revisions to strengthen children’s right to fair trial.

*Drafting proposals:*

**Paragraph 57:** ‘A fair trial requires that the child in conflict with the law is able to effectively participate in the trial, and the child therefore needs to comprehend the charges, **his or her rights and procedural ways to exercise them** and possible consequences and penalties, in order to direct the legal representative, to challenge witnesses, to provide an account of events, and to make appropriate decisions about evidence, testimony and the measure(s) to be imposed.’

**Paragraph 58:** ‘When the authorities decide to deal with the case with a diversion measure **or judicial proceedings**, the child must be informed of the charge(s) on which this is based, and must understand his or her legal options.’

**Paragraph 60:** ‘States shall ensure that the child is guaranteed legal or other appropriate assistance from the outset of the proceedings in the preparation and presentation of his/her defence. The CRC does require that the child be provided with assistance, which is not necessarily under all circumstances legal but it must be appropriate. **The Committee calls upon States parties to withdraw reservation made regarding this guarantee (Article 40(2)(b)(ii) of CRC) A number of States parties have made reservations regarding this guarantee (art. 40 (2) (b) (ii) of CRC), apparently assuming that it requires exclusively the provision of legal assistance and therefore by a lawyer. In general comment No. 10 (2007), this Committee recommended such reservations should be withdrawn.**’

**Paragraph 61:** ‘The Committee has become particularly concerned that **many children are** facing charges in courts and being deprived of liberty, without having the benefit of **competent and effective** legal representation **as required under paragraph 49 above**. The Committee notes that in terms of 14(3)(d) of ICCPR the right to legal representation is a minimum guarantee in the criminal justice system for all persons, and should equally apply to children. While this article allows the person to defend him/herself in person in any case where “the interests of justice so require”, that person will be assigned legal assistance.’

**Paragraph 62:** ‘In the light of this, the Committee is concerned that children are being provided with less protection than international law guarantees for adults. The Committee recommends that states provide **competent and effective** legal representation for all children who are facing charges in juvenile courts. If children are being diverted to programmes or are being assisted in a system which does not result in convictions, criminal records or deprivation of liberty, “other assistance” may be an acceptable form of assistance, although states that can provide legal representation for children during all processes should do so. Legal representation shall be provided free of charge to the child.’

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<sup>5</sup> Principle 6 of the Basic Principle on the Role of Lawyers; Principle 13 of the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems.

<sup>6</sup> Principles 16–20 of the Basic Principles on the Role of Lawyers.

**Paragraph 63:** ‘Where other appropriate assistance is permissible (eg, social worker or para-legal), that person must have sufficient knowledge and understanding of the various legal aspects of the process of juvenile justice and **children’s rights** and must be trained to work with children in conflict with the law.’

## **E. Measures**

### *Diversion by the juvenile court/judge*

**Paragraph 86:** ‘Recognizing the harm caused by deprivation of liberty to children and adolescents, and its negative effects on their prospects for successful reintegration, **as widely stated by UN mechanisms, ...**’

**Paragraph 87:** The IBAHRI recommends exemplifying the type of alternative measures that can be taken.

### *Prohibition of the death penalty*

**Paragraph 91:** ‘The imposed death penalty should be changed to a sanction that is in full conformity with CRC **and should as such not be replaced by a life sentence with or without parole, or any sentence amounting to cruel punishment.**’

### *No life imprisonment without parole*

**Paragraph 92:** The IBAHRI report demonstrates that the UPR has gone beyond the existing international legal framework by calling upon states to ban detention for children (11 calls to action) and abolish life imprisonment with or without parole (17 calls to action). International standards on juvenile justice only prohibit life imprisonment without parole. While more than 60 states still implement lengthy detention (15 years or more), this form of inhuman sentencing has not received sufficient international attention. The IBAHRI believes that progressive recommendations at the UPR constitute a small but promising step towards addressing sentencing as a whole and drawing additional attention to all forms of inhuman sentencing, on which international condemnation is often limited. The prohibition of life imprisonment with or without parole is strictly incompatible with Article 37 of the CRC, which requires that detention be used for the shortest time possible, as well as the objectives of rehabilitation and reintegration supported by the CRC. The guarantee provided by Article 25 (right to periodic review) cannot be used to justify resorting to this type of measure.

### *Drafting proposal: No life imprisonment **with or without parole***

**‘The Committee strongly recommends States parties to abolish all forms of life imprisonment for offences committed by persons who were under the age of 18 at the time of the commission of the offence, as incompatible with the aims of rehabilitation and reintegration of juvenile justice as set up in the CRC and expressed above. The Committee further recommends the prohibition of all sentences of lengthy imprisonment and other sentences amounting to cruel punishment.’**

Furthermore, the IBAHRI recommends:

- addressing the right to periodic review (Article 25 of the CRC) under an autonomous paragraph as a fundamental right; and
- moving the section 'Monitoring the execution of measures, including placement' under Part VI 'Organization of juvenile justice' as this section is taking an institutional approach, related but distinct from Article 25.

**Paragraph 99:** should refer to Article 25 of the CRC.

**Paragraph 108:** 'The use of restraint or force, including physical, mechanical and medical restraints, should be **proportional to the threat and under** close, direct and continuous control of a medical and/or psychological professional.

'Any disciplinary measure must be consistent with upholding the inherent dignity of the child and the fundamental objectives of **rehabilitation and reintegration of the CRC institutional care**; disciplinary measures in violation of article 37 of CRC shall be strictly forbidden, including corporal punishment...'

## **VI. THE ORGANISATION OF JUVENILE JUSTICE**

In accordance with the concept of children's participation developed under the Committee's General Comment No 12, the IBAHRI recommends including:

'States should ensure that juvenile justice systems are developed with the active participation of children, in particular those who have been in contact with parts of the justice system, and all other relevant stakeholders.

'States should revise their existing legislation in consultation with children and the legal community to ensure the respect of fair trial guarantees to all children alleged as, accused of or recognised as having infringed the penal law. This review should include procedural rights to which they are entitled when deprived of liberty, as outlined in Articles 37(b) and 40(2) of the UN CRC.

'States should ensure that a sufficient number of legal professionals and law enforcement officers are trained on children's rights and provide adequate, accessible legal aid services to ensure the right to effective legal assistance to all children alleged as, accused of or recognised as having infringed the penal law. States should also ensure training on children's rights within the administration of justice as a whole.'

## **Annex: Drafting suggestions for a list of requirements under ‘Part IV Juvenile justice: the leading principles of a comprehensive policy’**

The IBAHRI would recommend the revision of Part IV to set up a clear list of requirements stemming from the leading principles presented under Part IV. These principles are set out below.

‘States should ensure throughout the process of dealing with the child, from the first contact with law enforcement agencies and to the implementation of all measures, that:

- **Juvenile justice systems serve the objectives of prevention** (requirement currently mentioned under paragraphs 11 and 13)

The rights to life, survival and development and the principles of human dignity and of the best interest of the child should guide and inspire States parties in the development of effective national policies and programmes aimed at addressing the root causes of child offending and serving the objective of prevention.

Behaviours such as vagrancy, roaming the streets or runaways should be dealt with through the implementation of child protective measures, including effective support for parents or other caregivers and measures that address the root causes of the behaviour.

- **Juvenile justice systems serving the objectives of rehabilitation and restorative justice should be adapted to children, taking into account the child’s age and promoting the child’s development to assume a constructive role in society** (requirement currently mentioned under paragraphs 9, 12 and 15, 3rd bullet point)

Children differ from adults in their physical and psychological development and their emotional and educational needs. Such differences constitute the basis for the lesser culpability of children in conflict with the law. These and other differences are the reasons for a separate juvenile justice system and require a different treatment for children. To protect the best interests of the child, for instance, the shift from the traditional objectives of criminal justice, such as repression and retribution, must give way to rehabilitation and restorative justice objectives. This aligns with the objective to ensure effective public safety.

Many children in conflict with the law are also victims of discrimination, eg, when they try to obtain access to education or to the labour market. It is necessary that measures are taken to prevent such discrimination, inter alia, by providing former child offenders with appropriate support and assistance in their efforts to reintegrate in society and to conduct public campaigns emphasising their right to assume a constructive role in society (Article 40 (1)).

This principle requires that all professionals involved in the administration of juvenile justice be knowledgeable about child development, the dynamic and continuing growth of children, what is appropriate to their wellbeing and the pervasive forms of violence against children.

- **Juvenile justice systems ensure that all children enjoy equal rights (Article 2)** (requirement currently mentioned under paragraph 10)

States parties have to take necessary measures to ensure that all children in conflict with the law enjoy equal rights and are treated equally.<sup>7</sup> Particular attention must be paid to de facto discrimination and disparities, which may be the result of a lack of a consistent policy and involve vulnerable groups of children, such as street children, children belonging to racial, ethnic, religious or linguistic minorities, indigenous children, girls, children with disabilities and children who are repeatedly in conflict with the law (recidivists). In this regard, adapted training of all professionals involved in the administration of juvenile justice is important (see paragraphs xx–xx below), as well as the establishment of rules, regulations or protocols that enhance equal treatment of child offenders and provide redress, remedies and compensation.

- **Juvenile justice systems do not criminalise a conduct by a child, if the same conduct is not criminalised if committed by an adult** (requirement currently mentioned under paragraph 10)

It is quite common that criminal codes contain provisions criminalising behavioural problems of children, such as vagrancy, truancy, runaways and other acts, which often are the result of psychological or socio-economic problems. It is particularly a matter of concern that girls and street children are often victims of this criminalisation. These acts, also known as Status Offences, are not considered to be such if committed by adults.<sup>8</sup> In this regard, the Committee also refers to Article 56 of the Riyadh Guidelines, which reads: “In order to prevent further stigmatization, victimization and criminalization of young persons, legislation should be enacted to ensure that any conduct not considered an offence or not penalized if committed by an adult is not considered an offence and not penalized if committed by a young person.”

- **Juvenile justice systems, in accordance with the child’s sense of dignity and worth, ensure that children are treated as subject of rights, guaranteeing in particular the children’s right to be heard (Article 12)** (requirement currently mentioned under paragraphs 14 and 15, 1st bullet)

In accordance with the principle of human dignity, children should always be treated as subject of rights. As per Article 12, the right of the child to express his or her views freely in all matters affecting the child should be fully respected and implemented throughout every stage of the process of juvenile justice (see paragraphs 54–56 below). The Committee notes that the voices of children involved in the juvenile justice system are increasingly becoming a powerful force for improvements and reform and for the fulfilment of their rights, but that justice systems too often do not integrate adequate consideration of children’s rights, especially the right to be heard, requiring competent and effective assistance.

- **Juvenile justice systems reinforce the child’s respect for the human rights and freedoms of others** (requirement currently mentioned under paragraph 15, 2nd bullet point)

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<sup>7</sup> Note from the IBAHRI: the Committee may appreciate whether the proposed language would better capture the need to adopt positive measures, rather than adopt similar measures for all.

<sup>8</sup> Note from the IBAHRI: The IBAHRI would recommend avoiding the following quote from the draft General Comment insofar as it sounds contradictory to the call for children-specific justice systems: ‘the Committee recommends that the States parties abolish the provisions on status offences in order to establish an equal treatment under the law for children and adults.’

This principle is in line with the consideration in the preamble that a child should be brought up in the spirit of the ideals proclaimed in the Charter of the United Nations. It also means that, within the juvenile justice system, the treatment and education of children shall be directed to the development of respect for human rights and freedoms (Article 29(1)(b) of the CRC and General Comment No 1 on the aims of education). It is obvious that this principle of juvenile justice requires a full respect for, and implementation of, the guarantees for a fair trial recognized in Article 40(2) (see paragraphs xx–xx below). If the key actors in juvenile justice, such as police officers, prosecutors, judges and probation officers, do not fully respect and protect these guarantees, how can they expect that the child will respect the human rights and fundamental freedom of others?

- **Juvenile justice systems prohibit and prevent all forms of violence** (requirement currently addressed under paragraphs 13 and 15, 4th bullet point)

Reports received by the Committee show that violence occurs in all phases of the juvenile justice process, from the first contact with the police, during pre-trial detention and during the stay in treatment and other facilities for children sentenced to deprivation of liberty. The Committee urges the States parties to take effective measures to prevent such violence, make sure that the perpetrators are brought to justice and give effective follow-up to the recommendations made in the report on the United Nations Study on Violence Against Children presented to the General Assembly in October 2006 (A/61/299).

The death penalty and a life sentence without parole are explicitly prohibited under Article 37(a) of the CRC (see paragraphs xx–xx below). The use of deprivation of liberty has very negative consequences for the child’s harmonious development and seriously hampers his or her reintegration in society. In this regard, Article 37(b) explicitly provides that deprivation of liberty, including arrest, detention and imprisonment, should be used only as a measure of last resort and for the shortest appropriate period, so that the child’s right to development is fully respected and ensured (see paragraphs xx–xx below).