



# WHAT IS THE UNCRC?

Article 12 in Scotland (updated: 2014)

## WHAT IS THE UNCRC?

### INTRODUCTION

The Convention on the Rights of the Child (1989) is not binding, in the UK, in a legal sense however; it does serve to establish recognised standards that are often referred to by national and international courts and bodies in their conclusions, recommendations and decisions. All but two of the eligible nations of the world (The United States of America and Somalia) have signed up to the Convention.

A further three optional protocols (codes of practice) exist:

#### ***Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict***

Adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000 entered into force on 12 February 2002. Ratified (formally approved) by the UK government 24<sup>th</sup> June 2003.

#### ***Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography***

Adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000 entered into force on 18 January 2002. The UK government ratified (formally approved) on 20th February 2009.

***A third Optional Protocol on a Communications Procedure*** (whereby individuals may make direct representation to the Committee) was adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/66/138 of 19 December 2011 and entered into force on 14th April 2014. The UK government is yet to ratify (accurate at 24th August 2014).

When governments agree to put the Convention into practice, they must prepare a report for the Committee on the Rights of the Child after two years, and then every five years. This is known as **the Reporting Process**. The Committee is a group of adults from different countries who are experts on children's rights. The Committee last examined the UK Government's record on implementing children's human rights in September 2008 and published its concluding observations (its observations and recommendations on the implementation of the UNCRC) in October 2008. (A copy of these can be found at annex 1 of this document). The UK Government submitted its most recent report to the Committee in May 2014. However, due to a backlog at Committee it is unlikely to be formally examined until 2016.

Part of the reporting process is the **Pre Sessional Working Group Meeting**. This is an opportunity for NGOs to present and discuss their **Alternative Reports** (reports which outline their views on the state of children's rights in their country and on the contents of the government report). Article 12 in Scotland is one of the Scottish NGOs that presents an Alternative Report. For further information see our documents *Alternative Report by Article 12 in Scotland to the UNCRC Geneva* (2002) and *WITNESS: THE UNCRC IN SCOTLAND* (2008).

## **RESERVATIONS AND DECLARATIONS**

Many governments attach certain reservations or declarations to their compliance. The UK government current declarations and reservations are:

### **1. (With particular reference, but not exclusive, to) Articles 1, 6, 7**

- (1) For the Purposes of the present Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.
  
- (6) State parties recognise that every child has the inherent right to life.
  
- (7) 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.

### **UK Government General Interpretative Declaration**

The UK interprets the Convention as applicable only following a live birth (similar declaration in respect to each of its dependent territories).

### **2. Relative to all references to “Parents” in the Convention**

#### **UK Government General Interpretative Statement**

The UK interprets the references in the Convention to “parents” to mean only those persons who, as a matter of national law, are treated as parents (similar declaration in respect to each of its dependent territories).

### **3. Relative to the Convention**

#### **UK Government General Reservation**

The right to extend the Convention at a later date to any territory for whose international relations the Government of the United Kingdom is responsible.

**The following two reservations were withdrawn by the UK Government in September 2008:**

**1. Article 37 (c)**

“Every child deprived of liberty shall be treated with humanity and respect.....In particular, every child deprived of liberty shall be separated from adults unless it is considered in the best interests of the child not to do so.....”

**UK Government Reservation**

“Where at any time there is a lack of suitable accommodation or adequate facilities for a particular individual in any institution in which young offenders are detained, or where the mixing of adults and children is deemed to be mutually beneficial, the United Kingdom reserves the right not to apply article 37 (c) in so far as those provisions require children who are detained to be accommodated separately from adults”.

**2. (With particular reference, but not exclusive, to) Article 22**

“State 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, where 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”.

**UK Government Reservation (General)**

“The United Kingdom reserves the right to apply such legislation (in so far as it relates to the entry into, stay in and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, and to the acquisition and possession of citizenship) as it may deem necessary from time to time”.

“The UNCRC was not designed to provide new immigration and nationality rights and the United Kingdom government believes that our reservation to the Convention is necessary in the interest of effective immigration control”.

The **UNCRC** is a list of **54 Articles** that cover all aspects of life for young people under the age of eighteen. 40 of the Articles describe the rights that the government must make sure you have.

This brief guide, set out in four sections, shows what your rights are:

**Remember these rights are for people under the age of eighteen.**

### **BEING FAIR – NON-DISCRIMINATION RIGHTS**

**Article 1** says everyone under the age of eighteen is entitled to all the rights in the **UNCRC**, and **Article 2** spells out that everyone means:

Whatever race you are

Whichever religion you follow

Whichever language you speak

Whether you are female or male

Whether you are disabled or able-bodied

The **UNCRC** says that it is important for you to know who you are and where you come from, so **Article 7** gives you the right to a name, a nationality and a birthday. Because these details must be recorded, with details of your parents, this is a way of making sure society recognises you and respects you as a person in your own right.

Your rights make sure you are treated fairly, and also make sure we treat each other fairly. That means no racism, no sexism, no excluding people or disrespecting them.

## TAKING CARE OF YOU – PROTECTION RIGHTS

There are lots of ways that children and young people need protection. Sometimes the people you depend on let you down, or sometimes there are situations where there might be risks. **Article 3** of the **UNCRC** says that everything concerning you must be in your best interests. Obviously, before you can enjoy any other rights, you have to survive and develop, which is covered by **Article 6**.

Protection from harm is obviously the main aim of many of the Articles in the **UNCRC**, so we'll have to be brief even though these are really important. You have the right to privacy (**Article 16**), and to protection from any kind of abuse (**19**) or torture (**37**). No one is allowed to exploit you in any way (**Article 36**) or to kidnap you (**35**). These things could happen in everyday life or during situations such as wars. **Article 39** says that if you have been a victim of any of these things you should have care to help you recover.

Your family is in the most important position to care and support you according to **Articles 5 and 18**. The government must respect this and support parents, and if for any reason you are split up from your parents, they must do their best to get you together again or help you keep in contact (**Articles 9 and 10**).

If you are in a situation where your family cannot look after you the government must make sure you are placed in good care (**Article 20**), which is regularly reviewed (**Article 25**). If you are adopted, this must be in your best interests (**Article 21**).

You might be interested to know that **Article 33** gives you the right to be protected from drugs and dealing.

If you are ever in trouble with the law, **Article 40** gives you the right to legal representation and to fair treatment.

If you work, **Article 32** says that you should not be involved in jobs which threaten your health or education and that the government must set rules about work for children and young people.

## **MEETING YOUR NEEDS – DEVELOPMENT RIGHTS**

The **UNCRC** realises that things must be provided for people while they are young if they are to grow up safe, healthy and happy. It is all about having what you need to achieve your potential as a person and as a member of society. Information is important to help you get what you need, as well as to make decisions. **Article 17** means that information should be given to you in ways you can understand, and on things which are important to you.

Health is really important to everyone. The **UNCRC** says that everything must be done to make sure you don't get ill in the first place (like a clean environment or your TB jag). You also have the right to access to health services. These are in **Article 24**. Remember **Article 12** gives you the right to have your say in your medical treatment.

If people with a disability need special care and education to enable them to achieve their potential and take part in society, **Article 23** says they should have this.

Education is another matter that the **UNCRC** is concerned about. Two Articles cover this. **Article 28** gives you the right to go to school and **Article 29** says you should have an education which gives you respect for human rights and a fair society and for you personally to develop your talents and abilities as much as possible.

People's personal needs and their ability to take part in society depend on money. The **UNCRC** says that you should have the right to social security, **Article 26**, and then **Article 27** says you should have a reasonable standard of living, and that if your parents can't meet this, the government must help them.

The **UNCRC** tries to make sure you have your rights by suggesting that the government should ensure that they organise services in the best way for everyone.

## **TAKING PART – PARTICIPATION RIGHTS**

The **UNCRC** recognises people under eighteen as important members of society. It gives you the right to take part in making decisions that affect you personally, but it also realises you will want recognition for your views and feelings by other people in society too.

**Article 12** gives you the right to express your opinion in any decision that will affect you. Adults should respect your views and take them into account.

**Article 14** is the right to decide your own beliefs and opinions. You should be free to think for yourself about how you feel. This could be on issues such as religion, or perhaps about causes like the environment, animal rights or human rights - whatever lights your fire! The **UNCRC** says it is still important for adults to help you work out your beliefs, which can be difficult with so many different ideas and viewpoints.

**Article 13** says you can express yourself in lots of different ways - talking, writing, and artwork - as long as this does no disrespect to anyone else. You can also get any information you need to help you think about issues too.

**Article 15** means you can join clubs or organisations, or even set up your own. You also have the right to meet with other people. You also have the right to play, leisure and recreation (**Article 31**), and if you are a member of an ethnic or religious community, you should be able to enjoy your own culture.

These rights make sure you can be part of society, and give you the right to work out what part you want to play. The **UNCRC** says it is important that while respecting your rights, adults also have to help you work out right from wrong. Whatever you do, you still have to stay within the law, and respect the rights of others.



The following outlines the 54 articles of the United Nations Convention on the Rights of the Child (UNCRC).

**Articles 1 – 40** describe the rights that governments must make sure young people have.

**Articles 41 – 54** describe the things that adults and governments must do to make sure all young people get all their rights.

#### **ARTICLE 1**

Every young person under 18 years of age has all the rights in this Convention.

#### **ARTICLE 2**

The Convention applies to all young people under 18 years of age whatever their race, religion, abilities, whatever they think or say, whatever family they come from.

#### **ARTICLE 3**

All organisations that work with or for young people should work towards what is best for each child or young person.

#### **ARTICLE 4**

Governments should work to make these rights available to all young people.

#### **ARTICLE 5**

Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.

#### **ARTICLE 6**

All young people have the right to life. Governments should insure that young people survive and develop healthily.

#### **ARTICLE 7**

All young people have the right to a legally registered name, the right to a nationality and the right to know and, as far as possible, be cared for by their parents.

#### **ARTICLE 8**

Governments should respect young people's rights to a name, a nationality and family ties.

## **ARTICLE 9**

Young people should not be separated from their parents unless it is for their own good, for example: if a parent is mistreating or neglecting a young person.

Young people whose parents have separated have the right to stay in contact with both parents, unless they may harm the young person.

## **ARTICLE 10**

Families who live in different countries should be allowed to move between those countries so that parents and young people can stay in contact or get back together as a family.

## **ARTICLE 11**

Governments should take steps to stop young people being taken out of their own country illegally.

## **ARTICLE 12**

Young people have the right to say what they think should happen when adults are making decisions that affect them, and to have their opinions taken into account.

## **ARTICLE 13**

Young people have the right to get and share information as long as the information is not damaging to them or others.

## **ARTICLE 14**

Young people have the right to think and believe what they want and to practice their religion, as long as they are not stopping other people from enjoying their rights. Adults should guide young people on these matters.

## **ARTICLE 15**

Young people have the right to meet together and to join organisations, as long as this does not stop other people from enjoying their rights.

## **ARTICLE 16**

Young people have the right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.

## **ARTICLE 17**

Young people have the right to reliable information from the mass media. Television, radio and newspapers should provide information that young people can understand and should not promote materials that could harm young people.

#### **ARTICLE 18**

Both parents share responsibility for raising their children and should always consider what is best for their children.

#### **ARTICLE 19**

Governments should ensure that young people are properly cared for and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

#### **ARTICLE 20**

Young people who cannot be looked after by their own families must be looked after properly by people who respect their religion, culture and language.

#### **ARTICLE 21**

When young people are adopted the first concern must be what is best for them. The same rules should apply whether the young people are adopted in the country where they were born or taken to live in another country.

#### **ARTICLE 22**

Young people who come into a country as refugees or asylum seekers should have the same rights as young people born in the country.

#### **ARTICLE 23**

Young people who have any kind of disability should have special care and support so they can live full and independent lives.

#### **ARTICLE 24**

Young people have the right to good quality health care and to clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries to achieve this.

#### **ARTICLE 25**

Young people who are looked after by their local authority rather than their parents should have their situation reviewed regularly.

#### **ARTICLE 26**

The government should provide extra money for young people from families in need.

#### **ARTICLE 27**

Young people have a right to a standard of living that is good enough to meet their physical and mental needs. Governments should help families who cannot afford to provide this.

#### **ARTICLE 28**

Young people have a right to an education. Discipline in schools should respect a young person's dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

#### **ARTICLE 29**

Education should develop each young person's personality and talents to the full. It should encourage young people to respect their parents, their own and other cultures.

#### **ARTICLE 30**

Young people have a right to learn and use the language and customs of their families, whether or not these are shared by the majority of the people in the country in which they live in.

#### **ARTICLE 31**

All young people have a right to relax and play, and to join in a wide range of activities.

#### **ARTICLE 32**

The Government should protect young people from work that is dangerous or might harm their health or their education.

#### **ARTICLE 33**

The Government should provide ways of protecting young people from dangerous drugs.

#### **ARTICLE 34**

The Government should protect young people from sexual abuse.

#### **ARTICLE 35**

The Government should make sure that young people are not abducted or sold.

#### **ARTICLE 36**

Young people should be protected from any activities that could harm their development.

#### **ARTICLE 37**

Young people who break the law should not be treated cruelly. They should not be put in prison with adults and should be able to keep in contact with their families.

#### **ARTICLE 38**

Governments should not allow young people under the age of 15 to join the armed forces. Young people in war zones should receive special protection.

#### **ARTICLE 39**

Young people who have been neglected or abused should receive special help to restore their self respect.

#### **ARTICLE 40**

Young people who are accused of breaking the law should receive legal help. Prison sentences for young people should only be used for the most serious offences.

#### **ARTICLE 41**

If the laws of a particular country protect young people better than the Convention then those laws should stay.

#### **ARTICLE 42**

The government should tell all adults and young people about the Convention.

#### **ARTICLE 43**

A group of ten experts from all over the world (The Committee on the Rights of the Child) has been set up to make sure that governments are doing all they can to give young people their rights. This group usually meet at the United Nations Headquarters in Geneva.

#### **ARTICLE 44**

Governments have to submit their first report to the Committee on the Rights of the Child within two years of signing up to the Convention and on a five yearly basis after that.

Government reports have to explain how they are making sure that all young people get the rights, and if they are not why they are not.

#### **ARTICLE 45**

The Committee on the Rights of the Child can ask non governmental organisations (NGOs), with an interest in or working with young people, their views and opinions on the state of children and young people's rights.

Based on information received from governments and NGOs the Committee on the Rights of the Child can make suggestions and recommendations as to how those governments should improve the situation for children and young people.

#### **ARTICLE 46**

The Convention is open to all countries to sign up to. Signing up means that your government agrees that the Convention is a good idea.

#### **ARTICLE 47**

The Convention is subject to ratification. Ratification means that your government formally approves the Convention, meaning it agrees to put the articles of the convention in to action in your country. Governments have to inform the United Nations of their decision to ratify.

#### **ARTICLE 48**

The Convention is open for accession by any country. Accession means the formal acceptance of the Convention by your government. Governments have to inform the United Nations of their decision.

#### **ARTICLE 49**

The Convention enters into force thirty days after a government has informed the United Nations of its ratification or accession. This means that after thirty days the government has a duty to ensure that all children and young people get their rights and to report back regularly to the Committee on the Rights of the Child.

#### **ARTICLE 50**

Any country can propose an amendment to the Convention. Any proposed amendment has to be considered and voted on by all countries who have signed up to the Convention. Agreed amendments only have to be adhered to by those countries that have voted for them. Those countries who did not vote in favour remain bound only by the original articles or any other amendments that they have voted for.

#### **ARTICLE 51**

Governments have the right to make certain reservations to their obligations as set out in the Convention. For example, a Government may reserves the right not to afford young people who come into a country as refugees or asylum seekers the same rights as young people born in the country (**ARTICLE 22**).

#### **ARTICLE 52**

Governments can withdraw their agreement to apply the Convention. They have to inform the Secretary-General of the United Nations of their decision. Their withdrawal enters into force one year after their notification to the United Nations.

#### **ARTICLE 53**

The Secretary-General of the United Nations is the person responsible for the Convention.

#### **ARTICLE 54**

The originals of the Convention, in English, Arabic, Chinese, French, Russian and Spanish languages, are held by the Secretary-General of the United Nations.

**UN Committee on the Rights of the Child – UK Concluding Observations - (2008)**

**UNEDITED VERSION**

**CRC/C/GBR/CO/4**

**3 October 2008  
Original: English**

**COMMITTEE ON THE RIGHTS OF THE CHILD**

**Forty-ninth session**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 44 OF THE CONVENTION**

**Concluding observations  
United Kingdom of Great Britain and Northern Ireland**

1. The Committee considered the third and fourth periodic report of the United Kingdom of Great Britain and Northern Ireland (CRC/C/83/Add.3), at its 1355<sup>th</sup>, 1356<sup>th</sup> and 1357<sup>th</sup> meetings (see CRC/C/SR.1355, 1356, 1357), held on 23 and 24 September 2008, and adopted at its 1369<sup>th</sup> meeting, held on 3 October 2008, the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the combined third and fourth report of the State party as well as the written replies to the list of issues. The Committee also welcomes the frank and constructive dialogue held with a multi-sectoral delegation at a senior level.
3. The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations adopted on the same day on the State party's initial report to the Optional Protocol on the Involvement of Children in Armed Conflict, contained in CRC/C/GBR/OPAC/CO/1.



## **B. Follow-up measures undertaken and progress achieved by the State party**

### 4. The Committee welcomes:

- a) the information provided by the State party during the dialogue concerning its decision to withdraw the reservations to articles 22 and 37 (c) of the Convention;
- b) the adoption of a number of acts relating to children's rights, including the Children's Act 2004, the Childcare Act 2006 and the Children's Plan for England of 2007, which directly refer to the provisions and principles of the Convention;
- c) the creation of the Equality and Human Rights Commission;
- d) the creation of the Department for Children, Schools and Families (DCSF) and of a Secretary of State for Children, Schools and Families with lead responsibility for all policies affecting children in England;
- e) the fact that there have been instances where the Convention has been referred to in the State party's domestic courts.

### 5. The Committee welcomes the State party's announcement that all the necessary legislative and other measures have been taken to initiate the process of ratification of the Optional Protocol on the sale of children, child prostitution and child pornography. It also notes with appreciation that since consideration of its second report in 2002, the State party has ratified or acceded to, inter alia:

- a) the Optional Protocol on the involvement of Children in Armed Conflict on 24 June 2003;
- b) the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 10 December 2003;
- c) the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 17 Dec 2004;
- d) the 1993 Hague Convention No.33 on Protection of Children and Cooperation in Respect of Intercountry Adoption on 27 February 2003;
- e) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime on 9 February 2006.

## C. Main areas of concern and recommendations

### 1. General measures of implementation (arts. 4, 42 and 44, para. 6 of the Convention)

#### Committee's previous recommendations

6. The Committee, while welcoming the State party's efforts to implement the concluding observations on previous State party's reports, notes with regret that some of the recommendations contained therein have not been fully implemented, in particular:
  - a) with respect to the second periodic report of the United Kingdom (CRC/C/15/Add.188), those related, *inter alia*, to: incorporation of the Convention in the State party's law (§ 8-9); budgetary allocations (§ 10-11); dissemination and awareness of the Convention (§ 20-21); non-discrimination (§ 22-23); corporal punishment (§ 35-38); education (§ 47-48); asylum-seekers and refugee children (§ 49-50); juvenile justice (§ 59-62);
  - b) with respect to the initial report of the United Kingdom – Overseas Territories – (CRC/C/15/Add.135), those related, *inter alia*, to:  
  
definition of the child (§ 21-22); domestic violence; ill-treatment and abuse (§ 33-34); drug and substance abuse (§ 51-52); juvenile justice (§ 55-56).
  - c) with respect to the initial report of the United Kingdom – Isle of Man – (CRC/C/15/Add.134) those regarding, *inter alia*: corporal punishment (§ 26-27); juvenile justice (§ 40-41).
7. **The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the previous reports that have not yet - or not sufficiently - been implemented as well as those contained in the present concluding observations. In this context, the Committee draws the attention of the State party to its general comment No.5 (2003) on general measures of implementation of the Convention on the Rights of the Child.**

#### Reservations and declarations

8. The Committee, while welcoming the announced withdrawal of the reservations under articles 22 and 37 (c) of the Convention regrets that the State party still maintains its reservation with regard to the applicability of article 32 to its Overseas Territories and Crown Dependencies.
9. **The Committee encourages the State party to withdraw its reservation to article 32 with respect to the Overseas Territories and Crown Dependencies.**

## Legislation

10. The Committee appreciates the State party's efforts to harmonize its legislation with the Convention, particularly with the adoption of the Children's Act 2004 for England and Wales which, *inter alia*, creates the Children's Commissioner for England, and the Childcare Act 2006. However, the Committee remains concerned that the principles of the Convention are not duly taken into account in all pieces of legislation throughout the country and that the State party has not incorporated the Convention into domestic law nor has ensured the compliance of all legislation affecting children with it.
  
11. **The Committee recommends that the State party continue to take measures to bring its legislation in line with the Convention. To this aim, the State party could take the opportunity given in this regard by the development of a Bill of Rights in Northern Ireland and a British Bill of Rights, and incorporate into them the principles and provisions of the Convention, e.g. by having a special section in these Bills devoted to child rights.**

## Coordination

12. The Committee notes that the State party functions with devolved government arrangements and that this system makes it difficult to have a single body coordinating implementation of the Convention. In this respect, the recent coordinating efforts such as the concentration of responsibilities in the office of the Minister for Children, Young People and Families in England and

similar developments within Scotland and Wales are welcome. Nonetheless, the Committee remains concerned at the lack of a body mandated to coordinate and evaluate a comprehensive and effective implementation of the Convention throughout the State party, including at local level.

13. **The Committee reiterates its previous recommendation that the State party ensures effective coordination of the implementation of the Convention throughout the State party, including locally, especially where local authorities have significant powers to determine their priorities and allocate budgets. To this end, the State party – in addition to ensuring that each of the jurisdictions has a well resourced and functioning coordinating body – could allocate responsibility for the coordination and evaluation of the Convention across the State party to a single, high-profile, mechanism.**

## National Plan of Action

14. The Committee welcomes the fact that the Convention has been referred in the Children's Plan for England, the Seven Core Aims for Children and Young People in Wales and the strategy developed by Northern Ireland. It also welcomes the Every Child Matters' set of reforms in England. However, the Committee remains concerned that the Convention is not regularly used as a framework for the development of strategies throughout the State party and at the lack of an overarching policy to ensure the full realization of the principles, values and goals of the Convention.
  
15. **The Committee encourages the State party to adopt comprehensive plans of action for the implementation of the Convention in all parts of the State party, in cooperation with the public and private sectors involved in the promotion and protection of children's rights and based on a child right approach. In doing so, the State party should take into account the outcome document of the 2002 Special Session of the General Assembly of the United Nations "A World Fit for Children" and its Mid-Term Review in 2007. The Committee also recommends that the State party ensure adequate budget allocations and follow-up and evaluation mechanisms for the full implementation of the plans of action to regularly assess progress achieved and identify possible deficiencies. These plans should pay special attention to children belonging to the most vulnerable groups.**

## Independent monitoring

16. The Committee welcomes the establishment of independent Children's Commissioners in all four nations within the United Kingdom and the numerous initiatives they have taken for the promotion and protection of child rights, but is concerned that their independence and powers are limited and that they are not established in full compliance with the Paris Principles.
  
17. **The Committee recommends that the State party ensure that all four established Commissioners are independent in compliance with the Paris Principles and mandated, *inter alia*, to receive and investigate complaints from or on behalf of children concerning violations of their rights. These**

**bodies should be equipped with the necessary human and financial resources in order to carry out their mandate in an effective and coordinated manner so that the rights of all children in all parts of the State party are safeguarded. In this regard, the Committee draws the attention of the State party to its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child.**

### Allocation of resources

18. The Committee notes with appreciation the increase in expenditures on children in recent years. Nevertheless, the Committee is concerned that the increases are not sufficient to eradicate poverty and tackle inequalities and that the lack of consistent budgetary analysis and child rights impact assessment makes it difficult to identify how much expenditure is allocated to children across the State party and whether this serves to effectively implement policies and legislation affecting them.
  
19. **The Committee recommends that the State party, in accordance with article 4 of the Convention, allocate the maximum extent of available resources for the implementation of children's rights, with a special focus on eradicating poverty and reduce inequalities across all jurisdictions. In this endeavour, the State party should take into account the Committee's recommendations issued after the Day of General Discussion devoted to "Resources for the Rights of the Child - Responsibility of States" on 21 September 2007. Child rights impact assessment should be regularly conducted to evaluate how the allocation of budget is proportionate to the realization of policy developments and the implementation of legislation.**

### Dissemination, training and awareness-raising

20. The Committee welcomes the State party's recent efforts to train professionals on the principles and provisions of international human rights instruments, including the Convention, as well as its support to UNICEF "Rights Respecting Schools" project and the collaboration with NGOs in the development and implementation of awareness-raising activities. Nonetheless, the Committee is concerned that there is no systematic awareness raising of the Convention and that the level of knowledge about it among children, parents or professional working with children is low. Furthermore, the Committee regrets that the Convention is not part of the curriculum in schools.
  
21. **The Committee recommends that the State party further strengthen its efforts, to ensure that all of the provisions of the Convention are widely known and understood by adults and children alike, *inter alia* by including the Convention in statutory national curriculum and ensure that its principles and values are integrated into the structures and practice of all schools. It also recommends the reinforcement of adequate and systematic training of all professional groups working for and with children, in particular law enforcement officials, immigration officials, media, teachers, health personnel, social workers and personnel of childcare institutions.**

## Cooperation with civil society

22. The Committee notes with appreciation the cooperation of the State party with civil society organizations in the preparation of the report, including formal consultations, as well as in the implementation of the Convention.
23. **The Committee recommends that the State party encourage the active and systematic involvement of civil society, including NGOs and associations of children, in the promotion and implementation of children's rights, including, *inter alia*, their participation in the planning stage of policies and cooperation projects, as well as in the follow-up to the concluding observations of the Committee and the preparation of the next periodic report.**

## 2. General principles (arts. 2, 3, 6 and 12 of the Convention)

### Non-discrimination

24. The Committee welcomes the State party's plans to consolidate and strengthen equality legislation, with clear opportunities to mainstream children's right to non-discrimination into the UK anti-discrimination law (forthcoming Equality Bill). The Committee also welcomes the adoption of action plans and the monitoring and information collection work carried out on the issue of discrimination. However, the Committee is concerned that in practice certain groups of children, such as: Roma and Irish Travellers' children; migrant, asylum-seeking and refugee children; lesbian, bisexual, gay, and transgender children (LBGT); children belonging to minority groups, continue to experience discrimination and social stigmatization. The Committee is also concerned at the general climate of intolerance and negative public attitudes towards children, especially adolescents, which appears to exist in the State party, including in the media, and may be often the underlying cause of further infringements of their rights.
25. **The Committee recommends that the State party ensure full protection against discrimination on any grounds, including by:**
- a) **taking urgent measures to address the intolerance and inappropriate characterization of children, especially adolescents, within the society, including the media;**
  - b) **strengthening its awareness-raising and other preventive activities against discrimination and, if necessary, take affirmative actions for the benefit of vulnerable groups of children, such as: Roma and Irish Travellers' children; migrant, asylum-seeking and refugee children; lesbian, bisexual, gay, and transgender children (LBGT); children belonging to minority groups;**

- c) **taking all necessary measures to ensure that cases of discrimination against children in all sectors of society are addressed effectively, including with disciplinary, administrative or – if necessary – penal sanctions.**

#### **Best interests of the child**

26. The Committee regrets that the principle of the best interests of the child is still not reflected as a primary consideration in all legislative and policy matters affecting children, especially in the area of juvenile justice, immigration and freedom of movement and peaceful assembly.
27. **The Committee recommends that the State party take all appropriate measures to ensure that the principle of the best interests of the child, in accordance with article 3 of the Convention, is adequately integrated in all legislation and policies which have an impact on children, including in the area of criminal justice and immigration.**

#### **Right to life, survival and development**

28. The Committee, while welcoming the introduction of statutory child death reviews in England and Wales, is very concerned that six more children have died in custody since the last examination as well as at the high prevalence of self-injurious behaviour among children in custody.
29. **The Committee recommends that the State party use all available resources to protect children's rights to life, including by reviewing the effectiveness of preventive measures. The State party should also introduce automatic, independent and public reviews of any unexpected death or serious injury involving children – whether in care or in custody.**
30. The Committee, while welcoming the State party's abolition of the use of plastic baton rounds as a means of riot control in Northern Ireland, is concerned that they were replaced by the Attenuating Energy Projectiles (AEP) whose less harmful nature has not been proven. The Committee is also concerned at the authorisation of Taser guns for police officers in England and Wales, and in Northern Ireland as a pilot project, in both cases of which they can be used on children.
31. **The State party should treat Taser guns and AEPs as weapons subject to the applicable rules and restrictions and put an end to the use of all harmful devices on children.**

## **Respect for the views of the child**

32. The Committee welcomes the Childcare Act 2006, and associated guidelines, that require local authorities to have regard to the views of young children when planning early years services as well as the requirement on inspectors to consult children when visiting schools and other institutional settings. It also welcomes the new duty on school governing bodies in England and Wales to involve children in the development of school behaviour policies. However the Committee is concerned that there has been little progress to enshrine article 12 in education law and policy. Furthermore, the Committee is concerned that insufficient action has been taken to ensure the rights enshrined in article 12 to children with disabilities.

**33. The Committee recommends that the State party, in accordance with article 12 of the Convention, and taking into account the recommendations adopted by the Committee after the Day of General Discussion on the right of the child to be heard in 2006:**

- a) **promote, facilitate and implement, in legislation as well as in practice, within the family, schools, and the community as well as in institutions and in administrative and judicial proceedings, the principle of respect for the views of the child;**
- b) **support forums for children’s participation, such as the UK Youth Parliament, Funky Dragon in Wales and Youth Parliament in Scotland;**
- c) **continue to collaborate with civil society organizations to increase opportunities for children’s meaningful participation, including in the media.**

## **4. Civil Rights and Freedoms**

(arts. 7, 8, 13-17 and 37(a) of the Convention)

### **Freedom of peaceful assembly**

34. The Committee is concerned at the restriction imposed on the freedom of movement and peaceful assembly of children by the anti-social behaviour orders (ASBOs) (see also § 79 and 80 below) as well as by the use of the so-called “mosquito devices” and the introduction of the concept of “dispersed zones”.

**35. The Committee recommends that the State party reconsider the ASBOs as well as other measures such as the mosquito devices insofar as they may violate the rights of children to freedom of movement and peaceful assembly, the enjoyment of which is essential for the children’s development and may only subject to very limited restrictions as enshrined in article 15 of the Convention.**



## **Protection of privacy**

36. The Committee is concerned that:

- a) DNA data regarding children is kept in the National DNA Database irrespective of whether the child is ultimately charged or found guilty;
- b) the State party has not taken sufficient measures to protect children, notably those subject to ASBOs, from negative media representation and public “naming and shaming”;
- c) children’s appearance in TV reality show may constitute an unlawful interference with their privacy.

37. **The Committee recommends that the State party:**

- a) **ensure, both in legislation and in practice, that children are protected against unlawful or arbitrary interference with their privacy, including by introducing stronger regulations for data protection;**
- b) **intensify its efforts, in cooperation with the media, to respect the privacy of children in the media, especially by avoiding messages publicly exposing them to shame, which is against the best interests of the child;**
- c) **regulate children’s participation in TV programs, notably reality shows, as to ensure that they do not violate their rights.**

## **Cruel, inhuman or degrading treatment or punishment**

38. The Committee notes that the State party has reviewed the use of physical restraint and solitary confinement to ensure that these measures are not used unless absolutely necessary and as a measure of last resort. However, the Committee remains concerned at the fact that, in practice, physical restraint on children is still used in places of deprivation of liberty.

39. **The Committee urges the State party to ensure that restraint against children is used only as a last resort and exclusively to prevent harm to the child or others and that all methods of physical restraint for disciplinary purposes be abolished.**

## Corporal punishment

40. The Committee, while noting amendments to legislation in England, Wales, Scotland and Northern Ireland which restrict the application of the defence of “reasonable chastisement”, is concerned that this defence has not been removed. The Committee welcomes the commitment of the National Assembly in Wales to prohibiting all corporal punishment in the home, but notes that under the terms of devolution it is not possible for the Assembly to enact the necessary legislation. The Committee is concerned at the failure of State party to explicitly prohibit all corporal punishment in the home and emphasises its view that the existence of any defence in cases of corporal punishment of children does not comply with the principles and provisions of the Convention, since it would suggest that some forms of corporal punishment are acceptable.
41. The Committee is further concerned that corporal punishment is lawful in the home, schools and alternative care settings in virtually all overseas territories and crown dependencies.
42. **The Committee, reiterating its previous recommendations (CRC/C/15/Add.188, para. 35), in light of its General Comment n° 8 on “the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, as well as noting similar recommendations made by the Human Rights Committee; the Committee on the Elimination of Discrimination Against Women; and the Committee on Economic, Social and Cultural Rights, recommends that the State party:**
  - a) **prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences, in England and Wales, Scotland, and Northern Ireland, and in all overseas territories and crown dependencies;**
  - b) **ensure that corporal punishment is explicitly prohibited in schools and all other institutions and forms of alternative care throughout the United Kingdom and in the overseas territories and crown dependencies;**
  - c) **actively promote positive and non-violent forms of discipline and respect for children’s equal right to human dignity and physical integrity, with a view to raising public awareness of children’s right to protection from all corporal punishment and to decreasing public acceptance of its use in childrearing;**
  - d) **provide parental education and professional training in positive child-rearing.**

## Follow-up to the UN Study on Violence Against Children

43. **With reference to the United Nations Secretary-General's Study on violence against children (A/61/299), the Committee recommends that the State party take all necessary measures for the implementation of the recommendations contained in the report of the independent expert of the United Nations study on violence against children, while taking into account the outcome and recommendations of the Regional Consultation for Europe and Central Asia held in Ljubljana from 5-7 July 2005. The State party should use these recommendations as a tool for action in partnership with civil society and in particular with the involvement of children, to ensure that every child is protected from all forms of physical, sexual and mental violence and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.**

### **5. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)**

44. The Committee notes the State party's indication that foster care is preferred over institutional care. The Committee also welcomes the State party's efforts to improve outcomes for children in care as well as the establishment of Independent Reviewing Officers in England. The Committee is concerned that many families lack appropriate assistance in the performance of their child-rearing responsibilities, and notably those families in a crisis situation due to poverty. Furthermore, the Committee is concerned at:
- a) the insufficient investment in the staff and facilities to support children deprived of parental care;
  - b) the fact that children may be taken in alternative care as a result of parental low income;
  - c) the situation of children with one or both parents in prison;
  - d) the increased numbers of children in alternative care and in particular the high percentage of children of African descent, children with disabilities and children from ethnic minorities therein;
  - e) the inadequate monitoring, including concerning the review of the treatment, for children in alternative care;
  - f) the too frequent move between places for children in alternative care as well as the scarce possibility of contact between them and their parents and siblings;
  - g) the limited number of children in alternative care who have access to complaint mechanisms.

45. **The Committee recommends that the State party:**

- a.) **intensify its efforts to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities;**
- b.) **avoid that children are taken in alternative care as a result of parental low income;**
- c.) **take into account in all measures the views of the children, and providing them with child accessible complaint mechanisms in all parts of the country;**
- d.) **ensure support to children with one or both parents in prison, in particular to maintain contact with the parent(s) (unless this is contrary to their best interests) and prevent their stigmatization and discrimination;**
- e.) **monitor the status of children placed in kinship homes, foster care, pre-adoptive homes and other care institutions, inter alia by regular visitations;**
- f.) **assess why so many children with disabilities are in long term institutional care and review their care and treatment in these settings;**
- g.) **facilitate the initiation of contact proceedings for all children separated from their parents and siblings, including those in long term residential care;**
- h.) **provide training and education programs to prepare children for adult life;**
- i.) **take into account the Committee's recommendations issued at the day of general discussion on Children without parental care, held on 16 September 2005.**

### **Adoption**

- 46. The Committee is concerned that children of African descent and children of ethnic minorities sometimes face long period waiting for adoption by a family of the same ethnic origin.
- 47. **The Committee recommends that the State party strengthen its efforts to facilitate that children, always in their best interests, are adopted as speedily as possible, taking in due account, *inter alia*, their cultural background.**

48. The Committee is concerned that the State party has entered a declaration to the Hague Convention on Intercountry Adoption whereby it does not extend the application of this Convention to its Overseas Territories.

**49. The Committee recommends that the State party take the necessary measures to expand the application of the Hague Convention on Intercountry Adoption to the Overseas Territories.**

**Violence, abuse and neglect**

50. The Committee welcomes the efforts undertaken by the state party to tackle the problem of violence, abuse and neglect against children. However, the Committee remains alarmed at the still high prevalence of violence, abuse and neglect against children, including in the home, and at the lack of a comprehensive nationwide strategy in this regard. The Committee regrets that there is still no comprehensive system of recording and analysing abuses committed against children and that mechanisms of physical and psychological recovery and social reintegration for victims are not sufficiently available across the state party.

**51. The Committee recommends that the State party:**

- a.) establish mechanisms for monitoring the number of cases and the extent of violence, sexual abuse, neglect, maltreatment or exploitation, including within the family, in schools and in institutional or other care;**
- b.) ensure that professionals working with children (including teachers, social workers, medical professionals, members of the police and the judiciary) receive training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children;**
- c.) strengthen support for victims of violence, abuse, neglect and maltreatment in order to ensure that they are not victimized once again during legal proceedings;**
- d.) provide access to adequate services for recovery, counselling and other forms of reintegration in all parts of the country.**

**6. Basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)**

**Children with disabilities**

52. The Committee welcomes the State party's initiatives undertaken at national as well as at local level in terms of analysing and improving the situation of children with disabilities. The Committee, however, is concerned that:

- a) there is no comprehensive national strategy for the inclusion of children with disabilities into society;
- b) children with disabilities continue to face barriers in the enjoyment of their rights guaranteed by the Convention, including in the right to access to health services, leisure and play.

**53. In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the**

**Committee's general comment No. 9 (2006) on the rights of children with disabilities, the Committee recommends that the State party:**

- a.) take all necessary measures to ensure that legislation providing protection for persons with disabilities, as well as programmes and services for children with disabilities, are effectively implemented;**
- b.) develop early identification programmes;**
- c.) provide training for professional staff working with children with disabilities, such as medical, paramedical and related personnel, teachers and social workers;**
- d.) develop a comprehensive national strategy for the inclusion of children with disability in the society;**
- e.) undertake awareness-raising campaigns on the rights and special needs of children with disabilities, encourage their inclusion in society and prevent discrimination and institutionalization;**
- f.) consider ratifying the International Convention on the Rights of Persons with Disabilities and its Optional Protocol.**

**Health and health services**

54. The Committee is concerned that, despite the State party's efforts to tackle inequalities in access to health services through, *inter alia*, substantial investments, inequalities remain a problem, as demonstrated by the widening gap in infant mortality between the most and the least well off groups.

55. **The Committee recommends that inequalities in access to health services are addressed through a coordinated approach across all government departments and greater coordination between health policies and those aimed at reducing income inequality and poverty.**

### **Mental health**

56. The Committee –despite the considerable financial investment especially in England - is concerned that, while 1 in 10 children in the State party have a diagnosable mental health problem, only around 25% of them have access to the required treatment and care and that children may be still treated in adult psychiatric ward. The Committee is also concerned that in Northern Ireland - due to the legacy of the conflict - the situation of children in this respect is particularly delicate.
57. **The Committee recommends that additional resources and improved capacities are employed to meet the needs of children with mental health problems throughout the country, with particular attention to those at greater risk, including children deprived of parental care, children affected by the conflict, those living in poverty and those in conflict with the law.**

### **Breastfeeding**

58. The Committee, while appreciating the progress made in recent years in the promotion and support of breastfeeding in the State party, it is concerned that implementation of the International Code of Marketing of Breastmilk Substitutes continues to be inadequate and that aggressive promotion of breastmilk substitutes remains common.
59. **The Committee recommends that the State party implement fully the International Code of Marketing of Breastmilk Substitutes. The State party should also further promote baby-friendly hospitals and encourage that breastfeeding is included in nursery training.**

### **Adolescent health**

60. While noting the efforts undertaken by the State party in the areas which affect adolescents, the Committee remains concerned at the high rate of teenage pregnancies, especially among girls from a lower socio-economic background and in the Overseas Territories, in particular Turks and Caicos.
61. **The Committee recommends that the State party intensify its efforts in order to provide adolescents with appropriate reproductive health services, including reproductive health education in the school.**

62. The Committee is concerned at the incidence of alcohol, drugs and other toxic substances use by adolescents in the State party, including its Overseas Territories.
63. **The Committee recommends that the State party continue to address the issue of substances use by adolescents across the State party, including by:**
- a) **studying the root causes of these problems in order to provide targeted prevented measures;**
  - b) **strengthening mental health and counselling services ensuring that they are accessible and sensitive to adolescents in all jurisdiction, including the Overseas Territories;**
  - c) **providing children with accurate and objective information on toxic substances, as well as support to those attempting to abandon their use or dependency.**

#### **Standard of living**

64. The Committee welcomes the Government's commitment to end child poverty by 2020 as well as the Childcare Act 2006 requirement on local authorities to reduce inequalities among young children. It also notes with appreciation the information given by the delegation that this target will be reflected and enforced through legislative measures. However, the Committee – while noting that child poverty has reduced in the last years - is concerned that poverty is a very serious problem affecting all part of the United Kingdom, including the Overseas Territories, and that it is a particular concern in Northern Ireland where over 20% of children reportedly live in persistent poverty. Furthermore, the Committee is concerned that the Government strategy is not sufficiently targeted at those groups of children in most severe poverty and that the standard of living of Traveller children is particularly poor.

65. **The Committee would like to highlight that an adequate standard of living is essential for the child's physical, mental, spiritual, moral and social development and that child poverty also affects infant mortality rates, access to health and education as well as everyday quality of life of children. In accordance with article 27 of the Convention, the Committee recommends that the State party:**

- a) **adopt and adequately implement the legislation aimed at achieving the target of ending child poverty by 2020, including by establishing measurable indicators for their achievement;**
- b) **give priority in this legislation and in the follow-up actions to those children and their families in most need of support;**



- c) when necessary, besides giving full support to parents or others responsible for the child, intensify its efforts to provide material assistance and support programmes for children, particularly with regard to nutrition, clothing and housing;
- d) reintroduce a statutory duty on local authorities to provide safe and adequate sites for Travellers.

## **7. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)**

### **Education, including vocational training and guidance**

66. The Committee notes with appreciation the numerous efforts of the State party in the sphere of education, in order to guarantee the objectives set out in the Convention. However, it is concerned that significant inequalities persist with regard to school achievement of children living with their parents in economic hardship. Several groups of children have problems to be enrolled in school or to continue or re-enter education either in regular schools or alternative educational facilities and cannot fully enjoy their right to education, notably children with disabilities, children of Travellers, Roma children, asylum-seeking children, dropouts and non-attendees for different reasons (sickness, family obligations etc.) and teenage mothers. Furthermore, the Committee is concerned that:

- a) participation of children in all aspects of schooling is inadequate, since children have very few consultation rights, in particular they have no right to appeal their exclusion or to appeal the decisions of a special educational needs tribunal;
- b) the right to complain regarding educational provisions is restricted to parents, which represent a problem especially for looked after children for whom local authorities have, though mostly do not use, parental authority;
- c) bullying is a serious and widespread problem, which may hinder children's attendance of school and their successful learning;
- d) the number of permanent and temporary schools exclusions is still high and affects in particular children from groups which in general are low on school achievement;
- e) the problem of segregation of education is still present in Northern Ireland;
- f) despite the Committee's previous concluding observations, academic selection at the age of 11 continues in Northern Ireland.

**67. The Committee recommends that the State party:**

- a) **continue and strengthen its efforts to reduce the effects of the social background of children in their achievement in school;**
- b) **invest considerable additional resources in order to ensure the right of all children to a truly inclusive education which ensures the full enjoyment to children from all disadvantaged, marginalized and school-distant groups;**
- c) **ensure that all children out of school get alternative quality education;**
- d) **use the disciplinary measure of permanent or temporary exclusion as a means of last resort only, reduce the number of exclusions and get social workers and educational psychologists in school in order to help children in conflict with school;**
- e) **make sure that children without parental care have a representative who actively defend their best interests;**
- f) **intensify its efforts to tackle bullying and violence in schools, including through teaching human rights, peace and tolerance;**
- g) **strengthen children's participation in all matters of school, classroom and learning which affect them;**
- h) **ensure that children who are able to express their views have the right to appeal against their exclusion as well as the right, in particular for those in alternative care, to appeal to the special educational need tribunals**
- i) **take measures to address segregation of education in Northern Ireland;**
- j) **put an end to the two tier culture in Northern Ireland by abolishing the 11+ transfer test and ensure that all children are included in admission arrangements in post-primary schools.**

**Right to leisure and play**

68. The Committee, while appreciating that the England Children's Plan provides for the largest ever central Government investment in children's play, is concerned that, with the sole exception of Wales, the right to play and leisure is not fully enjoyed by all children in the State party, especially due to poor play infrastructures, notably for those children with disabilities. The Committee is also concerned that the steady reduction in playgrounds occurred in recent years has the effect to push children into gathering in public open spaces, a behaviour that – however – may be seen as anti-social according to the ASBOs.

69. **The Committee recommends that the State party strengthen its efforts to guarantee 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. The State party should pay particular attention to provide children, including those with disabilities, with adequate and accessible playground spaces to exercise their play and leisure activities.**

## **8. Special protection measures**

**(arts. 22, 30, 38, 39, 40, 37 (b)-(d), and 32-36 of the Convention)**

### **Asylum-seeking and migrant children**

70. The Committee welcomes the State party's commitment to withdraw the reservation on article 22 as well as the introduction of a new asylum procedure in March 2007 whereby all asylum applications from children are considered by specially trained "Case Owners", who are especially trained to interview children. It also welcomes that the United Kingdom Border Agency (UKBA) has engaged in a wide process of reform concerning unaccompanied asylum seeking children in the State party as well as the plan to legislate a specific statutory child safeguarding duty on the UK Border Agency. However, the Committee is concerned that:

- a) as also acknowledged recently by the Human Rights Committee, asylum seeking children continue to be detained, including those undergoing an age assessment who may be kept in detention for weeks until the assessment is completed;
- b) there is a lack of data on the number of children seeking asylum;
- c) there is no independent oversight mechanism, such a guardianship system, for an assessment of reception conditions for unaccompanied children who have to be returned;
- d) Section 2 of the 2004 Asylum and Immigration Act permits the prosecution of children over the age of 10 if they do not possess valid documentation upon entry to the UK.

**71. The Committee recommends that the State party:**

- a) **intensify its efforts to ensure that detention of asylum-seeking and migrant children is always used as a measure of last resort and for the shortest appropriate period of time, in compliance with article 37 (b) of the Convention;**
- b) **ensure that the United Kingdom Border Agency (UKBA) appoints specially-trained staff to conduct screening interviews of children;**

- c) **consider the appointment of guardians to unaccompanied asylum-seekers and migrant children;**
- d) **provide disaggregated statistical data in its next report on the number of children seeking asylum, including those whose age is disputed;**
- e) **give the benefit of the doubt in age-disputed cases of unaccompanied minors seeking asylum, and seek experts guidance on how to determine age;**
- f) **ensure that when return of children occurs, this happens with adequate safeguards, including an independent assessment of the conditions upon return, including family environment;**
- g) **consider amending section 2 of the 2004 Asylum and Immigration (Treatment of Claimants etc.) Act to allow for an absolute defence for unaccompanied children who enter the UK without valid immigration documents.**

#### **Children in armed conflict**

72. **As the State party has submitted its initial report under the Optional Protocol to the Convention on the Involvement of Children in Armed Conflict, the Committee requests to refer for this section to the concluding observations adopted in relation to that report, contained in document CRC/C/OPAC/GBR/1.**

#### **Sexual exploitation and abuse**

73. The Committee welcomes the announced forthcoming ratification of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography and notes the numerous activities undertaken by the State party to combat commercial sexual exploitation and abuse, including measures to prevent criminalization of child victims and to implement policies outlined in the World Congress against Commercial Sexual Exploitation of Children. The Committee is concerned at the lack of data on children victim of sexual exploitation, including in the Overseas Territories.
74. **The Committee recommends that the State party intensify its efforts to collect data on the extent of sexual exploitation and abuse of children, essential to prepare adequate responses and combat these phenomena, including in the Overseas Territories. The State party should always consider, both in legislation and in practice, children victims of these criminal practices, including child prostitution, exclusively as victims in need of recovery and reintegration and not as offenders. The Committee also recommends that the State party ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.**

## **Sale, trafficking and abduction**

75. The Committee notes with appreciation the information that the State party intends to ratify the Council of Europe Convention on Action against Trafficking in Human Beings. While welcoming the adoption of the UK Anti-trafficking Action Plan, it is concerned that the necessary resources to implement it are not being provided, including those needed to ensure the provision of high quality services and safe accommodation for trafficked children.
76. **The Committee recommends that the State party provide the necessary resources for an effective implementation of the Anti-trafficking Action Plan. It also recommends that the State party ratify the Council of Europe Convention on Action against Trafficking in Human Beings and implement its obligations by ensuring that child protection standards for trafficked children meet international standards.**

## **Administration of juvenile justice**

77. The Committee is concerned that:
- a) the age of criminal responsibility is set at 8 years in Scotland and at 10 years for England, Wales and Northern Ireland;
  - b) there are still cases where children, notably those aged between 16 and 18, can be tried in an adult court, including in the Overseas Territories of Antigua, Montserrat, Bermuda as well as on the Crown Dependency of the Isle of Man;
  - c) the number of children deprived of liberty is high, which indicates that detention is not always applied as a measure of last resort;
  - d) the number of children on remand is high;
  - e) children in custody do not have a statutory right to education;
  - f) there is the practice, in the Overseas Territories, of holding persons below 18 in conflict with the law in the same places of deprivation of liberty for adults;
  - g) the recently published Youth Crime Action Plan (July 2008) includes a proposal to remove reporting restrictions for 16 and 17 year-olds facing criminal proceedings “to improve the transparency of the youth justice system”;
  - h) the provisions of the Counter-Terrorism Bill also apply to children suspected or charged with terrorism offences; in particular the Committee is concerned at the provisions for extended pre-charge detention and notification requirements;
  - i) children deprived of liberty in Turks and Caicos, may end up in detention in Jamaica, due to the lack of detention facilities for children.

78. **The Committee recommends that the State party fully implement international standards of juvenile justice, in particular articles 37, 39 and 40 of the Convention, as well as the General Comment n° 10 on “Children’s rights in Juvenile Justice” the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“the Beijing Rules”), the United Nations Guidelines for the Prevention of Juvenile Delinquency (“the Riyadh Guidelines”) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (“the Havana Rules”). It also recommends that the State party:**

- a) **raise the minimum age of criminal responsibility in accordance with the Committee’s General Comment n° 10, and notably its paragraphs 32 and 33;**
- b) **develop a broad range of alternative measures to detention for children in conflict with the law; and establish the principle that detention should be used as a measure of last resort and for the shortest period of time as a statutory principle;**
- c) **children in conflict with the law are always dealt with within the juvenile justice system and never tried as adults in ordinary courts, irrespective of the gravity of the crime they are charged with;**
- d) **following the welcomed withdrawal of its reservation to article 37(c) of the Convention, ensure that, unless in his or her best interests, every child deprived of liberty is separated from adults in all places of deprivation of liberty;**
- e) **provide for a statutory right to education for all children deprived of their liberty;**
- f) **review the application of the Counter Terrorism Bill to children;**
- g) **ensure that, when children in the Overseas Territories are subject to deprivation of liberty in another country, all the guarantees enshrined in article 40 of the Convention are respected and that this respect is duly monitored; the State party should also ensure that those children have the right, unless it is considered in the child best interest not to do so, to maintain contact with their family through regular visits;**
- h) **adopt appropriate measures to protect the rights and interests of child victims or witnesses of crime at all stages of the criminal justice process.**

79. The Committee is concerned at the application to children of the Anti-Social Behaviour Orders (ASBOs), which are civil orders posing restrictions on children's gathering, which may convert into criminal offences in case of their breach. The Committee is further concerned:

- a) at the ease of issuing such orders, the broad range of prohibited behaviour and the fact that the breach of an order is a criminal offence with potentially serious consequences;
- b) that ASBOs, instead of being a measure in the best interests of children, may in practice contribute to their entry into contact with the criminal justice system;
- c) that most children subject to them are from disadvantaged backgrounds.

**80. The Committee recommends that the State party conduct an independent review on the ASBOs with a view to abolishing their application to children.**

## **9. Ratification of international human rights instruments**

**81. The Committee encourages the State party to consider ratifying the international human rights instruments to which it is not yet party, i.e. the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the Convention on the Rights of Persons with Disabilities; and the International Convention for the Protection of all Persons from Enforced Disappearance. Furthermore, the Committee recommends that the State party, as announced during the dialogue with the Committee, swiftly proceed to the ratification of the Optional Protocol on the sale of children, child prostitution and child pornography.**

## **10. Follow-up and dissemination**

### **Follow-up**

**82. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, *inter alia*, by transmitting them to the Westminster Parliament, relevant ministries of the central Government as well as of the Devolved Administrations for appropriate consideration and further action.**

### **Dissemination**

**83. The Committee further recommends that the third and fourth periodic reports and written replies submitted by the State party and related recommendations (concluding observations) it adopted be made widely available in the relevant languages, including through internet (but not exclusively), to the public at large, civil society organizations, youth groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.**

## **11. Next report**

- 84. The Committee invites the State party to submit its fifth periodic report, by 14 January 2014. This report should not exceed 120 pages (see CRC/C/118).**
  
- 85. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents”, approved at the fifth Inter-Committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).**