

CHILDREN OF BULGARIA
POLICE VIOLENCE AND ARBITRARY CONFINEMENT

Human Rights Watch Children's Rights Project
Human Rights Watch/Helsinki

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Cover photograph by Yodon Thonden. Street children asleep by Central Railway Station in Sofia, Bulgaria.

Human Rights Watch Children's Rights Project

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GLOSSARY OF TERMS AND ABBREVIATIONS

Assembly of Teachers	Body of higher-level staff members of Labor Education School, that determines at the end of each academic year whether to release a child or extend confinement.
Beijing Rules	U.N. Standard Minimum Rules for the Administration of Juvenile Justice
CERD Forms	International Convention on the Elimination of All of Racial Discrimination
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CRP	Human Rights Watch Children's Rights Project
Central Commission Delinquency, governs	Central Commission for Combating Juvenile Delinquency, established under the Chief Prosecutor's Office, and coordinates activities of Local Commissions for Combating Juvenile Delinquency.
Educator	Staff position within Labor Education Schools.
ICCPR	International Covenant on Civil and Political Rights
Inspector	Pedagogic Office Inspector, a police officer who specializes in handling juveniles, both in social work and in law enforcement.
Local Commission the	Local Commission for Combating Juvenile Delinquency, an administrative body responsible for recommending placement of juveniles in Labor Education Schools, established under the municipal mayor's office.
NGO	Nongovernmental organization
OSCE	Organization for Security and Cooperation in Europe
Riyadh Guidelines Roma	U.N. Guidelines for the Prevention of Juvenile Delinquency Gypsies

CAT

Convention Against Torture and Other Cruel, Inhuman,
or Degrading Treatment or Punishment

U.N. Rules

U.N. Rules for the Protection of Juveniles Deprived of
their Liberty

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1. INTRODUCTION

SUMMARY

Children¹ in Bulgaria are often deprived of their basic rights by police, the very people who are supposed to protect them. After conducting a fact-finding mission to Bulgaria in the spring of 1996, Human Rights Watch concludes that street children are often subjected to physical abuse and other mistreatment by police, both on the street and in police lock-ups, and by skinhead gangs, who brutally attack the children because of their Roma (Gypsy) ethnic identity. Once detained by police, children fall victim to gross procedural inadequacies in the juvenile justice system in Bulgaria. Through administrative bodies, known as Local Commissions for Combating Juvenile Delinquency ("Local Commission"), children may be sentenced to confinement in one of eleven Labor Education Schools (the Bulgarian equivalent of juvenile reform institutions) in Bulgaria, for their "reeducation." The practice of confining children to these essentially penal institutions, without due process, violates international law. Further, the conditions

¹ In this report, the word "children" refers to anyone under the age of eighteen. The Convention on the Rights of the Child defines a child as "every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier" (Article 1). Convention on the Rights of the Child, G.A. res. 44/25, annex 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/4/49 (1989). The full text of the Convention on the Rights of the Child is set forth in the Appendix.

in Labor Education Schools, where children may be confined for up to three years, are notoriously harsh and do little to advance the development of the child's overall wellbeing, and do much to impede it. This report will address the subjects of police mistreatment and abuse of street children, and the Labor Education School system in Bulgaria.

Street children

By the central railway station in Sofia, children gather every night at the heating vents on the outskirts of the station grounds, to sleep. On our first visit with the children in mid-April, during an aberrational cold snap in Sofia, Human Rights Watch found fifteen children fast asleep over the vents, interlinked and pressed together for warmth, their bodies indistinguishable. Street children like these can be found in any major city in Bulgaria, concentrated near the centers of towns, by railway and bus stations, in busy open air markets and thoroughfares, and by churches and hotels. Police abuse of these children is the subject of the first part of this report.

During Human Rights Watch's visit to Bulgaria, in April 1996, we interviewed over thirty street children in Sofia, Plovdiv, Varna, Pleven and Sliven, ranging in age from eight to seventeen. In addition to interviewing the children themselves, we met with lawyers, human rights activists, teachers, Roma leaders, and representatives of the Bulgarian police directorate and local policemen. Most children were interviewed on the street, sometimes alone and sometimes in the presence of other children. Many of the children have families and homes to which they occasionally or regularly return after spending periods of varying length on the street. By "street children," Human Rights Watch refers to children who may not actually be homeless, but "for whom the street more than their family has become their real home."² Between twelve and fourteen thousand street children are estimated to live in cities throughout Bulgaria.³

² This definition of street children was formulated by the Inter-NGO Programme for Street Children and Street Youth, cited in Save the Children, *Street and Working Children: A Guide to Planning, Development Manual 4*, 1994, (*Street and Working Children*), p. 15. The full definition is as follows: "Street children are those for whom the street (in the widest sense of the word: i.e. unoccupied dwellings, wasteland etc.) more than their family has become their real home, a situation in which there is no protection, supervision or direction from responsible adults." It should be noted that UNICEF has suggested a distinction between children *on* the streets and children *of* the streets. Children *on* the streets are children who still maintain close ties to their families and return to their family homes in the evenings, while spending their days on the streets. Children *of* the street are children whose ties to their families have been severed, and who often actually sleep on

the street and struggle alone for survival. *Street and Working Children*, p. 15.

³ Human Rights Watch Children's Rights Project (CRP) interview with Kiril Khristov, Sofia, April 30, 1996. Kiril Khristov defined street children in basically the same terms as the Inter-NGO Programme for Street Children and Street Youth, which Human Rights Watch uses here.

Most street children are Roma,⁴ for whom the unemployment rate in Bulgaria is estimated to be as high as 90 percent in certain neighborhoods, and 70 percent on average.⁵ The Bulgarian national unemployment rate is reported to be 12.5 percent.⁶ The depressed socio-economic status of Roma people coupled with inadequacies in the Bulgarian educational system were often cited among the reasons for children taking to the streets. Although children are required to attend school up until the age of sixteen, most children we interviewed had dropped out of school at very young ages.

Children told Human Rights Watch that they left their homes of their own accord, and usually cited problems in their relationships with their parents, an absence of supervision or care at home, and even hunger as the reasons for leaving. Some followed in the footsteps of elder siblings or cousins, who took to the streets before them. Contrary to popular belief in Bulgaria, the street children we interviewed were not forced onto the streets by their parents to earn money for their families. No children reported having to share their money with any adults, although several smaller children in Varna reported sometimes sharing their money with an older boy who "looked after" them. The children come from all over Bulgaria, from within cities and from rural villages and suburbs. They come from large families, single headed households, or families in which one or both parents are unemployed.

⁴ Eighty-five percent of street children are estimated to be Roma. CRP interview with Kiril Khristov, Sofia, April 30, 1996. Other sources estimated even higher percentages. This accords with our own observations.

⁵ CRP interview with Vassil Choprazov, Chairperson of Roma Union, Sliven, April 21, 1996.

⁶Pari newspaper figure, cited in OMRI Daily Digest No. 93, Part II, May 14, 1996.

Children who live and work on Bulgaria's streets support themselves by begging, performing odd jobs for shopkeepers, gathering waste materials from dump sites for recycling, prostitution, and theft. Many of the children are addicted to glue or liquid bronze which they inhale from plastic bags. A fourteen-year-old boy told Human Rights Watch, "the best part of living on the street is the glue. I haven't eaten in two days because I'm not hungry. The glue makes me feel that way." As a result, street children are viewed by police and private citizens as criminals. Their Roma identity further reinforces this image; Roma are often perceived by the Bulgarian public to be a criminal element of society.⁷ For these reasons, street children are often subject to extreme violence and abuse at the hands of both skinheads and police. Police often harass and abuse the children because they perceive them to be criminals, and skinhead gangs regularly attack and beat the children because of their Roma identity.

Children reported that police have often engaged in physical and sometimes sexual harassment of street children, both on the street and in police station lock-ups. Human Rights Watch found that police conduct routine roundups of street children upon suspicion of theft, or for the alleged purpose of identifying children and finding runaways. Children, including many under the age of fourteen (who are incapable of bearing criminal liability for their conduct under Bulgarian law), reported being held in police lock-ups overnight, often for many nights, with no review of the legality of the detention by judicial authorities. Conditions in lock-ups are grossly inadequate. Children reported receiving no food, being denied use of the bathroom, being detained with adults, and use of physical restraints.

Most disturbing, however, were frequent reports of severe police brutality against the children, both at the time of arrest and particularly during interrogation sessions at police stations. Children held in lock-ups reported that they were beaten by police with electric shock batons, clubs, chains, rubber hosing, boxing gloves, and a metal rod with a ball at the end of it (known as a *beech*). One boy was

⁷ The Human Rights Project, a Bulgarian NGO which focuses on human rights in the Roma community in Bulgaria, undertook extensive monitoring of hate speech in Bulgarian media, and concluded that "the mass media still reproduces the negative prejudices against the two biggest ethnic minorities in the country, namely Roma and Turks" and referred to "long running biased series of articles that point out the ethnic origin of the offenders as an explanation for their law-breaking behaviour." The ethnic origins of Roma people are consistently announced and highlighted when they commit the most insignificant criminal acts. Human Rights Project, "Monthly Report of Project Media Freedoms and Hate Speech in South-Eastern Europe, Bulgaria, November and December 1995," p. 5.

stripped of his clothing, doused with water, and beaten on the soles of his feet with an electric shock baton (a practice known as *falaka*).

In light of the reported abuses of street children by police, it is no wonder that children often do not bother to report frequent skinhead attacks against them to police out of fear and distrust of the very people who are supposed to protect them. Racially motivated attacks against street children, and Roma generally, have been rising in recent years but police do little to assist the victims of attacks. Children reported being attacked frequently, sometimes several times a week, by skinheads or other youth gangs armed with bats, chains, knives, steel capped boots, and gas guns and sprays. Almost all the children we interviewed had suffered from such attacks. Despite the frequency and regularity of attacks, children reported receiving little or no assistance from police. Those who did complain to police said that police responded to their complaints with indifference, disbelief, and even suspicion. We were unable to find information on a single criminal prosecution of skinheads for attacks against street children. Little action is being taken by either the police or the Judiciary to bring the attackers of street children to justice, fostering an air of impunity for attackers.

Labor Education Schools

Shortcomings in the juvenile justice system in Bulgaria were found both in the procedures of confinement of children in Labor Education Schools and in the conditions of confinement there. Street children, and Roma children generally, are particularly susceptible to confinement in Bulgaria's eleven Labor Education Schools. The Deputy Director of Slavovitza Labor Education School observed that "80% of the children at [Slavovitza] are Gypsies, mainly from large families. Most of them roamed the streets before coming to us."⁸ It is estimated that Roma children comprise approximately 50 percent of the total Labor Education School population,⁹ although in the 1992 Bulgarian census only 288,000, less than 4 percent, of the country's 8.5 million people identified themselves as Roma.¹⁰ Roma

⁸ Bulgarian Helsinki Committee, "Labor Education Schools and the Rights of Juveniles in Bulgaria," *Objective Special Issue*, 1996 ("Labor Education Schools and the Rights of Juveniles in Bulgaria"), p. 13.

⁹ CRP interview with Malena Filipova, Chief Secretary of Central Commission for Combating Juvenile Delinquency, Chief Prosecutor's Office of Bulgaria, April 17, 1996 (Interview with Malena Filipova).

¹⁰ Alexander Kolev, "Census Taking in a Bulgarian Gypsy Mahala (Ruse, December 1992)," *Journal of the Gypsy Lore Society* 5, vol. 4, no. 1 (1994), p. 33.

leaders estimate the Roma population in Bulgaria to be much higher, as high as 800,000, but still less than 10 percent of the population of Bulgaria.¹¹ Confinement of children in Labor Education Schools will be the subject of the second part of this report.

¹¹ CRP interview with Vassil Choprazov, Chairperson of Roma Union, Sliven, April 21, 1996; Hristo Kjuchukov, "Preparation for the Education of Gypsy Children in Bulgaria," *Journal of the Gypsy Lore Society* 5, vol. 2, no. 2 (1992), p. 147.

It should be noted from the outset that Human Rights Watch was denied access to Labor Education Schools by the Ministry of Education. The ostensible ground for the denial, as stated in the rejection letter of the Deputy Minister of Education, Ivan Yordanov, was that there had been two inspections of Labor Education Schools by the European Committee for the Prevention of Torture and other Inhuman or Degrading Treatment or Punishment ("European Committee") in 1995, and by the Bulgarian Helsinki Committee¹² in 1996.¹³ In fact, the European Committee did not visit any Labor Education Schools during its visit to Bulgaria in the spring of 1995. The Bulgarian Helsinki Committee was able to visit five schools in the winter and spring of 1996, but only after encountering much difficulty from the Ministry of Education in securing access to the schools. We also found strong evidence of staff censorship of children during the Bulgarian Helsinki Committee's visit.

Despite the formal denial of access to Labor Education Schools, we were able to speak with students and staff members at Podem and Rakitovo Labor Education Schools. We also were able to interview students from Yagoda Labor

¹² The Bulgarian Helsinki Committee is a non-governmental human rights organization, based in Sofia, Bulgaria. It was founded in July, 1992 and is a member of the International Helsinki Federation for Human Rights.

¹³ Following Human Rights Watch's return to New York, we received a letter from Mr. Vladimir Sotirov, Head of the Human Rights Department of the Ministry of Foreign Affairs of the Republic of Bulgaria, dated May 31, 1996, responding to our letter of complaint regarding the denial of access to Labor Education Schools and to Boychinovtsi prison (for boys). The letter stressed that the denial of access was "of a technical nature," and that the Bulgarian government viewed the work of national and international human rights NGOs "as a help and not a hindrance."

Education School outside the school grounds, and students from Slavovitza Labor Education School near their family homes. Further, we interviewed members of Local Commissions for Combating Juvenile Delinquency, Pedagogic Offices, Public Prosecutor's Offices, police, and Bulgarian nongovernmental organizations ("NGOs") for all subjects of this report.

Labor Education Schools are essentially penal institutions. However, as reflected in its submission to the U.N. Committee on the Rights of the Child in 1995, the Bulgarian government views placements in Labor Education Schools "as educational rather than penal measures."¹⁴ Because the schools are not prisons under Bulgarian law, the procedures by which juveniles are confined there are not subject to any form of judicial control or review; due process protections set forth in the Bulgarian Penal Code and Code of Criminal Procedure are thus inapplicable to the procedures by which placement in a Labor Education School is made. Further, the few protections that are provided to juveniles under Bulgaria's Juvenile Delinquency Act¹⁵ (the act which authorizes the establishment of Labor Education Schools and sets forth the procedures by which juveniles may be confined in them) were found to be disregarded in practice.

Under Bulgarian law, children as young as age eight may be confined in a Labor Education School through non-judicial proceedings carried out by administrative bodies known as Local Commissions for Combating Juvenile Delinquency for "offenses" as minor as vagrancy or simply being "uncontrollable." The confinement of juveniles in Labor Education Schools by Local Commissions is carried out with little or no effort to ensure accountability to any higher authority, be it administrative or judicial. Children are sometimes confined in the schools without any hearing at all, and where hearings are held, they are reportedly inquisition-like in form and do not allow children fair opportunities to be heard. Children sometimes appear alone, without parents, and never with legal representation. There is no right of appeal and the term of confinement is undetermined at the time of placement. Children may spend up to three years in a

¹⁴ Convention on the Rights of the Child, Committee on the Rights of the Child, Initial reports of States parties due in 1993: Bulgaria, dated September 29, 1995, CRC/C/8/Add.29 (Geneva: October 1995) (Initial Report of Bulgaria to the Committee on the Rights of the Child), p. 9. Bulgaria ratified the Convention on the Rights of the Child on April 11, 1991.

¹⁵ Promulgated: *Izv.* No. 13/14.02.1958. Amended: *Izv.* No. 11/1961; *DV* Nos. 35/1966, 30/1969, 53/1975, 63/1976, 36/1979 and 75/1988. The Juvenile Delinquency Act is also known as the Combating Antisocial Behavior of Minors and Adolescents Act.

Labor Education School, and sometimes longer in order to complete the child's "education."

Conditions in Labor Education Schools vary, but most are reportedly harsh. Labor Education Schools are run and supervised by the Ministry of Education.¹⁶ We recognize that many of the problems with conditions in the schools relate to lack of adequate financial resources. Children complain often of cold and hunger. However, other harmful conditions found are not attributable to financial hardship, such as the widespread physical abuse of children by Labor Education School staff, especially in the schools where boys are confined. Boys told us that they were severely beaten by staff members with instruments such as a ski pole, a steel stick, and cable wires. Children reported that other forms of punishment included confinement in an "isolator," head shaving, reduction in diet, imposition of work chores, and deprivations of home leave, town outings, and the right to receive correspondence. When they try to complain about such abuses to outsiders, they may be severely punished.

In addition to harsh living conditions, the vocational education received by children in Labor Education Schools is inadequate in preparing the children for competitive employment upon release. After several years in this deplorable setting, children leave the schools physically and emotionally scarred, and ill prepared to face the challenges of living in the outside world.

Further, Human Rights Watch was alarmed by the high proportion of Roma children reported to be confined in the two Labor Education Schools designated for retarded children, and in Labor Education Schools where conditions are known to be worse than in other schools.

Prisons

¹⁶ Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 28, para. 127.

Human Rights Watch planned to visit the two penal institutions where children are held in Bulgaria: Boychinovtsi prison (for boys), and Sliven prison (for women and girls). Unfortunately, we were able to visit only Sliven prison, where only one girl was held at the time of our visit. Two days before our scheduled visit to Boychinovtsi (where 156 boys were held) we were informed by the Boychinovtsi prison administration that Malena Filipova, of the Chief Prosecutor's Office, had issued an order banning our visits to both prisons. Apparently Ms. Filipova was unaware of the fact that we had already visited Sliven prison. We were unable to visit Boychinovtsi as a result of her order, despite the fact that we had already secured permission to visit from the Chief of the Prison Administration, Zdravko Traikov.¹⁷ As a result, we are unable to comment on conditions and treatment of children in prisons. However, based on information gathered from other sources, we express concern over the reportedly large proportion of children held in pretrial detention in prison, often for over six months, and the commingling of pretrial detainees with convicted juveniles.

¹⁷ Human Rights Watch points out that Malena Filipova, of the Chief Prosecutor's Office, also serves as the Chief Secretary of the Central Commission for Combating Juvenile Delinquency ("Central Commission"). The Central Commission was established under the Chief Prosecutor's Office, pursuant to the Juvenile Delinquency Act, and governs and coordinates the activities of Local Commissions. The Central Commission conducted an extensive review of conditions in Labor Education Schools in 1994 and has been openly critical of conditions in the schools. In an interview with Human Rights Watch on April 17, 1996, Ms. Filipova and members of the Central Commission expressed their concern over conditions in Labor Education Schools and the need for legal reform of the system of confinement of children in the schools. Still, following our meeting, Ms. Filipova willfully obstructed Human Rights Watch's planned visit to Boychinovtsi prison.

We also express deep concern over the lack of openness and cooperation demonstrated by governmental authorities towards external attempts to monitor conditions in both prisons and Labor Education Schools in Bulgaria.

RECOMMENDATIONS

Human Rights Watch makes the following recommendations to the Bulgarian government concerning the abuses against street children and children in confinement in Labor Education Schools:

Street children:

- The Bulgarian government should reiterate the absolute prohibition on physical abuse of children by police, and should prosecute any police officer found guilty of such abuse to the full extent of the law.
- Prompt investigations of complaints concerning police mistreatment of children should be conducted, and disciplinary measures and criminal proceedings ordered where appropriate.
- The Police Directorate and the Chief Prosecutor's Office should launch a special inquiry into racially motivated attacks against Roma, including attacks against street children. Criminal investigations and prosecutions against attackers should be undertaken where appropriate.
- A commission of experts should be established to investigate the conduct of law enforcement officials in responding to and protecting against violent attacks on street children, and make public the results of such an investigation.
- Human rights and civil rights education should be made a priority in the training of all police.
- Arrests should ordinarily be conducted pursuant to judicial warrants; the only exception to this rule should be for *in flagrante delicto* situations where police apprehend the perpetrator "in the act."
- Police should inform all detainees of their rights immediately upon arrest.
- Measures should be taken to ensure that children are not held beyond the permissible periods under law, and that the validity of any detention extending beyond twenty-four hours be reviewed by a judicial authority.

- Children should never be detained with adults.
- Meals should be given to detainees at regular intervals.
- Detainees should be allowed to use the toilet whenever they need.
- The use of physical restraints on children should be used only as a last resort, after all other means of control have been tried and failed, and only where necessary to prevent a child from self-injury or injury to others.
- A citizens review board, including representatives from Bulgarian human rights organizations and nongovernmental organizations working with street children, should be established to receive and investigate allegations of police misconduct or brutality against children.
- A position for an independent ombudsperson should be established to monitor and raise with the Bulgarian government and the Police Directorate the issues of police abuse and mistreatment of children both on the street and in detention.

The treatment of children in conflict with the law:

- The Bulgarian parliament should pass legislation providing for the creation of a separate juvenile justice system to which the quasi-judicial functions of Local Commissions for Combating Juvenile Delinquency are transferred.
- The juvenile justice system should comply with the requirements of Article 40 of the Convention on the Rights of the Child, the U.N. Rules for the Protection of Juveniles Deprived of their Liberty, and the U.N. Standard Minimum Rules for the Administration of Juvenile Justice.

Protections for children should include the following:

- Fair hearings should be required for all children accused of committing offenses; children should receive all due process protections including an opportunity to be represented by legal or other counsel at any hearing concerning them, as well as the opportunity to speak freely and present their case.

- Parents should be informed in advance of any action or hearing concerning allegations of offenses committed by a child, and should attend any legal proceeding at which the child is present.
- Children should have the right to appeal court decisions and correctional measures to a higher judicial authority. The right to appeal, and its mechanisms, should be made clearly known to children and their parents.
- Where a child is ordered to be confined in any correctional or educational institution, the duration of confinement should be predetermined at the time of the order of placement. Children should be subject to confinement always as a last resort, and for the minimum period necessary.
- The prosecution of status offenses (conduct which would not be punishable if committed by an adult, such as running away or truancy) should be prohibited by law.
- Until such time as a new juvenile justice system is established, the Juvenile Delinquency Act and the Regulations for the Children's Pedagogic Office should be amended so that the role of the Pedagogic Office is narrowed. Pedagogic Office Inspectors should not serve as social workers, police officers, and Local Commission members as they do now.

Conditions of confinement for children adjudicated delinquent:

- The Bulgarian government should develop and implement mandatory standards for correctional institutions, including the institutions currently known as Labor Education Schools, that at minimum comply with international standards on the conditions of confinement for children. To our knowledge, the Penal Code, the Regulations for Labor Education Schools and the Juvenile Delinquency Act contain no such standards.
- Funds should be allocated to ensure that children receive food sufficient for their nutritional needs, clothing suitable to the climate, adequate heating and bedding, and toilet articles necessary for their personal hygiene.
- Physical abuse by staff against children should be strictly prohibited. Staff found to have abused children should be appropriately disciplined, including dismissal. Where appropriate, criminal charges should be

brought against the staff. Staff should be fully informed of the rules and consequences concerning physical abuse of children.

- The following disciplinary practices should be strictly prohibited:
 - corporal punishment;
 - isolation;
 - reduction in diet;
 - deprivation of home leave;
 - deprivation of right to receive visitors;
 - deprivation of right to receive correspondence; and
 - head shaving.

- Children should be informed of the internal rules of the institutions to which they are committed and their rights and obligations immediately upon entry. The rules of the institution should be made available to children upon request and posted in highly visible places.

- Children confined in correctional institutions should be provided with effective mechanisms to make confidential complaints to an independent outside authority about the conduct of other children or institutional staff members, or the conditions of confinement. Children should be informed of the response to their complaints without delay.

- The Ministry of Education and the Chief Prosecutor's Office should conduct regular and unplanned inspections of correctional institutions where children are confined. Children should have free access to and uncensored communications with outside visitors and inspectors.

- The vocational education provided at children's correctional institutions should be reformed to provide children with realistic opportunities for competitive employment upon release. Where possible, children should be given a choice of the vocation in which they are trained.

Human Rights Watch calls on the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe to initiate dialogue with the Bulgarian government and to insist that the Bulgarian government take concrete steps to address the concerns outlined in this report.

Human Rights Watch calls on the OSCE to:

- Request the Bulgarian government to submit regular reports on the specific steps it has taken to train police in human rights awareness, and in preventing and responding to racially motivated violence, including violence against Roma street children.
- Organize and coordinate a series of training and educational seminars for representatives of Bulgarian police and prosecutorial bodies on the experiences of other countries in preventing and prosecuting racially motivated crimes.
- Request that the Bulgarian government investigate allegations of police torture and ill-treatment of children in custody, take disciplinary measures against those police officers found to be responsible for violations of law, and make public its findings.
- Organize and coordinate a series of training and education seminars for representatives of Bulgarian police on human rights and law enforcement.

Human Rights Watch calls on the European Committee for the Prevention of Torture and Inhuman Degrading Treatment or Punishment (CPT) to:

- As follow-up to the *Report to the Bulgarian Government on the Visit to Bulgaria Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, investigate allegations of police torture and ill-treatment of children in detention, and physical abuse of children in Labor Education Schools, and make recommendations to the Bulgarian government for improvement.
- Request the Bulgarian government to provide information on action taken to address allegations of police torture of children in detention, and torture of children in Labor Education Schools.
- Request that the Bulgarian government, in its follow-up report to the CPT, include any actions taken which relate to children in confinement.

Human Rights Watch calls on the following U.N. entities to take concrete steps to address the concerns outlined in this report.

Human Rights Watch calls on the U.N. Committee on the Rights of the Child, when Bulgaria appears before the Committee, to:

- Request the Bulgarian government to order an immediate end to physical abuse of children by police.
- Request that the Bulgarian government submit a report on the specific steps it has taken to train police in human rights and law enforcement, and in preventing and responding to racially motivated violence against street children.
- Request that the Bulgarian government report on the measures it has taken to collect and investigate complaints of police misconduct and ill-treatment of children in detention, and disciplinary and criminal actions taken against offending police officers.
- Recommend that the Bulgarian government take steps towards adopting and implementing legislation for the creation of a juvenile court system to which the functions of the Local Commissions for Combating Juvenile Delinquency would be transferred.
- Request that the Bulgarian government take steps to eventually close all Labor Education Schools, and in the interim, take immediate and concrete steps to improve conditions in currently operating Labor Education Schools, specifically by: increasing allocations of funding for food, heating, and clothing in the schools; altering curriculum so that children receive vocational training in competitive fields; prohibiting physical abuse of children by staff members; and ensuring that children's grievances are heard and that staff members who mistreat and abuse students are disciplined for their conduct.

Human Rights Watch calls on the Working Group on Minorities of the U.N. Subcommission on the Prevention of Discrimination and Protection of Minorities, the U.N. Special Rapporteur on Torture, and the U.N. Working Group on Arbitrary Detention to:

- Investigate racially motivated violent attacks against Roma street children, and the measures and efforts undertaken by the Bulgarian government and police to prevent and respond to such attacks; make recommendations to the Bulgarian government for addressing and preventing such attacks.
- Investigate allegations of police mistreatment and physical abuse of children on the street and in detention, and government efforts to address

this problem; make recommendations to the Bulgarian government for further improvement.

- Investigate the extent to which due process protections are given to children deprived of their liberty; make recommendations to the Bulgarian government towards ensuring that due process protections are upheld in the detention and confinement of children.

2. STREET CHILDREN

POLICE VIOLENCE AGAINST STREET CHILDREN

Street children interviewed by Human Rights Watch recounted numerous incidents of direct police mistreatment and physical abuse, both on the street and in detention. The high level of physical abuse in their lives was reflected in their statements about their relationships with police. When questioned about how they got along, a majority initially responded that the police treated them “fine.” However, when questioned further regarding their treatment by police during arrest and detention, almost all who had been arrested reported serious physical abuse, both on the street, upon arrest, and during detention, particularly during interrogations at police stations. The fact that children still described their relations with police as “okay” or “fine” reflects a resigned acceptance of the high degree of violence in their lives.

The conduct of police is prescribed under international law by the Code of Conduct for Law Enforcement Officials.¹⁸ Police “shall respect and protect human dignity and maintain and uphold the human rights of all persons” in the performance of their duties (Article 1). No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment (Article 5). Under Bulgarian law, the use of physical force by police against children is also expressly prohibited under the Law for the National Police.¹⁹

¹⁸ Code of Conduct for Law Enforcement Officials, G.A. Res. 24/169, annex, 34 U.N. GAOR Supp. (No. 46) at 186, U.N. Doc. A/34/46 (1979). The Code of Conduct for Law Enforcement Officials is not a treaty, and therefore its obligations are not binding. However, it does constitute authoritative interpretation and explanation of accepted standards that are binding, either because they are found in treaty law or because they are customary international law.

¹⁹ See Law for the National Police, Art. 41(5), as translated by Nikolai Gughinski.

Human Rights Watch concludes that the reported abusive treatment of street children by police, described below, contravenes established international standards and Bulgarian law.

Police Abuse of Children on the Street

Many children told Human Rights Watch that they are routinely harassed and beaten by police on the street. They reported that police sometimes kick or punch them upon sight and chase them away from areas of safety and shelter, such as underpasses and station waiting rooms, using physical force to make the children leave. Two of the younger street children in Sofia told us that police jab them with electric shock batons to make them leave the station area where they go to keep warm.²⁰ Several others reported that police often grab them and smear the glue that they sniff on their faces and clothing.²¹ One child told us that police had sprayed him with a gas which made him pass out.²²

²⁰ CRP interview with Pravda, Nadezhda shelter, April 19, 1996; CRP interview with Stefan, Sofia, April 18, 1996. The names of children interviewed by Human Rights Watch have been changed to preserve their anonymity.

²¹ CRP interview with Stefan, Sofia, April 18, 1996; CRP interview with Todor, Sofia, April 18, 1996.

²² CRP interview with Mitko, Sofia, April 18, 1996.

Several children also reported that police sometimes rob them of their money. A fourteen-year-old boy told us, “[t]wo weeks ago a policeman came and asked us for our money. He took 300 leva²³ from one of the kids. We went to the railway station to complain to the chief of the police there, but he told us to go away.”²⁴ A sixteen-year-old girl told us, “[f]our days ago two drunk policemen came to us and told us to empty everything out of our pockets. They took all our money. I lost 125 leva.”²⁵ Two children told us that police had taken their money when they were placed in police station lock-ups in Sofia and in Plovdiv, to be discussed further below.

A sixteen-year-old boy recounted to Human Rights Watch how he had been severely beaten by five drunken policemen who had come looking for girls:

²³ At the time of Human Rights Watch’s visit to Bulgaria in April 1996, the exchange rate was approximately 1 USD = 83 leva.

²⁴ CRP interview with Stefan, Sofia, April 18, 1996.

²⁵ CRP interview with Radka, Sofia, April 26, 1996.

The police are very stern. They beat us daily. I was very badly beaten last month, in March. I was sleeping here with some of the other kids. There were seven of us. It was night time. Five drunk policemen came by and told us that they wanted a girl. One of them said to me, "find me a girl." I told him to go find one by himself. This made him very angry. He and the others started to beat me and the other kids. They beat us with electric truncheons, hitting me on my feet, on my back, and on my head. It was very painful.²⁶

In light of the reportedly high level of prostitution among girl street children,²⁷ female street children appear to be easy targets for sexual abuse and exploitation.²⁸ Several of the adolescent girls interviewed in Sofia stated that police often desire or demand oral sex from them, although none of the girls said she was ever forced by police to engage in sexual acts. The girls said that when they are accosted by police seeking sex, they yell and scream and are able to get away. A sixteen-year-old girl told us, however, that there are some girls in her circle who do engage in sexual relations with police:

[The police] want to see and touch our breasts. They usually want oral sex, sometimes more. Sometimes they try to catch us, and drag us to a remote area, but we shout and scream and the other kids come and help us, or get other police to come. Last

²⁶ CRP interview with Ivan, Sofia, May 1, 1996.

²⁷ CRP interview with Kiril Khristov, Sofia, April 30, 1996; CRP interview with Panayot Randev and Ilka Grigorova, Children at Risk, Sofia, April 17, 1996.

²⁸ CRP interview with Maria, Sofia, May 1, 1996.

night I was going to the underpass to get a drink of water when two policemen started chasing me. One of them asked me if I would perform oral sex on him. I just ran away. I'm not that kind of girl. Some of the girls around here do perform oral sex on the police. I don't know if they're paid for it, but they don't complain about it.²⁹

²⁹ CRP interview with Radka, Sofia, April 26, 1996.

Given the abusive treatment to which street children are subjected by police, it is no wonder that we observed, during several interviews, that children attempted to flee, hide, or became frightened when police approached the area. An eight-year-old girl in Varna told us, "I'm afraid of the police. They want to beat me." While we were interviewing her, she suddenly jumped up and disappeared upon sighting two policemen approaching. When we questioned a Varna policeman about why children react as they do upon sighting police, he answered, "[f]irst, most of those kids are not Bulgarians, they're Roma." When questioned as to what he meant by that statement, the policeman asked the interpreter assisting Human Rights Watch if he was Bulgarian. The interpreter responded that he was, to which the policeman said, "[t]hen you know what I mean." He went on to comment that street children steal, that their parents force them to go out and beg, and that the children earn twice as much money as he earns as a policeman. When questioned about physical abuse of the children, he responded, "[o]f course if I catch a kid stealing, I'm going to kick his ass."³⁰

The significance of the ethnic identity of street children should not be underestimated in police attitudes toward, and treatment of, street children. Human Rights Watch believes that the Roma identity of street children may be a significant factor in their treatment by police.

³⁰ CRP interview with policeman, Varna, April 24, 1996.

International law prohibits states from discriminating on the basis of ethnic or national identity. The International Covenant on Civil Political Rights (“ICCPR”), ratified by Bulgaria in 1970, guarantees all persons equal protection of the law without any discrimination on the grounds of race, color, language, or national or social origin (Article 26).³¹ The International Convention on the Elimination of All Forms of Racial Discrimination (“CERD”), ratified by Bulgaria in 1966, obliges the Bulgarian government to guarantee to everyone without distinction as to race, color, or national or ethnic origin the “right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group, or institution” (Article 5).³² The Bulgarian government is obligated to “engage in no act or practice of racial discrimination against persons . . . and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation.”³³ Under the Bulgarian constitution, these international obligations were incorporated into domestic law through ratification of these covenants.³⁴ In addition, the Bulgarian constitution recognizes general principles of nondiscrimination in Article 6.³⁵ Nevertheless, Roma people continue to be subjected to mistreatment by Bulgarian police.

The Human Rights Project, a Bulgarian NGO which focuses on the human rights of Roma people, observed:

³¹ International Covenant on Civil and Political Rights (ICCPR), G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171.

³² International Convention on the Elimination of All Forms of Racial Discrimination (CERD), 660 U.N.T.S. 195, entered into force Jan. 4, 1969.

³³ *Ibid.*, Art. 2(a).

³⁴ Bulgarian Constitution, Art. 5(4): “Any international instruments which have been ratified by the constitutionally established procedure, promulgated and come into force with respect to the Republic of Bulgaria, shall be considered part of the domestic legislation of the country. They shall supersede any domestic legislation stipulating otherwise.”

³⁵ *Ibid.*, Art. 6: “(1) All persons are born free and equal in dignity and rights. (2) All citizens shall be equal before the law. There shall be no privileges or restrictions of rights on the grounds of race, nationality, ethnic self-identity, sex, origin, religion, education, opinion, political affiliation, personal or social status or property status.”

In the course of our work we have become aware of the role of the police in escalating ethnically motivated violence. In Bulgarian society one can often hear critical voices about the inefficiency of the police and its lack of determination to cope with criminals. In our opinion, this is only one side of the story. There is another side which is less known by the public: there is abundant evidence that the police beat, maltreat and apply brutal force to Gypsies.³⁶

Daniela Dokovska of the Bulgarian Lawyers for Human Rights commented to Human Rights Watch that she believes there is a higher rate of police brutality against Roma than against ethnic Bulgarians.³⁷

³⁶ Human Rights Project, "Memorandum of the Human Rights Project Addressed to the Human Dimension Seminar on Roma in the CSCE Region," September 1994 ("Seminar Memorandum of the Human Rights Project").

³⁷ CRP interview with Daniela Dokovska, Bulgarian Lawyers for Human Rights, April 26, 1996.

Representatives of the Bulgarian national police told us that they had worked with municipalities to try to round up street children for identification and evaluation, but cited difficulties in dealing with street children because they had been socialized to living on the street, “plus, most of the kids are Roma,” the Chief of Criminal Police stated. When questioned as to what he meant by that comment, he responded, perhaps sensing a suggestion of racial bias from our question, “[t]here is no hard evidence of the police having a different attitude toward Roma.”³⁸

When questioned about human rights training for police officers, representatives of the national police stated that police are trained to abide by the Bulgarian constitution and its inherent respect for human rights.³⁹ Representatives of the national police mentioned that recently some police had attended NGO-organized trainings on dealing with minorities.⁴⁰ There does not, however, appear to be a human rights component to police training, although one is apparently necessary.

Police Abuse of Children in Detention

Street children are routinely picked up by police (without judicial warrants) and are accused of committing thefts, or are picked up in street sweeps that are allegedly conducted for the purpose of identifying children and finding runaways. Human Rights Watch found that during arrest and detention, children

³⁸ CRP interview with Peter Iliev, Chief of Criminal Police, Police Directorate, and Ilia Kostadinov, Expert in Department on Juvenile Delinquency, Police Directorate, Sofia, April 29, 1996 (Interview with Police Directorate).

³⁹ Ibid.

⁴⁰ Ibid.

frequently are beaten by police with fists and boots. Children told us they were also beaten with electric shock batons, chains, rubber hosing, boxing gloves, and other instruments, particularly during interrogation sessions. They are frequently held overnight, sometimes for many nights, under harsh conditions. Children reported being held overnight in cells with no beds and no blankets, sometimes without food and without being allowed to use the toilet. Rarely are their parents informed of their detention.⁴¹

⁴¹ This may be attributable to the fact that many street children's parents do not have telephones or may be otherwise unlocatable or unidentifiable.

Human Rights Watch believes that its findings, although drawn from the testimonies of street children, are reflective of the treatment of children under arrest and detention generally. Children placed in Labor Education Schools, to be discussed below in the next section of this report, and children placed in juvenile prisons in Bulgaria reported similar abuses while under police custody.⁴²

Bulgarian Criminal Law and Procedure

⁴² The Bulgarian Helsinki Committee's 1995 inspection of Boychinovtsi, the only boy's prison in Bulgaria, revealed that a common complaint among most boys was of police beatings during arrest and in police lock-ups. Human Rights Watch was denied access to Boychinovtsi. Human Rights Watch interviewed the only juvenile in Sliven Women's Prison, on April 22, 1996. The fifteen-year-old Sofia girl, in pre-trial detention there, told us that before she was brought to the prison, she was beaten by two police officers while bringing her from her home to the police station. She was also held in a cell overnight with two adult women.

Under Bulgarian law, a distinction is made between children under the age of fourteen, classified as “minors,” and children aged fourteen through seventeen, classified as “adolescents.”⁴³ Under the Penal Code, only “adolescents” may be held criminally liable for their actions.⁴⁴ Thus, only “adolescents” may be subject to arrest and lock-up. Representatives of the Bulgarian national police told Human Rights Watch that, according to internal police regulations, “adolescents” ordinarily are held by police for no more than three hours, for questioning and identification;⁴⁵ they can be held for longer than three hours if a serious crime has been committed, and then only up to twenty-four hours.⁴⁶ After twenty-four hours, the “adolescent” must be released or a formal arrest must be made by an investigator of the National Investigation Service, subject to review by the prosecutor’s office within another twenty-four hours.⁴⁷ Thus, in practice, an “adolescent” may be detained without a judicial warrant and without any review of the legality of the detention for up to forty-eight hours.⁴⁸ Parents should be notified immediately of any detention.⁴⁹

⁴³ Individuals and the Family Act, Art. 3(1) and Art. 4, cited in Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 8, para. 25.

⁴⁴ Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 9, para. 29.

⁴⁵ Human Rights Watch was unable to find the exact source of this rule. We were unable to find such a limitation in the Law for the National Police. Members of Pedagogic Offices in Sofia, who were interviewed by Human Rights Watch, also stated that children cannot be held for more than three hours in a police station. CRP interview with Slava Koeva, Chief of the Office Responsible for Pedagogic Offices in Sofia; Danka Apostlova, Pedagogic Office Inspector in 2nd Regional Police Department of Sofia; and Danko Kozovsk, Pedagogic Office Inspector in 7th Regional Police Department of Sofia, Ministry of Interior, Sofia, April 19, 1996 (Interview with Representatives of Sofia Pedagogic Offices).

⁴⁶ Article 34 of the Law for the National Police, as translated by Nikolai Gughinski, provides that the term of detention cannot exceed twenty-four hours.

⁴⁷ CRP interview with Daniela Dokovska, Bulgarian Lawyers for Human Rights, Sofia, April 26, 1996. Article 30(3) of the Bulgarian Constitution requires that judicial authorities rule on the validity of detention within twenty-four hours.

⁴⁸ CRP interview with prosecutor in Sofia Regional Prosecutor’s Office, April 18, 1996.

Daniela Dokovska, a professor at Sofia University Faculty of Law and a member of the Bulgarian Lawyers for Human Rights, informed us that the right to an attorney is not recognized in practice until after a formal arrest is made, which can be twenty-four hours after the moment of actual detention.⁵⁰ The Bulgarian Constitution and the Law for the National Police, however, state that all detainees have the right to legal counsel from the moment of detention.⁵¹ These guarantees are overlooked. Out of all the children we interviewed who were detained by police for over twenty-four hours, none had access to legal counsel. We are unaware of any legal provisions requiring the police to inform detainees of their rights upon arrest or in detention. Children whom we interviewed were generally uninformed as to their rights, although some knew that police should ordinarily release them within twenty-four hours.

⁴⁹ Code of Criminal Procedure, Art. 378(4), as translated by Nikolai Gughinski.

⁵⁰ CRP interview with Daniela Dokovska, Bulgarian Lawyers for Human Rights, Sofia, April 26, 1996.

⁵¹ Bulgarian Constitution, Art. 30(4): "Everyone shall be entitled to legal counsel from the moment of detention or from the moment of being charged."

Law for the National Police, Art. 33(4): "The detainees have the right of legal counsel from the moment of their detention," as translated by Nikolai Gughinski.

Where formal arrests are made, children are supposed to be transferred to investigation detention facilities, which are located in the same building as the police, but are under the administration of the National Investigation Service. The National Investigation Service is responsible for carrying out the criminal investigation of a case and reports its findings and recommendations to the Public Prosecutor's Office, which then decides whether to indict and prosecute. For the purposes of this report, discussion will be limited to police practices in the stages prior to formal arrest and investigation by the National Investigation Service.⁵²

Arbitrary and Unlawful Detention, and Physical Abuse

Children are often detained in police lock-ups beyond the permissible periods under law, without being formally charged with a criminal offense, and without any review by judicial authorities. Human Rights Watch concludes that such actions constitute unlawful or arbitrary detention, which is prohibited under international law. Article 37(b) of the Convention on the Rights of the Child states that "no child shall be deprived of liberty unlawfully or arbitrarily."⁵³ The U.N. Rules for the Protection of Juveniles Deprived of their Liberty⁵⁴ ("U.N. Rules") mandate that arrest, detention, and incarceration of children should be used only as a measure of last resort, and "for the shortest appropriate period of time" (Rule 2). The U.N. Standard Minimum Rules for the Administration of Juvenile Justice⁵⁵

⁵² It should be noted that conditions in investigation detention facilities are reported to be far worse than in the prisons. For that reason, juvenile detainees are sometimes held in actual prisons, instead of detention facilities, because conditions are reportedly better there. Peter Petrov, the Chief of Boychinovtzi juvenile prison, reported at a press conference on March 29, 1996, that out of 156 boys held in the prison at that time, 26 were convicted, 78 were on trial, and 52 were under criminal investigation. Conditions in juvenile prisons will be discussed at the end of this report.

⁵³ Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) also prohibits arbitrary and unlawful detention. ECHR, 75 U.N.T.S. 287.

⁵⁴ U.N. Rules for the Protection of Juveniles Deprived of their Liberty (U.N. Rules), G.A. Res. 45/113, annex, 45 U.N. GAOR Supp. (No. 49A) at 205, U.N. Doc. A/45/49 (1990). The full text of the U.N. Rules is set forth in the Appendix.

⁵⁵ U.N. Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), G.A. Res. 40/33, 40 U.N. GAOR Supp. (No. 53) at 207, U.N. Doc. A/40/53 (1985). The full text of the Beijing Rules is set forth in the Appendix.

("The Beijing Rules")(Rule 10.2) and the ICCPR (Article 9.3) also require that children in detention be brought before a judge or other adjudicative body without delay and that the judge shall consider releasing the child instead of recommending further incarceration. As discussed above, Bulgarian law essentially requires the same, but in practice the law is not enforced.

Under Article 32 of the Law for the National Police, Bulgarian police are authorized to carry out identity "checks" of persons who are criminal suspects or when necessary to investigate a crime. Checks also may be conducted: to ascertain address registration; at check-points established by the police, i.e. road check points; or at the request of a state organ.⁵⁶ In cases where it is impossible to ascertain the identity of the person under an Article 32 check, police may detain the person without a warrant for up to twenty-four hours.⁵⁷ Police may also detain criminal offenders and juvenile offenders who have run away from home or from public institutions.⁵⁸

Police from Sofia and Plovdiv told Human Rights Watch that periodic street sweeps are conducted where children are rounded up from the streets for identification checks. "Sometimes there are preventive roundups of street kids. New kids are coming all the time, and there is no way for us to keep track of them. The purpose is preventive, so we can identify the kids and inform their parents of their whereabouts and also find out who these kids are."⁵⁹ Police also conduct roundups of street children when a crime has been committed. The roundups are conducted with apparently little regard as to whether the children are likely to have actually committed the offense. In our opinion, the authority of Bulgarian police to detain persons without warrants and without probable cause is overly expansive.

⁵⁶ Law for the National Police, Art. 32, as translated by Nikolai Gughinski.

⁵⁷ Ibid., Art. 33(1)(5) and Art. 34.

⁵⁸ Ibid., Art. 33(1)(1) and (1)(4).

⁵⁹ Interview with Representatives of Sofia Pedagogic Offices.

Once detained, children are frequently subjected to beatings by police, in contravention of Bulgarian and international law. The parameters of the use of force and “auxiliary means” by police are set forth in articles 40 to 42 of the Law for the National Police. “Auxiliary means” refer to the use of physical restraints, rubber and electric shock batons, and other control instruments.⁶⁰ The use of such force against juveniles is expressly forbidden.⁶¹ The Convention on the Rights of the Child states that children deprived of their liberty “shall be treated with humanity and respect for the inherent dignity of the human person” and that no child “shall be subjected to torture or inhuman or degrading treatment or punishment” (Art 37). The European Convention for the Protection of Human Rights and Fundamental Freedoms, under Article 3, and the Bulgarian Constitution, under Article 29(1), prohibit the same. The Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (“CAT”), ratified by Bulgaria in 1970, defines torture as:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.⁶²

Nevertheless, children told us that severe beatings were often inflicted on them by police as a form of intimidation and coercion during interrogations in police stations.

Sixteen-year-old Ivan recounted, “I was held in the second regional police department of Sofia for five days. They kept me in handcuffs the first two days.

⁶⁰ Law for the National Police, Art. 41(2), as translated by Nikolai Gughinski.

⁶¹ *Ibid.*, Art. 41(5).

⁶² Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), G.A. Res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984).

Every day they questioned me, and every time I was beaten. Sometimes they used clubs, sometimes chains. I confessed to the crime, even though I didn't do it."⁶³

Ilian, a seventeen-year-old boy from Plovdiv, also described having been coercively beaten during interrogation:

⁶³ CRP interview with Ivan, Sofia, May 1, 1996.

Four months ago some kid accused me of stealing. Two policemen came and grabbed me by my hair and pulled me by my hair to the police station. I could have run away easily, but I was innocent so I went with them. At the station, I was questioned by the two policemen and an investigator. The investigator wore boxing gloves. He punched me several times in the chest. He took off the gloves and took out a rubber hose from a drawer and told me to hold out my hands. He hit me on my hands with the hose and told me he would only release me if I told him the truth. He started hitting me on my back with the hose and said to me, "If you fall down, I'm going to dance on top of your body, and if you don't fall down I'm going to keep hitting you." They kept me there for a couple of hours, questioning me and beating me, but I never confessed. Then they released me. A few days later I ran into the investigator on the street. He told me that they had found the thief.⁶⁴

Representatives of the Bulgarian national police stressed to Human Rights Watch that under no circumstances may "minors" (children under the age of fourteen) be held at a police station as they are incapable of bearing criminal liability for their conduct.⁶⁵ Chief Zahariev of the First Regional Police Department of Sofia assured us that minors are never brought to police stations, rather they are taken to one of five Homes for the Temporary Placement of Minors and Adolescents ("Temporary Shelters") spread throughout Bulgaria.⁶⁶ He stated that

⁶⁴ CRP interview with Ilian, Plovdiv, April 24, 1996.

⁶⁵ Interview with Police Directorate.

⁶⁶ CRP interview with Chief Zahariev, Chief of First Regional Police Department of Sofia, April 30, 1996.

There are five Temporary Shelters in Bulgaria, located in Bourgas, Gorna Oryahovitza, Plovdiv, Sofia, and Varna. According to the Bulgarian government's statement in its Initial Report to the Committee on the Rights of the Child, "[t]hey are used as temporary (up to fifteen days) shelters for children who are homeless, support themselves from begging, are of unknown domicile, have escaped from institutions, or have committed antisocial acts. The homes have educational, diagnostic, selection, psychological consulting and medical functions and direct children either back to their parents or to institutions for long-term placement." Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 54, para. 245. In exceptional cases and subject to the authorization of the Public

only “adolescents” (children over the age of fourteen) may be brought to the police station, but that they are not held in cells, rather they stay in the Pedagogic Office Inspectors’ offices.⁶⁷ We found these representations to be completely false.

Prosecutor’s Office, children may be held in a Temporary Shelter for up to two months. Juvenile Delinquency Act, Art. 37.

⁶⁷ The functions of the Pedagogic Office Inspectors will be discussed in greater detail below in the section on Labor Education Schools.

The day after our meeting with Chief Zahariev at the First Regional Police Department of Sofia, we interviewed a seventeen-year-old boy and a twelve-year-old girl who described being held in a cell there which Chief Zahariev had assured us was used only for dangerous adults. The children told us they were held in the cell along with several other younger children upon suspicion of theft this past winter. Further, the boy told us he was beaten at the station during questioning by a female Pedagogic Office Inspector and two policemen wielding bats.⁶⁸

The lock-up cell the children were held in (which we visited) was small, about eight-by-ten-feet, and completely bare. It had a cement floor, floor to ceiling bars in front, and smelled strongly of urine. A bathroom with no door was located just to the side of the cell, beyond the bars. There was a very small and dirty window high up on the back wall of the cell which provided almost no light in addition to the dim florescent light in the ceiling. The cell and the bathroom were separated from the rest of the police station by a solid door, which when closed would have made the cell even darker than it was when we visited, and the ventilation even poorer.

Notwithstanding police assurances that “minors” are never held in police stations at all, let alone in lock-up cells, Human Rights Watch found that children as young as eight years old frequently have been held in cells overnight. Children under the age of fourteen reported being brought to police stations, not Temporary Shelters, for questioning on crimes, and being held in cells for several nights. They consistently reported physical abuse in detention, including severe beatings, deprivation of food, and use of physical restraints. In addition to physical abuse, children reported not being allowed to use the bathroom, placement in cells with adults, and failure to notify their parents of their detention even after being held in lock-ups for several days.

Selected testimonies of the children are set forth below. It should be noted that in all cases, children were never formally charged with criminal offenses, despite the fact that they were often held beyond the twenty-four hour permissible period of detention under Bulgarian law.

Antonia, an eight-year-old girl who begs in the open air market in downtown Varna, told us of her detention for five days in a police station:

⁶⁸ CRP interview with Rumen and Maria, Sofia, May 1, 1996.

I've been taken to the police station many times. Once I stayed there for five days. Sometimes they gave me some bread to eat. There was a jar in the cell in which we could go to the bathroom. There were three other girls in the cell with me. There was only one big bed in the cell, so we all shared it. There were no blankets. While I was there, the police handcuffed me and put a hat over my head so I couldn't see anything, and started beating me with a chain. I begged them not to beat me, but they told me I had stolen.⁶⁹

Hristo, an eleven-year-old boy who sleeps in the open air market in Varna, told us of his detention for six days in a police station:

This past spring, the police handcuffed me and took me to the station. They thought I stole something but I didn't. They put me in a cell with bars. They kept me there for six days. I was handcuffed the whole time. They undid the handcuffs only when they let me out to go to the bathroom three times a day. They didn't give me any food. My aunt came to visit me and she brought me food. I lost weight when I was there. There were always two policemen on duty, and they beat me all the time. Sometimes they used their truncheons. They hit me all over, in my ribs, on my head, while they questioned me and asked me why I stole. I told them that I was only begging for food, that I didn't steal anything. Finally, they just let me go. They hit me two times on my back, and let me leave.⁷⁰

Yusin, a twelve-year-old boy in downtown Varna, told us:

Four policemen grabbed me and Simeon (twelve years old) on the street. They said we had stolen. They handcuffed Simeon, but they didn't handcuff me. At the station the officers questioned us. They kept us there only for about an hour. They tried to make us confess. One of the officers grabbed Simeon's

⁶⁹ CRP interview with Antonia, Varna, April 24, 1996.

⁷⁰ CRP interview with Hristo, Varna, April 24, 1996.

head and smashed it down onto the table. His head started bleeding. I was slapped in the face. I was so afraid, I peed in my pants.⁷¹

Nikolai, a thirteen-year-old boy from Plovdiv, told us he had been arrested twice and held in police lock-ups for two days and ten days:

Ten days ago I was arrested by the police and taken to the station. I stayed alone in a cell for two nights. It was really dark in the cell. There was no light. There was a very small window, very high up in the wall. There was a bench which I slept on and some blankets. I was given water, but nothing to eat. They let me go to the bathroom when I wanted to go. From the police station, they sent me to a [boarding school] but I escaped a couple of days ago.

⁷¹ CRP interview with Yusin, Varna, April 24, 1996.

Earlier this year, in the winter, I was grabbed by five policemen. They kicked me once or twice and accused me of stealing a wallet. They searched me but found nothing. I denied all their accusations. They took me to the police station and put me in a cell. There was nothing inside but a bench. Later on that same day, they put two other boys in the cell with me. One of the boys told me he was nine. The other was probably around twelve. They gave us food once a day, and water whenever we wanted it. I lost a lot of weight when I was there. They let us go to the bathroom when we wanted, and let us walk around in the parking lot sometimes, but we were handcuffed together and guarded at those times. Every morning they questioned me, asked me about the wallet that they thought I stole, and about my parents. During each questioning, I was always kicked and hit with truncheons. One of the policemen also had an electric shock truncheon which he hit me with. I felt shaken each time. After ten days, they let me go. When I left, the two other kids were still there.⁷²

⁷² CRP interview with Nikolai, Plovdiv, April 25, 1996.

Boys from Sliven and Sofia told us they were held in cells with adults, despite Bulgarian and international law's clear prohibition on detention of children with adults. Article 10(1)(b) of the ICCPR and Rules 13.4 and 26.3 of the U.N. Rules require that children suspected of offenses be separated from adults if detained. The Bulgarian Code of Criminal Procedure requires the same.⁷³ Fifteen-year-old Mihail, from Sliven, reported that he had been held overnight in a "special children's cell" with an adult man, with whom he had to share the single bed in the cell. Only the adult was given food and allowed to leave the cell to use the bathroom. Mihail was not given any food and had to go to the bathroom on the floor.⁷⁴

Two children reported having their money taken from them when in police lock-ups. Eva, a tiny nine-year-old girl from Lyulin neighborhood in Sofia, told us that she was threatened with placement in an adult cell if she did not hand over her money:

The police put me in a cell by myself. I stayed there for one night. They didn't give me any food, but they gave me water. They didn't let me out of the cell so I went to the bathroom on the mattress that I slept on. The next morning, a policeman came and asked me if I had any money. He told me if I didn't give him my money, he would put me in a cell with adults. I was afraid so I gave him my money. It was 100 leva.⁷⁵

⁷³ Code of Criminal Procedure, Art. 378(4), as translated by Nikolai Gughinski.

⁷⁴ CRP interview with Mihail, Sliven, April 22, 1996.

⁷⁵ CRP interview with Eva, Sofia, April 23, 1996.

Ivan, a sixteen-year-old Sofia boy also reported that he was held overnight in the second regional police department in Sofia, where his clothing was collected at night and returned the next morning with all his money missing.⁷⁶

Complaints and Prosecution of Police

When asked about whether they had ever complained about the way in which they were treated by police, children told us that there was no point in complaining or, "I haven't complained about what happened, because I don't want any trouble with the police."⁷⁷ For the most part, police violence against the children goes unreported and undocumented.

⁷⁶ CRP interview with Ivan, Sofia, May 1, 1996.

⁷⁷ Ibid.

When presented with Human Rights Watch's findings, representatives of the Bulgarian national police denied allegations of police abuse of street children. They stated that they were unaware of any complaints against police for mistreatment of children, but allowed that "[i]t's possible."⁷⁸ They stated that "[p]olice are very sensitive to the needs of the children. We don't do anything to the kids. We usually just catch them and then send them on to the Local Commission."⁷⁹ When questioned about any prosecutions against police officers for mistreatment of children, Malena Filipova of the Chief Prosecutor's Office of Bulgaria denied all allegations of police harassment and abuse of street children. "To the contrary, police are the only friends of those children," she said.⁸⁰

A recent victory in the case of Assen Gheorgiev and Lyubomir Ivanov, two Roma school boys from Dunavtsi, district of Vidin, is worth mentioning here. According to the Human Rights Project, on April 28, 1995 two policemen arrested the boys in school and drove them to the outskirts of town where they beat the boys with clubs. Reportedly, one of the policemen pointed a gun at the boys and said, "do you want me to kill you, Gypsies?" The boys were loaded into the trunk of a car, driven to a garage where they were beaten further, and finally released on the outskirts of town.⁸¹ On March 4, 1996, the Military Court in the city of Pleven sentenced the two policemen to eight months of imprisonment. The victory, however, was hard fought and demonstrates some of the legal obstacles faced in seeking justice against members of the police.

The Human Rights Project first submitted a complaint to the Regional Prosecutor's Office in Vidin, which refused to open an investigation. The prosecutor's office acknowledged that there was evidence of abuse, but stated that the policemen had not acted in their official capacities. Thus on procedural grounds, the prosecutor's office refused to open an investigation.⁸² The Human

⁷⁸ Interview with Police Directorate.

⁷⁹ Ibid. Local Commission refers to a Local Commission for Combating Juvenile Delinquency, a local administrative body to which juvenile cases may be referred, in deviation from regular criminal processing. The functions of Local Commissions will be discussed below in the section on Labor Education Schools.

⁸⁰ Interview with Malena Filipova.

⁸¹ Human Rights Project, "Annual Report of the Human Rights Project (January - December 1995)," pp. 13-14.

⁸² Under Bulgarian law, light bodily injury by an ordinary citizen is a crime which

Rights Project successfully appealed the decision to the District Prosecutor's Office in Vidin, which finally opened an investigation. The investigation was forwarded to the Vratsa Military Prosecutor's Office after laws changed, and offenses of police officers were transferred to the jurisdiction of Military Courts. An indictment was later submitted to the Military Court in Pleven.⁸³

According to the Human Rights Project:

is not prosecuted by the prosecutor's office.

⁸³ Ibid., p. 20.

In many cases prosecutors refuse to prosecute perpetrators who have committed obvious criminal offenses, especially if the latter are policemen. And the individual has very limited procedural venues to seek remedy in court as a private person, especially when offenders are law enforcement officials. . . . These are problems which anyone who has become a victim of crime might encounter, but it is more so for the Roma people, who are less prepared to protest the irresponsibility of the judiciary organs.⁸⁴

Prosecution of a police officer is difficult. It is even more so when the victims are Roma street children who are afraid of speaking out and for whom no one will speak out on their behalf. While some attention is being given by the Bulgarian government and NGOs to the health, educational and social needs of street children, no attention is being given to the serious problems of violence against the children. The issue of police or civilian violence against the children is not recognized as a priority; it does not even appear to be an issue. Human Rights Watch urges that the civil rights of children not be overlooked.

POLICE FAILURE TO PROTECT STREET CHILDREN FROM RACIST ATTACKS

Street children in Bulgaria are frequently subjected to violent attacks by skinhead gangs, and groups of youth to whom the children sometimes refer as “rockers” or “metalists.” Almost all the children interviewed by Human Rights Watch were attacked by such groups. Many reported that attacks occurred regularly and frequently, sometimes several times in one week. The perpetrators are often armed with chains, knives, bats, heavy steel capped boots and gas guns or sprays. A nine-year-old girl in Sofia described being sprayed in the face with a gas which temporarily blinded her.⁸⁵ The children described their attackers as young men or

⁸⁴ “Seminar Memorandum of the Human Rights Project.”

⁸⁵ CRP interview with Eva, Sofia, April 23, 1996.

school boys, often sporting leather jackets, earrings, tattoos, and heads shaved on the sides.

Racial animus appears to be the clear motivation for the attacks. A seventeen-year-old girl from Zapeden Park neighborhood in Sofia told Human Rights Watch:

The last time I was attacked was a few weeks ago. I was with my younger brother. It was late at night and we were asleep here by the vents. A group of skinheads snuck up on us and surrounded us. They were cursing us and saying "dirty Gypsies, we will kill you." We all started to run, but my brother was caught. He was stabbed in the back with a knife. Then the skinheads ran away.

A small thirteen-year-old boy with missing and chipped front teeth told Human Rights Watch, "[t]he worst beating I got was in Pleven by the bus station. Six skinheads caught me and starting beating me and kicking me in the face with their boots. They knocked my teeth out. I didn't do anything to them. They beat me because I'm Roma."⁸⁶

The Human Rights Project, Amnesty International, and Human Rights Watch/Helsinki have documented rising numbers of racist attacks against Roma people by civilians and by police since 1989.⁸⁷ Human Rights Watch believes that Roma street children are especially vulnerable to such attacks because they are children and live on the streets without the protection of responsible adults.

⁸⁶ CRP interview with Hristo, Nadezhda shelter, Sofia, April 19, 1996.

⁸⁷ See Human Rights Project, "Annual Report of the Human Rights Project (January-December 1995)"; Amnesty International, "Turning a Blind Eye to Racism," September 1994, AI index: Eur 15/04/94, distr: SC/CO/GR; Human Rights Watch/Helsinki, "Bulgaria: Increasing Violence Against Roma in Bulgaria," *A Human Rights Watch Short Report*, vol. 6, no. 18, November 1994.

Despite the regularity and frequency of attacks, children reported receiving little assistance from police. Some told us that at times they had been assisted by police and referred to certain “good” policemen whom they knew and could rely on for help, but a greater number said they had never been helped by police. “There’s one policeman here who helps us. His name is Plamen. He’s good. When he sees the skinheads, he takes out his gun, but the other policemen don’t help us,” reported a sixteen-year-old boy from Botevgrad.⁸⁸ A common complaint of the children was that the police are simply not around to protect them.

A seventeen-year-old boy insightfully observed that police physically force the children to leave areas of safety, such as underpasses where the police are located, and force them to stay in unpatrolled areas where they are more vulnerable to skinhead attacks: “[t]he police chase us away from the underpass and from the station, the areas where the police stay, and make us stay outside where the skinheads can get us.”⁸⁹ This insight accords with Kiril Khristov’s observation that the interests of the police and skinheads happen to coincide in that police want to rid their “beats” of street children, whom they associate with crime, and skinheads want to rid the nation of street children, whom they view as racially inferior.⁹⁰ Human Rights Watch found no evidence of direct complicity between skinheads and police, as had been alleged by two of the children interviewed.

For obvious reasons, many street children are afraid of the police and are wary of seeking help from police when they are in need of it. Several children reported that when they did try to complain to police about an attack, the police responded with indifference, disbelief, or suspicion as to why the attack took place. A thirteen-year-old boy from Plovdiv told us, “I’ve asked the police for help several times, but they just laugh and don’t believe me.”⁹¹ Another thirteen-year-old boy told us, “I don’t complain to the police. I’m afraid of them. If I go and complain to them, they’ll beat me. They’ll think I stole something.”⁹²

⁸⁸ CRP interview with Rumen, Sofia, May 1, 1996.

⁸⁹ Ibid.

⁹⁰ CRP interview with Kiril Khristov, Sofia, April 30, 1996.

⁹¹ CRP interview with Nikolai, Plovdiv, April 25, 1996.

⁹² CRP interview with Stoyan, Plovdiv, April 25, 1996.

Several children described incidents where police refused to accept that the children were innocent victims of unprovoked attacks, revealing a tendency on the part of police to blame the children for the attacks, as if they were deserved: “[t]he policeman didn’t believe us. He said we had probably teased the skinheads, and that if we were teasing them, then the skinheads should beat us.”⁹³

A sixteen-year-old girl told us:

⁹³ CRP interview with Mitko, Sofia, April 18, 1996.

Two weeks ago, a large group of skinheads attacked us with chains. There were about fifteen of them. Some of the smaller kids ran to get help from two policemen who were standing about thirty yards away. The policemen came and caught two of the skinheads, and took away their gas gun. The other skinheads scattered and stood nearby watching. The police asked the skinheads why they were beating us. The skinheads lied and told them that we had been teasing and cursing them. When the police heard their lies, they said to us “we came here to protect you but you’re responsible for what happened, you’re the guilty ones,” and they gave the gas gun back to the skinheads and let them walk away.⁹⁴

A thirteen-year-old boy in Plovdiv described being kicked flat onto his stomach by a skinhead directly in front of a policeman, who started laughing and asked the boy, “what did you do?”⁹⁵

Bulgaria has a specific obligation to protect minorities from violence due to racial or ethnic identity. As discussed earlier, the Bulgarian government is obliged to guarantee the right of everyone without distinction as to race, color, or national or ethnic origin the “right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group, or institution.”⁹⁶ The Bulgarian Penal Code expressly criminalizes acts of violence against any person because of that person’s nationality,

⁹⁴ CRP interview with Radka, Sofia, April 26, 1996.

⁹⁵ CRP interview with Nikolai, Plovdiv, April 25, 1996.

⁹⁶ CERD, Art. 5.

race, religion, or political convictions.⁹⁷ Nevertheless, racially motivated attacks against street children continue to go unaddressed.

⁹⁷ Penal Code, Arts. 164-166.

When questioned about reports of frequent skinhead attacks against the children, representatives of the Bulgarian police directorate stated that they were aware of such attacks and that they were making efforts to respond immediately to children's complaints.⁹⁸ The accounts of the children, however, reveal that such a policy, if in place, is not in fact being enforced. Human Rights Watch concludes that although children often do not complain to police, those who do are often met with indifference, disbelief, or suspicion. Further, we were unable to find information on a single criminal prosecution of skinheads for attacks against street children. When questioned about her knowledge of any criminal investigations or prosecutions against attackers of the children, Malena Filipova of the Chief Prosecutor's Office of Bulgaria responded with an example of action taken in response to a skinhead attack against a Chinese diplomat.⁹⁹ Apparently, little action is being taken either by the police or by the Judiciary to bring the attackers of street children to justice, fostering an air of impunity for attackers.

⁹⁸ Interview with Police Directorate.

⁹⁹ Interview with Malena Filipova.

3. LABOR EDUCATION SCHOOLS

Under Bulgarian law, children as young as age eight may be confined in one of Bulgaria's eleven Labor Education Schools through non-judicial proceedings carried out by administrative bodies known as Local Commissions for Combating Juvenile Delinquency ("Local Commissions") for "offenses" as minor as vagrancy or simply being "uncontrollable." The placement of children in Labor Education Schools by Local Commissions appears to be carried out with little or no effort to ensure the accountability of the involved decision makers to any higher authority, be it administrative or judicial. Children are sometimes sent to the schools without any form of hearing. Where hearings are held, they are inquisition-like in form and do not allow children fair opportunities to be heard and to put forward their case. Children sometimes appear alone, without parents, and never with legal representation. There is no right of appeal and the period of confinement is undetermined at the time of placement in the school.

Conditions in most Labor Education Schools are grossly inadequate. Labor Education Schools are run and supervised by the Ministry of Education.¹⁰⁰ Many of the problems with conditions in the schools relate to lack of adequate resources. However, other harmful conditions are not attributable to financial hardship, such as the widespread physical abuse of children by Labor Education School staff. After spending several years in these institutions, often under abusive conditions, children leave the schools often worse off than upon entry and are ill prepared to face the challenges of living in the outside world.

PROCEDURES FOR PLACING CHILDREN IN LABOR EDUCATION SCHOOLS

International Standards

¹⁰⁰ Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 28, para. 127.

The Convention on the Rights of the Child, ratified by Bulgaria in April 1991, directly addresses the rights of children accused of having infringed penal laws in Article 40 and guarantees, at a minimum, the right to "have legal or other appropriate assistance in the preparation and presentation of his or her defense," and to "have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance" and a parent or legal guardian. Where a decision is made that a child has infringed penal laws, the child has the right to have that decision "and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body."

The U.N. Standard Minimum Rules for the Administration of Juvenile Justice (the "Beijing Rules") also guarantee basic procedural safeguards to children, "such as the presumption of innocence, the right to notice of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority."¹⁰¹

The Beijing Rules also extend its protections to children accused of status offenses, "who may be proceeded against for any specific behavior which would not be punishable if committed by an adult," such as truancy or family disobedience.¹⁰² The very recognition of status offenses as punishable conduct is strongly discouraged by the U.N. Guidelines for the Prevention of Juvenile Delinquency (the "Riyadh Guidelines"), which states that governments should enact legislation prohibiting the recognition of status offenses.¹⁰³

While both the Convention on the Rights of the Child and the Beijing Rules recognize the positive benefits of diversion (the discretionary removal of a juvenile case from regular criminal processing), they stress that diversion must adhere to human rights principles and standards. The Convention states that measures for dealing with children without resorting to judicial proceedings must be

¹⁰¹ Beijing Rules, Rule 7.1.

¹⁰² Ibid., Rule 3.1 and Commentary to Rule 3.

¹⁰³ Art. 56 of the Riyadh Guidelines provides that "legislation should be enacted to ensure that any conduct not considered an offense or not penalized if committed by an adult is not considered an offense and not penalized if committed by a young person." U.N. Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), G.A. Res. 45/112, annex, 45, U.N. GAOR Supp. (No. 49A) at 201, U.N. Doc. A/45/49 (1990).

undertaken in full compliance with and in full respect of other human rights and legal safeguards.¹⁰⁴ The Beijing Rules provide that any diversion shall require the consent of the juvenile, or his or her parents or guardian, and that the decision "shall be subject to review by a competent authority, upon application."¹⁰⁵

Bulgarian Law and Practice

¹⁰⁴ Convention on the Rights of the Child, Art. 40(3)(b).

¹⁰⁵ Beijing Rules, Rule 11.3.

The Bulgarian Penal Code and Juvenile Delinquency Act contain special provisions for the punishment of children. In particular, the Penal Code provides for diversion from regular criminal processing by the Public Prosecutor's Office and by criminal courts. Article 61 of the Penal Code authorizes Prosecutors and courts to refer criminal cases involving "adolescents" (fourteen years old or older) to Local Commissions, established under the Juvenile Delinquency Act, or to order the direct placement of such children in a Labor Education School.¹⁰⁶ If the case is

¹⁰⁶ Article 30 (1) of the Juvenile Delinquency Act, provides: "Assignment to [Labor Education Schools] shall be done by: (a) the Ministry of [Education] subject to the Chapter III recommendation of the Local Commissions for Combating Juvenile Delinquency; or (b) Courts and the Public Prosecutor's Office in the cases under Articles 61 and 64 of the Penal Code," as translated by SOFITA. Under Chapter III, Articles 13(1)(I) and 13(2), Local Commissions are authorized to recommend confinement of a juvenile in a Labor Education School to the Ministry of Education, which issues the actual order for confinement in the school.

Under Article 61 of the Penal Code, Public Prosecutors have discretionary authority to close an investigation against a juvenile and to refer the case to a Local Commission, or to order the direct placement of that juvenile in a Labor Education School.

referred to a Local Commission, the Commission holds an administrative hearing to decide whether correctional measures should be ordered. Local Commissions are also authorized to hear and decide cases involving criminal and non-criminal offenses of “minors” (children between the ages of eight and thirteen) and “adolescents” referred to them by the police or by private citizens.¹⁰⁷

Courts also have the discretionary authority to order the direct placement of a juvenile in a Labor Education School. Article 64 of the Penal Code authorizes criminal courts to order any of the administrative correctional measures set forth in the Juvenile Delinquency Act in lieu of traditional penal measures, after trial and conviction of a juvenile. This may include confinement in a Labor Education School. Further, in cases where a court sentences a juvenile to a prison term of less than one year, and that sentence is not suspended, the sentence is substituted with Labor Education School confinement or some other correctional measure under the Juvenile Delinquency Act.

¹⁰⁷ Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 53, para. 241.

While the Public Prosecutor's Offices and courts have the authority to order the direct placement of a child in a Labor Education School, placements are most often made by Local Commissions. For example, in the 1993-94 academic year, Local Commissions accounted for approximately 95 percent of the 866 Labor Education School placements in Bulgaria.¹⁰⁸ This section of the report will focus on the placement of children in Labor Education Schools by Local Commissions only.

Local Commission Members: Role of the Inspector

Local Commission members are appointed annually by the mayor of the municipality in which the commission is situated and always include an Inspector of the Pedagogic Office ("Inspector"),¹⁰⁹ who is an officer of the local police.¹¹⁰

¹⁰⁸ "An Inside View of Labor Education Schools," *Public Education*, magazine of the Central Commission for Combating Juvenile Delinquency, 1994 issue no. 5 ("An Inside View of Labor Education Schools"), as translated by Nikolai Gughinski. The Central Commission for Combating Juvenile Delinquency was established under the Chief Prosecutor's Office of the People's Republic of Bulgaria, pursuant to Article 4 of the Juvenile Delinquency Act, and governs and coordinates the activities of Local Commissions.

¹⁰⁹ The Pedagogic Office, also known as the "Problem Children's Offices" or the "Child's Counseling Services," was established under section IV of the Juvenile Delinquency

Act. According to the Initial Report of Bulgaria to the Committee on the Rights of the Child, the Pedagogic Office employs 207 case workers (inspectors), who are employees of the police, and who "monitor 19,000 minors and adolescents who have either committed a crime or may be expected to do so." Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 54, para. 243.

¹¹⁰ CRP interview with Nina Uzunova and Evelina Stanchaeva, members of Local Commission for Studenska municipality of Sofia, April 16, 1996 (Interview with members of Studenska Local Commission).

The Inspector plays a leading role in the administration of juvenile justice in Bulgaria, performing three different and potentially conflicting duties.¹¹¹ First, the Inspector acts as a social worker, seeking out children who are at risk of committing crimes or who live in unfavorable conditions for their development, and works with those children and their families to improve the child's development.¹¹² Children at risk are brought to the Inspector's attention usually upon failing to attend school, running away from home, or apprehension and arrest.¹¹³ Second, as a police officer, the Inspector is closely involved in the interrogation of children who are brought into police stations. His or her presence is required at all stages of questioning of children.¹¹⁴ Often it is the Inspector who decides what further procedural steps to take in a case, be it referral to the National Investigation Service for criminal investigation, or referral to the Local Commission for decision.¹¹⁵ Third, as a member of the Local Commission, the Inspector is an arbiter of justice and plays a key role in the decision-making process of the Local Commission.

The recommendation of the Pedagogic Office Inspector is given heavy consideration within the Local Commission precisely because of the Inspector's multiple overlapping functions. Some Inspectors themselves expressed discomfort to Human Rights Watch with their current duties, stating that "it is problematic to be both a social worker and a police officer."¹¹⁶

According to the Initial Report of Bulgaria to the Committee on the Rights of the Child, a proposal was made to amend the Juvenile Delinquency Act to

¹¹¹ The duties of Inspectors are set forth in the Regulations for the Children's Pedagogic Office, jointly issued by the Ministry of Interior, the Ministry Education, the Ministry of Justice, the Ministry of Finance, and the Chief Prosecutor's Office, and first published on January 15, 1971 (Pedagogic Office Regulations).

¹¹² Pedagogic Office Regulations, Art. 9, as translated by Nikolai Gughinski.

¹¹³ Interview with Representatives of Sofia Pedagogic Offices.

¹¹⁴ Ibid.; CRP interview with Pedagogic Office Inspector, 4th Department, Plovdiv, April 25, 1996 (Interview with Inspector from Plovdiv 4th Department).

¹¹⁵ CRP interview with Chief Zahariev, Chief of 1st Regional Police Department of Sofia, Sofia, April 30, 1996; Interview with Representatives of Sofia Pedagogic Offices; Interview with Inspector from Plovdiv 4th Department.

¹¹⁶ Interview with Representatives of Sofia Pedagogic Offices.

separate the duties of the Inspector so that the social work element of the Pedagogic Office would be performed by a new office outside of the police department.¹¹⁷ Human Rights Watch is unaware of any consideration or action on this matter by the Bulgarian parliament so far.

***Jurisdiction of the Local Commission
for Combating Juvenile Delinquency***

¹¹⁷ Ibid.; Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 54, para. 243.

The Local Commission, like the Inspector, performs both a social services function and a law enforcement function. For example, Local Commissions are mandated to work with the Pedagogic Office and with educational authorities to locate children in need of government assistance, and to attempt to find them employment or assign them to educational institutions.¹¹⁸ With regard to law enforcement, Local Commissions may conduct hearings to investigate “misdemeanors” committed by children and may order correctional measures as follow:

- a) reprimand;
- b) duty of apology;
- c) warning;
- d) remand in the custody of parents or foster parents with instructions for special care;
- e) placement under the correctional supervision of co-workers or a public organization;
- f) placement under the correctional supervision of an education officer;
- g) duty of re[pair]ing the damage inflicted, where possible;
- h) duty of community service; or
- i) assignment to a [Labor Education School].¹¹⁹

¹¹⁸ Juvenile Delinquency Act, Art. 10(1), as translated by SOFITA.

¹¹⁹ Ibid., Art. 13(1).

The jurisdiction of the Local Commissions over "misdemeanors" of children is broad and extends to both criminal and non-criminal conduct, including any "grave delinquency, such as may be indicative of a serious deviation from correct development or education."¹²⁰ Children aged eight through thirteen (who are otherwise legally incapable of bearing criminal liability for their conduct)¹²¹ may be brought before Local Commissions where their actions "had presented a threat to society."¹²² Children are commonly referred to a Local Commission for stealing, and status offenses such as running away from home or not attending school. They even may be referred to a Local Commission for vagrancy.¹²³

Referral of Cases to the Local Commission

Children are usually referred to Local Commissions by the police, by the Public Prosecutor's Office, by criminal courts, or directly by private citizens or parents who wish to have an "uncontrollable" child controlled. Police refer a case to a Local Commission usually after apprehension and questioning of a child, and determining that the offense committed is not serious enough to be forwarded to the National Investigation Service for criminal investigation.¹²⁴ The Inspector usually makes that determination. Public Prosecutors also have the discretionary authority to decide whether to open a criminal investigation against a child or to instead refer the case to a Local Commission for hearing and decision.¹²⁵ Courts also have the

¹²⁰ Ibid., Art. 12(d).

¹²¹ Recall that under Bulgarian law, distinctions are made between children under the age of fourteen, classified as "minors," and children aged fourteen through seventeen, classified as "adolescents." Individuals and the Family Act, Art. 3 (1) and Art. 4, cited in Bulgaria Initial Report to the Committee on the Rights of the Child, p. 8, para. 25. Under the Penal Code, only "adolescents" may be held criminally responsible for their actions, and "only inasmuch as they understand the nature and gravity of their offence and in so far as they are able to govern their own actions." Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 9, para. 29.

¹²² Juvenile Delinquency Act, Art. 12(a), as translated by SOFITA.

¹²³ Interview with Inspector from Plovdiv 4th Department.

¹²⁴ Interview with National Police Directorate.

¹²⁵ Penal Code, Art. 61, as translated by Nikolai Gughinski. In all cases of diversion by a Public Prosecutor, the offense committed by the juvenile must be aberrational,

discretionary authority to refer a case to a Local Commission instead of trying the case.¹²⁶ Parents, too, may submit individual complaints to a Local Commission, requesting that action be taken to correct the behavior of an “uncontrollable” child.¹²⁷

Local Commission Hearings

committed out of recklessness, or not of great social danger.

¹²⁶ Ibid.

¹²⁷ Interview with members of Studenska Local Commission.

International law requires that children accused of having infringed penal laws be given “legal or other appropriate assistance in the preparation and presentation of his or her defense” in a fair hearing before “a competent, independent and impartial authority,” and in the presence of his or her parents or legal guardian.¹²⁸ Human Rights Watch believes that “an independent and impartial authority” means a body which is a part of an independent judiciary; a determination on the allegedly criminal conduct of a child should be made by a court, or at least the determination should be reviewable by a court. The Beijing Rules extend the right to counsel, the right to the presence of a parent or guardian, and the right to confront and cross-examine witnesses, to children accused of status offenses as well.¹²⁹ Thus children who are referred to the Local Commission for non-criminal conduct, such as running away from home or not attending school, are entitled to the same protections.

When a child is referred to a Local Commission by either the Public Prosecutor's Office or by courts, a hearing must be held to investigate the alleged misconduct and to determine whether correctional measures should be ordered.¹³⁰ Local Commission members informed us that hearings are also mandatory in all cases where Labor Education School confinement is recommended.¹³¹ If a hearing is held, there must be at least three Local Commission members present, including the Chairperson of the Commission.¹³² Decisions are made by a simple majority vote of all members present.¹³³ The child and at least one parent or foster parent must attend the hearing.¹³⁴ The Local Commission has “the right to require necessary documents and materials and to summon officers or citizens to provide information or testify.”¹³⁵ The right to counsel is expressly prohibited.¹³⁶

¹²⁸ Convention on the Rights of the Child, Art. 40.

¹²⁹ Beijing Rules, Rule 3.1.

¹³⁰ Juvenile Delinquency Act, Art. 16(2), as translated by SOFITA.

¹³¹ Interview with members of Studenska Local Commission.

¹³² Juvenile Delinquency Act, Art. 11, as translated by SOFITA.

¹³³ *Ibid.*, Art. 18(1).

¹³⁴ *Ibid.*, Art. 19(1).

¹³⁵ *Ibid.*, Art. 17.

In practice, hearings are conducted in a manner that leaves little or no opportunity for argument on the part of the accused. Local Commission Members of Studenska Municipality in Sofia stated that "meetings" are held with a child before a determination is made on Labor Education School confinement and described typical proceedings of their Local Commission as follows:

First, we meet with the child alone. The parents are informed but are not allowed to be present at the first meeting. We question the child and review the child's case file which is prepared and gathered by the Pedagogic Office Inspector, or by the Public Prosecutor if the case was referred to us through the Public Prosecutor's Office. The Commission does not do independent fact finding or investigating; the Inspector handles the investigation. We'll monitor the child's behavior after that.

Then we'll have a second meeting a month or two later. If the child has behaved, the Inspector will set a probationary period for the child. If the probationary period passes and the child has behaved, the child's name will be deleted from the Pedagogic Office registry and the case will be over.

¹³⁶ Ibid., Art. 24.

If after the first meeting, however, the child continues to misbehave, a second meeting is called where the parents and the child are present. The meetings are not argumentative, not like a trial where the child can put forward his case and debate. Then we'll ask the parents and the child to leave the room, and we'll decide and vote on what correctional measure to order. The Inspector's opinion always has a lot of weight with the other members. Then we'll call the parents and child back into the room and announce our decision. The child must then respond and speak, but the decision to send the child to a Labor Education School cannot be overturned.¹³⁷

The director of Rila Labor Education School, Nikola Kovachki, reported a similar practice at the Local Commission in Rila:

¹³⁷ Interview with members of Studenska Local Commission.

When the local commission meets, the child is given the floor. He is told what he has done and can answer in one of two ways: either that he agrees and has to serve his time, or that he does not want to go to [Labor Education School] and promises not to do anything bad. Sometimes the commission decides to give him time to mend his ways and leaves him at liberty for another few weeks. If he steals something again, he is taken and is sent to [Labor Education School].¹³⁸

Despite the fact that both international law and the Juvenile Delinquency Act guarantee children the right to be present at the hearing and to have a parent or guardian present, we found that that requirement is often overlooked. Out of ten children interviewed, only two reported that they had appeared with their parents before a Local Commission for a hearing before being sent to a Labor Education School.¹³⁹

The parents of Alecko, a sixteen-year-old boy confined to involuntary education at Rakitovo Labor Education School, reported that they were never informed in advance of their son's hearing before the Local Commission. They stated that they were informed two days after the hearing took place that they should bring their son to Rakitovo Labor Education School for confinement by a certain date. They stressed that they never had any meetings with any members of the Local Commission prior to their son's confinement.¹⁴⁰

All four girls we interviewed did not appear to be aware even of the existence or function of the Local Commission. When questioned about the procedures by which they were confined in Podem and Yagoda Labor Education Schools, they stated that it was the Pedagogic Office Inspector who sent them there. They described meetings at which the Inspector requested or urged their parents to agree to send them to a Labor Education School, which the parents did. In all four

¹³⁸ "Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 18.

¹³⁹ CRP interview with Todor, confined in Rakitovo Labor Education School, from Kazanluk, April 28, 1996; CRP interview with Stefan, confined in Rakitovo Labor Education School, from Pazardjik, April 28, 1996.

¹⁴⁰ CRP interview with parents of Alecko, confined in Rakitovo Labor Education School, from Sofia, April 28, 1996.

cases, the girls had run away from home several times.¹⁴¹ For example, Yuliana, a fourteen-year-old girl from Plovdiv, stated:

¹⁴¹ CRP interview with Ralitzia, confined in Yagoda Labor Education School, from Shumen, April 21, 1996; CRP interview with Yuliana, confined in Yagoda Labor Education School, from Plovdiv, April 21, 1996; CRP interview with Sylvia, confined in Podem Labor Education School, from Gabrovo, April 27, 1996; CRP interview with Margarita, confined in Podem Labor Education School, from Sofia, April 27, 19

I came here to Yagoda in September 1995. I was running away from home often and had been caught several times. The Inspector told my mother that she should send me to a Labor Education School or else I would continue to run away. So she agreed to send me here and signed some consent papers to have me admitted. But it was the Inspector's idea to send me here, not my mother's.¹⁴²

Yuliana's description accords with that of an Inspector interviewed from Plovdiv, who stated that when he believes confinement in a Labor Education School is necessary for a "problem child," he first meets with the parents and tries to persuade them to agree to place their child in a Labor Education School.¹⁴³ Thus, it appears that in practice children are sometimes confined in a Labor Education School without a hearing if their parents consent to the confinement, under the pressure of the Pedagogic Office Inspector.

Human Rights Watch also found cases where children were confined to a Labor Education School without a hearing and without the consent of their parents or legal guardian. We interviewed a seventeen-year-old boy from Stara Zagora, named Boyan, who told us he was placed in Slavovitza Labor Education School with neither a hearing nor his parents' consent. He related his story as follows:

I never committed a crime. One day I got into a fight with one of my neighbors who was drunk and who started cursing me. He went to the police and complained. I was summoned to the regional police department to the Pedagogic Inspector's office. The Inspector, named Porazov, and the police captain asked me questions about the fight. Then they let me go.

¹⁴² CRP interview with Yuliana, confined in Yagoda Labor Education School, from Plovdiv, April 21, 1996.

¹⁴³ Interview with Inspector from Plovdiv 4th Department.

After that they summoned me again several times to Porazov's office, but I didn't go. I went and complained to the Ministry of Interior because I thought they were harassing me. The next day, two policemen came to my home and took me to Porazov's office. The captain and Porazov started asking me why I had complained to the Ministry of Interior, and then the captain started kicking me with his boots. Porozov took out a metal rod with a metal ball at the end of it, and hit me on the head with it. Then they let me go. I had to have seven stitches on my head.

About a week later, Porozov came to my home and took me to the railway transport police station where they kept me for seven days. All I got there were beatings. They undressed me and poured water all over my body, and beat me with electric shock truncheons on the soles of my feet and on my head. Another time they used a long whip-like instrument with a ball at the end of it. After seven days, four policemen put me in a jeep and started driving. I asked them where we were going but they wouldn't tell me anything. Everyone in the car beat me except for the driver. Then we arrived at Slavovitza, and they left me there. I didn't know where I was. I asked the other boys where I was and they told me I was in a Labor Education School in Slavovitza.¹⁴⁴

Consistent with the accounts of street children, children confined in Labor Education Schools, such as Boyan, also described incidents of police brutality against them upon arrest and while held in police lock-ups.¹⁴⁵

¹⁴⁴ CRP interview with Boyan, confined in Slavovitza Labor Education School, from Stara Zagora, April 21, 1996.

¹⁴⁵ Ibid.; CRP interview with Stefan, confined in Rakitovo, from Pazardjik, April 28, 1996; CRP interview with Alecko, confined in Rakitovo Labor Education School, from Sofia, April 28, 1996.

Human Rights Watch concludes that children are sometimes deprived of their liberty and sentenced to confinement in Labor Education Schools without any hearing, or with a hearing but without legal assistance or the presence of a parent or legal guardian. When hearings are held, they are inquisition-like in form, and do not allow children an opportunity to confront and cross-examine witnesses or to put on their case. The Bulgarian government itself has acknowledged that “[Local C]ommissions find it impossible to ensure a just outcome of the case and to impose an appropriate correctional measure because they do not have the sufficient number of competent members and owing to the absence of adequate procedural safeguards.”¹⁴⁶ Further, the powerful role of the Pedagogic Office Inspector within the Local Commission threatens the impartiality, independence and competence of the Local Commission body, by virtue of the Inspector’s multiple and conflicting roles within the Bulgarian juvenile justice system.

Our conclusions are supported by documentary omissions found in the student file records of Labor Education Schools. Under Article 7 of the Regulations for Labor Education Schools, certain documents are required in order for a child to be admitted to a Labor Education School.¹⁴⁷ Based on its inspection of Labor Education Schools in 1994, the Central Commission for Combating Juvenile Delinquency (“Central Commission”) (which governs and coordinates the activities of Local Commissions) found that the most common omission found in the required documentation was that decisions were often signed by only the Chairperson of the Local Commission, instead of all members present at the hearing.¹⁴⁸ The Central Commission also found that Local Commission minutes did not reflect whether the

¹⁴⁶ Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 53, para. 242.

¹⁴⁷ Article 7 of the Regulations for Labor Education Schools require the following documents for placement of a juvenile in a Labor Education School: “ 1) proposal by Local Commission or court sentence or court ruling or prosecutor’s decree; 2) social pedagogic profile of the student, prepared by the Pedagogic Office Inspector; 3) educational records of the student; 4) documents certifying the date of birth of the student; and 5) medical examination records for the student,” as translated by Nikolai Gughinski.

¹⁴⁸ “An Inside View of Labor Education Schools.” According to Article 21(3) of the Juvenile Delinquency Act, decisions of the Local Commission should be handed down in writing and signed by all members of the Commission who were present at the hearing

child or the parents were present at the hearing.¹⁴⁹ These omissions further corroborate our findings.

Review of Local Commission Decisions

¹⁴⁹ Ibid. According to Article 21(1) of the Juvenile Delinquency Act, “hearings shall be recorded summarizing the account of the juvenile concerned and the testimonies of the victim and the witnesses, and taking notice of any other evidence considered by the Commission,” as translated by SOFITA.

After hearing and considering all the evidence before it, the Local Commission decides whether to dismiss the case; to suspend the proceeding pending further investigation; to refer the case to the Public Prosecutor's Office for further criminal proceedings; or, to order correctional measures which may include confinement in a Labor Education School.¹⁵⁰

Decisions of the Local Commission "shall be final and not subject to appeal."¹⁵¹ A possibility exists for administrative review of the decision by the Ministry of Education. A Local Commission's decision to confine a child in a Labor Education School is a recommendation only, that is forwarded to a special committee within the Ministry of Education which issues the actual order for placement in a particular school. That special committee can disagree with the Local Commission's decision and can return the decision with instructions to apply other correctional measures authorized under the Juvenile Delinquency Act.¹⁵² The Minister of Education, in turn, may subject decisions of that special committee to further review and can order reconsideration.¹⁵³ Allegedly, there is also a possibility for administrative review by the mayor of the municipality in which the Local Commission is located.¹⁵⁴

¹⁵⁰ Juvenile Delinquency Act, Art. 20, as translated by SOFITA.

¹⁵¹ *Ibid.*, Art. 23(1).

¹⁵² Regulations for Labor Education Schools, Arts. 9(1) and 9(7), as translated by Nikolai Gughinski.

¹⁵³ *Ibid.*, Art. 9(10).

¹⁵⁴ Interview with Malena Filipova.

Human Rights Watch was unable to find information on a single case where a Local Commission's decision to confine a juvenile to a Labor Education School was reconsidered or overturned by either the Ministry of Education or the mayor. Human Rights Watch concludes that instances of administrative review and reversal of Local Commission decisions on Labor Education School confinement are rare, if they occur at all. Further, the form of administrative review available does not provide the juvenile with an opportunity to actively appeal a decision; rather the Ministry of Education may undertake, on its own, to review a decision.

Where a decision is made that a child has infringed penal laws, the Convention on the Rights of the Child guarantees that the child has the right to have that decision “and any measures imposed in consequence thereof reviewed by a higher, competent, and impartial authority or judicial body according to law”(Article 40). The Beijing Rules extend “the right to appeal to a higher authority” to children accused of status offenses as well (Rule 3.1).

In cases of diversion from regular criminal processing, as is frequently the case with children referred to Local Commissions, the Beijing Rules require that any decision “shall be subject to review by a competent authority, upon application” (Rule 11.3). Commentary to Rule 11.3 provides insight into the rationale behind the rule:

Rule 11.3 stresses the important requirement of securing the consent of the young offender (or the parent or guardian) to the recommended diversionary measure(s) However, this consent should not be left unchallengeable, since it might sometimes be given out of sheer desperation on the part of the juvenile. The rule underlines that care should be taken to minimize the potential for coercion and intimidation at all levels in the diversion process. Juveniles should not feel pressured (for example to avoid court appearance) or be pressured into consenting to diversion programmes. Thus, it is advocated that provision should be made for an objective appraisal of the appropriateness of the dispositions involving young offenders by a “competent authority upon application.”

Human Rights Watch found that in cases of children placed in Labor Education Schools, not only is the consent of the child (or the parent or guardian) not sought,¹⁵⁵ but the child is also not provided with any means of applying to a

¹⁵⁵ With the exception of cases described above, where Inspectors exert pressure

competent authority for review of the decision of confinement. We conclude that the failure to provide children with a viable mechanism for appeal of a Local Commission decision violates international law.

Placement in a Particular Labor Education School

on parents to consent to placing their child in a Labor Education School without a hearing, it appears that the consent of parents or the juvenile is otherwise not sought.

Human Rights Watch is unaware of the existence of any clear guidelines for placement of children in a particular Labor Education School. Several boys interviewed at Rakitovo Labor Education School told us they were given some choice as to which school they were sent. Others reported no choice in the matter. Nikola Kovachki, the director of Rila Labor Education School, informed the Bulgarian Helsinki Committee that children are often placed in Labor Education Schools far away from their homes, in order to separate them from negative influences of their usual environments, consequently making it difficult for family and friends to visit.¹⁵⁶ The Ministry of Education and the Inspector appear to play an important role in the decision of placement. Under Article 9(1) of the Regulations for Labor Education Schools, the Ministry of Education must order the actual placement of a child in a particular Labor Education School.

There are currently eleven Labor Education Schools in operation in Bulgaria to which children are sent, known by the names of the villages and towns in which they are located. They are as follow:

1. Podem, district Lovech, for girls in grades 5 - 11;
2. Slavovitza, district Lovech, for boys in grades 3 - 8;
3. Yagoda, district Haskovo, co-educational in grades 4 -8;
4. Straldzha, district Bourgas, for boys in grades 5 - 8;
5. Kereka, district Lovech, for boys in grades 4 - 8;
6. Dinevo, district Haskovo, for boys in grades 5 - 8;
7. Rila, district Sofia, for boys in grades 6 - 11;
8. Rakitovo, district Plovdiv, for boys in grades 4 - 8;
9. Zavet, district Ruse, for boys in grades 4 - 8;
10. Gabrovtsi, district Lovech, for boys in grades 4 - 8 who are mentally retarded; and

¹⁵⁶"Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 18.

11. Bulgarovo, district Bourgas, for girls in grades 4 - 8 who are mentally retarded.¹⁵⁷

Human Rights Watch is alarmed by the apparent tendency of authorities to place Roma and minority children in the two Labor Education Schools designated for mentally retarded children and in Labor Education Schools where conditions are reportedly worse than in others,¹⁵⁸

¹⁵⁷ List of Labor Education Schools provided by Evelina Stanchaeva, member of Local Commission for Studenska municipality of Sofia.

¹⁵⁸ Conditions of confinement will be discussed in the next section of this report.

The Bulgarian Helsinki Committee reported that at the time of their visit to Bulgarovo Labor Education School (for retarded girls) in the spring of 1996, most of the girls there were Roma.¹⁵⁹ Human Rights Watch interviewed two Roma street children in the city of Plovdiv who, according to the local Inspector, were designated for confinement in Gabrovtsi Labor Education School (for mentally retarded boys).¹⁶⁰ However, when we questioned the boys about their impending confinement in Gabrovtsi, they said they knew nothing about it.¹⁶¹ They had not yet been informed of the Inspector's apparently unilateral decision to confine them in Gabrovtsi. Although the two boys appeared to be high on liquid bronze, they did not appear to us to be mentally retarded. We express deep concern over the methods of classification of children as mentally retarded and their confinement in Labor Education Schools for retarded children.

The Director of Rila Labor Education School, Nikola Kovachki, reported that Turks, Pomaks,¹⁶² and Roma are placed in particular Labor Education Schools.¹⁶³ Two Roma boys interviewed from Slavovitza Labor Education School, which is considered by the children to be the worst among all eleven schools, stated that most of the other children there were Roma.¹⁶⁴ Alexi Nakov Tsanov, the Deputy Director of Slavovitza, noted that 80 percent of the children at Slavovitza are Roma.¹⁶⁵

Human Rights Watch was unable to obtain figures on the number of Roma children in Labor Education Schools throughout Bulgaria. Malena Filipova, of the Chief Prosecutor's Office of Bulgaria, estimated that Roma children comprise 50

¹⁵⁹ "Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 15.

¹⁶⁰ Interview with Inspector from Plovdiv 4th Department.

¹⁶¹ CRP interview with Assen and Vassil, Plovdiv, April 25, 1996.

¹⁶² The term "Pomaks" refers to Bulgarian Muslims.

¹⁶³ "Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 17.

¹⁶⁴ CRP interview with Boyan, confined to Slavovitza Labor Education School, from Lozenetz, April 21, 1996; CRP interview with Dimitar, confined to Slavovitza Labor Education School, from Kazanluk, April 21, 1996.

¹⁶⁵ "Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 12.

percent of the total Labor Education School population.¹⁶⁶ Although Labor Education Schools contain a mixture of children of different ethnicities, it appears that the proportion of Roma children in schools for the mentally retarded and in Slavovitza is disproportionately high.

¹⁶⁶ Interview with Malena Filipova.

CONDITIONS OF CONFINEMENT IN LABOR EDUCATION SCHOOLS

As stated earlier, Human Rights Watch was denied access to Labor Education Schools in Bulgaria by the Deputy Minister of Education of Bulgaria. The stated reason for the denial of access was that there had been two other inspections of Labor Education Schools by the European Committee for the Prevention of Torture and other Inhuman or Degrading Treatment or Punishment ("European Committee") in 1995, and by the Bulgarian Helsinki Committee in 1996. In fact, the European Committee did not visit any Labor Education Schools during its visit to Bulgaria in 1995, and the Bulgarian Helsinki Committee was able to visit five Labor Education Schools in 1996 only after encountering much difficulty from the Ministry of Education in securing access to the schools.¹⁶⁷ Further, we learned from a student from Slavovitza, one of the schools visited by the Bulgarian Helsinki Committee, that children were warned beforehand of the visit and that those who spoke with the Bulgarian Helsinki Committee's researcher were afterwards beaten.¹⁶⁸

Despite the denial of access, we were able to interview ten students from four Labor Education Schools: Podem, Rakitovo, Slavovitza, and Yagoda. It should be noted that girls interviewed from Podem were selected to speak with us by the supervisor on duty at the school. We also interviewed Denitsa Grozeva, the Bulgarian Helsinki Committee researcher, on her findings and draw from two studies undertaken by the Bulgarian Helsinki Committee (1996) and by the Central Commission for Combating Juvenile Delinquency (1994) for information relating to conditions in the schools.

Physical Conditions of Confinement

¹⁶⁷ CRP interview with Denitsa Grozeva, Bulgarian Helsinki Committee researcher, Sofia, April 20, 1996.

¹⁶⁸ CRP interview with Dimitar, confined in Slavovitza Labor Education School, from Kazanluk, April 21, 1996.

The U.N. Rules for the Protection of Juveniles Deprived of their Liberty (“U.N. Rules”) set forth detailed specifications on the physical environment in which children can be confined. The U.N. Standard Minimum Rules for the Treatment of Prisoners does the same for prisoners generally; its application is extended “to the treatment of juvenile offenders in institutions” under Rule 27 of the Beijing Rules. These standards, although non-binding, have been recognized in the international community by adoption as General Assembly resolutions. They are an authoritative statement of the international community’s agreement on the minimum standards under which children may be confined by the state.

The U.N. Rules state that children shall have the right to facilities and services that meet all the requirements of health and human dignity (Rule 31). The facility’s physical environment should be designed with the rehabilitative aim of residential treatment and with due respect for the need of children for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure time activities (Rule 32). Every juvenile should be provided with sufficient bedding, which should be kept clean and in good order (Rule 33). Sanitary installations should be of a sufficient standard to enable every juvenile to comply with his or her physical needs in privacy and in a clean and decent manner (Rule 34). Children should have the right to use their own clothing, to the extent possible, and care should be taken to ensure that children have adequate clothing for the climate (Rule 36). Suitably prepared food should be provided at regular meal times and should meet standards of dietetics, hygiene, and health (Rule 37).

The U.N. Standard Minimum Rules for the Treatment of Prisoners require that facilities provide adequate sleeping accommodation with due regard paid to heating (Rule 10), sufficient bedding (Rule 19), adequate sanitary installations (Rule 12), bathing and shower installations at a temperature suitable to the climate (Rule 13), toilet articles (Rule 15), and regular meals of adequate nutritional value (Rule 20(1)).

Human Rights Watch found that conditions at Labor Education Schools vary considerably from school to school. Students from Podem and Yagoda Labor Education Schools, two schools in which girls are placed, had no complaints about conditions there. Girls from Yagoda even praised the quality of the food there and spoke well of their relations with other students and with teachers. We observed that the girls from Yagoda showed little fear of teachers who saw them speaking to us outside the school grounds. Unfortunately, however, conditions in other schools are far worse than in Yagoda, which is often held up as a model Labor Education School.

Most Labor Education Schools are in need of major construction and repair. In its Initial Report to the Committee on the Rights of the Child, the Bulgarian government acknowledged that Labor Education Schools “are confronted by problems resulting mainly from their obsolete facilities,” among other reasons.¹⁶⁹

The Central Commission reported that the buildings at Slavovitza, Bulgarovo, and Gabrovtsi are in the worst condition of all the Labor Education Schools. The Central Commission also reported problems with inadequate heating, lack of running hot water in some schools, and inadequate bedding materials in most schools. Children generally sleep in rooms holding four to twelve children, and are provided with worn out and often threadbare bedding. Most schools do not have central heating, and rely on wood burning stoves for heating during the winter.¹⁷⁰

During her visit to five Labor Education Schools in the winter and spring of 1996, the Bulgarian Helsinki Committee researcher found that most schools had coal or wood burning stoves in each room, but that they were not always on. Children often complained of being cold. She observed that bedding materials were insufficient, in poor condition, and seldom washed.¹⁷¹

The researcher visited Bulgarovo Labor Education School, designated for “girls suffering from mental disturbances and deviation,” near the city of Bourgas, and described conditions there:

¹⁶⁹ Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 59, para. 248.

¹⁷⁰ “An Inside View of Labor Education Schools.”

¹⁷¹ CRP interview with Denitsa Grozeva, Bulgarian Helsinki Committee researcher, Sofia, April 20, 1996.

The living conditions are bad. There are four girls to a bedroom. The blankets are threadbare. The lockers are broken. There was one TV set which was out of order and several beds in the recreation room. There were no chairs. The floor was covered with shabby linoleum. The atmosphere was miserable and oppressive. The sanitary conditions are also bad. The bathroom has three showers, battered pipes and taps sticking out of the broken walls. The plaster had peeled off in many places. The canteen, located on the ground floor, had damp walls. The tables were covered with shabby oil cloth.¹⁷²

¹⁷² "Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 16.

The researcher reported that Dinevo Labor Education School, in Haskovo district, suffers from similar problems. Children are housed in rooms for eight to ten children. The beds, desks, blankets and lockers are old and worn out. Hot water is provided by a boiler which frequently breaks down, but there are no funds available for repair and reconstruction.¹⁷³

At Slavovitza Labor Education School, the researcher found that “[a]ll school rooms were equipped with solid fuel stoves, but not a single one was burning. There was no lighting in the corridors and since many of the windows were broken, the temperature inside did not differ much from the one outside.”¹⁷⁴ The Bulgarian Helsinki Committee’s findings accord with testimony elicited from Labor Education School students interviewed by Human Rights Watch. We interviewed a seventeen-year-old boy from Slavovitza who complained that he and other boys at the school are given only one blanket with a sheet cover for it, but no sheet for the mattress, even during the cold winter months. He reported that heat is on only a few days a month, and that he is very cold during the winter.¹⁷⁵

¹⁷³ Ibid., p. 19.

¹⁷⁴ Ibid., p. 15.

¹⁷⁵ CRP interview with Boyan, confined in Slavovitza Labor Education School, from Stara Zagora, April 21, 1996.

Clothing provided to the children also appears to be inadequate. Children told us they are expected to provide their own clothing. Teachers at Rakitovo Labor Education School confirmed that children generally provide their own clothing but that schools try to provide for children who cannot afford to do so.¹⁷⁶ The director of Kereka Labor Education School, Toncho Genchev, reported that the Labor Education School's clothing allowance for children dates back to 1973, and that no increases have been made since that time.¹⁷⁷ The Central Commission reported, from its inspection of all Labor Education Schools in the fall of 1994, that children sometimes were poorly dressed in worn out clothing, and that some children were even barefoot.¹⁷⁸ The Bulgarian Helsinki Committee found children clad in torn and worn out garments. Some wore German and U.S. military jackets distributed to the schools through a Bulgarian state agency for receipt and distribution of international aid.¹⁷⁹ "The clothes of most children were torn and dirty. They were wearing tennis shoes, sandals, or old, worn shoes cut out like slippers, all unsuitable for the winter season."¹⁸⁰ Essentially, insufficient funds are provided to ensure that children are adequately dressed.

We found that in at least one of the schools, Slavovitza, children must wear uniforms, despite the U.N. Rules' provision that children should have the right to use their own clothing (Article 36). "We can't wear our own clothes there because they think it will be easier for us to run away. We wear grey-green jackets and gray trousers. They're not warm enough during the winter," reported a Slavovitza student.¹⁸¹ Human Rights Watch does not believe that a uniform is necessary to prevent students from running away given the fact that other Labor Education Schools do not appear to have any uniform dress code. Further, despite the

¹⁷⁶ CRP interview with Dimitar Epitropov, Rakitovo Labor Education School, April 28, 1996.

¹⁷⁷ Ibid.

¹⁷⁸ "An Inside View of Labor Education Schools."

¹⁷⁹ CRP interview with Denitsa Grozeva, Bulgarian Helsinki Committee researcher, Sofia, April 20, 19

¹⁸⁰ "Labor Education Schools and the Rights of Juveniles," p. 14.

¹⁸¹ CRP interview with Boyan, confined in Slavovitza Labor Education School, from Stara Zagora, April 21, 1996.

imposition of a uniform dress code, Slavovitza still has one of the highest rates of runaways among all Labor Education Schools.¹⁸² Improving conditions in the school would serve as a better deterrent to runaways than uniforms, which tend to have a stigmatizing effect on children.

Like the buildings, toilet facilities are in disrepair and hot water is infrequently available. The Bulgarian Helsinki Committee found that in Bulgarovo Labor Education School, where there were thirty girls actually present at the time of their visit, there were only three shower heads.¹⁸³ In Slavovitza Labor Education School, they found the following:

¹⁸² "An Inside View of Labor Education Schools."

¹⁸³ Note that the number of children actually present in Labor Education Schools is consistently lower than the number of children technically enrolled in the schools. The difference in figures is attributable to the high frequency of runaways and children who never show up at the Labor Education School to begin with. CRP interview with Denitsa Grozeva, Bulgarian Helsinki Committee researcher, Sofia, April 20, 1996.

All 65 children share a single bathroom with a single shower and one 80 l boiler. The walls of the lavatories are cracked and the washbasins broken. When an attempt was made to turn on the only shower, it produced only a trickle of water. One of the boys commented: "Miss, how can 60 people bathe under one fountain?"¹⁸⁴

Further, children are not provided with toilet articles necessary for their personal hygiene. A student from Slavovitza informed us, "[w]e're given soap, but no toothbrush or toothpaste."¹⁸⁵

Food also is inadequate. According to the Central Commission, Labor Education Schools experience problems providing adequate food for the children.¹⁸⁶

According to the Bulgarian Helsinki Committee, the quality of the food is poor and children often complain of hunger. At Slavovitza Labor Education School a boy reported, "[t]here are hairs and pebbles in the food. We're given milk, but hardly ever meat. We get what they give the pigs."¹⁸⁷ A student from Slavovitza, interviewed by Human Rights Watch, stated:

¹⁸⁴ "Labor Education Schools and the Rights of Juveniles in Bulgaria," pp. 14-15.

¹⁸⁵ CRP interview with Boyan, confined in Slavovitza Labor Education School, from Stara Zagora, April 21, 1996.

¹⁸⁶ "An Inside View of Labor Education Schools."

¹⁸⁷ "Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 14.

The food is not enough. They'll give us one thin slice of bread with jam and tea for breakfast. For lunch, we'll get a meat ball soup, a slice of bread, and a desert of milk with rice. For dinner we get a slice of bread and some rice with red pepper in it. You can be dying of hunger, but they'll never give you seconds.¹⁸⁸

Further, Human Rights Watch was alarmed to find that deprivation of food is sometimes used as punishment in some schools. Punishment and disciplinary procedures will be discussed below.

Discipline and Punishment

International law is clear and consistent in its prohibition of torture and inhuman or degrading treatment of children. The Convention on the Rights of the Child states that children deprived of their liberty "shall be treated with humanity and respect for the inherent dignity of the human person" and that no child "shall be subjected to torture or inhuman or degrading treatment or punishment" (Article 37). The Beijing Rules provide that "[j]uveniles shall not be subject to corporal punishment" (Rule 17.3). The U.N. Rules prohibit the use of restraints or force on children unless all other control methods have been exhausted and failed (Rules 63-64), and prohibit all disciplinary measures constituting cruel, inhuman or degrading treatment, "including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned" (Rule 67). The U.N. Rules explicitly prohibit "the reduction of diet and the restriction or denial of contact with family members" for any purpose (Rule 67).

¹⁸⁸ CRP interview with Boyan, from Stara Zagora, confined in Slavovitza Labor Education School, April 21, 1996.

Internal Regulations for Labor Education Schools authorize the different forms of punishment which may be used in the schools. Under the regulations, children may be forced to perform chores for up to three days, or may be deprived of: town outings and excursions; family home visits;¹⁸⁹ participation in sporting events; the right to receive visitors for up to one month; and the right to receive packages for up to one month. Children may also be transferred to another Labor Education School upon the proposal of the Assembly of Teachers.¹⁹⁰ The authorized forms of punishment contravene the U.N. Rules' prohibition on the use of labor as a disciplinary sanction (Rule 67), and the U.N. Rules' guarantee of children's rights to receive correspondence (Rule 61), the right to receive regular and frequent visits (Rule 60), and the right to leave detention facilities for a visit to their home and family (Rule 59). The deprivation of home leave also contravenes the Beijing Rules' prohibition on the denial of contact with family members (Rule 67).

¹⁸⁹ Children in Labor Education Schools receive spring and winter home leave, and a one-month home leave during the summer. During home leaves, children must check in and report to the Pedagogic Office or Local Commission in their home area. During the regular school term, children are allowed to leave Labor Education School grounds to go into town at designated times during the weekend only, with the permission and accompaniment of a staff member.

¹⁹⁰ Regulations for Labor Education Schools, Art. 49, as translated by Nikolai Gughinski.

Further, in practice, a wide range of unauthorized punishment was found to be commonplace in Labor Education Schools, most notably the physical abuse of students by staff members. The director of Dinevo Labor Education School, Stoyan Vulkov, commented on the leniency of the authorized punishments: "The Regulation punishments are nonsense. I beat my own two sons at home, so why shouldn't I give them a hiding here?"¹⁹¹

Human Rights Watch concludes that children confined in Labor Education School are frequently subjected to physical abuse by staff members. Reports of staff beatings, sometimes with instruments, were frequent among boys interviewed. Shaving of children's heads also appears to be a common form of punishment, particularly for children who have attempted to run away. Head shaving was found in Bulgarovo, Dinevo, Rila, Rakitovo and Slavovitza Labor Education Schools. Children in Slavovitza reported confinement in an "isolator" and reductions in diet as punishment. A child from Dinevo Labor Education School reported that the punishment for running away is head shaving and reduction of diet. "All we get to eat are beans," he said.¹⁹²

Girls at Podem and Yagoda Labor Education Schools reported that punishments there are usually within the authorized forms of punishments set forth in the Regulations for Labor Education Schools. They cited the imposition of work chores and deprivation of weekend outings, correspondence, and home leave as the most frequent punishments. However, girls from co-educational Yagoda also stated that physical beatings of the boys sometimes occurred. They recalled an incident from two months earlier when one of the boys was beaten by four staff members for having run away.

¹⁹¹ "Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 20.

¹⁹² *Ibid.*, p. 21.

Boys interviewed from Rakitovo Labor Education School reported that beatings are commonplace. A fourteen-year-old boy told us that he had recently been beaten by the Director of the school, Mr. Koshedzhiiski, with a ski pole for attempting to run away. His head was covered with a bandana which is a common practice among children whose heads have been shaved. He stated that beatings are usually administered when a boy runs away, but also that "sometimes the teachers also slap or hit the kids when the kids don't listen to them."¹⁹³ A sixteen-year old Rakitovo boy confirmed that "beatings happen especially to those who run away. The Director will usually beat the boy who ran away and cut his hair short. Sometimes the teachers and educators beat the boys too."¹⁹⁴ The boys stated of the Director of Rakitovo, "[h]e's much better than the teachers. He only beats when there's a reason, while the other teachers might beat you for no reason at all."¹⁹⁵

When questioned as to what punishments are administered at Slavovitza Labor Education School, the Deputy Director of the school stated that "[t]he punishment is labor. We send them to work on the farm to make them realize that they have done wrong -- they wash, clean, throw away the dung."¹⁹⁶ The use of labor as punishment, however, is prohibited by international law; the U.N. Rules state that "[l]abor should always be viewed as an educational tool and a means of promoting self-respect of the juvenile in preparing him or her for return to society and should not be imposed as a disciplinary sanction" (Rule 67).

Further, Human Rights Watch found that far more than labor is administered as punishment at Slavovitza. The accounts of physical abuse against children at Slavovitza were among the worst that we came across during our investigation of Labor Education Schools. We interviewed two boys at length from Slavovitza. Both boys were Roma, and both were interviewed in their home neighborhoods, away from the school. We believe that because the boys were interviewed in private, away from the school, they spoke more candidly and with

¹⁹³ CRP interview with Georgi, confined in Rakitovo Labor Education School, April 28, 1996.

¹⁹⁴ CRP interview with Stefan, confined in Rakitovo Labor Education School, from Pazardjik, April 28, 1996.

¹⁹⁵ CRP interview with Alecko, confined in Rakitovo Labor Education School, from Sofia, April 28, 1996.

¹⁹⁶ "Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 13.

less fear of reprisals. One of the boys was on home leave and the other had recently run away.

Boyan, a seventeen-year-old boy from Stara Zagora, told us the following:

When we're in trouble, we're called to the director's office for questioning. Sometimes there are other teachers in his office. He asks you questions, then scolds you, then decides how to punish you.

Once I made a mistake on a dictation test. The teacher took me to the director's office. The deputy director was also there. They made me sit in a chair. They tied my hands behind my back and started to beat me with cable wires. The director took out a thin steel stick, and struck me on my wrist. The day after the beating, my wrist hurt so much I went to see the nurse. She told me my wrist was broken and sent me to the hospital in Pleven. I wore a cast for several weeks after that.

The most common punishment is to be put in the isolator for a day. It's on the second floor of the building. The windows are broken and the room is locked. When you're put in the isolator you have to stay there in your underwear, without clothing, and without food. I know a boy from Kazanluk who stayed in the isolator for five days when he tried to run away. There's nothing in that room. They usually put you in there if you've fought with other kids, tried to run away, or made a dirty remark to one of the female teachers.

Other punishments are taking away your home vacation time. You can also be deprived of food for twenty-four hours. But if you're in the isolator, you can go without food for much longer.

¹⁹⁷

¹⁹⁷ CRP interview with Boyan, confined in Slavovitza Labor Education School, from Stara Zagora, April 21, 1996.

Peter, the boy to whom Boyan referred above, recounted further abuses including confinement in the “isolator”:

That school should be closed down. I will do anything not to have to go back there. They torture me there. Right before Christmas, the director told me that he wasn't going to let me go home for winter home leave. I told him I'd run away if he didn't let me go home for Christmas. For that, he took me to his office and beat me there with a metal pole, about three feet long and about four inches thick. An educator and the deputy director were in his office too. The educator grabbed my head and hit it against the metal pole. The deputy headmaster hit me with a wooden bat. I was so afraid, I wanted to kill myself. After that I ran away, and stayed home for two weeks. But then I got scared that I might be sent to prison, so I went back to Slavovitza on my own.

When I got back they punished me for running away. They put me in the isolator. I had to stay in my underwear there for many days. It was very cold and I was freezing. There's nothing in that room, not even a bed. They let me out to go to the bathroom, and sometimes they'd bring me a half-slice of bread and some bad cheese to eat, or a soup. The food at the school is really bad.¹⁹⁸

The Bulgarian Helsinki Committee inspected the “isolator” during its visit to Slavovitza and reported the following:

The isolator is located on the second floor of the hostel and contains two beds with mattresses, soaking wet with blood and urine The word isolator was written on the door with a ball-point pen. When the Deputy Director was asked the purpose of this room, he replied that “this is a storeroom for sheets. This punishment is preceded by a cold shower, after which the child is

¹⁹⁸ CRP interview with Peter, confined in Slavovitza Labor Education School, from Kazanluk, April 21, 1996.

left to lie in the room. The main offense for which the punishment is imposed is attempted escape.¹⁹⁹

Children are reportedly held in the “isolator” for ten days for attempting to run away or complain (through letters) about abuses committed against them in the school. Children said they were also victims of frequent beatings by the Director and Deputy Director of the school, and by drunken guards. They displayed physical marks of beatings: “one of them showed his knocked out front teeth, another had marks from blows with a stick on his back, a third had scars on his legs.”²⁰⁰

¹⁹⁹ “Labor Education Schools and the Rights of Juveniles in Bulgaria,” p. 14.

²⁰⁰ *Ibid.*

Bulgarian authorities have acknowledged that problems exist in the schools. The Central Commission reported that in Rila, Slavovitza, Bulgarovo, and Gabrovtsi Labor Education Schools beatings, haircutting, sexual abuse, temporary deprivation of food, and heavy labor had occurred. The Central Commission highlighted Slavovitza and Rila for the most heavy beatings, and Bulgarovo (for retarded girls) for sexual abuse of the girls.²⁰¹ In its Initial Report to the Committee on the Rights of the Child, the Bulgarian government acknowledged that Labor Education Schools suffer from an “insufficient number of qualified staff (very few of whom have university diplomas in relevant fields of education)” and “the frequent abuse of power and mistreatment of inmates by the staff.”²⁰² Little, however, is being done to rectify the situation.

Grievance Procedures

The Beijing Rules require that, upon admission to a detention facility, all children be given a copy of the institution’s governing rules and a written description of their rights and obligations so that children may understand, among other aspects of their confinement, the disciplinary requirements and procedures of the institution, and the mechanisms by which they can raise complaints to competent authorities (Rules 24-25). The Beijing Rules further guarantee that children should be able to make uncensored complaints to the director, central administration, or any other proper authorities, and to be informed of the response without delay (Rules 75-76).

Human Rights Watch found that children are often uninformed of their rights and that complaint procedures, if in place, are ineffective in assuring that children receive prompt redress of their grievances. As described above, children are often disciplined on the spot by teachers, or by the Director of the school. The

²⁰¹ “An Inside View of Labor Education Schools.”

²⁰² Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 59, para. 248.

internal Regulations for Labor Education Schools do not contain any clear guidelines on the procedures by which children may be subject to disciplinary action or the procedures for children to make complaints. Teachers at Rakitovo Labor Education School told us that generally, if children have a complaint to make about another student, they discuss it directly with their teachers, and if children have complaints about staff members, they can complain directly to the Director.²⁰³

²⁰³ CRP interview with Dimitar Epitropov and colleague, Rakitovo Labor Education School, April 28, 1996.

In practice, however, Human Rights Watch concludes that children's attempts to complain are ineffectual. One boy from Slavovitza told us, "I don't know about any rules of this school. There's no way to complain to anyone. Sometimes kids will complain to teachers, but they don't do anything. All the kids are afraid of Director Boev."²⁰⁴ Another boy from Slavovitza told us, "when I first entered Slavovitza, one of the older boys made a pass at me in the shower. I complained to the director about it, but he just laughed and didn't do anything."²⁰⁵ Even in Podem Labor Education School, where conditions appear to be better than in other Labor Education Schools, an eighteen-year-old girl told us, "[c]omplaining here is like a voice in the desert."²⁰⁶

Further, we learned that children at Slavovitza are severely punished for attempting to speak out about what goes on at the school to outsiders. A student from Slavovitza told us that:

Once the Ministry of Education came to inspect the school. The staff told them so many lies. In February, a young woman came [from the Bulgarian Helsinki Committee] with a camera man.

²⁰⁴ CRP interview with Boyan, confined in Slavovitza Labor Education School, from Stara Zagora, April 21, 1996.

²⁰⁵ CRP interview with Peter, confined in Slavovitza Labor Education School, from Kazanluk, April 21, 1996.

²⁰⁶ CRP interview with Sylvia, confined in Podem Labor Education School, from Gabrovo, April 27, 1996.

Before she came, the educators told us that we should not say anything bad about the director or else he would be fired. When she came, me and some of the boys talked to her. After she left, we were beaten by the educators and locked in the isolator. My back was blue from that beating.²⁰⁷

Children who are caught attempting to send letters of complaint to outsiders are confined in the "isolator" for ten days, according to the Bulgarian Helsinki Committee. A young Slavovitza boy, who was beaten by teachers so severely that he had to be sent to the hospital for treatment of head injuries, was warned by school staff not to discuss the reason for his injuries with doctors or else he would never be able to leave the Labor Education School.²⁰⁸

²⁰⁷ CRP interview with Peter, confined in Slavovitza Labor Education School, from Kazanluk, April 21, 1996.

²⁰⁸ "Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 14.

The Central Commission reported that despite the numerous gross abuses against children in Labor Education Schools, there have been few cases where disciplinary measures were taken against staff members. The Central Commission cited examples of disciplinary action taken at Bulgarovo and Slavovitza where several staff members were dismissed for misconduct and cruel treatment of the children.²⁰⁹ Notwithstanding the dismissals, however, the Bulgarian Helsinki Committee reported that the dismissed staff members have instituted proceedings for their reinstatement "due to procedural inaccuracies."²¹⁰

Education and Vocational Training

U.N. Rules 38 to 46 detail the parameters of the right to education, vocational training, and work for children deprived of their liberty. Children of compulsory school age have the right to education which should be "designed to prepare him or her for return to society" (Rule 38). Compulsory school age in Bulgaria is sixteen. Children have the right to receive vocational training in occupations likely to prepare them for future employment (Rule 42), and those who work should receive equitable remuneration (Rule 46) for their labor. The Beijing Rules state that the objectives of institutional treatment of children are to provide education and vocational skills "with a view to assisting them to assume socially constructive and productive roles in society" (Rule 26.1) and "with a view to ensuring that they do not leave the institution at an educational disadvantage" (Rule 26.6).

Article 32 of the Juvenile Delinquency Act addresses the subject of education for children confined in Labor Education Schools. Children shall be provided with basic education, and vocational education also shall be provided for children who have completed the eighth grade (Article 32(1)). Graduates of Labor Education Schools shall receive the same diplomas as children from regular schools (Article 32(3)), and children should be paid for work performed (Article 33(1)).

²⁰⁹ "An Inside View of Labor Education Schools."

²¹⁰"Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 10.

Children interviewed by Human Rights Watch stated that their classes are in regular subjects such as math, history, geography, etc. According to Nikola Kovachki, the Director of Rila Labor Education School, "classes are the same as in normal schools" and children "study according to a syllabus approved by the Ministry of Education."²¹¹ Children receive regular diplomas upon completion of their education which are the same as diplomas received by children in regular Bulgarian schools. Children also receive vocational licenses if they have completed a vocational course of training.

In practice, children in Labor Education School attend regular classes in the morning, followed by a lunch break. The afternoons are usually spent in either further classes, free time, or vocational training. Children in higher grades have more hours of vocational training than lower grades. The Juvenile Delinquency Act provides for vocational training of children who have completed the eighth grade (Article 32(1)). In practice, we found that children from the fifth grade and up perform vocational work. In Labor Education Schools which go up to the eighth grade, children reported that they perform between eight and twelve hours of labor training per week, depending on the particular school and grade level. At Podem Labor Education School, which goes up to the eleventh grade (the senior grade in the Bulgarian education system), a senior girl told us that she and other seniors perform twenty-two hours per week of labor.

²¹¹ Ibid., p. 17.

Human Rights Watch is unable to comment on the quality of the regular education received by children in Labor Education Schools, but concludes that the vocational training received is inadequate in preparing children for employment outside of the school. A small fifteen-year-old boy from Slavovitza told us, "they make us work very hard at the school. We have to lift very heavy bags of sand, bricks, and construction materials. That is our vocational training."²¹² We interviewed children from four Labor Education Schools on the type of work which they must perform: at Yagoda, boys make wire mesh fencing; at Rakitovo, boys make metal door frames and window frames; at Slavovitza, boys make bricks for use in road curbs; and at Podem, girls sew sheets and pillow cases. Most of the products are reported to be sold to the public.

²¹² CRP interview with Peter, confined in Slavovitza Labor Education School, from Kazanluk, April 21, 1996.

Although girls at Podem reported that they are paid a small amount for their labor, a boy from Slavovitza reported receiving no payment: "I've been here for about six months. I've never been paid anything for the work even though every week four truckloads of bricks are taken away for sale."²¹³ Boys at Slavovitza told the Bulgarian Helsinki Committee that they are made to work every morning in the attached school farm, where livestock is raised, for which they receive no payment.²¹⁴ Teachers at Rakitovo informed us that children there receive between two to three thousand leva per year for their work, but that the money is held in care of the educators at the school to prevent the children from spending the money frivolously. The director of Dinevo Labor Education School reported that boys there are paid between 150 and 500 leva per month for their "work experience," wire net making and carpentry.²¹⁵

Children leave Labor Education Schools ill prepared to assume socially constructive and productive roles in society, let alone with the ability to support themselves. "What are their chances when they get out of here? They have difficulty adapting to the outside world. They are left without a job. Before 1989, the [pedagogic office] inspectors were obliged to find work for [Labor Education School] graduates. Now they are no longer obliged to do so and the kids are mostly left out in the streets," stated Nikola Kovachki, the Director of Rila Labor Education School.²¹⁶ Ilka Grigorova, of Children at Risk, a Bulgarian NGO, expressed similar concerns: "labor education schools are not for labor training and not for education. They are prisons. The kids are trained in crafts. They don't receive any skills that are practically marketable, and are not prepared to meet the challenges of living in the outside world."²¹⁷ Ilka Grigorova expressed particular concern over the future of girls, who she stated often fall into prostitution as a means of support. Upon release from a Labor Education School at age eighteen, boys usually join the Bulgarian army and perform compulsory military service. Her comments were underscored by the comments of children we interviewed. When questioned about

²¹³ CRP interview with Boyan, confined in Slavovitza Labor Education School, from Stara Zagora, April 21, 1996.

²¹⁴ "Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 14.

²¹⁵ *Ibid.*, p. 19.

²¹⁶ *Ibid.*, p. 18.

²¹⁷ CRP interview with Ilka Grigorova, Children at Risk, Sofia, April 17, 1996.

her aspirations upon release, a fifteen-year-old girl from Yagoda Labor Education School stated, "I'll do whatever I can, anything except prostitution."²¹⁸

Malena Filipova, of the Chief Prosecutor's Office, expressed similar concerns in a published interview:

²¹⁸ CRP interview with Ralitzka, confined in Yagoda Labor Education School, from Shumen, April 21, 1996.

[i]n their present appearance [Labor Education Schools] are no place for reeducation. We isolate children in them, society gets rid of them. But, in fact, we place them in conditions in which their rights are violated in a drastic way. They become embittered. And I declare quite responsibly that a person cannot possible be reeducated if his intellectual and physical development is stunted and his dignity degraded.²¹⁹

Human Rights Watch concludes that the process of “reeducation” in Labor Education Schools is often deeply harmful to the child’s overall personal development, and does little to prepare the child for life upon release.

Duration of Confinement

The U.N. Rules provides that children may be deprived of their liberty only as a means of last resort and for the minimum necessary period, the length of which should be determined by a judicial authority (Article 2). Children confined in Labor Education Schools, however, are not even given the fundamental right to know when they are to be released from the facility at the time of their admission. The Juvenile Delinquency Act provides no indication of the maximum permissible period of confinement other than that “juveniles shall stay at the [Labor Education School] for the purposes of being reformed and trained vocationally until the age of 18. They may stay also until the age of 19 as necessary for completing their education or acquiring professional qualifications.”²²⁰ In practice, it was widely

²¹⁹ Interview with Malena Filipova, *Demokratiya*, January 31, 1995, reprinted in “Labor Education Schools and the Rights of Juveniles in Bulgaria,” p. 26.

²²⁰ Juvenile Delinquency Act, Art. 31(1), as translated by SOFITA.

reported to Human Rights Watch that three years is the maximum permissible period of confinement in a Labor Education School, although we were unable to ascertain the legal source of this limitation.²²¹ Thus, children may be confined in a Labor Education School for three years, or up to the age of eighteen, whichever occurs first. Children also may voluntarily stay on for more than three years for the purposes of completing their education.

²²¹ It may come from the Regulation for the Application of the National Education Act which, according to the Initial Report of Bulgaria to the Committee on the Rights of the Child, provides that “children may be placed at boarding schools for juvenile delinquents for no more than three years.” Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 32, para. 150.

Earlier releases may be recommended by the Assembly of Teachers of the Labor Education School with the participation of the Public Prosecutor's Office and the Local Commission concerned.²²² At the end of each academic year the Assembly of Teachers decides whether to terminate or extend confinement, based on the child's performance in school and upon the advice of the regional prosecutor. Opinions of the parents and of the Pedagogic Office Inspector may also be considered.²²³ The Local Commission responsible for placing the child in the Labor Education School can also recommend an earlier release, subject to the approval of the Assembly of Teachers.²²⁴ However, Local Commission members told us that the behavior of children placed in Labor Education Schools often does

²²² Juvenile Delinquency Act, Art. 31(2), as translated by SOFITA.

²²³ Regulations for Labor Education Schools, Art. 14, as translated by Nikolai Gughinski.

²²⁴ Juvenile Delinquency Act, Art. 31(3), as translated by SOFITA; Regulations for Labor Education Schools, Reg. 14(2), as translated by Nikolai Gughinski; CRP interview with Denitsa Grozeva, Bulgarian Helsinki Committee researcher, Sofia, April 20, 1996.

not improve but instead worsens, for which they recommend further confinement at year's end.²²⁵

Children consistently told us that they were never informed by the Pedagogic Office Inspectors or Local Commissions how long they would have to stay in Labor Education Schools. Two girls from Yagoda told us that most students stay there for three years. They viewed earlier release as an exception rather than the norm.²²⁶ Teachers from Rakitovo told us that at Rakitovo, two years is considered an "appropriate" period of confinement for most children.²²⁷ The Deputy Director of Slavovitza, stated that children are kept "for as long as possible, until they get back on the right track" and that most children stay there until they reach majority age.²²⁸

Human Rights Watch did interview two students from Podem and Rakitovo Labor Education Schools who willingly chose to stay on at their respective schools after being recommended for release. To their schools' credit, the children chose to voluntarily extend their stay in order to complete their education. Thus it appears that some children do find Labor Education Schools preferable to their home environment, and voluntarily choose to extend their stay there, perhaps

²²⁵ Interview with Studenska Local Commission members.

²²⁶ CRP interview with Ralitzia, confined in Yagoda Labor Education School, from Shumen, April 21, 1996; CRP interview with Yuliana, confined in Yagoda Labor Education School, from Plovdiv, April 21, 1996.

²²⁷ CRP interview with Dimitar Epitropov and colleague, Rakitovo Labor Education School, April 28, 1996.

²²⁸ "Labor Education Schools and the Rights of Juveniles in Bulgaria," p. 13.

reflecting more on the quality of life for these children outside the schools, rather than on life within.

4. PRISONS

Human Rights Watch planned to visit the only two penal institutions where children are held in Bulgaria: Boychinovtsi prison (for boys), and Sliven prison (for women and girls). Unfortunately, we were able to visit only Sliven prison, where one girl was held at the time of our visit on April 22, 1996. On April 23, 1996, two days before our scheduled visit to Boychinovtsi, we were informed that Malena Filipova, of the Chief Prosecutor's Office of the Republic of Bulgaria, had issued an order banning our visit despite the fact that we had already secured permission to visit the prison from Zdravko Traikov, Chief of the Prison Administration. Human Rights Watch expresses deep concern over the lack of openness and cooperation demonstrated by governmental authorities towards our attempt to monitor conditions in both prisons and Labor Education Schools in Bulgaria.

Because of the denial of access to Boychinovtsi, Human Rights Watch is unable to comment fully on the conditions and treatment of children confined in prisons in Bulgaria. We would like to comment, however, on the use of pretrial detention of children accused of criminal offenses.

According to a press conference held on March 29, 1996 by Peter Petrov, the Chief of Boychinovtsi prison, 156 boys were held in Boychinovtsi at the time of the press conference.²²⁹ Out of that number, twenty-six were convicted, seventy-eight were on trial, and fifty-two were under criminal investigation. Thus, out of 156 boys held there, only twenty-six were actually convicted; the rest were in some form of pre-trial detention. As stated earlier (in the section on police abuse of street children in detention), children may be formally arrested and held in investigation detention centers, under the administration of the National Investigation Service. However, because conditions in investigation detention centers are often worse than in prisons, children are sometimes transferred to prisons (by order of the prosecutor or investigator) pending investigation and/or trial of the case.²³⁰ Margarita Petrova,

²²⁹ According to Peter Petrov, Boychinovtsi was established in 1956 and has a maximum capacity of between three to four hundred boys. Thus, overcrowding does not appear to be a problem. Peter Petrov stated that fifty-eight boys were Roma, thirty-five were Turks, and sixty-one were ethnic Bulgarians.

²³⁰ Interview with Malena Filipova.

the Chief of Sliven prison, told us that pre-trial detention in prison can be ordered even before an indictment is made against the child.²³¹

The U.N. Rules require that “[d]etention before trial shall be avoided to the extent possible and limited to exceptional circumstances When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention” (Rule 17). According to Chief Petrov, forty-three out of the fifty-two boys under investigation detention in Boychinovtsi had been in prison for over six months.²³² He stated that many boys in Boychinovtsi had been detained beyond the permissible limits of the Code of Criminal Procedure.

When a criminal investigation is opened against any person, there is a two-month limit to the period of investigation, according to article 22(f) of the Bulgarian Code of Criminal Procedure. The investigation may be extended beyond two months by a higher level prosecutor, and up to nine months by the Chief Prosecutor's Office.²³³ The durational limits on investigation, however, are known to be widely disregarded in practice. Daniela Dokovska, of the Bulgarian Lawyers for Human Rights, and Malena Filipova, of the Chief Prosecutor's Office of the Republic of Bulgaria, told us that the limits on the investigation period are often

²³¹ CRP interview with Margarita Petrova, Chief of Sliven women's prison, Sliven, April 22, 1996.

²³² Press conference of Peter Petrov, Chief of Boychinovtsi juvenile prison, Sofia, March 29, 1996.

²³³ CRP interview with Daniela Dokovska, Bulgarian Lawyers for Human Rights, Sofia, April 26, 1996.

overlooked.²³⁴ Daniela Dokovska explained to us that when the investigation time period has expired, the investigator closes the investigation and sends the case to the prosecutor's office which then makes a determination as to whether or not to indict, to dismiss the charges, or to order further investigation. If further investigation is ordered, the time period starts running anew, and may continue in this fashion repeatedly. The accused can appeal the legality of his or her detention to the prosecutor's office. In this manner, children can be held in pretrial for an indefinite period of time.

In contravention of international law, pretrial detainees are also reportedly held with convicted juveniles. According to the Bulgarian Helsinki Committee, which conducted an inspection of Boychinovtsi in 1995, boys under investigation only were kept in separate rooms from the rest of the boys in the prison. However, boys who were "in trial," but not yet convicted, were kept with convicted boys. This practice contravenes international standards, as set forth in the U.N. Rules, which require that "[u]ntried detainees should be separated from convicted juveniles" (Rule 17).

²³⁴ Ibid.; Interview with Malena Filipova.

At Sliven prison, Human Rights Watch found both commingling of children with convicted prisoners and with adults. The situation in Sliven, however, was highly unusual. At the time of our visit, there was only one girl held there, who had been in pretrial detention in the prison for six weeks.²³⁵ She had her own room

²³⁵ CRP interview with Hristina, Sliven women's prison, April 22, 1996. When questioned about conditions in the prison and treatment by staff, Hristina had no complaints about staff or the other inmates with whom she said she got along fine. She complained of the poor quality of the food in the prison. We interviewed her in her room, which contained three beds and had a window overlooking the central yard of the prison. There was a television and a radio in the room. The television had been put in there by the prison administration, and the radio was her own. Human Rights Watch was alarmed to learn that she had been locked in her room for the first two weeks of her confinement. She was allowed to leave it only three times a day to use the toilet. She was told that because she was a juvenile, she could not be formally admitted to the prison until two weeks had passed. After two weeks passed, she had a meeting with the chief of the prison and was formally admitted. Since then her room has been unlocked, and she can walk the corridor and visit other women, and use the bathroom whenever she likes, but she cannot leave her floor. She spends her mornings sewing jackets with the other women to be sold to the public. Her

on a floor with incoming adult women prisoners with whom she worked and took her meals. The prison used to have a separate wing for girls, but because of the declining number of girl inmates, the separate children's wing has been inoperative in recent years.²³⁶ Girls are now kept in the same section of the prison as incoming adult women prisoners, but sleep in separate rooms. According to Margarita Petrova, the chief of the prison, rules are overlooked and pretrial girl detainees are kept with convicted girls for companionship, in the interest of their social well being. "Last year we had two girls here. One was a pretrial detainee and the other had been convicted. We kept them together for their psychological comfort," said Ms. Petrova.

Pretrial detention of children should be avoided wherever possible, and should be ordered only under exceptional circumstances. Where children are held in pretrial detention, they should always be separated from adults and from convicted juveniles.

afternoons are spent in her room by herself. Upon request, she is allowed to go outside and walk in the open air for one hour a day in the company of a guard. Hristina told us that her first meeting with the prosecutor would take place on May 3, two weeks after our visit with her. She said her parents had hired an attorney for her in Sofia, several hours away by car, but she had not met with him yet.

²³⁶ Instead, upon inspection of the prison grounds, Human Rights Watch found men prisoners in what used to be the girls' wing.

5. CONCLUSION

Human Rights Watch concludes that children in Bulgaria are deprived of their basic rights by police, who often physically abuse and mistreat children under their custody, and who fail to protect children from skinheads, who frequently violently attack Roma street children. Physical abuse of children in police lock-ups, particularly during interrogations, was found to be commonplace. Children are often deprived of their liberty without due process. They are held in police lock-ups often beyond the periods permissible under law and without review of the legality of their detention by a judicial authority. When children are referred to Local Commissions for Combating Juvenile Delinquency, they may be confined in Labor Education Schools (where they are subjected to gross abuses) without a hearing. Where hearings are held, they are inquisition-like in form and do not allow children a fair opportunity to present their case. Children sometimes appear alone, without parents, and never with legal representation. There is no right of appeal and the term of confinement is undetermined at the time of placement. Where children are formally arrested and detained they may be held in prisons for indefinite periods of time, pending investigation and trial, and are commingled with convicted juveniles.

The Council of Ministers (which heads the implementation of Bulgaria's domestic and foreign policy) has drafted a decree for the opening of shelters for street children in larger cities in Bulgaria,²³⁷ but no attention has been given to the rising problem of violence against street children. Proposals have been raised at the National Assembly (the Bulgarian parliament) for reform of the Juvenile Delinquency Act by among others, the Chief Prosecutors' Office.²³⁸ Proposals have been made to reform the current system to create a separate juvenile court system,²³⁹ or to subject the decisions of Local Commissions to judicial review. To our knowledge, the National Assembly has not yet considered the issue of much needed widesweeping reform of the juvenile justice system.

²³⁷ Initial Report of Bulgaria to the Committee on the Rights of the Child, p. 32, para. 149.

²³⁸ Interview with Malena Filipova.

²³⁹ A proposal was made to the Council of Ministers to amend the Juvenile Delinquency Act and to create "special children's courts" to which the law-dispensing functions of Local Commissions would be transferred, and to limit Local Commissions to social and educational functions. *See* Initial Report of Bulgaria to the Committee on the Rights of the Child, pp. 53-54, para. 242.

APPENDIX

CONVENTION ON THE RIGHTS OF THE CHILD

G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989).

PREAMBLE

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children, '

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the

submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of

frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counseling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection

as any other child permanently or temporarily deprived of his or her family environment for any reason , as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every

child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment;
- (b) Provide for appropriate regulation of the hours and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offenses committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavor to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defense;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counseling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offense.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party; or

(b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any

reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into

force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favor a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favor such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.

**U.N. STANDARD MINIMUM RULES FOR
THE ADMINISTRATION OF JUVENILE JUSTICE**

G.A. res. 40/33, annex, 40 U.N. GAOR Supp. (No. 53) at 207, U.N. Doc. A/40/53 (1985) ("Beijing Rules").

PART ONE

GENERAL PRINCIPLES

1. Fundamental perspectives

1.1 Member States shall seek, in conformity with their respective general interests, to further the well-being of the juvenile and her or his family.

1.2 Member States shall endeavor to develop conditions that will ensure for the juvenile a meaningful life in the community, which, during that period in life when she or he is most susceptible to deviant behavior, will foster a process of personal development and education that is as free from crime and delinquency as possible.

1.3 Sufficient attention shall be given to positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other community institutions, for the purpose of promoting the well-being of the juvenile, with a view to reducing the need for intervention under the law, and of effectively, fairly and humanely dealing with the juvenile in conflict with the law.

1.4 Juvenile justice shall be conceived as an integral part of the national development process of each country, within a comprehensive framework of social justice for all juveniles, thus, at the same time, contributing to the protection of the young and the maintenance of a peaceful order in society.

1.5 These Rules shall be implemented in the context of economic, social and cultural conditions prevailing in each Member State.

1.6 Juvenile justice services shall be systematically developed and coordinated with a view to improving and sustaining the competence of personnel involved in the services, including their methods, approaches and attitudes.

Commentary

These broad fundamental perspectives refer to comprehensive social policy in general and aim at promoting juvenile welfare to the greatest possible extent, which will minimize the necessity of intervention by the juvenile justice system, and in turn, will reduce the harm that may be caused by any intervention. Such care measures for the young, before the onset of delinquency, are basic policy requisites designed to obviate the need for the application of the Rules.

Rules 1.1 to 1.3 point to the important role that a constructive social policy for juveniles will play, *inter alia*, in the prevention of juvenile crime and delinquency. Rule 1.4 defines juvenile justice as an integral part of social justice for juveniles, while rule 1.6 refers to the necessity of constantly improving juvenile justice, without falling behind the development of progressive social policy for juveniles in general and bearing in mind the need for consistent improvement of staff services.

Rule 1.5 seeks to take account of existing conditions in Member States which would cause the manner of implementation of particular rules necessarily to be different from the manner adopted in other States.

2. Scope of the Rules and definitions used

2.1 The following Standard Minimum Rules shall be applied to juvenile offenders impartially, without distinction of any kind, for example as to race, color, sex, language, religion, political or other opinions, national or social origin, property, birth or other status.

2.2 For purposes of these Rules, the following definitions shall be applied by Member States in a manner which is compatible with their respective legal systems and concepts:

(a) A juvenile is a child or young person who, under the respective legal systems, may be dealt with for an offense in a manner which is different from an adult;

(b) An offense is any behavior (act or omission) that is punishable by law under the respective legal system

(c) A juvenile offender is a child or young person who is alleged to have committed or who has been found to have committed an offense.

2.3 Efforts shall be made to establish, in each national jurisdiction, a set of laws, rules and provisions specifically applicable to juvenile offenders and institutions and bodies entrusted with the functions of the administration of juvenile justice and designed:

- (a) To meet the varying needs of juvenile offenders, while protecting their basic rights;
- (b) To meet the needs of society;
- (c) To implement the following rules thoroughly and fairly.

Commentary

The Standard Minimum Rules are deliberately formulated so as to be applicable within different legal systems and, at the same time, to set some minimum standards for the handling of juvenile offenders under any definition of a juvenile and under any system of dealing with juvenile offenders. The Rules are always to be applied impartially and without distinction of any kind.

Rule 2.1 therefore stresses the importance of the Rules always being applied impartially and without distinction of any kind. The rule follows the formulation of principle 2 of the Declaration of the Rights of the Child.

Rule 2.2 defines "juvenile" and "offense" as the components of the notion of the "juvenile offender", who is the main subject of these Standard Minimum Rules (see, however, also rules 3 and 4). It should be noted that age limits will depend on, and are explicitly made dependent on, each respective legal system, thus fully respecting the economic, social, political, cultural and legal systems of Member States. This makes for a wide variety of ages coming under the definition of "juvenile", ranging from 7 years to 18 years or above. Such a variety seems inevitable in view of the different national legal systems and does not diminish the impact of these Standard Minimum Rules.

Rule 2.3 is addressed to the necessity of specific national legislation for the optimal implementation of these Standard Minimum Rules, both legally and practically.

3. Extension of the Rules

3.1 The relevant provisions of the Rules shall be applied not only to juvenile offenders but also to juveniles who may be proceeded against for any specific behavior that would not be punishable if committed by an adult.

3.2 Efforts shall be made to extend the principles embodied in the Rules to all juveniles who are dealt with in welfare and care proceedings.

3.3 Efforts shall also be made to extend the principles embodied in the Rules to young adult offenders.

Commentary

Rule 3 extends the protection afforded by the Standard Minimum Rules for the Administration of Juvenile Justice to cover:

(a) The so-called "status offenses" prescribed in various national legal systems where the range of behavior considered to be an offense is wider for juveniles than it is for adults (for example, truancy, school and family disobedience, public drunkenness, etc.) (rule 3.1);

(b) Juvenile welfare and care proceedings (rule 3.2);

(c) Proceedings dealing with young adult offenders, depending of course on each given age limit (rule 3.3).

The extension of the Rules to cover these three areas seems to be justified. Rule 3.1 provides minimum guarantees in those fields, and rule 3.2 is considered a desirable step in the direction of more fair, equitable and humane justice for all juveniles in conflict with the law.

4. Age of criminal responsibility

4.1 In those legal systems recognizing the concept of the age of criminal responsibility for juveniles, the beginning of that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity.

Commentary

The minimum age of criminal responsibility differs widely owing to history and culture. The modern approach would be to consider whether a child can live up to the moral and psychological components of criminal responsibility; that is, whether a child, by virtue of her or his individual discernment and understanding, can be held responsible for essentially antisocial behaviour. If the age of criminal responsibility is fixed too low or if there is no lower age limit at all, the notion of responsibility would become meaningless. In general, there is a close relationship between the notion of responsibility for delinquent or criminal behavior and other social rights and responsibilities (such as marital status, civil majority, etc.).

Efforts should therefore be made to agree on a reasonable lowest age limit that is applicable internationally.

5. Aims of juvenile justice

5.1 The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offense.

Commentary

Rule 5 refers to two of the most important objectives of juvenile justice. The first objective is the promotion of the well-being of the juvenile. This is the main focus of those legal systems in which juvenile offenders are dealt with by family courts or administrative authorities, but the well-being of the juvenile should also be emphasized in legal systems that follow the criminal court model, thus contributing to the avoidance of merely punitive sanctions. (See also rule 14.)

The second objective is "the principle of proportionality". This principle is well-known as an instrument for curbing punitive sanctions, mostly expressed in terms of just deserts in relation to the gravity of the offense. The response to young offenders should be based on the consideration not only of the gravity of the offense but also of personal circumstances. The individual circumstances of the offender (for example social status, family situation, the harm caused by the offense or other factors affecting personal circumstances) should influence the proportionality of the reactions (for example by having regard to the offender's endeavor to indemnify the victim or to her or his willingness to turn to wholesome and useful life).

By the same token, reactions aiming to ensure the welfare of the young offender may go beyond necessity and therefore infringe upon the fundamental rights of the young individual, as has been observed in some juvenile justice systems. Here, too, the proportionality of the reaction to the circumstances of both the offender and the offense, including the victim, should be safeguarded.

In essence, rule S calls for no less and no more than a fair reaction in any given cases of juvenile delinquency and crime. The issues combined in the rule may help to stimulate development in both regards: new and innovative types of reactions are as desirable as precautions against any undue widening of the net of formal social control over juveniles.

6. Scope of discretion

6.1 In view of the varying special needs of juveniles as well as the variety of measures available, appropriate scope for discretion shall be allowed at all stages of proceedings and at the different levels of juvenile justice administration, including investigation, prosecution, adjudication and the follow-up of dispositions.

6.2 Efforts shall be made, however, to ensure sufficient accountability at all stages and levels in the exercise of any such discretion.

6.3 Those who exercise discretion shall be specially qualified or trained to exercise it judiciously and in accordance with their functions and mandates.

Commentary

Rules 6.1, 6.2 and 6.3 combine several important features of effective, fair and humane juvenile justice administration: the need to permit the exercise of discretionary power at all significant levels of processing so that those who make determinations can take the actions deemed to be most appropriate in each individual case; and the need to provide checks and balances in order to curb any abuses of discretionary power and to safeguard the rights of the young offender. Accountability and professionalism are instruments best apt to curb broad discretion. Thus, professional qualifications and expert training are emphasized here as a valuable means of ensuring the judicious exercise of discretion in matters of juvenile offenders. (See also rules 1.6 and 2.2.) The formulation of specific guidelines on the exercise of discretion and the provision of systems of review, appeal and the like in order to permit scrutiny of decisions and accountability are

emphasized in this context. Such mechanisms are not specified here, as they do not easily lend themselves to incorporation into international standard minimum rules, which cannot possibly cover all differences in justice systems.

7. Rights of juveniles

7.1 Basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority shall be guaranteed at all stages of proceedings.

Commentary

Rule 7.1 emphasizes some important points that represent essential elements for a fair and just trial and that are internationally recognized in existing human rights instruments. (See also rule 14.) The presumption of innocence, for instance, is also to be found in article 11 of the Universal Declaration of Human rights and in article 14, paragraph 2, of the International Covenant on Civil and Political Rights. Rules 14 seq. of these Standard Minimum Rules specify issues that are important for proceedings in juvenile cases, in particular, while rule 7.1 affirms the most basic procedural safeguards in a general way.

8. Protection of privacy

8.1 The juvenile's right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labeling.

8.2 In principle, no information that may lead to the identification of a juvenile offender shall be published.

Commentary

Rule 8 stresses the importance of the protection of the juvenile's right to privacy. Young persons are particularly susceptible to stigmatization. Criminological research into labeling processes has provided evidence of the detrimental effects (of different kinds) resulting from the permanent identification of young persons as "delinquent" or "criminal".

Rule 8 stresses the importance of protecting the juvenile from the adverse effects that may result from the publication in the mass media of information about the case (for example the names of young offenders, alleged or convicted). The interest of the individual should be protected and upheld, at least in principle. (The general contents of rule 8 are further specified in rule 2 1.)

9. Saving clause

9.1 Nothing in these Rules shall be interpreted as precluding the application of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations and other human rights instruments and standards recognized by the international community that relate to the care and protection of the young.

Commentary

Rule 9 is meant to avoid any misunderstanding in interpreting and implementing the present Rules in conformity with principles contained in relevant existing or emerging international human rights instruments and standards-such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and the Declaration of the Rights of the Child and the draft convention on the rights of the child. It should be understood that the application of the present Rules is without prejudice to any such international instruments which may contain provisions of wider application. (See also rule 27.)

PART TWO

INVESTIGATION AND PROSECUTION

10. Initial contact

10.1 Upon the apprehension of a juvenile, her or his parents or guardian shall be immediately notified of such apprehension, and, where such immediate notification is not possible, the parents or guardian shall be notified within the shortest possible time thereafter.

10.2 A judge or other competent official or body shall, without delay, consider the issue of release.

10.3 Contacts between the law enforcement agencies and a juvenile offender shall be managed in such a way as to respect the legal status of the juvenile, promote the well-being of the juvenile and avoid harm to her or him, with due regard to the circumstances of the case.

Commentary

Rule 10.1 is in principle contained in rule 92 of the Standard Minimum Rules for the Treatment of Prisoners.

The question of release (rule 10.2) shall be considered without delay by a judge or other competent official. The latter refers to any person or institution in the broadest sense of the term, including community boards or police authorities having power to release an arrested person. (See also the International Covenant on Civil and Political Rights, article 9, paragraph 3.)

Rule 10.3 deals with some fundamental aspects of the procedures and behavior on the part of the police and other law enforcement officials in cases of juvenile crime. To "avoid harm" admittedly is flexible wording and covers many features of possible interaction (for example the use of harsh language, physical violence or exposure to the environment). Involvement in juvenile justice processes in itself can be "harmful" to juveniles; the term "avoid harm" should be broadly interpreted, therefore, as doing the least harm possible to the juvenile in the first instance, as well as any additional or undue harm. This is especially important in the initial contact with law enforcement agencies, which might profoundly influence the juvenile's attitude towards the State and society. Moreover, the success of any further intervention is largely dependent on such initial contacts. Compassion and kind firmness are important in these situations.

11. Diversion

11.1 Consideration shall be given, wherever appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority, referred to in rule 14.1 below.

11.2 The police, the prosecution or other agencies dealing with juvenile cases shall be empowered to dispose of such cases, at their discretion, without recourse to formal hearings, in accordance with the criteria laid down for that purpose in the

respective legal system and also in accordance with the principles contained in these Rules.

11.3 Any diversion involving referral to appropriate community or other services shall require the consent of the juvenile, or her or his parents or guardian, provided that such decision to refer a case shall be subject to review by a competent authority, upon application.

11.4 In order to facilitate the discretionary disposition of juvenile cases, efforts shall be made to provide for community programmes, such as temporary supervision and guidance, restitution, and compensation of victims.

Commentary

Diversion, involving removal from criminal justice processing and, frequently, redirection to community support services, is commonly practiced on a formal and informal basis in many legal systems. This practice serves to hinder the negative effects of subsequent proceedings in juvenile justice administration (for example the stigma of conviction and sentence). In many cases, non-intervention would be the best response. Thus, diversion at the outset and without referral to alternative (social) services may be the optimal response. This is especially the case where the offense is of a non-serious nature and where the family, the school or other informal social control institutions have already reacted, or are likely to react, in an appropriate and constructive manner.

As stated in rule 11.2, diversion may be used at any point of decision-making-by the police, the prosecution or other agencies such as the courts, tribunals, boards or councils. It may be exercised by one authority or several or all authorities, according to the rules and policies of the respective systems and in line with the present Rules. It need not necessarily be limited to petty cases, thus rendering diversion an important instrument.

Rule 11.3 stresses the important requirement of securing the consent of the young offender (or the parent or guardian) to the recommended diversionary measure(s). (Diversion to community service without such consent would contradict the Abolition of Forced Labor Convention.) However, this consent should not be left unchallengeable, since it might sometimes be given out of sheer desperation on the

part of the juvenile. The rule underlines that care should be taken to minimize the potential for coercion and intimidation at all levels in the diversion process. Juveniles should not feel pressured (for example in order to avoid court appearance) or be pressured into consenting to diversion programmes. Thus, it is advocated that provision should be made for an objective appraisal of the appropriateness of dispositions involving young offenders by a "competent authority upon application". (The "competent authority," may be different from that referred to in rule 14.)

Rule 11.4 recommends the provision of viable alternatives to juvenile justice processing in the form of community-based diversion. Programmes that involve settlement by victim restitution and those that seek to avoid future conflict with the law through temporary supervision and guidance are especially commended. The merits of individual cases would make diversion appropriate, even when more serious offenses have been committed (for example first offense, the act having been committed under peer pressure, etc.).

12. Specialization within the police

12.1 In order to best fulfil their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained. In large cities, special police units should be established for that purpose.

Commentary

Rule 12 draws attention to the need for specialized training for all law enforcement officials who are involved in the administration of juvenile justice. As police are the first point of contact with the juvenile justice system, it is most important that they act in an informed and appropriate manner.

While the relationship between urbanization and crime is clearly complex, an increase in juvenile crime has been associated with the growth of large cities, particularly with rapid and unplanned growth. Specialized police units would therefore be indispensable, not only in the interest of implementing specific principles contained in the present instrument (such as rule 1.6) but more generally for improving the prevention and control of juvenile crime and the handling of juvenile offenders.

13. Detention pending trial

13.1 Detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time.

13.2 Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home.

13.3 Juveniles under detention pending trial shall be entitled to all rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.

13.4 Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

13.5 While in custody, juveniles shall receive care, protection and all necessary individual assistance-social, educational, vocational, psychological, medical and physical-that they may require in view of their age, sex and personality.

Commentary

The danger to juveniles of "criminal contamination" while in detention pending trial must not be underestimated. It is therefore important to stress the need for alternative measures. By doing so, rule 13.1 encourages the devising of new and innovative measures to avoid such detention in the interest of the well-being of the juvenile. Juveniles under detention pending trial are entitled to all the rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners as well as the International Covenant on Civil and Political Rights, especially article 9 and article 10, paragraphs 2 (b) and 3.

Rule 13.4 does not prevent States from taking other measures against the negative influences of adult offenders which are at least as effective as the measures mentioned in the rule.

Different forms of assistance that may become necessary have been enumerated to draw attention to the broad range of particular needs of young detainees to be

addressed (for example females or males, drug addicts, alcoholics, mentally ill juveniles, young persons suffering from the trauma, for example, of arrest, etc.).

Varying physical and psychological characteristics of young detainees may warrant classification measures by which some are kept separate while in detention pending trial, thus contributing to the avoidance of victimization and rendering more appropriate assistance.

The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in its resolution 4 on juvenile justice standards, specified that the Rules, *inter alia*, should reflect the basic principle that pre-trial detention should be used only as a last resort, that no minors should be held in a facility where they are vulnerable to the negative influences of adult detainees and that account should always be taken of the needs particular to their stage of development.

PART THREE

ADJUDICATION AND DISPOSITION

14. Competent authority to adjudicate

14.1 Where the case of a juvenile offender has not been diverted (under rule 11), she or he shall be dealt with by the competent authority (court, tribunal, board, council, etc.) according to the principles of a fair and just trial.

14.2 The proceedings shall be conducive to the best interests of the juvenile and shall be conducted in an atmosphere of understanding, which shall allow the juvenile to participate therein and to express herself or himself freely.

Commentary

It is difficult to formulate a definition of the competent body or person that would universally describe an adjudicating authority. "Competent authority" is meant to include those who preside over courts or tribunals (composed of a single judge or of several members), including professional and lay magistrates as well as administrative boards (for example the Scottish and Scandinavian systems) or other more informal community and conflict resolution agencies of an adjudicatory nature. The procedure for dealing with juvenile offenders shall in any case follow the minimum standards that are applied almost universally for any criminal defendant under the procedure known as "due process of law". In accordance with due process, a "fair and just trial" includes such basic safeguards as the presumption of innocence, the presentation and examination of witnesses, the common legal defenses, the right to remain silent, the right to have the last word in a hearing, the right to appeal, etc. (See also rule 7.1.)

15. Legal counsel, parents and guardians

15.1 Throughout the proceedings the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country.

15.2 The parents or the guardian shall be entitled to participate in the proceedings and may be required by the competent authority to attend them in the interest of the juvenile. They may, however, be denied participation by the competent authority if

there are reasons to assume that such exclusion is necessary in the interest of the juvenile.

Commentary

Rule 15.1 uses terminology similar to that found in rule 93 of the Standard Minimum Rules for the Treatment of Prisoners. Whereas legal counsel and free legal aid are needed to assure the juvenile legal assistance, the right of the parents or guardian to participate as stated in rule 15.2 should be viewed as general psychological and emotional assistance to the juvenile—a function extending throughout the procedure.

The competent authority's search for an adequate disposition of the case may profit, in particular, from the co-operation of the legal representatives of the juvenile (or, for that matter, some other personal assistant who the juvenile can and does really trust). Such concern can be thwarted if the presence of parents or guardians at the hearings plays a negative role, for instance, if they display a hostile attitude towards the juvenile, hence, the possibility of their exclusion must be provided for.

16. Social inquiry reports

16.1 In all cases except those involving minor offenses, before the competent authority renders a final disposition prior to sentencing, the background and circumstances in which the juvenile is living or the conditions under which the offense has been committed shall be properly investigated so as to facilitate judicious adjudication of the case by the competent authority.

Commentary

Social inquiry reports (social reports or pre-sentence reports) are an indispensable aid in most legal proceedings involving juveniles. The competent authority should be informed of relevant facts about the juvenile, such as social and family background, school career, educational experiences, etc. For this purpose, some jurisdictions use special social services or personnel attached to the court or board. Other personnel, including probation officers, may serve the same function. The rule therefore requires that adequate social services should be available to deliver social inquiry reports of a qualified nature.

17. Guiding principles in adjudication and disposition

17.1 The disposition of the competent authority shall be guided by the following principles:

(a) The reaction taken shall always be in proportion not only to the circumstances and the gravity of the offense but also to the circumstances and the needs of the juvenile as well as to the needs of the society;

(b) Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum;

(c) Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offenses and unless there is no other appropriate response;

(d) The well-being of the juvenile shall be the guiding factor in the consideration of her or his case. 17.2 Capital punishment shall not be imposed for any crime committed by juveniles.

17.3 Juveniles shall not be subject to corporal punishment.

17.4 The competent authority shall have the power to discontinue the proceedings at any time.

Commentary

The main difficulty in formulating guidelines for the adjudication of young persons stems from the fact that there are unresolved conflicts of a philosophical nature, such as the following:

(a) Rehabilitation versus just desert;

(b) Assistance versus repression and punishment;

(c) Reaction according to the singular merits of an individual case versus reaction according to the protection of society in general;

(d) General deterrence versus individual incapacitation.

The conflict between these approaches is more pronounced in juvenile cases than in adult cases. With the variety of causes and reactions characterizing juvenile cases, these alternatives become intricately interwoven.

It is not the function of the Standard Minimum Rules for the Administration of Juvenile Justice to prescribe which approach is to be followed but rather to identify one that is most closely in consonance with internationally accepted principles. Therefore the essential elements as laid down in rule 17.1 , in particular in subparagraphs (a) and (c), are mainly to be understood as practical guidelines that should ensure a common starting point; if heeded by the concerned authorities (see also rule 5), they could contribute considerably to ensuring that the fundamental rights of juvenile offenders are protected, especially the fundamental rights of personal development and education.

Rule 17.1 (b) implies that strictly punitive approaches are not appropriate. Whereas in adult cases, and possibly also in cases of severe offenses by juveniles, just desert and retributive sanctions might be considered to have some merit, in juvenile cases such considerations should always be outweighed by the interest of safeguarding the well-being and the future of the young person.

In line with resolution 8 of the Sixth United Nations Congress, rule 17.1 (b) encourages the use of alternatives to institutionalization to the maximum extent possible, bearing in mind the need to respond to the specific requirements of the young. Thus, full use should be made of the range of existing alternative sanctions and new alternative sanctions should be developed, bearing the public safety in mind. Probation should be granted to the greatest possible extent via suspended sentences, conditional sentences, board orders and other dispositions.

Rule 17.1(c) corresponds to one of the guiding principles in resolution 4 of the Sixth Congress which aims at avoiding incarceration in the case of juveniles unless there is no other appropriate response that will protect the public safety.

The provision prohibiting capital punishment in rule 17.2 is in accordance with article 6, paragraph 5, of the International Covenant on Civil and Political Rights.

The provision against corporal punishment is in line with article 7 of the International Covenant on Civil and Political Rights and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the draft convention on the rights of the child.

The power to discontinue the proceedings at any time (rule 17.4) is a characteristic inherent in the handling of juvenile offenders as opposed to adults. At any time, circumstances may become known to the competent authority which would make a complete cessation of the intervention appear to be the best disposition of the case.

18. Various disposition measures

18.1 A large variety of disposition measures shall be made available to the competent authority, allowing for flexibility so as to avoid institutionalization to the greatest extent possible. Such measures, some of which may be combined, include:

- (a) Care, guidance and supervision orders;
- (b) Probation;
- (c) Community service orders;
- (d) Financial penalties, compensation and restitution;
- (e) Intermediate treatment and other treatment orders;
- (f) Orders to participate in group counseling and similar activities;
- (g) Orders concerning foster care, living communities or other educational settings;
- (h) Other relevant orders.

18.2 No juvenile shall be removed from parental supervision, whether partly or entirely, unless the circumstances of her or his case make this necessary.

Commentary

Rule 18.1 attempts to enumerate some of the important reactions and sanctions that have been practiced and proved successful thus far, in different legal systems. On the whole they represent promising opinions that deserve replication and further development. The rule does not enumerate staffing requirements because of

possible shortages of adequate staff in some regions; in those regions measures requiring less staff may be tried or developed.

The examples given in rule 18.1 have in common, above all, a reliance on and an appeal to the community for the effective implementation of alternative dispositions. Community-based correction is a traditional measure that has taken on many aspects. On that basis, relevant authorities should be encouraged to offer community-based services.

Rule 18.2 points to the importance of the family which, according to article 10, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, is "the natural and fundamental group unit of society". Within the family, the parents have not only the right but also the responsibility to care for and supervise their children. Rule 18.2, therefore, requires that the separation of children from their parents is a measure of last resort. It may be resorted to only when the facts of the case clearly warrant this grave step (for example child abuse).

19. Least possible use of institutionalization

19.1 The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.

Commentary

Progressive criminology advocates the use of non-institutional over institutional treatment. Little or no difference has been found in terms of the success of institutionalization as compared to non-institutionalization. The many adverse influences on an individual that seem unavoidable within any institutional setting evidently cannot be outbalanced by treatment efforts. This is especially the case for juveniles, who are vulnerable to negative influences. Moreover, the negative effects, not only of loss of liberty but also of separation from the usual social environment, are certainly more acute for juveniles than for adults because of their early stage of development.

Rule 19 aims at restricting institutionalization in two regards: in quantity ("last resort,") and in time ("minimum necessary period"). Rule 19 reflects one of the basic guiding principles of resolution 4 of the Sixth United Nations Congress: a juvenile offender should not be incarcerated unless there is no other appropriate response. The rule, therefore, makes the appeal that if a juvenile must be

institutionalized, the loss of liberty should be restricted to the least possible degree, with special institutional arrangements for confinement and bearing in mind the differences in kinds of offenders, offenses and institutions. In fact, priority should be given to "open" over "closed" institutions. Furthermore, any facility should be of a correctional or educational rather than of a prison type.

20. Avoidance of unnecessary delay

20.1 Each case shall from the outset be handled expeditiously, without any unnecessary delay.

Commentary

The speedy conduct of formal procedures in juvenile cases is a paramount concern. Otherwise whatever good may be achieved by the procedure and the disposition is at risk. As time passes, the juvenile will find it increasingly difficult, if not impossible, to relate the procedure and disposition to the offense, both intellectually and psychologically.

21. Records

21.1 Records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand or other duly authorized persons.

21.2 Records of juvenile offenders shall not be used in adult proceedings in subsequent cases involving the same offender.

Commentary

The rule attempts to achieve a balance between conflicting interests connected with records or files: those of the police, prosecution and other authorities in improving control versus the interests of the juvenile offender. (See also rule 8.) "Other duly authorized persons" would generally include among others, researchers.

22. Need for professionalism and training

22.1 Professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilized to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases.

22.2 Juvenile justice personnel shall reflect the diversity of juveniles who come into contact with the juvenile justice system. Efforts shall be made to ensure the fair representation of women and minorities in juvenile justice agencies.

Commentary

The authorities competent for disposition may be persons with very different backgrounds (magistrates in the United Kingdom of Great Britain and Northern Ireland and in regions influenced by the common law system; legally trained judges in countries using Roman law and in regions influenced by them; and elsewhere elected or appointed laymen or jurists, members of community-based boards, etc.). For all these authorities, a minimum training in law, sociology, psychology, criminology and behavioral sciences would be required. This is considered as important as the organizational specialization and independence of the competent authority.

For social workers and probation officers, it might not be feasible to require professional specialization as a prerequisite for taking over any function dealing with juvenile offenders. Thus, professional on-the job instruction would be minimum qualifications.

Professional qualifications are an essential element in ensuring the impartial and effective administration of juvenile justice. Accordingly, it is necessary to improve the recruitment, advancement and professional training of personnel and to provide them with the necessary means to enable them to properly fulfil their functions.

All political, social, sexual, racial, religious, cultural or any other kind of discrimination in the selection, appointment and advancement of juvenile justice personnel should be avoided in order to achieve impartiality in the administration of juvenile justice. This was recommended by the Sixth Congress. Furthermore, the Sixth Congress called on Member States to ensure the fair and equal treatment of women as criminal justice personnel and recommended that special measures

should be taken to recruit, train and facilitate the advancement of female personnel in juvenile justice administration.

PART FOUR

NON-INSTITUTIONAL TREATMENT

23. Effective implementation of disposition

23.1 Appropriate provisions shall be made for the implementation of orders of the competent authority, as referred to in rule 14.1 above, by that authority itself or by some other authority as circumstances may require

23.2 Such provisions shall include the power to modify the orders as the competent authority may deem necessary from time to time, provided that such modification shall be determined in accordance with the principles contained in these Rules.

Commentary

Disposition in juvenile cases, more so than in adult cases, tends to influence the offender's life for a long period of time. Thus, it is important that the competent authority or an independent body (parole board, probation office, youth welfare institutions or others) with qualifications equal to those of the competent authority that originally disposed of the case should monitor the implementation of the disposition. In some countries, a *juge de l'execution des peines* has been installed for this purpose.

The composition, powers and functions of the authority must be flexible; they are described in general terms in rule 23 in order to ensure wide acceptability.

24. Provision of needed assistance

24.1 Efforts shall be made to provide juveniles, at all stages of the proceedings, with necessary assistance such as lodging, education or vocational training, employment or any other assistance, helpful and practical, in order to facilitate the rehabilitative process.

Commentary

The promotion of the well-being of the juvenile is of paramount consideration. Thus, rule 24 emphasizes the importance of providing requisite facilities, services and other necessary assistance as may further the best interests of the juvenile throughout the rehabilitative process.

25. Mobilization of volunteers and other community services

25.1 Volunteers, voluntary organizations, local institutions and other community resources shall be called upon to contribute effectively to the rehabilitation of the juvenile in a community setting and, as far as possible, within the family unit.

Commentary

This rule reflects the need for a rehabilitative orientation of all work with juvenile offenders. Co-operation with the community is indispensable if the directives of the competent authority are to be carried out effectively. Volunteers and voluntary services, in particular, have proved to be valuable resources but are at present underutilized. In some instances, the co-operation of ex-offenders (including ex-addicts) can be of considerable assistance.

Rule 25 emanates from the principles laid down in rules 1.1 to 1.6 and follows the relevant provisions of the International Covenant on Civil and Political Rights.

PART FIVE

INSTITUTIONAL TREATMENT

26. Objectives of institutional treatment

26.1 The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.

26.2 Juveniles in institutions shall receive care, protection and all necessary assistance-social, educational, vocational, psychological, medical and physical-that they may require because of their age, sex, and personality and in the interest of their wholesome development .

26.3 Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

26.4 Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured.

26.5 In the interest and well-being of the institutionalized juvenile, the parents or guardians shall have a right of access.

26.6 Inter-ministerial and inter-departmental co-operation shall be fostered for the purpose of providing adequate academic or, as appropriate, vocational training to institutionalized juveniles, with a view to ensuring that they do not leave the institution at an educational disadvantage.

Commentary

The objectives of institutional treatment as stipulated in rules

26.1 and 26.2 would be acceptable to any system and culture. However, they have not yet been attained everywhere, and much more has to be done in this respect.

Medical and psychological assistance, in particular, are extremely important for institutionalized drug addicts, violent and mentally ill young persons.

The avoidance of negative influences through adult offenders and the safeguarding of the well-being of juveniles in an institutional setting, as stipulated in rule 26.3, are in line with one of the basic guiding principles of the Rules, as set out by the Sixth Congress in its resolution 4. The rule does not prevent States from taking other measures against the negative influences of adult offenders, which are at least as effective as the measures mentioned in the rule. (See also rule 13.4)

Rule 26.4 addresses the fact that female offenders normally receive less attention than their male counterparts, as pointed out by the Sixth Congress. In particular, resolution 9 of the Sixth Congress calls for the fair treatment of female offenders at every stage of criminal justice processes and for special attention to their particular problems and needs while in custody. Moreover, this rule should also be considered

in the light of the Caracas Declaration of the Sixth Congress, which, *inter alia*, calls for equal treatment in criminal justice administration, and against the background of the Declaration on the Elimination of Discrimination against Women and the Convention on the Elimination of All Forms of Discrimination against Women.

The right of access (rule 26.5) follows from the provisions of rules 7.1, 10.1, 15.2 and 18.2. Inter-ministerial and inter-departmental co-operation (rule 26.6) are of particular importance in the interest of generally enhancing the quality of institutional treatment and training.

27. Application of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations

27.1 The Standard Minimum Rules for the Treatment of Prisoners and related recommendations shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication.

27.2 Efforts shall be made to implement the relevant principles laid down in the Standard Minimum Rules for the Treatment of Prisoners to the largest possible extent so as to meet the varying needs of juveniles specific to their age, sex and personality.

Commentary

The Standard Minimum Rules for the Treatment of Prisoners were among the first instruments of this kind to be promulgated by the United Nations. It is generally agreed that they have had a world-wide impact. Although there are still countries where implementation is more an aspiration than a fact, those Standard Minimum Rules continue to be an important influence in the humane and equitable administration of correctional institutions.

Some essential protections covering juvenile offenders in institutions are contained in the Standard Minimum Rules for the Treatment of Prisoners (accommodation, architecture, bedding, clothing, complaints and requests, contact with the outside world, food, medical care, religious service, separation of ages, staffing, work, etc.) as are provisions concerning punishment and discipline, and restraint for dangerous offenders. It would not be appropriate to modify those Standard Minimum Rules according to the particular characteristics of institutions for juvenile offenders

within the scope of the Standard Minimum Rules for the Administration of Juvenile Justice.

Rule 27 focuses on the necessary requirements for juveniles in institutions (rule 27.1) as well as on the varying needs specific to their age, sex and personality (rule 27.2). Thus, the objectives and content of the rule interrelate to the relevant provisions of the Standard Minimum Rules for the Treatment of Prisoners.

28. Frequent and early recourse to conditional release

28.1 Conditional release from an institution shall be used by the appropriate authority to the greatest possible extent, and shall be granted at the earliest possible time.

28.2 Juveniles released conditionally from an institution shall be assisted and supervised by an appropriate authority and shall receive full support by the community.

Commentary

The power to order conditional release may rest with the competent authority, as mentioned in rule 14.1 or with some other authority. In view of this, it is adequate to refer here to the "appropriate," rather than to the "competent" authority.

Circumstances permitting, conditional release shall be preferred to serving a full sentence. Upon evidence of satisfactory progress towards rehabilitation, even offenders who had been deemed dangerous at the time of their institutionalization can be conditionally released whenever feasible. Like probation, such release may be conditional on the satisfactory fulfilment of the requirements specified by the relevant authorities for a period of time established in the decision, for example relating to "good behavior" of the offender, attendance in community programmes, residence in half-way houses, etc.

In the case of offenders conditionally released from an institution, assistance and supervision by a probation or other officer (particularly where probation has not yet been adopted) should be provided and community support should be encouraged.

29. Semi-institutional arrangements

29.1 Efforts shall be made to provide semi-institutional arrangements, such as half-way houses, educational homes, day-time training centers and other such appropriate arrangements that may assist juveniles in their proper reintegration into society.

Commentary

The importance of care following a period of institutionalization should not be underestimated. This rule emphasizes the necessity of forming a net of semi-institutional arrangements.

This rule also emphasizes the need for a diverse range of facilities and services designed to meet the different needs of young offenders re-entering the community and to provide guidance and structural support as an important step towards successful reintegration into society.

PART SIX

RESEARCH, PLANNING, POLICY FORMULATION AND EVALUATION

30. Research as a basis for planning, policy formulation and evaluation

30.1 Efforts shall be made to organize and promote necessary research as a basis for effective planning and policy formulation.

30.2 Efforts shall be made to review and appraise periodically the trends, problems and causes of juvenile delinquency and crime as well as the varying particular needs of juveniles in custody.

30.3 Efforts shall be made to establish a regular evaluative research mechanism built into the system of juvenile justice administration and to collect and analyze relevant data and information for appropriate assessment and future improvement and reform of the administration.

30.4 The delivery of services in juvenile justice administration shall be systematically planned and implemented as an integral part of national development efforts.

Commentary

The utilization of research as a basis for an informed juvenile justice policy is widely acknowledged as an important mechanism for keeping practices abreast of advances in knowledge and the continuing development and improvement of the juvenile justice system. The mutual feedback between research and policy is especially important in juvenile justice. With rapid and often drastic changes in the life-styles of the young and in the forms and dimensions of juvenile crime, the societal and justice responses to juvenile crime and delinquency quickly become outmoded and inadequate.

Rule 30 thus establishes standards for integrating research into the process of policy formulation and application in juvenile justice administration. The rule draws particular attention to the need for regular review and evaluation of existing programmes and measures and for planning within the broader context of overall development objectives.

A constant appraisal of the needs of juveniles, as well as the trends and problems of delinquency, is a prerequisite for improving the methods of formulating appropriate policies and establishing adequate interventions, at both formal and informal levels. In this context, research by independent persons and bodies should be facilitated by responsible agencies, and it may be valuable to obtain and to take into account the views of juveniles themselves, not only those who come into contact with the system.

The process of planning must particularly emphasize a more effective and equitable system for the delivery of necessary services. Towards that end, there should be a comprehensive and regular assessment of the wide-ranging, particular needs and problems of juveniles and an identification of clear-cut priorities. In that connection, there should also be a co-ordination in the use of existing resources,

including alternatives and community support that would be suitable in setting up specific procedures designed to implement and monitor established programmes.

**U.N. RULES FOR THE PROTECTION OF
JUVENILES DEPRIVED OF THEIR LIBERTY**

G.A. res. 45/113, annex, 45 U.N. GAOR Supp. (No. 49A) at 205, U.N. Doc. A/45/49 (1990) ("U.N. Rules").

I. FUNDAMENTAL PERSPECTIVES

1. The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.

2. Juveniles should only be deprived of their liberty in accordance with the principles and procedures set forth in these Rules and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. The length of the sanction should be determined by the judicial authority, without precluding the possibility of his or her early release.

3. The Rules are intended to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in all forms, consistent with human rights and fundamental freedoms, and with a view to counteracting the detrimental effects of all types of detention and to fostering integration in society.

4. The Rules should be applied impartially, without discrimination of any kind as to race, color, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability. The religious and cultural beliefs, practices and moral concepts of the juvenile should be respected.

5. The Rules are designed to serve as convenient standards of reference and to provide encouragement and guidance to professionals involved in the management of the juvenile justice system.

6. The Rules should be made readily available to juvenile justice personnel in their national languages. Juveniles who are not fluent in the language spoken by the

personnel of the detention facility should have the right to the services of an interpreter free of charge whenever necessary, in particular during medical examinations and disciplinary proceedings.

7. Where appropriate, States should incorporate the Rules into their legislation or amend it accordingly and provide effective remedies for their breach, including compensation when injuries are inflicted on juveniles. States should also monitor the application of the Rules.

8. The competent authorities should constantly seek to increase the awareness of the public that the care of detained juveniles and preparation for their return to society is a social service of great importance, and to this end active steps should be taken to foster open contacts between the juveniles and the local community.

9. Nothing in the Rules should be interpreted as precluding the application of the relevant United Nations and human rights instruments and standards, recognized by the international community, that are more conducive to ensuring the rights, care and protection of juveniles, children and all young persons.

10. In the event that the practical application of particular Rules contained in sections II to V, inclusive, presents any conflict with the Rules contained in the present section, compliance with the latter shall be regarded as the predominant requirement.

II. SCOPE AND APPLICATION OF THE RULES

11. For the purposes of the Rules, the following definitions should apply:

(a) A juvenile is every person under the age of 18. The age limit below which it should not be permitted to deprive a child of his or her liberty should be determined by law;

(b) The deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority.

12. The deprivation of liberty should be effected in conditions and circumstances which ensure respect for the human rights of juveniles. Juveniles detained in

facilities should be guaranteed the benefit of meaningful activities and programmes which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.

13. Juveniles deprived of their liberty shall not for any reason related to their status be denied the civil, economic, political, social or cultural rights to which they are entitled under national or international law, and which are compatible with the deprivation of liberty.

14. The protection of the individual rights of juveniles with special regard to the legality of the execution of the detention measures shall be ensured by the competent authority, while the objectives of social integration should be secured by regular inspections and other means of control carried out, according to international standards, national laws and regulations, by a duly constituted body authorized to visit the juveniles and not belonging to the detention facility.

15. The Rules apply to all types and forms of detention facilities in which juveniles are deprived of their liberty. Sections I, II, IV and V of the Rules apply to all detention facilities and institutional settings in which juveniles are detained, and section III applies specifically to juveniles under arrest or awaiting trial.

16. The Rules shall be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

III. JUVENILES UNDER ARREST OR AWAITING TRIAL

17. Juveniles who are detained under arrest or awaiting trial ("untried") are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore, all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.

18. The conditions under which an untried juvenile is detained should be consistent with the rules set out below, with additional specific provisions as are necessary and appropriate, given the requirements of the presumption of innocence, the duration

of the detention and the legal status and circumstances of the juvenile. These provisions would include, but not necessarily be restricted to, the following:

(a) Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available, and to communicate regularly with their legal advisers. Privacy and confidentiality shall be ensured for such communications;

(b) Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so. Work, education or training should not cause the continuation of the detention;

(c) Juveniles should receive and retain materials for their leisure and recreation as are compatible with the interests of the administration of justice.

IV. THE MANAGEMENT OF JUVENILE FACILITIES

A. Records

19. All reports, including legal records, medical records and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment, should be placed in a confidential individual file, which should be kept up to date, accessible only to authorized persons and classified in such a way as to be easily understood. Where possible, every juvenile should have the right to contest any fact or opinion contained in his or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, there should be procedures that allow an appropriate third party to have access to and to consult the file on request. Upon release, the records of juveniles shall be sealed, and, at an appropriate time, expunged.

20. No juvenile should be received in any detention facility without a valid commitment order of a judicial, administrative or other public authority. The details of this order should be immediately entered in the register. No juvenile should be detained in any facility where there is no such register.

B. Admission, registration, movement and transfer

21. In every place where juveniles are detained, a complete and secure record of the following information should be kept concerning each juvenile received:

- (a) Information on the identity of the juvenile;
- (b) The fact of and reasons for commitment and the authority therefor;
- (c) The day and hour of admission, transfer and release;
- (d) Details of the notifications to parents and guardians on every admission, transfer or release of the juvenile in their care at the time of commitment;
- (e) Details of known physical and mental health problems, including drug and alcohol abuse.

22. The information on admission, place, transfer and release should be provided without delay to the parents and guardians or closest relative of the juvenile concerned.

23. As soon as possible after reception, full reports and relevant information on the personal situation and circumstances of each juvenile should be drawn up and submitted to the administration.

24. On admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints, as well as the address of public or private agencies and organizations which provide legal assistance. For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension.

25. All juveniles should be helped to understand the regulations governing the internal organization of the facility, the goals and methodology of the care provided, the disciplinary requirements and procedures, other authorized methods of seeking information and of making complaints and all such other matters as are necessary to enable them to understand fully their rights and obligations during detention.

26. The transport of juveniles should be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that should in no way subject them to hardship or indignity. Juveniles should not be transferred from one facility to another arbitrarily.

C. Classification and placement

27. As soon as possible after the moment of admission, each juvenile should be interviewed, and a psychological and social report identifying any factors relevant to the specific type and level of care and programme required by the juvenile should be prepared. This report, together with the report prepared by a medical officer who has examined the juvenile upon admission, should be forwarded to the director for purposes of determining the most appropriate placement for the juvenile within the facility and the specific type and level of care and programme required and to be pursued. When special rehabilitative treatment is required, and the length of stay in the facility permits, trained personnel of the facility should prepare a written, individualized treatment plan specifying treatment objectives and time-frame and the means, stages and delays with which the objectives should be approached.

28. The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offense, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.

29. In all detention facilities juveniles should be separated from adults, unless they are members of the same family. Under controlled conditions, juveniles may be brought together with carefully selected adults as part of a special programme that has been shown to be beneficial for the juveniles concerned.

30. Open detention facilities for juveniles should be established. Open detention facilities are those with no or minimal security measures. The population in such detention facilities should be as small as possible. The number of juveniles detained in closed facilities should be small enough to enable individualized treatment. Detention facilities for juveniles should be decentralized and of such size as to facilitate access and contact between the juveniles and their families. Small-scale detention facilities should be established and integrated into the social, economic and cultural environment of the community.

D. Physical environment and accommodation

31. Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

32. The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the juvenile for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities. The design and structure of juvenile detention facilities should be such as to minimize the risk of fire and to ensure safe evacuation from the premises. There should be an effective alarm system in case of fire, as well as formal and drilled procedures to ensure the safety of the juveniles. Detention facilities should not be located in areas where there are known health or other hazards or risks.

33. Sleeping accommodation should normally consist of small group dormitories or individual bedrooms, while bearing in mind local standards. During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas, including individual rooms and group dormitories, in order to ensure the protection of each juvenile. Every juvenile should, in accordance with local or national standards, be provided with separate and sufficient bedding, which should be clean when issued, kept in good order and changed often enough to ensure cleanliness.

34. Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy and in a clean and decent manner.

35. The possession of personal effects is a basic element of the right to privacy and essential to the psychological well-being of the juvenile. The right of every juvenile to possess personal effects and to have adequate storage facilities for them should be fully recognized and respected. Personal effects that the juvenile does not choose to retain or that are confiscated should be placed in safe custody. An inventory thereof should be signed by the juvenile. Steps should be taken to keep them in good condition. All such articles and money should be returned to the juvenile on release, except in so far as he or she has been authorized to spend money or send such property out of the facility. If a juvenile receives or is found in possession of any medicine, the medical officer should decide what use should be made of it.

36. To the extent possible juveniles should have the right to use their own clothing. Detention facilities should ensure that each juvenile has personal clothing suitable for the climate and adequate to ensure good health, and which should in no manner be degrading or humiliating. Juveniles removed from or leaving a facility for any purpose should be allowed to wear their own clothing.

37. Every detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every juvenile at any time.

E. Education, vocational training and work

38. Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.

39. Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.

40. Diplomas or educational certificates awarded to juveniles while in detention should not indicate in any way that the juvenile has been institutionalized.

41. Every detention facility should provide access to a library that is adequately stocked with both instructional and recreational books and periodicals suitable for the juveniles, who should be encouraged and enabled to make full use of it.

42. Every juvenile should have the right to receive vocational training in occupations likely to prepare him or her for future employment.

43. With due regard to proper vocational selection and to the requirements of institutional administration, juveniles should be able to choose the type of work they wish to perform.

44. All protective national and international standards applicable to child labor and young workers should apply to juveniles deprived of their liberty.

45. Wherever possible, juveniles should be provided with the opportunity to perform remunerated labor, if possible within the local community, as a complement to the vocational training provided in order to enhance the possibility of finding suitable employment when they return to their communities. The type of work should be such as to provide appropriate training that will be of benefit to the juveniles following release. The organization and methods of work offered in detention facilities should resemble as closely as possible those of similar work in the community, so as to prepare juveniles for the conditions of normal occupational life.

46. Every juvenile who performs work should have the right to an equitable remuneration. The interests of the juveniles and of their vocational training should not be subordinated to the purpose of making a profit for the detention facility or a third party. Part of the earnings of a juvenile should normally be set aside to constitute a savings fund to be handed over to the juvenile on release. The juvenile should have the right to use the remainder of those earnings to purchase articles for his or her own use or to indemnify the victim injured by his or her offense or to send it to his or her family or other persons outside the detention facility.

F. Recreation

47. Every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities. Every juvenile should have additional time for daily leisure activities, part of which should be devoted, if the juvenile so wishes, to arts and crafts skill development. The detention facility should ensure that each juvenile is physically able to participate in the available programmes of physical education. Remedial physical education and therapy should be offered, under medical supervision, to juveniles needing it.

G. Religion

48. Every juvenile should be allowed to satisfy the needs of his or her religious and spiritual life, in particular by attending the services or meetings provided in the detention facility or by conducting his or her own services and having possession of the necessary books or items of religious observance and instruction of his or her

denomination. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request. Every juvenile should have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and freely to decline religious education, counseling or indoctrination.

H. Medical care

49. Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care, as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facility is located, in order to prevent stigmatization of the juvenile and promote self-respect and integration into the community.

50. Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention.

51. The medical services provided to juveniles should seek to detect and should treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society. Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer.

52. Any medical officer who has reason to believe that the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention should report this fact immediately to the director of the detention facility in question and to the independent authority responsible for safeguarding the well-being of the juvenile.

53. A juvenile who is suffering from mental illness should be treated in a specialized institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release.

54. Juvenile detention facilities should adopt specialized drug abuse prevention and rehabilitation programmes administered by qualified personnel. These programmes should be adapted to the age, sex and other requirements of the juveniles concerned, and detoxification facilities and services staffed by trained personnel should be available to drug- or alcohol-dependent juveniles.

55. Medicines should be administered only for necessary treatment on medical grounds and, when possible, after having obtained the informed consent of the juvenile concerned. In particular, they must not be administered with a view to eliciting information or a confession, as a punishment or as a means of restraint. Juveniles shall never be testers in the experimental use of drugs and treatment. The administration of any drug should always be authorized and carried out by qualified medical personnel.

I. Notification of illness, injury and death

56. The family or guardian of a juvenile and any other person designated by the juvenile have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than 48 hours. Notification should also be given to the consular authorities of the State of which a foreign juvenile is a citizen.

57. Upon the death of a juvenile during the period of deprivation of liberty, the nearest relative should have the right to inspect the death certificate, see the body and determine the method of disposal of the body. Upon the death of a juvenile in detention, there should be an independent inquiry into the causes of death, the report of which should be made accessible to the nearest relative. This inquiry should also be made when the death of a juvenile occurs within six months from the date of his or her release from the detention facility and there is reason to believe that the death is related to the period of detention.

58. A juvenile should be informed at the earliest possible time of the death, serious illness or injury of any immediate family member and should be provided with the opportunity to attend the funeral of the deceased or go to the bedside of a critically ill relative.

J. Contacts with the wider community

59. Every means should be provided to ensure that juveniles have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential to the preparation of juveniles for their return to society. Juveniles should be allowed to communicate with their families, friends and other persons or representatives of reputable outside organizations, to leave detention facilities for a visit to their home and family and to receive special permission to leave the detention facility for educational, vocational or other important reasons. Should the juvenile be serving a sentence, the time spent outside a detention facility should be counted as part of the period of sentence.

60. Every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defense counsel.

61. Every juvenile should have the right to communicate in writing or by telephone at least twice a week with the person of his or her choice, unless legally restricted, and should be assisted as necessary in order effectively to enjoy this right. Every juvenile should have the right to receive correspondence.

62. Juveniles should have the opportunity to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, through access to radio and television programmes and motion pictures, and through the visits of the representatives of any lawful club or organization in which the juvenile is interested.

K. Limitations of physical restraint and the use of force

63. Recourse to instruments of restraint and to force for any purpose should be prohibited, except as set forth in rule 64 below.

64. Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority.

65. The carrying and use of weapons by personnel should be prohibited in any facility where juveniles are detained.

L. Disciplinary procedures

66. Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life and should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person.

67. All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose. Labor should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile in preparing him or her for return to the community and should not be imposed as a disciplinary sanction. No juvenile should be sanctioned more than once for the same disciplinary infraction. Collective sanctions should be prohibited.

68. Legislation or regulations adopted by the competent administrative authority should establish norms concerning the following, taking full account of the fundamental characteristics, needs and rights of juveniles:

(a) Conduct constituting a disciplinary offense;

(b) Type and duration of disciplinary sanctions that may be inflicted;

(c) The authority competent to impose such sanctions;

(d) The authority competent to consider appeals.

69. A report of misconduct should be presented promptly to the competent authority, which should decide on it without undue delay. The competent authority should conduct a thorough examination of the case.

70. No juvenile should be disciplinarily sanctioned except in strict accordance with the terms of the law and regulations in force. No juvenile should be sanctioned unless he or she has been informed of the alleged infraction in a manner appropriate to the full understanding of the juvenile, and given a proper opportunity of presenting his or her defense, including the right of appeal to a competent impartial authority. Complete records should be kept of all disciplinary proceedings.

71. No juveniles should be responsible for disciplinary functions except in the supervision of specified social, educational or sports activities or in self-government programmes.

M. Inspection and complaints

72. Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

73. Qualified medical officers attached to the inspecting authority or the public health service should participate in the inspections, evaluating compliance with the rules concerning the physical environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of juveniles. Every juvenile should have the right to talk in confidence to any inspecting officer.

74. After completing the inspection, the inspector should be required to submit a report on the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.

75. Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorized representative.

76. Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

77. Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.

78. Every juvenile should have the right to request assistance from family members, legal counselors, humanitarian groups or others where possible, in order to make a complaint. Illiterate juveniles should be provided with assistance should they need to use the services of public or private agencies and organizations which provide legal counsel or which are competent to receive complaints.

N. Return to the community

79. All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release. Procedures, including early release, and special courses should be devised to this end.

80. Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society and to lessen prejudice against such juveniles. These services should ensure, to the extent possible, that the juvenile is provided with suitable residence, employment, clothing, and sufficient means to maintain himself or herself upon release in order to facilitate successful reintegration. The representatives of agencies providing such services should be consulted and should

have access to juveniles while detained, with a view to assisting them in their return to the community.

V. PERSONNEL

81. Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counselors, social workers, psychiatrists and psychologists. These and other specialist staff should normally be employed on a permanent basis. This should not preclude part-time or volunteer workers when the level of support and training they can provide is appropriate and beneficial. Detention facilities should make use of all remedial, educational, moral, spiritual, and other resources and forms of assistance that are appropriate and available in the community, according to the individual needs and problems of detained juveniles.

82. The administration should provide for the careful selection and recruitment of every grade and type of personnel, since the proper management of detention facilities depends on their integrity, humanity, ability and professional capacity to deal with juveniles, as well as personal suitability for the work.

83. To secure the foregoing ends, personnel should be appointed as professional officers with adequate remuneration to attract and retain suitable women and men. The personnel of juvenile detention facilities should be continually encouraged to fulfil their duties and obligations in a humane, committed, professional, fair and efficient manner, to conduct themselves at all times in such a way as to deserve and gain the respect of the juveniles, and to provide juveniles with a positive role model and perspective.

84. The administration should introduce forms of organization and management that facilitate communications between different categories of staff in each detention facility so as to enhance cooperation between the various services engaged in the care of juveniles, as well as between staff and the administration, with a view to ensuring that staff directly in contact with juveniles are able to function in conditions favorable to the efficient fulfilment of their duties.

85. The personnel should receive such training as will enable them to carry out their responsibilities effectively, in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present Rules. The personnel should maintain and improve their

knowledge and professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career.

86. The director of a facility should be adequately qualified for his or her task, with administrative ability and suitable training and experience, and should carry out his or her duties on a full-time basis.

87. In the performance of their duties, personnel of detention facilities should respect and protect the human dignity and fundamental human rights of all juveniles, in particular, as follows:

(a) No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever;

(b) All personnel should rigorously oppose and combat any act of corruption, reporting it without delay to the competent authorities;

(c) All personnel should respect the present Rules. Personnel who have reason to believe that a serious violation of the present Rules has occurred or is about to occur should report the matter to their superior authorities or organs vested with reviewing or remedial power;

(d) All personnel should ensure the full protection of the physical and mental health of juveniles, including protection from physical, sexual and emotional abuse and exploitation, and should take immediate action to secure medical attention whenever required;

(e) All personnel should respect the right of the juvenile to privacy, and, in particular, should safeguard all confidential matters concerning juveniles or their families learned as a result of their professional capacity;

(f) All personnel should seek to minimize any differences between life inside and outside the detention facility which tend to lessen due respect for the dignity of juveniles as human beings.