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HUMAN RIGHTS COUNCIL

Tenth session
Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,
INCLUDING THE RIGHT TO DEVELOPMENT**

**Argentina, Austria*, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria*,
Chile, Costa Rica*, Croatia*, Cyprus*, Estonia*, Finland*, France,
Germany, Greece*, Guatemala*, Ireland*, Italy, Japan, Kenya*,
Latvia*, Liechtenstein*, Malta*, Mexico, Netherlands, New Zealand*,
Norway*, Panama*, Peru*, Portugal*, Romania*, Russian Federation,
Serbia*, Slovenia, Spain*, Sweden*, Switzerland, Ukraine,
United Kingdom of Great Britain and Northern Ireland:
draft resolution**

**10/... Human rights in the administration of justice, in particular
juvenile justice**

The Human Rights Council,

Recalling the Universal Declaration of Human Rights and all relevant international treaties,
including the Convention on the Rights of the Child, and in particular its articles 3, 37, 39
and 40,

* Non-member State of the Human Rights Council.

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 United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the “Beijing Rules”), adopted by the General Assembly in its resolution 40/33 on 29 November 1985, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the “Riyadh Guidelines”), adopted by the Assembly in its resolutions 45/112 and 45/113 on 14 December 1990 and the Guidelines in matters involving child victims and witnesses of crimes,

Recalling all resolutions of the Council, the Commission on Human Rights, the General Assembly and the Economic and Social Council relevant to the subject, including Human Rights Council resolution 7/29 of 28 March 2008, Commission resolution 2004/43 of 19 April 2004, Assembly resolutions 62/158 of 18 December 2007 and 63/241 of 24 December 2008, and Economic and Social Council resolution 2007/23 of 26 July 2007,

Noting with interest the adoption by the Human Rights Committee of general comment No. 32 on the right to equality before courts and tribunals and to a fair trial (CCPR/C/GC/32) and the adoption by the Committee on the Rights of the Child of general comment No. 10 on children’s rights in juvenile justice (CRC/C/GC/10),

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 juvenile justice, in particular his reports on the enhancement of support by the United Nations for the rule of law (A/61/636), his guidance notes on a United Nations approach to rule of law assistance and on the United Nations approach to justice for children,

Noting with interest the relevant work of the United Nations Office on Drugs and Crime in 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 Interregional Crime and Justice Research, 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,

Mindful of the importance of ensuring respect for the rule of law and human rights in the administration of justice, in particular in post-conflict situations, as a crucial contribution to building peace and justice,

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,

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 various forms of 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,

Recalling that the best interests of the child should also be a primary consideration in relation to the question of whether and how long children of imprisoned mothers should stay with them in prison, and emphasizing the responsibility of the State to provide adequate care for the women in prison and their children,

1. *Welcomes* the latest report of the Secretary-General submitted to the Human Rights Council on human rights in the administration of justice, including juvenile justice (A/HRC/4/102);
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* Member 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, including juvenile 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 and police officers and other professionals working in the field of administration of justice, including personnel deployed in international field presences;
7. *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,

including 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 and to improve the status of information on the situation of juvenile justice;

8. *Notes* the concern of the Committee on the Rights of the Child that, in all regions of the world and in relation to all legal systems, the provisions of the Convention on the Rights of the Child relating to the administration of juvenile justice are in many instances not reflected in national legislation or practice, and welcomes the fact that the Committee makes concrete recommendations concerning the improvement of national juvenile justice systems, including the implementation of juvenile justice legislation;

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. *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;

11. *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;

12. *Invites* Governments, relevant international and regional bodies, national human rights institutions and non-governmental organizations to devote greater attention to the issue of women and girls in prison, including issues relating to the children of women in prison, with a view to identifying and addressing the gender-specific aspects and challenges related to this problem;

13. *Emphasizes* that, when sentencing or deciding on pretrial measures for a pregnant woman or a child's sole or primary carer, priority should be given to non-custodial measures, bearing in mind the gravity of the offence and after taking into account the best interest of the child;

14. *Welcomes* the important activities of the Committee on the Rights of the Child, 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 and the United Nations Development Programme in the field of administration of justice, in particular juvenile justice, and 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;

15. *Calls upon* relevant special procedures of the 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;

16. *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, taking into account, inter alia, the Nairobi Declaration of October 2008 on the role of national human rights institutions in the administration of justice, adopted at the ninth international conference of the International Coordinating Committee of national human rights institutions;

17. *Calls upon* the Secretary-General and the High Commissioner to strengthen system wide coordination in this area further, including by providing assistance to national human rights institutions in implementing the Nairobi Declaration and by further supporting the Interagency Panel on Juvenile Justice in its work to respond favourably to requests for technical assistance in the field of juvenile justice;

18. *Requests* the Secretary-General to submit a report to the Council at its thirteenth session on the latest developments, challenges and good practices in human rights in the administration of justice, including juvenile justice and conditions for women and children in detention, as well as in activities undertaken by the United Nations system as a whole;

19. *Requests* the High Commissioner to report to the Council at its thirteenth session on the implementation of the present resolution;

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