

# the **Howard League** for **Penal Reform**



## **Jersey review**

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A review of the Jersey youth justice system

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## **1. About the authors**

### **Lynne Ravenscroft**

Lynne Ravenscroft is a trustee of the Howard League for Penal Reform. She was a magistrate for 23 years, serving on the Council of the Magistrates' Association, where she led a campaign about children abused through prostitution. She served on the Magisterial and Equal Treatment Committees of the Judicial Studies Board, and is researching the history of juvenile justice in the UK. She now serves on the Asylum and Immigration Tribunal.

### **Jon Fayle**

Jon Fayle worked for the Youth Justice Board from 1999 to 2006 where he was head of policy for the Juvenile Secure Estate. His responsibilities included the promotion and co-ordination of measures to reduce the level of children's custody. During that period he was also responsible for the YJB publication "The Strategy for the Secure Estate for Children and Young People".

Prior to working for the YJB, Jon was a senior social services manager in a Local Authority, where he was responsible for services for young offenders, looked after children and child protection. Jon now works as a freelance consultant and is currently working on a consultancy basis as head of Children Law UK, a children's charity campaigning to promote children's rights in the court process

## 2. Introduction

### Reasons for this review

- 2.1 In August 2007, following some serious concerns about aspects of practice at Greenfield Centre, a secure children's home in Jersey, the then Minister for Health and Social Service, Senator Stuart Syvret, requested the Howard League for Penal Reform's legal opinion about the so called "Grand Prix" system. The Grand Prix system is a methodology for controlling children in custody. We offered an opinion on the basis of a policy document about the system.
- 2.2 Our view was that the system would not be "acceptable or lawful in England and Wales" and that "it is doubtful that it would be in compliance with international obligations under human rights legislation" This opinion is attached at Appendix 1.
- 2.3 Following receipt of this opinion, Senator Syvret invited the Howard League to conduct a review of the youth justice system as a whole in Jersey. The difficulties at Greenfield precipitated ministerial changes, but the new ministers confirmed their wish to have the assistance of the Howard League in this matter, and the review went ahead.
- 2.4 Later in 2007, there commenced a major child abuse investigation by the Jersey States Police. This concerned allegations about child abuse alleged to have been committed against children in the Jersey care system over past decades. This matter, of course, was entirely beyond our remit. Nevertheless the investigation formed a sombre backdrop to our enquiry, and some of our recommendations may have some relevance to it.

### Terms of reference

- 2.5 The terms of reference of the review are:

"To examine existing policies and procedures to safeguard the welfare and wellbeing of children in the penal system in Jersey and to make recommendations about how these may be improved."

We have interpreted these terms of reference as comprising two major requirements:

- a high level overview of the youth justice system as a whole with broad recommendations for improvements
- a more detailed look at arrangements for custody with particular focus on safeguarding and wellbeing

- 2.6 The kind of review we conducted has of necessity required us to ask challenging and perhaps sometimes uncomfortable questions. Notwithstanding this, we have in all our dealings with Jersey people, (including ministers, officials of various departments, staff working in custodial/residential establishments, children, young people and parents), been treated with extraordinary kindness and courtesy. For this we would like to record our gratitude.

2.7 We visited Jersey for four days on May 12th,13th and June 24th, 25th 2008. In addition, officials from Jersey kindly visited us in London on May 6th, prior to our visit, a circumstance that greatly assisted us. We have also communicated with many people through telephone and e-mail. We attach at Appendix 2, a list of all those people whom we met or have had significant communication in other ways.

### **The Howard League**

2.8 The Howard League for Penal Reform was founded in 1866 and named after John Howard, the first prison reformer in England. It has been a leading campaigner for penal reform in the United Kingdom since that time. It is entirely reliant on members' subscriptions and charitable donations, and accepts no grants or support from any government. This permits the league to be completely independent. The costs of this review were borne entirely by the Howard League.

### **Underlying Principles**

2.9 In relation to children and the criminal justice system, the authors of this report hold the following principles:

- Children are not born wicked. When they behave badly it is generally speaking because they have themselves been badly treated
- Every effort should be made to avoid criminalising children. Rather, they should be diverted from the formal criminal justice system, since criminalisation is likely to entrench their deviant behaviour.
- The best way of preventing and reducing offending by children is to meet their welfare needs, not to punish them – indeed punishment is almost always counter productive.
- Resources are best directed to prevention measures applied early in children's lives rather than punitive measures later on
- Custody for children should only be used as a last resort when the offence is extremely serious and custody is the only way to protect the public

2.10 The judgements we reach and the recommendations we make are driven by this set of principles.

## Key characteristics of Jersey

2.11 Jersey is a dependent territory of the British Crown. It has its own legislative assembly (the States) and its own legal system.

2.12 The 2001 Jersey census<sup>1</sup> tells us that on March 12<sup>th</sup> 2001

- The total population of Jersey was 87,186
- The under 18 population was 17,528
- The 15 - 17 population was 2761
- The ethnic/cultural background of the population was as shown in the table below

Background	%
Jersey	51.1
British	34.8
Portuguese/Madeiran	6.4
Irish	2.1
French	1.7
Other	3.7

2.13 Economically, Jersey is a very rich state. While there are pockets of poverty and deprivation, the average standard of living is high. In 2003, the average Gross National Income per head was £34,000<sup>2</sup>

## The Jersey Youth Justice System

2.14 We have sought to analyse the system in relation to the following features

- The overarching legal and policy framework
- General measures to promote the welfare of children
- Measures to divert children from the criminal justice system
- The probation service and the youth court
- Custody – its level and the way it currently works

2.15 We shall reach some general conclusions from this analysis, and finally make our recommendations.

2.16 At Appendix 3, we attach some key statistics in relation to the Jersey Youth Justice System.

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<sup>1</sup> Report on the 2001 census – Jersey

<sup>2</sup> [www.jersey.gov.je](http://www.jersey.gov.je)

### **3. The legal and policy framework**

- 3.1 Jersey is a dependent territory of the British Crown. It has its own legislative assembly (the States) and its own legal system.
- 3.2 The 3 pieces of legislation which are most relevant to this review are:
- i. Children (Jersey) Law, 2002
  - ii. Criminal Justice (Young Offenders) (Jersey) Law, 1994
  - iii. Human Rights (Jersey) Law, 2000
- 3.3 In 1992, Jersey commissioned a major review of its criminal justice system by Professor Andrew Rutherford.<sup>3</sup> This report has been highly influential in shaping recent criminal justice policy in Jersey, and has also assisted us greatly in understanding the criminal justice system in Jersey.
- 3.4 In 2007 the states of Jersey published a major policy document.<sup>4</sup> This important document will also be referred to in this analysis.

#### **Children (Jersey) law, 2002**

- 3.5 The Children (Jersey) Law 2002 is in many respects similar to the English Children Act 1989. In particular:
- it defines a child as a person who has not reached the age of 18
  - it holds that in any matter in the family court, the child's welfare shall be the court's paramount consideration
  - arrangements for the protection of children (Articles 35-47) are largely similar to the English 1989 Act
  - Article 22 provides that children may be held in secure accommodation for welfare rather than criminal reasons, if he/she persistently absconds, occasioning the risk of significant harm, or is likely to injure him/herself or another person in any other accommodation. This permits children to be held securely without criminalising them.

#### **Criminal justice (young offenders) (Jersey) law, 1994**

- 3.6 The Criminal Justice (Young Offenders) (Jersey) Law 1994 contains the following provisions which are particularly pertinent to our review:
- it sets the age of criminal responsibility at 10 (Article 2) We shall discuss this further in para 2.14 below
  - it stipulates that no person under the age of 15 may be sentenced to a youth detention order (Article 4 (1))
  - it sets a custody threshold which must be satisfied before a court can pass a sentence of custody. The court must be satisfied either that the young person has persistently failed to respond to non-custodial penalties or the custodial sentence is necessary to protect the public or the offence is so serious that a non-custodial sentence cannot be justified.

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<sup>3</sup> Rutherford A & Jameson a (2002) *Review of Criminal Justice policy in Jersey*

<sup>4</sup> *States of Jersey Criminal Justice policy August 2007*

- Article 5 deals with very serious offences. It stipulates that if a person under the age of 18 is convicted of murder or an offence for which the sentence is fixed by law as imprisonment for life, then the court shall sentence the person to “be detained during her Majesty’s pleasure”, that is potentially indefinitely. This option is available for a child as young as 10. However the provision is almost never used – perhaps once every 10 years.
- 3.7 This law is also significant in what it omits to stipulate. In particular, there is no reference to:
- the principle that welfare should be relevant in the youth court. Indeed welfare is not mentioned at all in the law
  - children’s rights

### **The human rights (Jersey) law 2000**

- 3.8 This law incorporates into Jersey law the European Convention of Human Rights. There is however no mention of the United Nations Convention of the Rights of the Child (UNCRC). This convention has not been ratified by Jersey nor has it been incorporated into Jersey law.

### **The United Nations Conventions on the Rights of the Child**

- 3.9 This important international convention (which is attached at Appendix 4 and will hereafter be called the UNCRC) has been ratified by all the countries of the world with the exception of Somalia and the United States. When the UK government ratified the UNCRC in 1991, it consulted its Crown dependencies on whether they wished the ratification to extend to them. Jersey did not request this extension. We understand that this was because of concerns about the limitations such ratification might place on the employment of children.
- 3.10 The ratification extends to the Isle of Man. Guernsey has signalled its intent to ratify.
- 3.11 All the people we have spoken to in Jersey, (including Ministers) believe that it would now be right for Jersey to ratify the convention.
- 3.12 We do not believe that there are any reasonable grounds for further delay to ratification and would urge Jersey to pursue ratification as soon as possible.
- 3.13 The implications that ratification would have for Jersey include the following:
- i. the convention requires (article 37 b) that custody should only be used as a “last resort”. We do not believe that custody for children in Jersey is currently used only as a last resort. We will discuss this further in chapter 7.
  - ii. the convention requires that “the best interests of the child shall be a primary consideration” in all courts of law (Article 3). We shall recommend that in legislation and policy, the welfare of the child should be paramount in criminal justice matters as well as in civil matters.
  - iii. the UNCRC requires at article 40.3 that signatories shall seek to “promote the establishment of laws procedures authorities and institutions specifically applicable to children” alleged as having breached the penal law. This means that there should be more child specific policies in

place in the Jersey youth justice system. We shall recommend that such policies are put in place.

- iv. ratification would imply a greater separation of children in custody from adults (Article 37(c)). This would have particular implications for the holding of children at La Moye. We shall discuss this further in chapter 8
- v. Article 40(3)(b) of the UNCRC requires that children in conflict with the law should be dealt with where appropriate and desirable, “without resorting to judicial proceedings providing that human rights and legal safeguards are fully respected”. There are 2 implications of this requirement that we mention here.
  - Jersey has a very low age of criminal responsibility (10). If it were raised, younger children would be immediately removed from the possibility of being dealt with through judicial proceedings. This would make progress towards meeting the requirements of Article 40(3)(b).
  - It is also important to maximise the opportunity for diverting children and young people from the criminal justice system. This will be further discussed in chapter 4.

### **The age of criminal responsibility**

3.14 In comparison with most European countries, Jersey has a very low age of criminal responsibility at 10 years of age. Table 1 below <sup>5</sup>sets out the comparative data.

#### **Variance in ages of criminal responsibility in European Countries**

<b>Country</b>	<b>Age</b>	<b>Country</b>	<b>Age</b>
Scotland	8	Austria	14
Switzerland	10	Italy	14
England and Wales	10	Spain	14
Northern Ireland	10	Denmark	15
Ireland	12	Finland	15
Netherlands	12	Norway	15
Portugal	12	Sweden	15
Greece	12	Belgium	18
France	13	Luxembourg	18
Germany	14		

3.15 We suggest that Jersey raises its age of criminal responsibility to 14. We suggest this age because it is the median age for the countries listed and would be in line with recommendations made by the UN Committee on the Rights of the Child<sup>6</sup>.

<sup>5</sup>From J Muncie, the ‘Punitive Turn’ in *Juvenile Justice: Cultures of Control and Rights Compliance in Western Europe and USA* in *Youth Justice journal*, Vol 8 (No. 2)

<sup>6</sup>United Nations Committee on the Rights of the Child, General Comment No. 10 Children’s rights in Juvenile Justice, 2007

- 3.16 Such a measure would at one stroke:
- bring Jersey more into line with other European countries,
  - remove a swathe of children from possible involvement in the criminal justice system in line with UNCRC 40 (3)(b)

### **Remand considerations**

- 3.17 There is no statute governing the provision of bail. This is a matter that is left to the discretion of the courts.
- 3.18 This appears to us to be unsatisfactory and in breach of childrens rights. We believe there should be (as in English law) a presumption of bail, which will only be refused if well defined criteria are met. Moreover, a very high proportion of children in custody are held on remand (80%). This would suggest that custodial remands are overused. This matter will be discussed further in chapter 7.
- 3.19 This situation leads to a serious anomaly. Apart from the exceptional “grave crimes” provision mentioned in para 2.6, children younger than 15 may not be sentenced to custody. Thus for many children who are remanded to custody (they may be as young as 10) there is no realistic possibility for them to be detained in custody on sentence.
- 3.20 There is some debate in Jersey about how to resolve this anomaly. One solution that has been canvassed, would be to lower the age at which children can receive a youth detention order.
- 3.21 We strongly oppose this suggestion. It would lead to more incarceration of children. We believe the anomaly should be resolved by
- Raising the age of criminal responsibility to 14 (para 2.15)
  - Raising the age at which a Youth Detention Order becomes available to 16 (para 7.15)
  - Establishing a childrens hearings system to replace the youth court, for all children under 16 (Chapter 8). This measure would mean that punitive custodial outcomes would not be available for any child under the age of 16, though of course it would be possible for younger children to be held securely under welfare measures.

## **The administrative framework**

- 3.22 In 2002, Jersey commissioned a report from Dr K Bull<sup>7</sup> in relation to children with emotional and behavioural difficulties. This report recommended a particular framework for the delivery of services that is of relevance to our review.
- 3.23 It was recommended that services for families and children should be delivered through a body called the Children's Executive (CE). Senior managers from social services, education, health and probation would sit on the CE. The CE would be answerable to 3 ministers, namely the Ministers for Home Affairs, Health and Social Services, and Education, Sport and Culture. The 3 ministers would constitute the island's "corporate parent".
- 3.24 This structure was implemented and now operates.
- 3.25 The objective of this proposal was admirable, namely to ensure co-ordination of services, and to promote joint responsibility for services at the most senior level.
- 3.26 However an unintended consequence of the arrangement was a lack of clarity of final accountability for some of the services delivered through the CE. In particular ministerial responsibility for children's residential services was impossible to ascertain.
- 3.27 This difficulty only came to light in the wake of serious management disputes at the Greenfields Centre.
- 3.28 We suggest that this uncertainty is removed, either by appointing a "lead" minister in the corporate parent, or by creating a "Children's Minister", who would clearly have lead responsibility for children's services.

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<sup>7</sup> K Bull (2002) *Review of the Principles Practices and Provision for Children and Young People with Emotional and Behavioural Difficulties in the Island of Jersey*

## 4. The prevention of offending

- 4.1 We take the view that the most effective way of preventing offending by children and young people is the universal provision of high quality welfare services to children and their families that are easily and readily available to all.
- 4.2 For children and families who require particular help, semi-targeted and targeted services need to be provided in a way that is not stigmatising.

### Services provided from the Bridge Centre

- 4.3 Many services for families and children are delivered from a government building in St Helier, where the Children's Executive meets, called the Bridge Centre.
- 4.4 We regard in general terms, the services provided and coordinated from the Bridge Centre as good. There are a variety of services (including parenting support services, classes in understanding children and teenagers, pre-school early literacy and language classes, and services for autism) which appear effective and accessible.
- 4.5 Moreover we believe that the provision of the services from a range of providers some of whom are voluntary organisations, reduces the danger of stigmatisation, and increases the likelihood of service take-up from those who would benefit from it.
- 4.6 We did not examine these services in detail and cannot comment on whether they are comprehensive.
- 4.7 We are concerned that the continued funding of the Bridge is uncertain and would recommend that measures are taken to establish funding on a firm and long-term footing. We also recommend that steps are taken to provide service outlets at a wider range of locations so that they will be more accessible for people living away from St Helier.

### The Jersey youth service

- 4.8 The Jersey Youth Service, which is located within the Education Sport and Culture Department, appears to offer an excellent service for Jersey young people. It is primarily aimed at children and young people aged 12 to 18. However more targeted work for young people aged 16-25 is offered through a partnership with the Prince's Trust. The project is targeted at young people aged 16 to 25 who are:
- educational underachievers
  - offenders or ex-offenders including serving prisoners
  - unemployed, particularly those out of work for 6 months or more
  - those in, or leaving care

This project is to be greatly commended.

- 4.9 The youth service has also developed a youth enquiry service (the YES project), which is a kind of Citizens' Advice Bureau for young people. It provides accurate and up-to-date information to young people in an accessible and youth friendly manner, through a booklet, website, and a shop based in the main youth centre in St Helier.

### **Education and schools**

- 4.10 We visited Le Rocquier School, a secondary school of some 700 pupils, and had an informative discussion with the Head and Deputy Head Teachers. It was emphasised to us that the school is seen as part of the whole community, and receives considerable support from the community for its activities.
- 4.11 The welfare of all in the school rests on the importance of relationships and the sense of belonging. Children at primary school level are told of the importance of reporting any bullying so that such problems can be dealt with in a constructive manner. At the secondary school, there are 'friendship days' and a system of 'buddies' and mentoring.
- 4.12 At all times the school works with the parents, and will do all it can to 'hang onto' the child in difficulties. There is no ability to exclude any child permanently from school in Jersey, but the policy in this school was that any form of exclusion was seen as the most dire measure, and the circumstances would have to be truly exceptional before it were invoked.
- 4.13 The school operates MAST, a Multi Agency Support Team, under the leadership of the Deputy Head Teacher. This includes two teaching assistants, a school counsellor, a school social worker, a school educational welfare officer, a police liaison officer, an educational psychologist, and YAT (the Youth Action Team). They would like to have CAMHS more involved (Child and Adolescent Mental Health Services).
- 4.14 The impression given of the ethos of this school was a determination to provide a happy, interesting, safe and challenging environment to secure the maximum potential for each child within it, well aware of the realities and difficulties of adolescence.
- 4.15 This is a laudable example of good practice. If this approach extends across all Jersey educational establishments the education department is to be highly commended.

## **The youth action team**

- 4.16 Following the implementation of the Bull Report, (para 2.2) a multi agency team called the Youth Action Team (YAT) was established, that operates from the Bridge Centre. It consists of seconded staff from the Probation Service, Social Services, the Police, with some input from CAMHS.
- 4.17 The purpose of the service is to provide preventive services for young people. It is different from a Youth Offending Team on the English model, in that it does not provide statutory services to the Court (eg preparation of court reports, statutory supervision)
- 4.18 There is some debate about the breadth of the remit of the team. The question revolves around whether the team should provide services just for children/young people who have become formally involved with the criminal justice system, or whether it should seek to help a larger group of children, at a younger age who are seen to be at risk of falling into crime or other difficulties.
- 4.19 We believe that a service simply providing preventive services to young offenders is not a helpful model. Firstly, services offered at a younger age are likely to have a greater impact. Secondly, receiving services from a specifically criminal justice team, is more likely to stigmatise and label a child or young person (albeit unintentionally) as a criminal. It risks further alienating the child from ordinary society.
- 4.20 We recommend that these targeted preventive services should be provided from a team that does not have a criminal justice “badge”, and should be available to all children who are assessed as being at risk of falling into crime or other difficulties. We also think it would benefit from the addition of youth service and education staff, and that it may be desirable that it be led by the Youth Service rather than a criminal justice agency. Finally we think that part of the remit of such a team should be to refer children to mainstream services as soon as this is reasonably possible.

## 5. Diversion and prosecution

- 5.1 There is considerable evidence that involving children in the formal criminal justice system, exposes them to offending behaviour, entrenches deviant actions, and enhances the likelihood of further offending.
- 5.2 Generally speaking, the Howard League believes that children who have started to offend should have their needs assessed, and have those needs met, due to the “special measures of education and training, the normal upbringing processes having, for whatever reason, fallen short”<sup>8</sup>. Healthy, happy children rarely end up in criminal courts.
- 5.3 For this reason we recommend (para 2.15) that the age of criminal responsibility should be raised to at least 14, which immediately removes a significant proportion of children from the possibility of involvement with the criminal justice system.
- 5.4 For those young people who remain subject to the possibility of criminal proceedings (15-17 year olds), only the most serious offences should result in referral to the formal criminal justice system.
- 5.5 Jersey has an unusual but effective system for diverting children and young people from the criminal justice system. It consists of the Parish Hall Enquiry (PHE).
- 5.6 In order to understand the PHE system it will first be necessary to explain the police system in Jersey.

### **The Jersey police system**

- 5.7 In Jersey there are 13 police forces.
- 5.8 Firstly, there is a statutory, paid, uniformed police service, the States of Jersey Police, covering the whole island.
- 5.9 In addition to the paid police service there are 12 honorary (volunteer) police services based in each of the twelve parishes of the island. These are historic institutions, going back to at least the 15th century. There are over 300 honorary police officers who are elected by the parishioners of the parish in which they reside.
- 5.10 The most senior officers in each parish are called ‘centeniers’. Centeniers convene the PHEs and also have sole responsibility for preferring charges and deciding on bail, and for prosecuting some cases in the Magistrates Court.
- 5.11 Considering the appropriateness of the Jersey policing system is beyond the remit of this review. In looking at the PHE system we do however identify some risks that the States of Jersey should address.

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<sup>8</sup> Kilbrandon Report (1964) *Children and Young Persons: Scotland*. Chairman Lord Kilbrandon Cmnd. 2306, Edinburgh HMSO

## The parish hall enquiry

- 5.12 Most cases of alleged offences by children are referred to the PHE through referral from the States of Jersey police. However, there may be other sources of referral and even members of the public can refer alleged offences to the PHE.
- 5.13 In conducting a PHE, the centenier is required to consider the facts of each case and decide whether or not it is in the public interest to prosecute the offender.
- 5.14 For children and young people, the enquiry consists of a small meeting between the centenier, a representative from the Probation Service, the child, and his or her parents.
- 5.15 The enquiry will only take place if the child admits to the offence. The child is also given the option of not using the PHE, but moving straight to more formal procedures. At any point in the process, the child can opt out of the PHE process and go directly to the formal court process.
- 5.16 We were able to observe a PHE in action. We saw four young people dealt with through this system, none of whom were referred for prosecution. The enquiry was held in an exemplary manner with an excellent balance of firmness, combined with a friendly sensitivity to the circumstances of the young person and their family, and the circumstances leading to the offence.
- 5.17 In general terms we believe the PHE is an excellent method of dealing with children and young people in trouble with the law, and clearly has the potential for diverting the great majority of children away from the youth justice system, in a positive and constructive manner. We agree with Rutherford<sup>9</sup> that the role of the centenier “in appropriately diverting cases away from the criminal justice process, is one that should be consolidated”.
- 5.18 We also agree with the most extensive study of the PHE system that we have found by Miles and Raynor.<sup>10</sup> This study found that the PHE “can provide a local, timely, inclusive, sensitive, needs-based, independent forum to deal with a wide range of norm-violating behaviour and social disorder”.<sup>11</sup> Miles and Raynor also found that “participants reported high levels of satisfaction with the process”,<sup>12</sup> and that “there is potential to consider how enquiries might usefully deal with more serious offences, particularly those dealing with public order”<sup>13</sup>.
- 5.19 In the course of our investigations, however, we identified risks associated with the system and its impact on the administration of youth justice on Jersey.
- 5.20 Specifically, we identified four main risks:
- Abuse of power by a “rogue” centenier
  - The decision to prosecute being by investigators, ie the police

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<sup>9</sup>Op cit page 100

<sup>10</sup>The Conduct and Effectiveness of Parish Hall Enquiries, H. Miles and P. Raynor, 2005

<sup>11</sup> Op cit page 12

<sup>12</sup>Op cit page 13

<sup>13</sup>Op cit page 14

- Inconsistency of practice
- Inappropriate bypass of the PHE system

### **Abuse of power**

5.21 The centenier has a great deal of power in this process. It is possible that a “rogue” centenier, without proper checks and balances, may make decisions that are not in the young person’s interests or the public interest. Since the centenier is an elected position, they may also be subject to local political pressure, to “get tough on youth crime”. We believe that checks and balances should be strengthened in the system to mitigate against this happening, and would suggest a stronger role for the Probation Service representative in the process. The Probation Officer should have a formal monitoring role and the capacity formally to raise concerns if he/she thinks that a PHE decision is questionable.

### **The decision to prosecute**

5.22 We do not think it is right that the honorary police (or come to that, the States Police) should take the decision about whether prosecution should take place. The decision to prosecute should be taken by a body that is independent of the investigatory process. This separation of powers is a fundamental safeguard against human rights abuse, all the more important in a small scale society where the centenier investigating your case, may be your neighbour and convening the PHE. (see para 9.5). Professor Rutherford in his 2002 report<sup>14</sup> recommended that an independent prosecution service be established, accountable to the Attorney General. This recommendation was not accepted by the States. We heartily endorse the Rutherford recommendation, and strongly urge that the matter is reconsidered.

5.23 We are aware that difficulties about the role of the honorary police in deciding prosecution have also arisen in the historic abuse enquiry, alluded to in para 1.4. We believe this circumstance strengthens the argument for an independent prosecution service.

### **Inconsistent practice**

5.24 There is a risk of inconsistency of practice between the 12 different parishes. We would suggest this risk could be mitigated by a mandatory training programme for all centeniers who run PHEs, and a stronger monitoring role by the Probation Service of the outcomes of the PHEs.

### **Inappropriate bypass of the PHE system**

5.25 One of Rutherford’s concerns was the possibility of some cases inappropriately bypassing the system. We agree with this concern, and believe that it should be established that all cases should go to a PHE unless clear criteria are met. For example, it may be decided that all cases should go to a PHE apart from those falling under article 5 “grave crimes” provisions.

### **Expanding the power of the PHE**

5.26 Despite the risks addressed above, we believe there is also scope to strengthen the PHE system as a diversion from the courts.

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<sup>14</sup> Op cit page 91 para 4

- 5.27 A greater element of restorative justice should be introduced to the process. Alongside the more informal problem solving already operated by the PHE, the system should run a restorative justice model (which would feature in the mandatory training for centeniers recommended in para 4.25), for all juvenile first time offenders - save those accused of Article 5 'grave' offences and those with motoring matters involving endorsement or disqualification of driving licences. If the charges were of a minor nature, second time and even repeat offenders could also be dealt with at a PHE – the criteria for referral to a court or 'Hearing' would need to be specified.
- 5.28 Centeniers would be responsible for convening each PHE, on an individual basis, using information provided by the 'paid' police service, and information arising in their enquiry. Any child who denied the alleged offence should be tried by a professional magistrate in the privacy of Chambers, and on a finding of guilt, be referred back to the PHE for resolution.
- 5.29 The Centeniers would convene and conduct the meeting between the offender, the family and any significant people in the young person's life so desired, and the victim and a supporter if appropriate. There would be a routine assessment for the suitability of a restorative justice intervention. (See Miles & Raynor 2005 for international examples of restorative justice systems).
- 5.30 Measures of a restorative nature the PHE could promote include apologies, restitution or compensation of a specific or general nature if appropriate, or participation in activities designed to rehabilitate, such as those run by the YAT and the Youth Service. Any proposals should be agreed by all parties present.
- 5.31 Where the centenier does not believe that the PHE can suitably deal with the matter, he/she may recommend to the newly established independent prosecution service (see para 4.23) that prosecution be considered. The independent prosecution service will decide whether sufficient evidence exists to prosecute, and whether such prosecution is in the public interest.

## 6. Youth court

- 6.1 There are two legally qualified magistrates who preside in the Magistrates' Court and the Youth Court.
- 6.2 The Youth Court has jurisdiction over juveniles aged from 10 to 17. Each court is presided over by one of the legally qualified magistrates, and two lay members of the Youth Panel. At least one member of the court must be a woman.
- 6.3 The Youth Panel consists of 12 lay members. The magistrates and the panel members enjoy an equal say as to adjudication and sentence, the magistrate is relied upon for matters of law and procedure.
- 6.4 We observed a sitting of the Youth Court in which great efforts were made to explain the procedure to the juvenile defendants.
- 6.5 However, it also appeared to us that the general arrangement of the Youth Court militated strongly against the possibility of conducting the proceedings in any way relevant or meaningful to the children appearing before it.
- 6.6 Those factors militating against a relevant hearing were:-
- the large number of officials in the court
  - the extreme formality of the proceedings
  - the legalistic language used in the courtroom
  - the separation of children from their parents
  - the physical elevation of the magistrate and panel members
- 6.7 We would recommend that Jersey considers reforming the youth court system entirely. Jersey is a small, stable, cohesive society, benefiting from a comparatively rich economy. We heard from all quarters that likely offenders were identifiable and that professionals in the criminal justice system are well aware of the factors leading to deviant behaviour. In such a privileged position, we believe that Jersey is ideally placed to tackle the failures in the lives of young people that have almost certainly been responsible for their unacceptable behaviour. Consequently, just as Scotland did 40 years ago, we believe that the Youth Court should be abolished and replaced by a form of 'Hearings', whereby the welfare needs of the juveniles are the sole reason for intervention by the State.
- 6.8 This would entail a hearing with a less formal arrangement, with children, their parents, a social worker, the 'Hearings' Panel' (3 lay members) and an independent person to convene and record the meeting and safeguard the rights of the child. Everyone would sit around a table, and discussion would take place between all the parties to find the outcome that meets the welfare needs of the child concerned and is most likely to reduce re-offending.
- 6.9 Referral to the Hearing would be based on any one of a number of grounds, and by the appropriate authorities, which would include the police, the social services, the education welfare officers, and any other specified relevant departments.

- 6.10 The grounds for referral would include children alleged to have committed crimes, and therefore over the age of criminal responsibility; children in need of care or protection; children who are beyond parental control; and children who are persistent truants; and cases would only be put before a hearing where compulsory measures of care were thought to be necessary.
- 6.11 An individual, a 'Reporter', should be an independent lawyer with experience of child law and administration. This person would be required to receive such referrals and to decide on the most appropriate action after full consultation with a variety of agencies. Only where there was no agreement as to the appropriate course of action should it be necessary to convene a 'Hearing' of the Panel.
- 6.12 The Panel would have continuing oversight of the child subject to any formal intervention, and would be obliged to review the situation at least annually.
- 6.13 We suggest that these Hearings would handle children up until the age of 16, with special Youth Courts for the 16-18 years age group, presided over by the professional Magistrate.
- 6.14 We believe that this system will not only have a greater chance of reducing juvenile delinquency but will provide the Hearings' members with a more demanding and more rewarding role, because they will be dealing with 'care' cases as well. They will have to retain their impartiality whilst engaging fully in discussing with the family, the juvenile, and the appropriate local authority organisation, when deciding on the most constructive course of action. This will require training and regular appraisal to maintain the high standards necessary. We would consider it a wise decision for the professional Youth Court Magistrate to attend training sessions of the Hearings Panel.
- 6.15 It is interesting to note that similar developments are being considered in Guernsey, and there may be opportunities for collaboration in the development of a similar system in each island.

## **7. The Jersey probation and after care service**

- 7.1 The Jersey Probation and After Care Service is a department of the Royal Court (the equivalent of the English Crown Court) and its officers swear allegiance to that Court.
- 7.2 A sub group of Jurats (who are lay judges who sit in the Royal Court) form the Probation Board, to whom the Probation Service is accountable.
- 7.3 The service is periodically inspected by invitation by Her Majesties Inspectorate of Probation. The last inspection was in 2005.
- 7.4 The inspection was generally very favourable. It found that the service "... is well managed, has excellent information systems, and pays significant attention to the outcomes of its work"<sup>15</sup>
- 7.5 While we were unable to scrutinise the service in any detail, we would generally concur with this judgement.

### **The probation service and children who offend**

- 7.6 Because the workload of the Probation Service as a whole is relatively small, there is no specialist team that deals with children who offend.
- 7.7 3 Probation Officers (from a team of 10) specialise in work with children. Between a third and a half of the time of these officers is devoted to work with children.
- 7.8 In addition, there is a Restorative Justice Officer who undertakes a significant amount of work with children referred through the Parish Hall Enquiry System, and the courts.
- 7.9 We greatly commend the development of Restorative Justice in the Jersey youth justice system and urge that its use be broadened, to include work with children in schools, for children in the looked after children system, and children in custody.
- 7.10 Generally we believe that the Probation Service offers an effective service for children involved in crime in Jersey.
- 7.11 However we suggest that, in connection with our recommendations about eliminating the need for custody (chapter 7) the Probation Service should develop more intensive interventions with children who are serious offenders, and that they should develop (in partnership with the Social Services) an intensive fostering scheme for children who otherwise would be at risk of being remanded or sentenced to custody.

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<sup>15</sup> Her Majesties Inspector of Probation (2005), *Report of an Inspection of Jersey Probation and After Care Service*, page 2

## 8. The level of custody for children in Jersey

8.1 The table below, shows the trend in children sent to custody over the last 10 years.

### Trends for children sent to custody 1998 to 2007 <sup>16</sup>

Age	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
15	6	2	2	0	7	2	5	3	3	1
16	14	13	3	7	4	4	5	2	1	5
17	15	34	34	13	15	6	5	1	0	5
Total	35	49	39	20	26	12	15	6	4	11

8.2 It can be seen that the trend is downwards from a high in 1999 to a low in 2006, with an increase in 2007. We shall argue below that custody should be eliminated in Jersey. The fact that the trend is so firmly downwards is a reason for optimism that the ambition to eliminate custody may be achieved.

8.3 The proportion of children in Jersey remanded to custody (80%) is very high. In England and Wales, the remand proportion is typically 20% or just over. It is likely that the extraordinarily high remand proportion is related to the lack of legal framework for remands, alluded to at para 2.17.

8.4 In relation to Jersey's small population, the juvenile custody rate of the island is unacceptably high – as the following table demonstrates.

### Levels of children's custody per 100,000 of under 18 population<sup>17</sup>

Country	Childrens Custody Rate
Jersey	26 <sup>18</sup>
England and Wales	23
Portugal	10
France	6
Spain	2
Finland	0.2

8.5 Jersey has a higher rate of custody than these European neighbours. The custody rate is slightly higher than England and Wales, more than 4 times that in France, and more than 100 times that in Finland.

8.6 Moreover, Jersey does not have the inner city problems that are present in the large conurbations of most of these countries, which provide much of the custodial population.

8.7 Seen in this light, the Jersey custody rate for children is unacceptably high.

<sup>16</sup> Brian Heath – Ministers Briefing 18th March 2008

<sup>17</sup> Most of this data comes from NACRO (2003), A Failure of Justice – Reducing Child Imprisonment Page 9. Jersey data was compiled for this report.

<sup>18</sup> See Table 3 in Appendix 3 for an understanding of the Jersey custody rate

- 8.8 We have not been in a position to examine closely the circumstances behind children going to custody, but we have been told of custody being given for being “drunk in charge of a bicycle”. The list of offences shown to us for young people who have been held at La Moye include “drunk and disorderly”, “urinating in a public place”, and “malicious damage”.
- 8.9 We have to say that we do not believe that custody for children in Jersey is currently used only as a “last resort”.
- 8.10 It is well known that custody is dramatically unsuccessful in reducing reoffending. On the contrary offending behaviour is often exacerbated by the custodial experience which involves close association with young offenders, who may be more entrenched in an offending lifestyle.
- 8.11 Moreover the provision of custody is extremely expensive, and usually much more expensive than intensive community alternatives.
- 8.12 We believe that with an enlightened and determined approach, Jersey could eliminate, or all but eliminate the need for custody for children. In so doing it would provide a beacon of good practice and a positive example of an enlightened approach to children in trouble, which may inspire other states to improve their arrangements.
- 8.13 The measures that Jersey should take to eliminate/minimise the use of children’s custody include the following:
- Raise the age of criminal responsibility to 14 (para 2.15)
  - Raise the minimum age for a Youth Detention Order to 16.
  - Establish a presumptive right to bail (para 2.18)
  - Establish a higher custody threshold in law that allows custody for children, only when it is the only way to protect the public from the risk of serious harm.
  - Senior politicians should lead the argument against the use of custody for children, in order to promote public support for Jersey as a children’s “custody-free zone” in order to influence the sentencing “mood”
  - encourage sentencers to seek imaginative and creative community alternatives to custody
  - enshrine in government policy the government’s view of the undesirability of children’s custody
  - provide intensive community alternatives to custody, including intensive supervision, and specialist fostering services
- 8.14 On those extremely rare occasions where custody for children is unavoidable for genuine reasons of public protection, the placement should be within the secure children’s home, and Jersey law should be amended to permit this to happen.
- 8.15 When children younger than the new age of criminal responsibility have committed a dangerous act, and need to be held in secure accommodation for their own protection or the protection of the public, this can be achieved through use of a secure accommodation order, under article 22 of the Children Law.

## 9. The care of children in custody

- 9.1 There are two establishments in Jersey where children may be held in custody. They are
- La Moye, a mainly adult prison which has a young offenders' wing. La Moye comes under the responsibility of the Home Affairs Minister.
  - The Greenfields Centre, a secure children's home which is the responsibility of the children's executive, and the three ministers who are the corporate parent.

### La Moye

- 9.2 La Moye is a prison establishment serving the courts and people of Jersey through the provision of custodial accommodation for male and female prisoners. It caters for adults, young adults and children if required. Its maximum capacity is about 200. It has a young offenders' wing that holds 27 people and a female wing that holds 25. It typically holds 2 or 3 children – sometimes none.
- 9.3 It is inspected by invitation by Her Majesty's Inspectorate of Prisons. The last two inspections have been in 2001 and 2005. Both inspections were quite critical.
- 9.4 At the time of the most recent 2005 inspection<sup>19</sup>, no children were being held. However the report stated that "despite the best efforts of staff and even if the recommended improvements were introduced, the prison was an entirely unsuitable environment for children".<sup>20</sup> The first main recommendation of that report was that "children and juveniles should be held in a separate secure unit"<sup>21</sup> and the inspectorate suggested that consideration be given to all children being held at Greenfields.
- 9.5 The 2005 report was highly critical of child protection arrangements and said that at that time "child protection was an area of major weakness and was largely under-developed".<sup>22</sup> It appears to us that there have been significant improvements in child protection arrangements since that report. There is now a child protection committee that meets monthly chaired by a senior manager. The prison is represented by the deputy governor on the Jersey Child Protection Committee. Policies in relation to child protection, bullying, suicide and self-harm are in place.
- 9.6 The new arrangements appeared on the face of it to be sound, although we were not able to observe the implementation of them in practice.
- 9.7 It also appeared to us, (as it appeared to HMIP in 2005), that the offenders' wing was staffed by dedicated officers who established excellent relationships with the young people.

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<sup>19</sup> Report on an Announced Inspection of La Moye Prison, Jersey, 27 June – 1 July 2005, by HM Chief Inspector of Prisons

<sup>20</sup> Op cit para 3.40, page 31

<sup>21</sup> Op cit HP51 page 17

<sup>22</sup> Op cit para 3.34 page 30

- 9.8 We interviewed six young people who had been detained at La Moye as children. None of them had serious complaints about their time in the prison and spoke warmly of the relationships they had with prison officers. They believed they were generally dealt with fairly, and believed that if they had a serious complaint to make it would be listened to in a fair way and not swept aside.
- 9.9 Interestingly most of the young people we spoke to, would prefer to be detained at La Moye than Greenfields. This was partly because they believed they had more freedom at La Moye and were treated in a more adult way. It may also be connected with the fact that they are able to smoke at La Moye whereas this is not permitted at Greenfields.
- 9.10 It seemed to us that in spite of serious resource difficulties, poor fabric, and diseconomies of small scale, prison officers at La Moye were doing the best job they could to look after children in their care.
- 9.11 Nonetheless, we do not believe that an adult prison is a place where children should be incarcerated. La Moye is an establishment designed for the care of adults, where typically, children are about 1% of its population. Policies and procedures are largely geared to the needs of adults. Holding children there is not consistent with the UNCRC.
- 9.12 A particular problem relates to the care of female children at La Moye. The Criminal Justice (Young Offenders) (Jersey) Law 1994 stipulates at article 4 that a custodial sentence is “detention in a young offender’s institution”.
- 9.13 Of course, there is no young offender’s institution for females and so girls are held in the adult female wing. We believe this to be in breach of Jersey law, as well as in breach of article 37 (c) of the UNCRC. This concern of course applies to young women up to the age of 21, and not merely female children.
- 9.14 We agree with Her Majesty’s Chief Inspector of Prisons, that La Moye is not a suitable place to care for children, and that its use for the detention of children should be terminated.
- 9.15 We believe (as we have argued in chapter 7) that the use of custody for children in Jersey should be very rare. In really exceptional cases, where custody is unavoidable, children should be held at Greenfields.

### **The Greenfields Centre**

- 9.16 The Greenfield Centre is a modern secure facility for children and young people aged between 10 and 16. The unit was opened in September 2006 and caters for 8 residents. There is a fully equipped sports hall, gym and education block.
- 9.17 In Andrew Rutherford’s review<sup>23</sup> he suggested that “..the island should resist any suggestion of establishing a purpose built secure unit to serve the youth court for remand or sentencing purposes. The high cost (financial and human) of children’s secure units in England and Wales provide considerable reason for pause before any policy launch in this direction”.

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<sup>23</sup> Rutherford A & Jameson A (2002) *Review of Criminal Justice Policy in Jersey*, page 68

- 9.18 We too question whether this development was wise. Certainly, the unit is currently considerably underused, and if our recommendations about the elimination of custody for children are accepted, its use will further shrink to that of welfare cases only. We believe most of the secure places should be decommissioned, and that the facility should be used in a more flexible way.
- 9.19 The establishment's statement of purpose says that admission to the unit is "via the criminal justice system or by application to the Royal Court for a secure accommodation order"<sup>24</sup>. While the statement of purpose does not specify this, the unit is never used at the moment to hold children who are sentenced to custody, but only those who are remanded. This is because under current legal provisions, children sentenced to custody (apart from those sentenced for grave crimes under Article 5), may only be held in a young offender's institution.
- 9.20 It is therefore the case that children at Greenfields are either remanded there by the court, or are there on a secure accommodation order for welfare reasons.
- 9.21 The unit is rather underused. It is very rare that the unit is fully occupied. A typical occupancy figure is about 3 or 4. There are significant periods of time, when the unit is altogether empty.
- 9.22 The history of Greenfields (and its predecessor unit La Chene) is extremely troubled. It is not within the remit of this review to go into this history in any detail.
- 9.23 Suffice it to say that both staff and young people told us that practices going back many years have given cause for serious concern. Particular concern was expressed in relation to practices relating to isolation, single separation or solitary confinement that could be regarded as abusive.
- 9.24 We spoke to current and former members of staff about the practices that took place, and opinion was divided. Some thought former practice was abusive – others thought it reasonable.
- 9.25 We also spoke to several young people (not current residents) who spoke of abusive experiences they had suffered there. We were told of cold rooms, and concrete beds, with little human contact for long periods of time. It was not a description of a reasonable "time out" kind of experience that may last only a short period of time. We found their evidence highly credible.
- 9.26 As we have previously stated at para 1.1, we certainly believe the Grand Prix regime was unlawful. However, some of the most serious allegations we heard, related to events prior to the establishment of Grand Prix.
- 9.27 We are confident that the use of Grand Prix, or other forms of solitary confinement, has ceased.
- 9.28 We, of course, are not in a position to get to the bottom of what did or did not happen in the history of Greenfields, and nor is such an exercise within our remit. The history is only relevant to our enquiry insofar as it impacts

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<sup>24</sup> Greenfields Centre Statement of Purpose

upon present and future practice. We have to say that we believe that the potential impact is considerable.

- 9.29 There is now a staff group divided into different camps, with a great deal of distrust in some quarters of management.
- 9.30 There is also a strong feeling amongst some staff, that it is impossible to raise concerns in an effective way without fear of recrimination. There was no confidence in the policy on reporting serious concerns. We were told of a culture of fear and intimidation.
- 9.31 By no means all staff confirm this perception. Some believed such claims to be highly exaggerated, unfair and untrue.
- 9.32 Whatever the truth of these perceptions, we believe that these kind of difficulties have serious consequences for the care of children.
- 9.33 Offering consistent and compassionate care for troubled and challenging children requires a cohesive competent and appropriately trained staff group, united behind shared objectives and values, supported by trusted management arrangements. Staff need to feel confident about being able to raise concerns they may have about practice.
- 9.34 These conditions do not currently apply at Greenfields.
- 9.35 It will be a recommendation of our report that conciliation/ mediation/team building processes are put in place, led by external independent facilitators, to seek to resolve these differences, and that measures are taken to ensure that staff have trust in and feel supported by the management arrangements.
- 9.36 We shall also recommend that a more effective “whistleblowing” policy is introduced, which has an element of independent protection in it, and in which staff may have confidence.

## **Standards**

- 9.37 We were told that the intention was that Greenfields (and presumably other children’s residential facilities) should work towards English children’s homes standards.<sup>25</sup> We would certainly support this development, and indeed support the idea that Greenfields should be inspected against these standards (see para 8.40). Our impression was that at present, although some staff have some awareness of these standards, they are not trained in them, and do not regard them as a strong driver of good practice.

## **Inspection and accountability**

- 9.38 There are no internal or external inspection arrangements for Greenfields.
- 9.39 Accountability for Greenfields (and indeed the other two children’s residential establishments on the island) runs from the unit manager, to the senior residential manager, to the Children’s Executive. The Children’s Executive is answerable to the three ministers who constitute the corporate parent.
- 9.40 While this arrangement is laudable in its intention to ‘join up’ responsibility for children between different departments, it means that there is not a clear line

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<sup>25</sup> Dept of Health, *Children’s Homes: National Minimum Standards* (2002)

of accountability. As mentioned before in paras 2.22 – 2.28, we believe this uncertainty should be resolved.

- 9.41 There is a Board of Visitors consisting of at least 5 appointed adults, whose function is to have a general oversight of the establishment, and be available to hear complaints and concerns from children. We do not have confidence that these arrangements were working well and do not believe that children were aware of, or would make use of this line of addressing concerns. No children had raised concerns with the Board of Visitors, during periods of great turbulence.
- 9.42 Moreover, some staff were unaware of the Board of Visitors and its functions.
- 9.43 Article 3.3 of the UNCRC requires that “States Parties shall ensure that the institutions’ services and facilities responsible for the care and protection of children, shall conform with standards established by competent authorities.” We do not believe that this requirement is currently being met at Greenfields and we believe that independent inspection arrangements should be put in place. One options for doing this would be to enter an agreement with the English inspection authority, Ofsted, to inspect Greenfields (and other Jersey childrens establishments)

### **Safeguarding and promoting welfare**

- 9.44 Because of the frequent changes and disruption of management arrangements that have occurred at Greenfields over recent years, and the current conflict in the staff group, it is not possible to reach a clear view about whether current arrangements are stable and safe.
- 9.45 We saw some good policy documents in relation to safeguarding practice, but we are not in a position to comment on the extent to which these are implemented on the ground.
- 9.46 It seemed to us that “strip search” procedures took place more often than could reasonably be justified by any possible risk, but that they were conducted in a manner designed to minimise humiliation or distress. Young people particularly thought that searching following a visit to the court was entirely unnecessary, a view with which we would agree. We think this policy should be reviewed to make searching more proportionate to risk. We think this is particularly important because it is not uncommon for children who have committed serious offences, to have been themselves the victims of sexual abuse. Strip searching may restimulate the distress and trauma associated with the abuse, and should be used only when it is absolutely necessary.
- 9.47 The current residents of Greenfields who we interviewed (in contrast to previous residents) did not feel unsafe, and did not have serious complaints about the way they were treated (apart from the reference to unnecessary searches, referred to above). They were concerned with such things as not being allowed to smoke, frequency of allowed phone calls to family and friends, and perceived unfair systems of privileges.
- 9.48 While these issues certainly need to be looked at we do not regard them to be of a serious child protection nature.

## **Conclusions in relation to safeguarding and custody**

- 9.49 Our main recommendation about custody is that the need for it should be eliminated (chapter 7), in which case the following observations will be redundant. But while custody for children remains on Jersey, we believe the following concerns should be addressed.
- 9.50 We believe that it is very difficult for children to raise concerns in an effective way where they can have confidence that their worries will be properly looked at. We believe that an independent children's advocacy service should be established, to assist this problem. This does not refer to legal advocates, but trained independent people who are skilled in helping children to formulate and express their views in a clear and effective manner.
- 9.51 The number of complaints made by children at both establishments was, we were told, negligible. We do not believe this is simply because the children were always entirely happy and satisfied with the way they were being cared for, but rather because they did not know about, or had no confidence in the complaints procedure. We believe the complaints procedure in both establishments should be reviewed to introduce an independent element that is consistent with the requirements of the English Children Act 1989.
- 9.52 There appear to be no routine mechanisms for consulting children about the way they are looked after. We believe that giving children a genuine influence over the way in which they are cared for, reduces frustrations that may lead to challenging behaviour, and also improves regimes. We will recommend that Jersey should introduce such mechanisms. This is also required by Article 12 of the UNCRC which requires that "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."
- 9.53 Part of this consultation should include involvement of children in the recruitment of staff, in a manner consistent with the Warner Report.<sup>26</sup>
- 9.54 Finally, we think there should be closer involvement with, and oversight by, the Jersey Child Protection Committee in relation to safeguarding arrangements at Greenfields.

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<sup>26</sup> *Choosing with Care*, Norman Warner, Dept of Health, 1992

## 10. Conclusions

- 10.1 Jersey has been through turbulent times over recent years, in relation to its treatment of children. It needs to use this difficult experience to reform its systems radically.
- 10.2 Children who get in trouble with the law, and children who have unmet welfare needs, which require welfare provision from the state, are broadly speaking, the same group of children. There is evidence that in the past, Jersey children have been badly treated in both systems.

### Life in Jersey

- 10.3 Many people we met told us of particular features of Jersey life which they believed had a significant impact on the way children are sometimes treated, and in particular children who are in the Jersey youth justice system.
- 10.4 Jersey is a small island community. Jersey people generally speaking enjoy a quality of life that is extremely pleasant, and is envied by many. The fact that 35% of the people who live in Jersey originate from the mainland is testimony to the attractiveness of life there. Indeed we met several people who had recently come from the mainland, who said that they wished to continue living in Jersey at least partly because of the pleasant nature of the small scale society.
- 10.5 One feature of a small scale society is the prevalence and strength of interlocking networks of relationships. In one way or another 'everyone knows everyone'. Family relationships, work relationships, sporting or social friendships, political associations, intertwine and reinforce each other, and these interlocking relationships underlie the life experience of people in Jersey.
- 10.6 This is not necessarily a criticism. It can be a strength and an advantage under some circumstances. It is at any rate inevitable in this kind of community.
- 10.7 However the impact of these complex relationships can also have serious disadvantages. There can be an appearance of, or actual existence of, 'cronyism'. Important decisions are made or believed to be made through "old boys networks". Powerful interlocking networks may exclude and disempower those outside of the groups and make it hard for those outside of those networks who have genuine concerns, to raise them or make complaints in an effective way. This is likely to be particularly true of deprived, disadvantaged and powerless children.
- 10.8 An enlightened authority will recognise these risks and put in place independent checks and balances, and methods of redress that will mitigate these risks.
- 10.9 We hope the Jersey authorities do recognise these risks, and wish to minimise them. Many of our recommendations are intended to assist in this process.

## **General conclusions about the Jersey youth justice system**

- 10.10 We found much to commend in our examination of the Jersey youth justice system. We also found areas where we believe significant improvement is desirable and possible.
- 10.11 We think there are some aspects of the legal framework which are sound, but that it needs to be strengthened by ratification of the UNCRC. We think there should also be specific provisions in relation to remands and in particular the presumption of the right to bail.
- 10.12 We think that there are excellent early prevention services in place, which need to be strengthened and developed, and placed on a firm financial footing. We also thought that youth service provision is excellent and should be developed and strengthened from this strong base.
- 10.13 We found important diversionary opportunities offered by the parish hall enquiry system. These arrangements can be strengthened by common training and a more formal probation monitoring role, and ensuring the PHE process is only bypassed rarely.
- 10.14 We thought the probation service provides an efficient and effective service but that the confused remit for the YAT needs to be addressed.
- 10.15 The youth court processes are much too formal and will be perceived as of little relevance for children. Steps should be taken to introduce a system along the lines of the Scottish hearing system.
- 10.16 There are considerable difficulties with children's custody in Jersey. The most important issue for us is that there is far too high a level of custody, and we believe that measures should be taken to eliminate it.
- 10.17 In the meantime we believe that it is important to take various measures to address welfare and safeguarding concerns. In particular issues relating to the risk of disempowerment of vulnerable children, and the need for stronger accountability, checks and balances need to be addressed.
- 10.18 In relation to Greenfields, we have particular concerns about longstanding conflicts in the staffing group, and staff fragmentation and demoralisation.
- 10.19 If our vision for the elimination of custody in Jersey comes to pass, there will be a greatly reduced use for the Greenfields Centre as a secure children's home, although it is likely that there will be a continuing need for 'welfare' cases to be held there. But in any event it is likely that thought needs to be given to a more flexible use of Greenfields, and a great reduction in its use as a secure facility.
- 10.20 Overall, we believe that Jersey is in an exceptional, perhaps unique position, to transform its youth justice system. By building on the strengths of its current arrangements, Jersey can introduce a system that would be an international example of enlightened good practice. Such a transformation would bring great credit to the Island of Jersey.

## 11 Recommendations

### Legal and policy framework

1. Jersey should immediately ratify the United Nations Convention on the Rights of the Child.
2. A lead minister for children's services should be appointed.
3. Jersey should develop a child specific criminal justice policy.
4. The "welfare principle" should be enshrined in all law and policy that effects children and in particular in criminal justice law.
5. Jersey should raise the age of criminal responsibility to 14.
6. Jersey should raise the minimum age for a Youth Detention Order to 16.
7. Remand procedures should be clarified in law, and in particular the presumption of bail should be established.

### Prevention

8. The good prevention services that Jersey has established, should be sustained and strengthened, and in particular their financing should be put on a firm and reliable footing.
9. Similarly the excellent youth service provision should be sustained and strengthened.

### Diversion and prosecution

10. The parish hall enquiry system should be sustained and strengthened. In particular attention should be paid to:
  - Putting in place measures to ensure it is only bypassed unusually for clearly defined reasons
  - Strengthening its access to and use of restorative justice processes
  - Building in safeguards against inconsistent practice
  - Developing mandatory training for centeniers
11. An independent prosecution service should be established.

### The youth court and the probation service

12. The youth court in Jersey should be reformed to make it less formal and more relevant for children. The Jersey authorities should consider abolishing the youth court and replacing it with a system based on the Scottish Children's Hearings, for children up to the age of 16 or even 18 years, where addressing the needs not the deeds is the paramount concern.
13. Preventive services offered by the YAT should be available to children assessed as at risk of crime, and other difficulties, as well as those who have started to offend. They should be offered from a non criminal justice organisational base.

14. The Probation Service should, in partnership with Social Services, develop more intensive alternatives to custody, including intensive supervision and specialist fostering.
15. The use of restorative justice interventions should be broadened to include use in schools, and work with looked after children and children in custody.

### **Custody**

16. The use of custody for children should be eliminated or virtually eliminated in Jersey. This can be achieved by:
  - Raising the age of criminal responsibility
  - Raising the age at which custody is available
  - Introducing a presumption of the right to bail
  - Strengthening the custody threshold in law, to ensure that custody is only used as a genuine last resort
  - Senior politicians should lead public opinion in the argument against children's custody
  - The development of effective alternatives to custody, in particular intensive supervision and specialist fostering
17. The holding of children at La Moye should cease.

## **Safeguarding and promoting the welfare of children in custody**

We hope and expect that within a relatively short time, children's custody in Jersey will be virtually eliminated. In the meantime however, it is important to ensure that children are held safely, and that their welfare is promoted. In any event we believe the following recommendations would benefit all children in the criminal justice system and those who are looked after by the Jersey care system. We recommend the following.

18. Independent inspection arrangements should be introduced for Greenfields and other children's establishments.
19. These should be based on a rigorous standards framework, such as the English National Minimum Standards for Childrens Homes.
20. An independent childrens advocacy system should be established to assist children in custody, (and indeed in other parts of the youth justice and care system) in raising concerns.
21. A "whistle blowing" policy should be developed which has a strong independent element within it, and which enjoys the confidence of staff.
22. A children's complaints procedure should be developed which has a strong independent element within it, and enjoys the confidence of children and young people.
23. Search procedures should be reviewed to reduce the use of strip searching to an absolute minimum.
24. Children should be consulted about the way they are looked after in custody and care.
25. Recruitment of staff should be brought into line with the requirements of the Warner Report.
26. There should be closer involvement with, and oversight by, the Jersey Child Protection Committee in relation to safeguarding arrangements at Greenfields
27. The longstanding staff conflicts and difficulties at Greenfields, should be addressed through independent mediation/conciliation/team building processes, and measures should be taken to ensure that management arrangements are in place that support staff and are trusted by them.

## Appendix 1

the Howard League for Penal Reform

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23<sup>rd</sup> August 2007

**Stuart Syvret**  
**Senator**  
**Minister for Health and Social Services**

Dear Mr Syvret

**Re : Greenfields - Grand Prix Regime**

Many thanks for contacting me and I provide below an analysis of the regime implemented at Greenfields.

**The purpose of this legal analysis**

I have been asked to comment on the Greenfields "Grand Prix" regime, which is contained in a seven page document and describes an incentives scheme to control children in custody. I have only had a limited time to produce this analysis and I would recommend a further more detailed analysis to ensure a detailed review of the effects of this regime.

**Personal Background**

I am an Assistant Director at the Howard League and I am the head of the legal team. I am a solicitor of 10 years and have practiced in the criminal defence and public law. I have specialised in the representation of children throughout my career.

In 2002 the Howard League launched its own legal team that specialised in representing children in custody. In that time we have obtained ten high court and court of appeal judgments and have obtained the first ever public inquiry in to the treatment of children in custody, in particular the use of segregation, isolation and mental health treatment.

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President: **The Lord Cullen of Bervie QC** Chair: **Dick Whitfield** Director: **Frances Cook** Charity No: 201326 Company limited by guarantee No: 808814  
The Howard League for Penal Reform wants a safe society where fewer people are victims of crime  
The Howard League for Penal Reform believes that community sentences make a person take responsibility and live a law-abiding life in the community  
The Howard League for Penal Reform believes that offenders must make amends for what they have done and change their lives

I attach with this document the judgment of "BP-v-SSHD" which is a case we brought to the High Court and which relates to the use of segregation/isolation as a punishment for children in custody.

#### **Howard League for Penal Reform**

The Howard League has international recognition for its penal reform work and has undertaken considerable research and campaigning in the field of child imprisonment. Our work includes the inquiry by Lord Alex Carlile into such practices in England and Wales, challenges to the regimes in secure establishments and campaigns around child deaths in custody.

#### **Documents reviewed**

In reviewing the Grand Prix regime I have considered the following documents;

- 1 The Grand Prix Regime (attached)
- 2 Criminal (Jersey) Law 1969
- 3 Criminal Justice (Young Offenders) (Jersey) Law 1994
- 4 Children (Jersey) Law 2002
- 5 Human Rights (Jersey) Law 2000
- 6 Youth Custody for Persons Aged 12 and Over (P,2/2004) : Comments (attached)
- 7 Judgment : BP-v-SSHD 2003 (attached)

#### **The Greenfields "Grand Prix"**

I understand that this regime was in place at Greenfields until October 2006 albeit aspects of this regime still persist today.

I am informed that Greenfields is the equivalent to a local authority secure children's home in England. I am informed that this regime was in place in the "old" unit which had very basic amenities and not dissimilar in design to a segregation or prison unit.

In order to fully contextualise this regime it would be necessary to raise the following questions :

- 1 what was the physical design of the unit in which this regime was applied;
- 2 what were the cell dimensions;
- 3 what was the quality of light and air and what access did the children have to light and air;
- 4 what were the washing facilities like and what access was permitted;
- 5 what access to exercise did the children have daily and in what conditions;
- 6 what access did the children have to independent advocates or children's rights officers;
- 7 what records were kept by the units managers/staff of the use of isolation and in what conditions;
- 8 what rights of reviews and appeals did the children have in relation to the isolation of children;
- 9 what inspections and audits are in place in the use of custody for children and what were the outcomes of such audits or inspections.

The Youth Custody for Persons Aged 12 and Over (P,2/2004) : Comments (attached) report outlines the characteristics of the children placed in custody and their vulnerabilities arising from their backgrounds of abuse and neglect. Such children are also very likely to exhibit particularly challenging behaviour.

#### *The Grand Prix regime*

The language and construction of this document is complex and difficult to understand. It is unlikely that most children would grasp the system. The document is not written in a "child friendly" or clear manner. It also lends itself to a "male" regime based on "formula one" car racing and may make girl prisoners feel excluded.

In light of the physical and oversight concerns raised above, the regime appears predicated on a complex system using of isolation and deprivation as a means of control. At its most punitive a child could remain in the "pits" for an indefinite period deprived of light, writing equipment, association with peers and warmth or comfort for extended periods. In light of the prevalence of mental health problems amongst this group of children with a negative response to boundaries and control the risk is high of such an outcome. In the absence of any "check and balance" on the use of such control the risk of "abuse" must be high.

### Conclusions

This is, by virtue of time, a brief analysis based predominantly on an examination the regime document alone. However I am concerned by the punitive nature of this regime and would highlight areas of further investigation.

- 1 a regime like this is unlikely to be lawful in England and Wales;
- 2 local authority secure children's home use rewards and sanctions schemes but this scheme would be incompatible with the Children's Homes regulations;
- 3 the use of isolation described in "the Pits", in almost all circumstances, might give rise to a claim for damages on the European Convention for Human Rights (articles 8 and 3), see BP-v-SSHD. The deprivation of light, air, exercise, association, writing and reading materials must in the context of children secured pending trial or for their own welfare constitute degrading and inhumane treatment. I would certainly advise any child who had been subject to such a regime (especially for any prolonged period) to seek advice on pursuing a claim for damages;
- 4 The regime is inconsistent with the Children Act 1989 and its associated regulations and guidance and is against the spirit of most legislation, policy and guidance on how to respond to children with challenging and difficult behaviour;
- 5 and the regime must affront international treaties (such as the UN Convention on the Rights of the Child and the Beijing rules) which are read into the ECHR, especially article 8.

On the evidence before me, the Grand Prix system raises serious concerns about the treatment of children and is not a system that would be acceptable or lawful in England and Wales. Consideration of the continued use of the system should be only be undertaken following a detailed review of the conditions and infrastructure around its implementation. Without understanding the "checks and balances" in place to monitor and scrutinise such a punitive system it is doubtful that it would be in compliance with international obligations under human rights legislation.

Chris Callender, Assistant Director, 23<sup>rd</sup> August 2007



## Appendix 2

### People we met or with whom we had significant communications

Name	Position
Sir Philip Bailhache	Bailliff
Mr William Bailhache	Attorney General
Senator Stuart Syvret	Member of the States Assembly
Deputy Bob Hill	Member of the States Assembly
Ms Wendy Kinnard	Minister for Home Affairs
Mr Ben Shenton	Minister for Health and Social Services
Mr Mike Vibert	Minister for Education Sport and Culture
Mr Jim Perchard	Deputy Minister for Health and Social Services
Mr Steven Austin-Vautier	Chief Officer Home Affairs Department
Mr Mike Pollard	Chief Officer Health and Social Services
Prof. June Thoburn	Chair of Jersey Child Protection Committee
Mr Brian Heath	Chief Probation Officer
Mr Michael Cutland	Assistant Chief Probation Officer
Ms Chantelle Rose	Assistant Probation Officer – Restorative Justice
Ms Jane Christmas	Assistant Probation Officer, PHE Co-ordinator
Mr John le Masurier	Chairman of Comite of Honorary Police
Mr Danny Scaife	Centenier, St Helier Parish Honorary Police
Chief Inspector Andre Bonjour	States of Jersey Police Force
Inspector Le Mary Hegerat	States of Jersey Police Force
Mr Tony le Sueur	Social Services, Childrens Services Manager
Mr Phil Dennett	Co-ordinator, Children’s Executive
Mr Joe Kennedy	Residential Childrens Services Manager
Mr Simon Bellwood	Ex Manager of Greenfields
Mr Michael Bowyer	Current Manager of Greenfields
Various staff	Greenfields
Ms Wendy Hurford	Manager, The Bridge Centre
Mr Bill Miller	Governor, La Moye
Mr Charles Bertram	Deputy Governor, La Moye
Mr Nick Watkins	Head of Operations, La Moye
Mr Michael Macklam	Senior Unit Manager, La Moye
Mr Paul Townsend	Senior Unit Manager, La Moye
Ms Tracey Corrigan	Senior Officer, La Moye
Mr Serge Keenan	Senior Officer, La Moye
Mr Barry Sleddon	Prison Officer, La Moye

<b>Name</b>	<b>Position</b>
Jurat John Tibbo	Board of Visitors La Moye
Jurat John le Breton	Board of Visitors La Moye and Greenfields
Ms Jean King	Board of Visitors La Moye
Ms Angela Trigg	Board of Visitors Greenfields
Mr Ron Maclean	Board of Visitors Greenfields
Richard Rolfe	Head Teacher Le Roquier School
Ms Shirley Costigan	Head of Jersey Youth Service
Advocate Pierre Landick	Jersey Solicitor
Ms Vini Knights	Parent
Prof. Andrew Rutherford	University of Southampton School of Law
Andrew Williamson	Author of "An Enquiry into Child Protection in Jersey 2008"

7 young men current or ex inmates at La Moye and sometimes Greenfields

3 current residents at Greenfields

## Appendix 3

### Young offenders in Jersey – key statistics

Under 18 population in 2001 <sup>27</sup>	17528
Population of 10 - 17 year olds in 2001 <sup>28</sup>	7799
Population of 10 - 14 year olds in 2001 <sup>29</sup>	5038
Population of 15 - 17 year olds in 2001 <sup>30</sup>	2761
Approx. proportion and no. of 10 – 17 yr olds known to have committed a criminal offence in 2007 <sup>31</sup>	3% (244)
Approx. proportion and no. of 10 -13 year olds who were known to have committed criminal offences in 2007 in comparison to all offenders <sup>32</sup>	4% (40)
Approx proportion of child offenders to all offenders <sup>33</sup>	25%
Typical annual number of Parish Hall Enquiries for Children <sup>34</sup>	360
Typical proportion of cases diverted by PHE <sup>35</sup>	approx 85%
Social Enquiry Reports written for children in 2007 <sup>36</sup>	105
Children in custody March 2008 <sup>37</sup> (4 on remand)	5

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<sup>27</sup> Jersey Census 2001

<sup>28</sup> Op cit

<sup>29</sup> Op cit

<sup>30</sup> Op cit

<sup>31</sup> Brian Heath – Ministers Briefing 18th March 2008

<sup>32</sup> Op cit

<sup>33</sup> Op cit

<sup>34</sup> Brian Heath – Children Who Offend - What Works Presentation

<sup>35</sup> Op cit

<sup>36</sup> Brian Heath – Ministers Briefing 18th March 2008

<sup>37</sup> Op cit

### Children who offended in 2007 - offence analysis<sup>38</sup>

	No.	%
Person	106	23.3
Acquisitive	243	53.4
Drugs	36	7.9
Property	47	10.3
Financial	3	0.7
Other	20	4.4
	455	100.0

### Trends for children sent to custody<sup>39</sup>

Age	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
15	6	2	2	0	7	2	5	3	3	1
16	14	13	3	7	4	4	5	2	1	5
17	15	34	34	13	15	6	5	1	0	5
Total	35	49	39	20	26	12	15	6	4	11

### Average daily occupancy rates at La Moye and Greenfields January to August 2008<sup>40</sup>

	Boys			Girls			Total		
	Sent	Rem	Tot	Sent	Rem	Tot	Sent	Rem	Tot
La Moye	0.8	2.0	2.8	0.0	0.0	0.0	0.8	2.0	2.8
Greenfields	0.0	1.3	1.3	0.0	0.4	0.4	0.0	1.7	1.7
Total	0.8	3.3	4.1	0.0	0.4	0.4	0.8	3.7	4.5

<sup>38</sup> Probation data May 2008

<sup>39</sup> Brian Heath – Ministers Briefing 18th March 2008

<sup>40</sup> These figures were calculated using information provided by La Moye and Greenfields, giving daily populations for the first 8 months of 2008.

## **Appendix 4**

### **Convention on the Rights of the Child**

**Adopted and opened for signature, ratification and accession by  
General Assembly resolution 44/25**

**of 20 November 1989**

**entry into force 2 September 1990, in accordance with article 49**

#### **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 (order 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 (order 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 (order 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 counselling 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:

Make primary education compulsory and available free to all;

- a. 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;
  - b. Make higher education accessible to all on the basis of capacity by every appropriate means;
  - c. Make educational and vocational information and guidance available and accessible to all children;
  - d. 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 General comment on its implementation**

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 practise 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;
  - a. Provide for appropriate regulation of the hours and conditions of employment;
  - b. 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 offences 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 endeavour 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 defence;
- 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; counselling; 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 offence.

#### **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. (amendment)
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 favour 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 favour 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 that 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.



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