



DIGNITY AND JUSTICE FOR DETAINEES WEEK

Information Note No. 6

Children

More than a million children are estimated to be in detention worldwide. Most are first-time offenders detained for petty crimes, and a disproportionate number belong to vulnerable and minority groups.

The human rights of children will be a particular focus of the Dignity and Justice for Detainees Week (6 – 12 October 2008) proposed by the Office of the High Commissioner for Human Rights. The initiative is part of the commemoration of the 60th anniversary of the Universal Declaration of Human Rights.

This information note is directed at National Human Rights Institutions (NHRIs), governments, OHCHR field offices, United Nations organizations and country teams, civil society bodies, NGOs specializing in issues related to detention, police forces, judicial systems and the media.

All can work, in a manner appropriate to their expertise and the situation in the country of operations, to prevent the arbitrary and unlawful detention of children and improve conditions for those deprived of their liberty.

Children in detention face particular problems because:

- They are more vulnerable to abuse, and more likely to suffer psychological and physical harm.
- When not separated from adults, as required by international law, they are at greater risk of having their rights violated.
- In many prisons and institutions, they are denied their rights to medical care, education and personal development.

International law regulates the grounds for deprivation of a child's liberty as well as the minimum conditions to be met during his or her detention. These are contained in binding international treaties, such as the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Rights of the Child (CRC), which has gained almost universal acceptance; and applicable regional human rights treaties.

Other relevant international standards are contained in the United Nations' 1985 Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules"); in the 1990 Rules for the Protection of Juveniles Deprived of their Liberty ("Havana Rules"); and in the General Comment No. 10 on children's rights in Juvenile Justice, issued by the Committee on the Rights of the Child, the monitoring body of CRC.

No child shall be subject to torture, or other cruel, inhuman or degrading treatment or punishment. Children deprived of their liberty shall be treated with humanity and respect.

Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by children.

Protection of children against deprivation of their liberty

Article 37 of the CRC establishes leading principles that are applicable in cases where children are deprived of their liberty. These state that:

- Children should be arrested, detained or imprisoned **only** as a measure of last resort and for the shortest appropriate period of time.
- No child shall be deprived of his or her liberty unlawfully or arbitrarily.
- All children have the right to prompt access to legal and other appropriate assistance.
- Every child has the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and the right to a prompt decision on any such action.

Children in conflict with the law shall benefit from all the guarantees of a fair trial, as set out in Article 14 of the ICCPR and Article 40 of the CRC.

States should develop alternatives to detention, such as community service or other forms of restorative justice. Measures should also be sought for dealing with children in conflict with the law without resorting to judicial proceedings. *Articles 40(4) and 3b, CRC.*

States have a duty to inform the child's parents or guardians where the child is being detained, unless that would be contrary to the wellbeing of the child. *Article 9(4), CRC; and Beijing Rule No. 10.1.*

Detention prior to trial is to be avoided to the extent possible and shall be limited to exceptional circumstances. The duration of pre-trial detention should be limited by law and be subject to regular review. *General Comment No. 10, Committee on the Rights of the Child; and Havana Rule No. 17.*

Treatment and conditions while in detention

- Children deprived of their liberty shall be treated with humanity and dignity, taking into account the needs of persons of their age. *Article 37c, CRC.*
- Every child deprived of liberty shall be separated from adults, unless it is contrary to the child's best interest to do so, and shall have the right to maintain contact with his or her family through correspondence and visits. *Article 37c, CRC.*

- For children deprived of their liberty as a result of a penal process, States parties are obliged to promote their reintegration and their assumption of a constructive role in society. *Articles 40(1), CRC and 14(4), ICCPR.*
- The deprivation of a child's liberty for the purpose of care, protection or treatment shall be periodically reviewed. *Article 25, CRC.*
- Children shall be provided with a physical environment and accommodations which are conducive to their reintegration. Due regard must be given to children's needs, including for privacy and education. *General Comment No. 10, Committee on the Rights of the Child; and Havana Rules No. 32 and 38.*

ABOUT OHCHR

The Office of the United Nations High Commissioner for Human Rights (OHCHR), a part of the United Nations Secretariat, has been given a unique mandate to promote and protect all human rights. Headquartered in Geneva, the Office is also present in some 50 countries. Headed by the High Commissioner for Human Rights, a position established by the General Assembly in 1993 to spearhead the United Nations' human rights efforts, OHCHR takes action based on the unique mandate given it by the international community to guard and advocate for international human rights law. For more information please visit www.ohchr.org

On Human Rights Day 2007, the United Nations and OHCHR launched a year-long UN system-wide advocacy campaign to mark the 60th anniversary of the Universal Declaration of Human Rights (UDHR), under the theme: "**Dignity and justice for all of us**".