

protect children affected by armed conflicts and to rehabilitate child victims of such conflicts, the violation of the fundamental rights of children and the root causes of those conflicts, while making suggestions for preventing armed conflicts.

200. The representative of the International Labour Organization introduced a document on child labour submitted to the Committee on Employment and Social Policy of the Governing Body of ILO in November 1995. He stressed that the document reflected, in its section on collaboration with other international organizations, the existing cooperation between ILO and the Committee. It was pointed out that that cooperation should continue and find its natural extension at the national level with the participation of employers' and workers' organizations in the national bodies that had been set up in a large number of States to implement the Convention on the Rights of the Child.

201. The representative of the Hague Conference on Private International Law provided the Committee with an update on the status of the 1993 Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. He also briefed the Committee on progress made in preparing the preliminary draft convention on the protection of children, as well as on the implementation of the Hague Convention on the Law applicable to Maintenance Obligations and of the United Nations Convention on the Recovery Abroad of Maintenance.

202. In view of the importance it attaches to the dissemination of information on the Convention on the Rights of the Child, the Committee held two informal meetings with representatives of children's organizations (one with children from all over the world representing participants at the 1995 World Summit for Children, and one with children sponsored by the French Association Vacances Voyages Loisirs). A meaningful exchange of views took place between Committee members and the children present at the meetings which provided a special opportunity to make the principles and provisions of the Convention better understood, in a dialogue in which children were able to make known their views on their fundamental rights.

C. General discussion on the administration of juvenile justice

203. In the light of rule 74 of its provisional rules of procedure, the Committee on the Rights of the Child has decided periodically to devote one or more meetings to a general discussion on a specific article of the Convention or to a theme in the area of the rights of the child in order to enhance understanding of the content and implications of the Convention.

204. Encouraged by the successful contribution of its previous thematic debates towards creating wider awareness of the principles and provisions of the Convention and towards providing guidance to States for its implementation, the Committee had decided to devote the day of 13 November 1995 to discussion of the administration of juvenile justice.

205. The topic of the administration of juvenile justice has received consistent attention from the Committee, particularly in the concluding observations adopted by the Committee in relation to States parties reports (CRC/C/15 and addenda). The general discussion therefore provided an opportunity to evaluate the Committee's experience in the first years of its mandate.

206. The experience of the Committee has shown that the administration of juvenile justice is of practical concern in all regions of the world and in relation to all legal systems. The challenging and innovative philosophy arising from the Convention on the Rights of the Child and other United Nations standards adopted in the field - the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty - predicates a child-oriented system that recognizes the child as a subject of fundamental rights and freedoms and ensures that all actions concerning him or her are guided by the best interests of the child as a primary consideration. To achieve such a system there was a need for States parties to adopt all necessary measures to ensure full compliance of their national law and practice with the Convention on the Rights of the Child, in particular in the light of its article 4.

207. In an outline prepared to guide the general discussion, the Committee recalled the increasing and special interest paid by different instances of the United Nations system to the field of the administration of juvenile justice, and in particular to the standards relating to juveniles deprived of their liberty. Special reference was made in this spirit to the expert group meeting on children and juveniles in detention held in Vienna in October-November 1994 and the important set of recommendations it adopted (E/CN.4/1995/100), as well as to the subsequent endorsement of them by the Commission on Human Rights (in its resolution 1995/41) and the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Consideration was also given to the important resolutions adopted at the fourth session of the Commission on Crime Prevention and Criminal Justice, in particular those relating to children as victims and perpetrators of crime and the effective application of United Nations standards and norms in juvenile justice.

208. The Committee had identified two main areas to be considered during the debate: the relevance of the effective implementation of existing standards; and the value of international cooperation, namely through programmes of technical assistance. It was of the opinion that discussion of those themes would contribute to emphasizing the importance of accountability for the protection of, and respect for, the human rights of children, and would stress the need to foster international solidarity for the realization of those rights.

209. As for previous thematic discussions, the Committee had invited, in the light of article 45 of the Convention, representatives of United Nations organs, bodies and specialized agencies, and other competent bodies, including non-governmental organizations and research and academic institutions, to contribute to the discussion and provide expert advice on the two identified topics.

210. Several organizations submitted documents on the theme. Written contributions were also received from the Governments of Austria and the Former Yugoslav Republic of Macedonia. The list of these documents and contributions is to be found in annex VI to the present report.

211. Representatives of the following organizations and bodies made statements on the day of the general discussion: Centre for Human Rights, United Nations

Centre for Social Development and Humanitarian Affairs (Crime Prevention and Criminal Justice Branch), United Nations Children's Fund, Office of the United Nations High Commissioner for Refugees, World Health Organization, International Committee of the Red Cross, Children Rights Centre of Ghent University, Defence for Children International, Epoch Worldwide, Human Rights Watch Children's Rights Project, International Association of Juvenile and Family Court Magistrates, International Federation of Social Workers, International Save the Children Alliance, Japan Federation of Bar Associations, Rådda Barnen, Terre des Hommes (Bal Sakha), World Organization against Torture. Mr. Bruce Adamson, Mr. Dan O'Donnell, Ms. Dulce P. Estrella-Gust, and Ms. Ann Skelton (Coordinator, Child Rights for Lawyers for Human Rights, South Africa) in their capacity as individual experts also made statements during the debate.

212. The theme day was introduced by a Committee member, Ms. Sandra Mason. In her statement, the holistic approach of the Convention to children's rights was stressed, as well as the essential value of its general principles, which were of a particular relevance in the area of juvenile justice. Envisaging the child as a subject of rights, ensuring clear recognition and implementation of the principle of equality before the law and recognizing the inherent link existing between human rights and legal rights were emphasized as essential means to ensure respect for existing standards, in particular the Convention on the Rights of the Child.

213. The various interventions of Committee members and invited participants ensured a lively debate during which the importance of existing United Nations norms and principles was stressed, concrete examples of projects carried out at the country and regional levels were presented, and successful achievements or difficulties encountered in the process of ensuring the realization of children's rights worldwide were mentioned.

214. In that framework, the universality of the Convention was referred to as having particular significance. In view of the fact that it had been ratified by 181 States, the Convention provided a common reference and an ethical vision for addressing the issue of the administration of juvenile justice. The binding nature of its provisions implied a clear recognition on the part of States parties of the rights set forth therein. In addition, the Convention called for the implementation of the most conducive provisions for the realization of the rights of the child, and had therefore to be considered in conjunction with other relevant international instruments, namely the Beijing Rules, the Riyadh Guidelines and the Rules for the Protection of Juveniles Deprived of their Liberty. Those instruments complemented and provided guidance for the implementation of the rights recognized by the Convention and confirmed that there was no possible conflict between human rights and juvenile justice.

215. That approach was prevalent in the consideration of States parties reports by the Committee, in the preparation of the list of issues, as well as in the formulation of concluding observations and of the recommendations addressed to Governments. It would further guide the Committee in the preparation of the guidelines for the future periodic reports to be submitted in the light of article 44 of the Convention.

216. Such an approach should also inspire action for the realization of children's rights in a broader context, since juvenile justice could not be

reduced to situations where a conflict with criminal law had arisen. As an illustration, attention was paid to the area of asylum-seeking, refugee and unaccompanied children. In fact, the diversity of provisions in the Convention on the Rights of the Child applicable to them, and the universal nature of that legal instrument, extended the level of the protection of their fundamental human rights and legal safeguards, in particular in situations of deprivation of liberty or separation from their families. In such circumstances, it was essential to ensure that the child was treated in a manner consistent with the promotion of his or her sense of dignity and worth and that decisions were clearly taken in the light of the best interests of the child, in a due process that gave the child who was capable of forming his or her own views the right to express those views freely.

217. In the evaluation of the experience of the Committee in its monitoring function, it was stressed that very often reports lacked information concerning juvenile justice, including data on the number of children deprived of liberty through arrest, detention or imprisonment. Reports were usually limited to a general description of legal provisions, rarely addressing social factors leading to the involvement of juveniles with the system of administration of justice or the social consequences of the decisions taken in that context. Similarly, they usually did not identify factors or difficulties which impeded progress towards the effective realization of children's rights.

218. It was particularly felt that the general principles of the Convention had not been adequately reflected in national legislation or practice. In relation to non-discrimination, particular concern was expressed about instances where criteria of a subjective and arbitrary nature (such as with regard to the attainment of puberty, the age of discernment or the personality of the child) still prevailed in the assessment of the criminal responsibility of children and in deciding upon the measures applicable to them. Attention was also paid to the situation of children living and/or working on the street, who in view of their low status were often confronted with social exclusion and stigmatization, including on the part of police officials. Such a situation paved the way for frequent and extreme abuses that were rarely monitored or punished and were therefore committed with unacceptable impunity.

219. The principle of the best interests of the child was reaffirmed by the Convention in the context of the administration of juvenile justice, particularly when it stressed that the child should be treated in a manner consistent with the promotion of his or her sense of dignity and worth which reinforced respect for the child's human rights and fundamental freedoms and took into account the child's age and special needs. However, reports revealed that special juvenile justice systems were often non-existent, that judges, lawyers, social workers or personnel in institutions were not given any special training and that information on fundamental rights and legal safeguards were not provided to children. For those reasons, and contrary to the Convention, deprivation of liberty was not used only as a measure of last resort or for the shortest period of time possible as called for in the Convention, nor were contacts with the family the rule; access to legal and other assistance was not provided and free legal aid was often not available.

220. Similarly, in relation to the right of the child to participate in proceedings affecting him or her, States parties' reports had indicated that children were seldom made sufficiently aware of their rights, including the

right to assistance from a legal counsel, or of the circumstances surrounding the case or of the measures decided. They were also often denied the right to lodge complaints when they were victims of violation of their fundamental rights, including in cases of ill-treatment and sexual abuse. Moreover, the increasing trend for juvenile justice to become the subject of social and emotional pressure was a matter of particular concern, since it created opportunities to undermine respect for the best interests of the child.

221. It was noted with deep regret that the death penalty was still admitted in some countries for persons below the age of 18, that whipping and flogging were used as educative and punitive measures, and that insufficient attention was paid to the need for the promotion of an effective system of physical and psychological recovery and social reintegration of the child, in an environment that fostered his or her health, self-respect and dignity.

222. In that context, it was felt that there was a clear need to ensure, in the light of article 42 of the Convention and in the spirit of the United Nations Decade for Human Rights Education, a systematic campaign of information and awareness of the rights of the child. Particular efforts should be made to provide accessible information to children, including through the school system, as a means to strengthen the prevention of violation of their fundamental rights or neglect of fundamental legal safeguards.

223. Similarly, further steps should be taken to ensure that systematic training activities were provided to relevant professional groups working with and for children in that area. In that connection, the importance was stressed of incorporating the Convention on the Rights of the Child in training curricula and of reflecting its basic values in relevant codes of conduct. Particular reference was made to the role played by judges, lawyers, social workers, law enforcement officials, immigration officers and personnel working in institutions for children.

224. It was emphasized that there was an urgent need to ensure the publication and wide dissemination of a manual on standards of juvenile justice, including the Convention and other relevant United Nations standards adopted in this field, if possible with a commentary thereon, as well as of a manual on training for law enforcement officials. Expressing its willingness to be associated in such efforts, the Committee recognized the importance of such manuals as tools for advocacy and training activities, including those developed by the Centre for Human Rights and the Crime Prevention and Criminal Justice Branch.

225. All those measures would further contribute to ensuring the effective realization of children's rights and would promote the full compliance of national legislation with international standards adopted in the field of juvenile justice.

226. Moreover, all the above-mentioned measures would help to ensure that the child was always envisaged as a subject of the rights inherent to the human dignity of the person and that the child was envisaged mainly as a victim, including in situations of sexual abuse, child prostitution and child pornography. The criminal responsibility of the child should be based on objective criteria clearly excluding situations where the child was simply confronted with poverty and social exclusion.

227. Moreover, deprivation of liberty, in particular pre-trial detention, should never be unlawful or arbitrary and should only be used once all other alternative solutions would have proved to be inadequate. When deprived of liberty every child should have the right to prompt legal or other appropriate assistance, and the right to challenge the deprivation of liberty before a court or other impartial and independent body. The privacy of the child should be fully respected in all stages of the proceedings, including in relation to criminal records and possible reporting by the media.

228. In the same context, concern was expressed at the placement of children in institutions, under a welfare pretext, without taking into due consideration the best interests of the child nor ensuring the fundamental safeguards recognized by the Convention, including the right to challenge the decision of placement before a judicial authority, to a periodic review of the treatment provided to the child and all other circumstances relevant to the child's placement and the right to lodge complaints.

229. It was urged that alternatives to institutional care should be sought, and a call was made for the adoption of adequate measures to end the prevailing lack of transparency in institutions for children. In that regard, it was suggested that serious consideration be given to the development of independent mechanisms, at the national and international levels, to ensure periodic visits to and an effective monitoring of such institutions, including in relation to complaints that might have been lodged. Recalling the significant role played by the International Committee of the Red Cross, in particular in situations of armed conflict, and the current efforts of the Commission on Human Rights aimed at introducing a system of periodic visits to places of detention in the framework of an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, participants highlighted the particular relevance of national independent mechanisms. In that connection, reference was made to the role judges might play and to the importance of the intervention of an Ombudsman to ensure respect for the rights and interests of young persons.

230. During the debate, the role of the family was recognized as fundamental ensuring the effective enjoyment of the rights of children and their reintegration in an environment that fostered their self-respect and dignity. In the light of both the Convention and the Riyadh Guidelines, families should be encouraged to have closer and more frequent contacts with children placed in institutions and to have a say in children's treatment. The child's socialization should be promoted through increasing the involvement of families in children's programmes and through facilitating the release of children for home visits. Research on psycho-social implications of juvenile justice was recommended in that regard.

231. It was interesting to note, in that connection, the importance attached by traditional systems to the family, including the extended family, as well as to the community, in the process of ensuring the social reintegration of children and the promotion of their active participation in society. Such systems allowed for respect of the privacy of the family and encouraged the consideration of healing and reconciliation measures as alternatives to custody or corporal punishment.

232. Research in that area was therefore considered as being important to identify the traditional solutions which were fully compatible with the

Convention and its basic values. When widely shared in a given society, such solutions might be instrumental in the effective realization of children's rights.

233. The general discussion stressed the great relevance of international cooperation in the field of juvenile justice, an area which had become a clear priority in the United Nations system.

234. Relevant bodies, including the Committee on the Rights of the Child, the Commission on Crime Prevention and Criminal Justice and the Crime Prevention and Criminal Justice Branch of the United Nations Centre for Social Development and Humanitarian Affairs, the Commission on Human Rights, as well as the Advisory Services, Technical Assistance and Information Branch of the Centre for Human Rights should therefore cooperate increasingly in the areas of research, training, dissemination and the exchange of information, implementation and monitoring of existing standards, as well as in specific programmes of technical assistance. Only in that way would it be possible to rationalize the use of resources, streamline activities and enhance the efficiency of programmes, while clearly reaffirming the inherent link between criminal justice and human rights. For that reason, the participation in the thematic discussion of representatives of some of those bodies was welcomed.

235. The reporting system of the Convention, including the dialogue held with the States parties and the concluding observations adopted by the Committee, was recognized as decisively important to ensure a comprehensive framework for programmes of technical assistance. It provided the basis for a clear understanding of the situation in any given country and for fostering international cooperation and strengthening national capacities and infrastructures.

236. The recommendations addressed to States parties by the Committee could be of special benefit in the implementation of programmes of technical assistance in the areas of research, law reform and training of professional groups or in the consideration of alternatives to custodial measures, as well as for needs assessment missions and evaluation procedures.

237. For all those reasons, and in the light of the almost universal ratification of the Convention on the Rights of the Child, the Committee was a natural focal point and played a central and catalytic role in the area of international cooperation and assistance in the field of juvenile justice.

238. In that spirit, the Committee welcomed the initiatives designed to consider a strategy for technical cooperation and the establishment of a possible network for that purpose. It further welcomed the proposals made to ensure an increasing assistance to the Committee, in the light of the Plan of Action of the High Commissioner for Human Rights or through the establishment of an independent institution for that purpose.

#### D. Future day of general discussion

239. The Committee envisaged devoting its next day of general discussion, scheduled to take place during the Committee's thirteenth session (September-October 1996), to the topic of sexual exploitation and sexual abuse of children, in the light of the provisions of article 34 of the Convention.