

Human rights in the administration of justice, in particular juvenile justice

Unofficial translation

Resolution adopted by the Human Rights Council 18/12

The Human Rights Council,
Recalling the Universal Declaration of Human Rights and all relevant international treaties, including the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child,

Bearing in mind the numerous other international standards and norms in the field of the administration of justice, in particular of juvenile justice, including the Standard Minimum Rules for the Treatment of Prisoners, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the “Beijing Rules”), the Basic Principles for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 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), the Guidelines for Action on Children in the Criminal Justice System (the Vienna Guidelines) and the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime,

The resolutions and decisions adopted by the Human Rights Council will be contained in the report of the Council on its eighteenth session (A/HRC/18/2), chap. I.

Welcoming the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), adopted by the General Assembly in its resolution 65/229 on 21 December 2010, as a recent development for due consideration, and the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, adopted by the Assembly in its resolution 65/230 of 21 December 2010,

Recalling all resolutions of the Human Rights Council, the Commission on Human Rights, the General Assembly and the Economic and Social Council relevant to the subject, in particular Human Rights Council resolutions 7/29 of 28 March 2008 and 10/2 of 25 March 2009, Assembly resolutions 62/158 of 18 December 2007, 63/241 of 24 December 2008 and 65/231 of 21 December 2010, and Economic and Social Council resolution 2009/26 of 30

J u l y 2 0 0 9 ,

Noting with interest the adoption by the Human Rights Committee of its general comments No. 21, on the humane treatment of prisoners deprived of their liberty, and No. 32, on the right to equality before courts and tribunals and to a fair trial, and the adoption by the Committee on the Rights of the Child of its general comments No. 10, on children’s rights in

juvenile justice, and No. 13, on the rights of the child to freedom from all violence,
Bearing in mind its decision to devote the 2012 full-day meeting on the rights of the child
to the question of children and the administration of justice,
Acknowledging the efforts made by the Secretary-General on improving the coordination
of United Nations activities in the field of administration of justice, the rule of law and
j u v e n i l e j u s t i c e ,

Noting with appreciation the important work of the Office of the United Nations High
Commissioner for Human Rights, the United Nations Office on Drugs and Crime, the United
Nations Children's Fund, the Special Representative of the Secretary-General on Violence
against Children and the Special Representative of the Secretary-General on Children and
Armed Conflict in the field of the administration of justice,

Noting with satisfaction the work of the Interagency Panel on Juvenile Justice and its
members, including the United Nations Children's Fund, the Office of the United Nations
High Commissioner for Human Rights, the United Nations Office on Drugs and Crime, the
United Nations Development Programme, the Department of Peacekeeping Operations, the
Committee on the Rights of the Child and various non-governmental organizations, in
particular their coordination in providing technical advice and assistance in juvenile justice,
and the active participation of civil society in its respective work,

Reaffirming that an independent and impartial judiciary, an independent legal profession
and the integrity of the judicial system are essential prerequisites for the protection of human
rights and for ensuring that there is no discrimination in the administration of justice,

Emphasizing that the right to access to justice for all forms an important basis for
strengthening the rule of law through the administration of justice,

Recalling that every State should provide an effective framework in which to pursue
remedies to redress human rights grievances or violations,

Recalling also that the social rehabilitation of persons deprived of their liberty shall be
among the essential aims of the criminal justice system, ensuring, as far as possible, that
offenders are willing and able to lead a law-abiding and self-supporting life upon their return
to society, A/HRC/RES/18/12

Recognizing the importance of the principle that, except for those lawful limitations that
are demonstrably necessitated by the fact of incarceration, persons deprived of their liberty
shall retain their non-derogable human rights and all other human rights and fundamental
f r e e d o m s ,

Aware of the need for special vigilance with regard to the specific situation of children,
juveniles and women in the administration of justice, in particular while deprived of their
liberty, and their vulnerability to violence, abuse, injustice and humiliation,

Reaffirming that the best interests of the child must be a primary consideration in all
decisions concerning deprivation of liberty and, in particular, that depriving children and
juveniles of their liberty should be used only as a measure of last resort and for the shortest

appropriate period of time, in particular before trial, and the need to ensure that, if they are arrested, detained or imprisoned, children should be separated from adults, to the greatest extent feasible, unless it is considered in the child's best interest not to do so,

Reaffirming also that the best interests of the child shall be an important consideration in all matters concerning the child related to sentencing of his or her parents or, where applicable, legal guardians or primary caregivers,

1. Welcomes the latest reports of the Secretary-General submitted to the Human Rights Council on human rights in the administration of justice, including juvenile justice;

2. Reaffirms the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice;

3. Calls upon States to spare no effort in providing for effective legislative, judicial, social, educative and other relevant mechanisms and procedures, as well as adequate resources, to ensure the full implementation of those standards, and invites them to take into consideration the issue of human rights in the administration of justice in the universal periodic review procedure;

4. Invites Governments to include in their national development plans the administration of justice as an integral part of the development process, and to allocate adequate resources for the provision of legal aid services with a view to the promotion and protection of human rights, and invites the international community to respond favourably to requests for financial and technical assistance for the enhancement and strengthening of the administration of justice;

5. Stresses the special need for national capacity-building in the field of the administration of justice, in particular to establish and maintain stable societies and the rule of law in post-conflict situations, through reform of the judiciary, the police and the penal system, as well as juvenile justice reform;

6. Invites Governments to provide for training, including anti-racist, multicultural and gender-sensitive and child rights training, in human rights in the administration of justice, including juvenile justice, for all judges, lawyers, prosecutors, social workers, immigration, correction officers and police officers and other professionals working in the field of administration of justice;

7. Encourages States to pay due attention to the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders when developing and implementing relevant legislation, procedures, policies and practices, and invites relevant special procedures mandate holders, the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and all other relevant organizations to take these rules into consideration in their activities;

8. Recognizes that every child and juvenile in conflict with the law must be treated in a manner consistent with his or her rights, dignity and needs, in accordance with international law, bearing in mind relevant international standards on human rights in the administration of

justice, and calls on States parties to the Convention on the Rights of the Child to abide strictly by its principles and provisions;

9. Encourages States that have not yet integrated children's issues in their overall rule of law efforts to do so, and to develop and implement a comprehensive juvenile justice policy to prevent and address juvenile delinquency as well as with a view to promoting, inter alia, the use of alternative measures, such as diversion and restorative justice, and ensuring compliance with the principle that deprivation of liberty of children should only be used as a measure of last resort and for the shortest appropriate period of time, as well as to avoid, wherever possible, the use of pretrial detention for children;

10. Encourages States to foster close cooperation between the justice sectors, different services in charge of law enforcement, social welfare and education sectors in order to promote the use and improved application of alternative measures in juvenile justice;

11. Stresses the importance of including rehabilitation and reintegration strategies for former child offenders in juvenile justice policies, in particular through education programmes, with a view to their assuming a constructive role in society;

12. Encourages States not to set the minimum age of criminal responsibility at too low an age level, bearing in mind the emotional, mental and intellectual maturity of the child, and, in this respect, refers to the recommendation of the Committee of the Rights of the Child to increase their lower minimum age of criminal responsibility without exception to the age of 12 years as the absolute minimum age, and to continue to increase it to a higher age level;

13. Urges States to ensure that, under their legislation and practice, neither capital punishment nor life imprisonment without the possibility of release is imposed for offences committed by persons under 18 years of age;

14. Calls upon States to enact or review legislation to ensure that any conduct not considered a criminal offence or not penalized if committed by an adult is not considered a criminal offence and not penalized if committed by a child, in order to prevent the child's stigmatization, victimization and criminalization;

15. Urges States to take all appropriate measures so that children who are victims of human trafficking are not subject to criminal sanctions for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons;

16. Encourages States to collect relevant information concerning children within their criminal justice systems so as to improve their administration of justice, while being mindful of the children's right to privacy, with full respect for relevant international human rights instruments, and bearing in mind applicable international standards on human rights in the administration of justice;

17. Calls upon States to consider establishing independent national or subnational mechanisms to contribute to monitoring and safeguarding the rights of children, including children within their criminal justice systems, and to address children's concerns;

18. Stresses the importance of paying greater attention to the impact of the imprisonment of parents on their children, while noting with interest the day of general discussion on the theme “The situation of children of incarcerated parents”, to be organized in 2011 by the Committee on the Rights of the Child;

19. Urges States to take all necessary and effective measures, including legal reform where appropriate, to prevent and respond to all forms of violence against children within the justice system;

20. Invites States, upon their request, to benefit from technical advice and assistance in juvenile justice provided by the relevant United Nations agencies and programmes, in particular the Interagency Panel on Juvenile Justice, in order to strengthen national capacities and infrastructures in the field of the administration of justice, in particular juvenile justice, encouraging States to provide the secretariat of the Panel and its members with adequate resources;

21. Calls upon relevant special procedures of the Human Rights Council to give special attention to questions relating to the effective protection of human rights in the administration of justice, including juvenile justice, and to provide, wherever appropriate, specific recommendations in this regard, including proposals for advisory services and technical assistance measures;

22. Calls upon the United Nations High Commissioner for Human Rights to reinforce advisory services and technical assistance relating to national capacity-building in the field of the administration of justice, in particular juvenile justice;

23. Notes with appreciation the decision to establish an open-ended intergovernmental expert group to exchange information on best practices, as well as on national legislation and existing international law, and on the revision of existing United Nations standard minimum rules for the treatment of prisoners so that they reflect recent advances in correctional science and best practices, with a view to making recommendations to the Commission on Crime Prevention and Criminal Justice on possible next steps, and, in this regard, invites the expert group to benefit from the expertise of the Office of the High Commissioner and other relevant stakeholders;

24. Invites the Office of the High Commissioner to collaborate, within existing resources, with the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children in the organization of an expert consultation on prevention of and responses to violence against children within the juvenile justice system, and to submit a report thereon;

25. Requests the High Commissioner to submit an analytical report to the Human Rights Council at its twenty-first session on the protection of human rights of juveniles deprived of their liberty, mindful of all applicable human rights standards and taking into account the work of all relevant human rights mechanisms of the United Nations;

26. Decides to continue its consideration of this issue under the same agenda item in accordance with its annual programme of work.

36th meeting

29 September 2011

[Adopted without a vote.]

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