



**Economic and Social
Council**

Distr.
LIMITED

E/CN.4/2004/L.66
15 April 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Agenda item 11 (d)

**CIVIL AND POLITICAL RIGHTS:
INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION
OF JUSTICE, IMPUNITY**

**Albania*, Andorra*, Austria, Belgium*, Brazil, Bulgaria*, Cameroon*,
Canada*, Costa Rica, Croatia, Cyprus*, Denmark*, Equatorial Guinea*,
Estonia*, Ethiopia, Finland*, Georgia*, Germany, Guatemala, Hungary,
Iceland*, Ireland, Italy, Japan, Liechtenstein*, Lithuania*, Luxembourg*,
Mexico, Netherlands, Norway*, Paraguay, Poland* Portugal*, Romania*,
Slovakia*, Slovenia*, Sweden, Switzerland*, Turkey*, United Kingdom of
Great Britain and Northern Ireland: draft resolution**

**2004/... Human rights in the administration of justice,
in particular juvenile justice**

The Commission on Human Rights,

Recalling the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and its Optional Protocols, and in particular article 6 of the latter Covenant,

Bearing in mind the relevant principles embodied in the Convention on the Rights of the Child, and in particular its articles 3, 37, 39 and 40, as well as the relevant provisions of the

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women, as well as the numerous other international standards and norms in the field of the administration of justice,

Welcoming the adoption by the General Assembly of the United Nations Convention against Corruption and calling for its early entry into force,

Taking note with appreciation of the open debates of the Security Council on the agenda item entitled "Justice and the Rule of Law: the United Nations role",

Calling attention to the relevant provisions on the administration of justice of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century and of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and their implementation,

Recalling the Guidelines for Action on Children in the Criminal Justice System annexed to Economic and Social Council resolution 1997/30 of 21 July 1997, and the establishment and subsequent meetings of the coordination panel on technical advice and assistance in juvenile justice,

Calling attention to the Vienna Declaration on the Role of Judges in the Promotion and Protection of Human Rights and Fundamental Freedoms adopted at a high-level international symposium marking the tenth anniversary of the 1993 World Conference on Human Rights,

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,

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 interest 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 shall be separated from adults, to the greatest extent feasible, unless it is considered in the child's best interest not to do so,

Recalling its previous resolutions on the subject, the most recent of which is resolution 2002/47 of 23 April 2002, and those of the General Assembly, the most recent of which is resolution 58/183 of 22 December 2003,

1. *Takes note* of the report of the Secretary-General (E/CN.4/2004/51);
2. *Reaffirms* the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice;
3. *Recommends* that the Eleventh United Nations Congress on Crime Prevention and Criminal Justice pay specific attention to the most effective ways of using and applying those standards and norms, in particular with regard to juvenile justice, including in technical assistance related to the rule of law and criminal justice reform;
4. *Reiterates its call* to all Member States to spare no effort in providing for effective legislative, judicial and other mechanisms and procedures, as well as adequate resources, to ensure the full implementation of those standards, and in this context invites the Commission on Crime Prevention and Criminal Justice at its thirteenth session to pay specific attention to the systematic use and application of the United Nations standards and norms in crime prevention and criminal justice;
5. *Appeals to 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;
6. *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, and in this regard invites States to make use of technical assistance offered by the relevant United Nations agencies and programmes in order to strengthen national capacities and infrastructures in the field of the administration of justice, in particular juvenile justice;

7. *Calls upon* States to implement section XII on action on juvenile justice of the Plans of Action for the implementation of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century, adopted by the General Assembly in its resolution 56/261 of 31 January 2002;

8. *Invites* Governments to provide comprehensive and continuing training in human rights, including specialized anti-racist, multicultural, gender-sensitive and child rights training, and, where appropriate, on international humanitarian law, to all judges, lawyers, prosecutors, social workers, immigration and police officers and other professionals concerned, including personnel deployed in international field presences, and welcomes in this context the production of relevant methodological tools such as "Human Rights and Law Enforcement", "Human Rights in the Administration of Justice" and "Human Rights and Prisons" by the Office of the United Nations High Commissioner for Human Rights in partnership with professional associations, experts and practitioners;

9. *Urges* States to pay specific attention to the negative impact of racism, racial discrimination, xenophobia and related intolerance on the administration of justice and fair trial and to conduct nationwide campaigns, amongst other measures, to raise awareness among State organs and public officials concerning their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant instruments;

10. *Affirms* that States must ensure that any measure taken to combat terrorism, including in the administration of justice, in particular juvenile justice, complies with their obligations under international law, in particular international, refugee and humanitarian law as well as international human rights law, including the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

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

12. *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 strictly abide by its principles and provisions and to improve the status of information on the situation of juvenile justice;

13. *Invites* Governments, relevant international and regional bodies, national human rights institutions and non-governmental organizations to devote increased 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 the key issues and ways in which they are addressed and notes the proposal of the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2004/2-E/CN.4/Sub.2/2003/43, chap. II, sect. B, decision 2003/104) to prepare a working paper on this issue;

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 juvenile justice and calls upon the Secretary-General and the United Nations High Commissioner for Human Rights to further strengthen system wide coordination in this area;

15. *Calls upon* the High Commissioner to reinforce advisory services and technical assistance relating to national capacity-building in the field of the administration of justice, in particular juvenile justice, and, as a matter of priority, to develop an action programme to facilitate the exchange of experience among judges as regards their role in the protection and promotion of human rights, inter alia through the compilation of key decisions of international human rights jurisprudence and the organization of periodic consultations among judges at the international, regional and subregional levels;

16. *Takes note* of 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 provides concrete recommendations concerning the improvement of national juvenile justice systems, in particular through action by the Secretariat and other relevant United Nations entities, including the provision of advisory services and technical assistance;

17. *Welcomes* the appointment of an independent expert to lead a global study on violence against children, including violence in the context of the administration of justice;

18. *Underlines* that raising awareness of the specific situation of children and juveniles in the administration of justice and providing training thereon are crucial in strengthening the implementation of international standards in this field, and encourages the broad dissemination of the training manual on juvenile justice, *The United Nations and Juvenile Justice: A Guide to International Standards and Best Practice*;

19. *Welcomes* the focus on best practices and common tools in the fields of juvenile justice at the next meeting of the coordination panel on technical advice and assistance in juvenile justice, calls upon the coordination panel further to increase cooperation among the partners involved and encourages it to intensify its efforts aiming at the elaboration of a technical cooperation manual in the area of juvenile justice, which could be of assistance in identifying needs, conducting training and coordinating assistance programmes in this field;

20. *Calls upon* special procedures of the Commission on Human Rights to continue 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;

21. *Encourages* all relevant parts of the United Nations system, as well as relevant regional and international intergovernmental and non-governmental organizations, including professional associations, to continue to develop and coordinate their activities in promoting

human rights in the administration of justice, in particular juvenile justice, addressing as a matter of priority the needs of judges, taking into account the Vienna Declaration on the Role of Judges in the Promotion and Protection of Human Rights and Fundamental Freedoms;

22. *Requests* the Secretary-General to submit a report to the Commission at its sixty-third session on system-wide practical measures taken and planned activities to assist countries in strengthening their systems of administration of justice, in particular juvenile justice, including in post-conflict situations, with special focus on the need to strengthen the role of judges;

23. *Also requests* the Secretary-General to make available to the Commission at its sixty-third session his reports on the administration of juvenile justice as well as on the activities of the coordination panel on technical advice and assistance in juvenile justice submitted to the Commission on Crime Prevention and Criminal Justice;

24. *Decides* to consider this question at its sixty-third session under the agenda sub-item entitled "Independence of the judiciary, administration of justice, impunity".
