

# UNITED NATIONS STANDARDS, GUIDELINES AND INTERNATIONAL INSTRUMENTS

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# Standard Minimum Rules for the Treatment of Prisoners

Approved by the Economic and Social Council, 31 July 1957  
(resolution 663 C I (XXIV)), on the recommendation of the First Congress

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## PART 1: RULES OF GENERAL APPLICATION

### Basic principle

The following rules are to be applied without discrimination on the grounds of race, colour, sex, language, religion, political opinions, national or social origin, property, birth or other status.

It is necessary, however, to respect religious beliefs of prisoners.

### Register

A bound registration book shall be maintained with the identity, reasons for commitment and day and hour of admission and release of prisoners.

### Separation of categories

Men and women in detention are to be held in separate facilities; likewise, untried and convicted prisoners, those imprisoned for civil offences and criminal offenders, and youths and adults shall be housed separately.

### Accommodation

Cells for individuals should not be used to accommodate two or more persons overnight; dormitory facilities are to be supervised at night.

Cells and prison dormitories should provide adequate space, ventilation, lighting and sanitary facilities and are to be kept clean at all times.

### Personal hygiene

Prisoners shall be provided with adequate water and toilet articles, and required to keep themselves clean.

### Clothing and bedding

Prisoners not allowed to wear their own clothing are to be provided with an adequate and suitable outfit, with provisions for laundry and changes of clothes.

Prisoners outside an institution for an authorized purpose are to be allowed to wear their own clothing.

Every prisoner shall be provided with a separate bed and clean, separate and sufficient bedding.

## **Food**

Wholesome, well-prepared food is to be provided prisoners at usual hours.

Drinking water shall be available whenever needed.

## **Exercise and sport**

If not employed in outdoor work, every prisoner shall have at least one hour of exercise in the open air, weather permitting.

Young prisoners and others of suitable age and physique are to receive physical and recreational training.

## **Medical services**

A medical officer with some knowledge of psychiatry is to be available to every institution.

Prisoners requiring specialized treatment are to be transferred to a civil hospital or appropriate facility.

A qualified dental officer shall be available to every prisoner.

Prenatal and post-natal care and treatment are to be provided by women's institutions; where nursing infants are allowed to remain with their mothers, a nursery staffed by qualified persons is needed.

Every prisoner shall be examined by the medical officer shortly after admission; prisoners suspected of contagious diseases are to be segregated.

The medical officer shall see all sick prisoners daily, along with those who complain of illness or are referred to his attention.

The medical officer is to report to the director on prisoners whose health is jeopardized by continued imprisonment and on the quality of the food, hygiene, bedding, clothing and physical regimen of the prisoners.

## **Discipline and punishment**

Discipline shall be no more restrictive than what is necessary to ensure custody and order.

No prisoner shall be employed in a disciplinary capacity.

The types of conduct to be considered offences and punishments for them shall be set by law or regulation, and prisoners are to be allowed to defend themselves against charges.

Cruel, inhuman and/or degrading punishments, including corporal punishment and restriction to a dark cell, shall be prohibited.

The medical officer is to be consulted before implementing any punishment that may be prejudicial to the physical or mental health of a prisoner.

## **Instruments of restraint**

Handcuffs, strait-jackets and other instruments of restraint are never to be applied as a punishment, and irons and chains are not to be used as means of restraint.

## **Information to and complaints by prisoners**

Upon admission, prisoners shall be informed of the regulations they are to live by and of authorized channels for seeking information and making complaints.

Prisoners are to have the right to make complaints to the director of the institution, as well as to the central prison administration and the judicial authority, in the proper form but without censorship as to substance, and they are to have the opportunity to speak directly to an inspector of prisons outside the presence of institutional staff members.

Unless evidently frivolous, each complaint shall be replied to promptly.

## **Contact with the outside world**

Prisoners are to be allowed regular contact with family and friends, by both correspondence and personal visits.

Prisoners who are foreign nationals shall be allowed communication with diplomatic and consular representatives of their State, or a State or international authority that has taken charge of their interests.

Prisoners are to be kept informed of current events and important items of news.

## **Books**

Every institution shall maintain for the use of prisoners a library with recreational and instructional books.

## **Religion**

If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of each religion shall be appointed to hold services and pay pastoral visits.

No prisoner shall be refused access to a qualified representative of a religion, nor shall he be required to entertain a religious visit he objects to.

As far as is practicable, every prisoner is to be allowed to satisfy religious needs by attending services and possessing books of observance and instruction.

## **Retention of prisoners' property**

Money, valuables and personal effects which prisoners are not allowed to keep in their possession are to be kept in safe custody until the prisoner's release.

Money or effects received by a prisoner from outside shall be treated the same way.

The medical officer is to decide what uses shall be made of drugs or medicine a prisoner brings with him.

## **Notification of death, illness, transfer, etc.**

The spouse or nearest relative shall be informed of the death, serious illness, injury or transfer of a prisoner to an institution for treatment of mental afflictions.

A prisoner is to be informed at once of the death or serious illness of any near relative. In cases of critical illness, the prisoner is to be allowed to visit that relative.

Every prisoner shall have the right to inform his family at once of his imprisonment or transfer.

## **Removal of prisoners**

Prisoners being transferred are to be protected from insult, curiosity or publicity.

Conveyances which subject prisoners being transferred to unnecessary hardship shall be prohibited.

Transport is to be at the expense of the prison administration, and equal conditions shall obtain for all prisoners.

## **Institution personnel**

The administration shall carefully select every grade of personnel and maintain in their minds and the public's the important social service they provide.

To these ends, pay, conditions and benefits shall be suitable to professional and exacting service.

Personnel are to be sufficiently educated, and to receive ongoing courses and training.

As far as possible, personnel should include psychiatric, social work and education professionals.

The director shall be a qualified administrator, retained on a fulltime basis and residing on the premises or in the immediate vicinity.

Staff personnel are to be able to speak the language of the greatest number of prisoners, and to retain the services of an interpreter when necessary.

In larger institutions, at least one medical officer should reside on the premises or in the immediate vicinity.

In others, a medical officer shall visit daily and reside near enough to be available for emergencies.

In an institution for both men and women, the part set aside for women shall be under the authority of a woman officer, who shall have custody of the keys for that section.

Male officers shall enter the section for women only in the presence of a woman officer, and women prisoners shall be attended and treated only by women officers, without precluding male doctors and teachers from carrying out their duties.

Officers shall not use force except in self-defence, cases of attempted escape or resistance to an order based on law or regulation. Officers who have recourse to force must use no more than is strictly necessary and must report the incident immediately.

Prison officers are to receive physical training in the use of force. As a general rule, they should not carry weapons in the presence of prisoners.

## **Inspection**

There shall be regular inspection of penal institutions.

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# **PART 2: RULES APPLICABLE TO SPECIAL CATEGORIES**

## **PRISONERS UNDER SENTENCE**

### **Guiding principles**

The prison system must not aggravate unnecessarily the suffering inherent in a prisoner's loss of self-determination and liberty.

Prisons should utilize all remedial, educational, medical and spiritual forms of assistance to treat the prisoner's needs and facilitate his return to society as a law-abiding member.

It is desirable to provide varying degrees of security according to the needs of different groups of prisoners. Open prisons that rely on self-discipline as opposed to physical restraint are preferable whenever possible.

Government or private agencies should be available for the aftercare of released prisoners.

### **Treatment**

Treatment of prisoners under sentence shall be directed to achieve the capacity for law-abiding and self-supporting lives, utilizing professional services whenever possible.

The director shall receive full reports on the mental, social and physical status of prisoners under sentence of a suitable length directly after admission, keeping and updating this information in individual files.

### **Classification and individualization**

To separate from others those prisoners who are likely to exercise a negative influence and to facilitate specialized treatment, prisoners are to be classified, and kept so far as possible in separate institutions or sections.

### **Privileges**

Systems of privileges appropriate to different classes of prisoners shall be established to encourage proper conduct and secure the cooperation of prisoners in their treatment.

### **Work**

Prison labour must not be of an afflictive nature.

All prisoners under sentence shall be required to work, unless determined to be physically or medically unfit.

So far as possible, the work should be of a full-time nature, conducive to vocational training and aligned with the choice of prisoners.

The interests and vocational training of prisoners are of greater importance than making a financial profit from their labour.

Institutional labour preferably will be directed by prison administrators rather than private contractors. When prisoners are employed in work not controlled by the administration, they should be under the supervision of the institution's personnel and the administration should be paid the normal wages for such work, unless the contractor is another government agency.

Precautions laid down to protect the safety and health of free workmen shall likewise be respected for prison labourers.

Maximum days and hours of work shall be fixed by law or regulation, taking into account local rules or customs regarding the employment of free workmen and to leave one rest day a week and sufficient time for education and treatment.

Prisoners are to be remunerated equitably, allowed to spend part of their earnings on approved articles for their own use, send a part to their families and set aside some in a savings fund.

### **Education and recreation**

The ongoing education of prisoners is to be facilitated, and schooling of illiterates and youthful prisoners is to be considered compulsory.

Recreational and cultural activities are to be made available.

### **Social relations and after-care**

Special attention shall be paid to maintaining and improving relations between a prisoner and his family.

The prisoner should be encouraged and assisted in cultivating relations with persons or extra-institutional agencies conducive to his rehabilitation and best interests after release.

Upon release, prisoners shall be provided with appropriate documents and identification papers, be suitably clothed and have sufficient means to reach their immediate destinations. They are to be assisted by services or agencies in locating suitable homes and work.

Representatives of such agencies shall have access to prisoners during their term of incarceration and be taken into consultation as to the future of each prisoner from the beginning of his sentence.

### **INSANE AND MENTALLY ABNORMAL PRISONERS**

Persons found to be insane are not to be detained in prisons.

Prisoners suffering from other mental abnormalities shall be observed and treated in specialized institutions under medical management and steps shall be taken to ensure the continuation of care after release.

### **PRISONERS UNDER ARREST OR AWAITING TRIAL**

Unconvicted prisoners are presumed to be innocent and shall be treated as such.

They shall be held separately from convicted prisoners, and the young kept separate from adults.

Prisoners awaiting trial are to sleep singly in separate rooms.

They may have food procured at their own expense; otherwise, the administration shall provide food.

An untried prisoner shall be allowed to wear his own clothing if clean and suitable; if he wears prison dress, it is to be different from that of convicted prisoners.

An untried prisoner may procure at his own expense or that of a third party books, publications and writing materials.

Treatment by an untried prisoner's own doctor or dentist is to be allowed under reasonable grounds, and if the prisoner is willing to pay for the expenses incurred.

An untried prisoner shall be allowed to inform his family of his detention immediately after arrest and communicate with and receive visits from family and friends.

He shall be allowed to apply for free legal aid where such aid is available, and to consult with his legal adviser regarding his defence. Such interviews may be within sight but not within the hearing of a police or institution official.

## **CIVIL PRISONERS**

Where law permits imprisonment for debt or by order of a noncriminal court, those so imprisoned shall be subjected to no greater restriction or severity than necessary for safe custody and good order. Their treatment shall be no less favourable than that accorded untried prisoners, with the reservation that they may be required to work.

## **PERSONS ARRESTED OR IMPRISONED WITHOUT CHARGE**

Persons arrested or imprisoned without charge shall be accorded the same protection as other prisoners, without prejudice to the provisions of Article 9 of the International Covenant on Civil and Political Rights.

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The full text of International Standards, Guidelines, Model Treaties and other instruments regarding the prevention and control of crime can be obtained from:

**Crime Prevention and Criminal Justice Branch  
Centre for Social Development and Humanitarian Affairs  
Vienna International Centre  
P.O. Box 500  
A-1400 Vienna, Austria**





# Declaration Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Adopted by the General Assembly, 9 December 1975

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Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and a fundamental violation of human rights.

No State may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances, including state of war, internal political instability or public emergency, may not be invoked as justification of such acts.

Each State shall take effective measures to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment within its jurisdiction.

The training of law enforcement personnel and other public officials who may be responsible for persons deprived of their liberty shall ensure that full account is taken of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment.

Each State shall systematically review interrogation methods and arrangements for the custody and treatment of prisoners with a view to preventing cases of torture or other cruel, inhuman or degrading treatment or punishment.

Each State shall insure that all acts of torture are offences under its criminal law. The same shall apply to participation in, complicity in, incitement to or an attempt to commit torture.

Any person who alleges that he has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to complain and have his case examined by competent authorities of the State.

Wherever there are reasonable grounds to believe that an act of torture has been committed, competent authorities shall carry out an impartial investigation even if there has been no formal complaint.

If investigation establishes that an act of torture appears to have been committed, criminal proceedings shall be instituted. If an allegation of other forms of cruel, inhuman or degrading treatment or punishment is considered to be well founded, criminal, disciplinary or other appropriate proceedings shall be instituted.

The victim of torture or other cruel, inhuman or degrading treatment or punishment shall be afforded redress and compensation under the law.

Any statement made under torture or as a result of other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or any other person in any proceedings.

An order from a superior officer or a public authority may not be invoked as a justification of torture.

No State Party shall expel, return or extradite a person to another State where there are substantial grounds for believing he would be in danger of torture.

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# Code of Conduct for Law Enforcement Officials

Adopted by the General Assembly, 17 December 1979,  
on the recommendation of the Fifth Congress

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All those who exercise police powers shall respect and protect human dignity and uphold the human rights of all persons.

Law enforcement officials shall fulfil the duty imposed on them by law by serving the community and protecting all persons against illegal acts.

Service to the community includes in particular assistance to those who by reason of personal, economic, social or other emergencies are in need of immediate aid.

Protection against illegal acts extends to the full range of prohibitions under penal statutes and to the conduct of persons not capable of incurring criminal liability.

Law enforcement officials may use force only when strictly necessary and only to the extent required for the performance of their duty.

The use of firearms is considered to be an extreme measure, not to be employed except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others.

Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment.

Law enforcement officials shall ensure the full protection of the health of persons in their custody and take immediate action to secure medical attention whenever required.

Law enforcement officials shall not commit any act of corruption and shall rigorously oppose and combat all such acts.

Law enforcement officials shall respect the law and this Code, and to the best of their capabilities prevent and oppose any violations of them.

If they believe that a violation of this Code has occurred or is about to occur, they shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or governmental organs; as a last resort, and in accord with the laws and customs of their own countries, they may bring violations to the attention of the mass media.

Law enforcement officials who comply with the provisions of this Code deserve the respect, full support and cooperation of the community and of the law enforcement agency in which they serve.

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The full text of International Standards, Guidelines, Model Treaties and other instruments regarding

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# Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty

Economic and Social Council resolution 1984/50, adopted 25 May 1984

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In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, intentionally committed with lethal or extremely grave consequences.

Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission.

Persons below 18 years of age, pregnant women, new mothers or persons who have become insane shall not be sentenced to death.

Capital punishment may be imposed only when guilt is determined by clear and convincing evidence leaving no room for an alternative explanation of the facts.

Capital punishment may be carried out only after a final judgement rendered by a competent court allowing all possible safeguards to the defendant, including adequate legal assistance.

Anyone sentenced to death shall have the right of appeal to a court of higher jurisdiction.

Anyone sentenced to death shall have the right to seek pardon or commutation of sentence.

Capital punishment shall not be carried out pending any appeal, recourse procedure or proceeding relating to pardon or commutation of the sentence.

Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.

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A-1400 Vienna, Austria**



# The Milan Plan of Action

Adopted by the Seventh Crime Congress, Milan, 26 August-6 September 1985,  
and endorsed by the General Assembly in resolution 40/32

Possessing national and international dimensions, the problem of crime demands a concerted response from the community of nations to reduce opportunities for the commission of crimes and to address relevant socioeconomic factors, such as poverty, inequality and unemployment. Unbalanced or inadequately planned development contributes to an increase in criminality, and the criminal justice system should be fully responsive to diverse and evolving political, economic and social systems.

## Recommendations

Governments should give high priority to crime prevention and criminal justice through strengthening appropriate mechanisms and allocation of adequate resources.

Action-oriented programmes and projects should be undertaken in the field with the assistance of full bilateral and multilateral cooperation.

Research and database capabilities of the United Nations and Member States should be strengthened, with special attention to possible interrelationships between criminality and specific aspects of development, such as population structure and growth, housing, migration, urbanization and employment opportunities.

Further study of crime in relation to human rights and fundamental freedoms is needed for investigation of new and traditional forms of crime.

Member States should adopt concrete and urgent measures to eradicate racial discrimination and other forms of oppression, particularly apartheid.

Priority must be given to combating terrorism in all its forms and to coordinated action by the international community in that regard.

Launching a major effort to control and eventually eradicate illicit drug trafficking and abuse is imperative.

To further the improvement of criminal justice systems, the United Nations should facilitate the exchange of information and experience between Member States and should undertake study and policy research.

Non-governmental organizations should continue to be effectively involved in United Nations efforts in the field.

The UN Secretary-General is requested to review the United Nations work programmes in crime prevention and control with special attention to improving coordination of the Organization's activities.

UN regional and interregional institutes should be strengthened and their programmes reinforced. Immediate action should be taken to establish the regional institute for Africa.

UN capacities to extend technological cooperation to developing countries should be reinforced.

Member States should intensify their efforts, including in the area of education, to develop the widest possible participation in preventing and combating crime.

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# Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New Economic Order

Adopted by the Seventh Crime Congress, Milan, 26 August-6 September 1985,  
and endorsed by the General Assembly in resolution 40/32

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Changes in national economic and social structures should be accompanied by appropriate criminal justice reforms.

International cooperation should be encouraged to foster balanced economic development, through restructuring of the international economic system, with due emphasis on crime prevention and the proper functioning of criminal justice systems.

Policies for crime prevention and criminal justice should take into account the structural causes, including socioeconomic causes, of injustice.

New directions and approaches should be explored regarding crime-related concepts, measures, procedures and institutions.

Member States should refrain from committing acts aimed at harming the development of other countries and should assist each other in crime prevention and criminal justice efforts.

Crime prevention as a global phenomenon should not be confined to common criminality, but should also address especially harmful crimes, including economic crime, environmental offences, illegal drug trafficking, terrorism, apartheid and other comparable crimes.

Special protection against criminal negligence should be ensured in matters concerning public health, labour conditions, exploitation of natural resources and the environment and the provision of consumer goods and services.

Laws governing the functioning of business enterprises should be reviewed and strengthened as necessary, and consideration should be given to having complex cases of economic crime heard by judges familiar with business procedures.

States should give due consideration to making institutions as well as individuals criminally responsible.

More appropriate penalties for economic crimes should be established where existing measures do not correspond to the gravity of those offenses. Economic penalties should be graded to ensure that they are equally exemplary for both poor and wealthy offenders.

Measures should be taken to provide crime victims with effective legal protection, including compensation for damages resulting from crime.



Crime prevention strategies should be formulated in relation to the socioeconomic context, the society's developmental stage and its traditions and customs.

Legal systems, including criminal justice, should be instrumental in promoting beneficial and equitable development. While protecting human rights and promoting social justice, improvements in crime prevention effectiveness and criminal justice policies should be encouraged through consideration of alternatives to incarceration and judicial intervention.

Equality, fairness and equity in the processes of law enforcement, prosecution, sentencing and treatment should be ensured so as to avoid discriminatory practices based on socioeconomic, cultural, ethnic, national or political backgrounds, sex or material means.

Safeguards should be established concerning the use of modern technology and computer systems so as to avoid possible violations of the right to privacy and other human rights.

International cooperation should be "less cumbersome and more effective" in areas such as extradition of offenders, investigative and judicial assistance and transfer of foreign prisoners. Technical and scientific cooperation should be increased.

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# Basic Principles on the Independence of the Judiciary

Adopted by the Seventh Crime Congress, Milan, 26 August-6 September 1985,  
and endorsed by the General Assembly in resolution 40/32

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The independence of the judiciary shall be guaranteed by the State and enshrined in the constitution or law of the country.

The judiciary shall decide matters before them with impartiality on the basis of facts, in accordance with the law, without any improper influences or pressures.

Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use established legal procedures shall not be created to displace the jurisdiction belonging to ordinary courts.

Members of the judiciary, like other citizens, are entitled to free-dom of expression, belief, association and assembly; however, judges shall always conduct themselves in a manner so as to preserve the dignity of their office and the impartiality and independence of the judiciary.

Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. In selection of judges, there shall be no discrimination on the basis of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status.

The term of office and conditions of service for judges shall be secured by law. Judges shall have guaranteed tenure until retirement or expiration of their term of office.

Assignment of cases to judges is an internal matter of judicial administration.

The judiciary shall be bound by professional secrecy concerning their deliberations and shall not be compelled to testify on such matters.

Without prejudice to any disciplinary procedure or to any right of appeal or compensation from the State, judges should enjoy personal immunity from civil suits for monetary damages for improper acts or omissions in the exercise of their judicial functions.

A judge shall have the right to a fair hearing on charges or complaints against her/him. Judges shall be subject to suspension or removal only for reasons of incapacity or behaviour that renders them unfit to discharge their duties.

Decisions in disciplinary, suspension or removal proceedings should be subject to an independent review, except concerning decisions by the highest court and those of the legislature in impeachment or similar proceedings.

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# Model Agreement on the Transfer of Foreign Prisoners and Recommendations on the Treatment of Foreign Prisoners

Adopted by the Seventh Crime Congress, Milan, 26 August-6 September 1985,  
and endorsed by the General Assembly in resolution 40/32

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The social resettlement of offenders should be promoted by quickly facilitating the return of persons convicted of crime abroad to their home country to serve their sentence.

Prisoner transfer should take place where the offence in question is punishable by deprivation of liberty in both sending (sentencing) and receiving (administering) countries.

A transfer may be requested by either the sentencing or the administering State. A transfer shall be dependent on the consent of both States and the prisoner as well. The administering State should be given the opportunity to verify the free consent of the prisoner.

At the time of request for a transfer, as a general rule, the prisoner shall have at least six months of the sentence remaining to be served.

The administering State shall either continue enforcement of the sentence or convert the sentence to one prescribed by its law for a corresponding offence.

In the case of continued enforcement, the administering State shall be bound by the sentence determined by the sentencing State. It may, however, adapt the sanction to the punishment prescribed by its own law for the offence, but a sanction involving deprivation of liberty shall not be converted to a pecuniary sanction.

The administering State shall be bound by the findings of the sentencing State, which has the sole competence for review of the sentence.

Costs incurred as a result of a transfer shall be borne by the administering State, unless otherwise decided by both States.

Both the sentencing and administering States shall be competent to grant pardon and amnesty.

## RECOMMENDATIONS ON THE TREATMENT OF FOREIGN PRISONERS

Foreign prisoners should have the same access as national prisoners to education, work and vocational training.

Foreign prisoners should be eligible for alternative measures to imprisonment according to the same principles as nationals.

The religious precepts and customs of foreign prisoners should be respected.

Foreign prisoners should be informed, in a language they understand, of the prison regime and regulations as well as their right to request contact with consular authorities. Proper assistance should be given in dealings with medical or programme staff and concerning such matters as complaints, special diets and religious representation and counselling.

Contacts should be facilitated between foreign prisoners and their families and with humanitarian international organizations.

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# Standard Minimum Rules for the Administration of Juvenile Justice

Adopted by the General Assembly, 29 November 1985 (resolution 40/33),  
on the recommendation of the Seventh Congress

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## PART 1: GENERAL PRINCIPLES

### Fundamental perspectives

Member States shall seek to further the well-being of juveniles and their families.

Member States shall try to develop conditions to ensure meaningful lives in the community for juveniles.

Sufficient attention should be given to positive measures involving mobilization of resources, such as the family, volunteers and community groups, to promote the well-being of juveniles.

Juvenile justice shall be an integral part of the national development process of each country.

### Age of criminal responsibility

In legal systems recognizing the concept of an age of criminal responsibility for juveniles, such an age level shall not be fixed too low, bearing in mind emotional, mental and physical maturity.

### Aims of juvenile justice

Any reaction by the juvenile justice system to juvenile offenders shall be in proportion to both the offenders and the offence.

### Scope of discretion

Appropriate scope for the exercise of discretionary power shall be allowed at all stages of legal proceedings affecting juveniles.

Efforts shall be made to ensure sufficient accountability at all stages in the exercise of such discretion.

### Rights of juveniles

Basic procedural safeguards, such as the presumption of innocence, the right to be notified of charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal, shall be guaranteed at all stages of proceedings.

## **Protection of privacy**

The juvenile's right to privacy shall be respected at all stages.

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## **PART 2: INVESTIGATION AND PROSECUTION**

### **Initial contact**

Upon the apprehension of a juvenile, parent or guardians shall be notified as soon as possible.

A judge or other competent official or body shall consider the issue of release without delay.

### **Diversion**

Consideration shall be given to dealing with juvenile offenders without resort to trial, and any diversion to appropriate community or other services shall require consent of the juvenile or parents.

Police officers dealing frequently or exclusively with juveniles shall be specially instructed and trained.

### **Detention pending trial**

Detention pending trial shall be used only as a last resort and for the shortest possible period of time.

When possible, detention pending trial shall be replaced by alternative measures, such as close supervision or placement with a family.

Juveniles under detention pending trial shall be kept separate from adults.

While in custody, juveniles shall receive care, protection and all necessary assistance that they may require in view of their age, sex and personality.

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## **PART 3: ADJUDICATION AND DISPOSITION**

### **Competent authority to adjudicate**

Where the case of a juvenile offender has not been diverted, she or he shall be dealt with by the competent authority according to the principles of a fair trial.

Judicial proceedings shall be conducted in an atmosphere of understanding, allowing the juvenile free self-expression.

### **Legal counsel, parents and guardians**

Throughout the proceedings, juveniles shall have the right to be represented by a legal advisor. Parents or guardians shall be entitled to participate, unless their exclusion is required in the best interests of the juvenile concerned.

### **Social inquiry reports**

Prior to sentencing and final disposition, the background and circumstances of the offender shall be properly investigated.

### **Guiding principles in adjudication and disposition**

Regarding adjudication and disposition, the reaction taken shall always be in proportion not only to the circumstances and gravity of the offence, but also to the needs and circumstances of the juvenile and society.

Restrictions on the personal liberty of juveniles shall be imposed only after careful consideration and shall be limited to the minimum.

Deprivation of liberty shall not be imposed except in cases of serious acts involving violence against another person or of persistence in committing other serious offenses.

Capital punishment shall not be imposed for any crime committed by juveniles.

Juveniles shall not be subjected to corporal punishment.

### **Various disposition measures**

To provide flexibility so as to avoid institutionalization to the greatest extent possible, a large variety of disposition measures should be made available, including probation, community service, supervision, financial penalties, group counselling, foster care, etc.

No juvenile shall be removed from parental supervision unless due to necessary circumstances.

### **Least possible use of institutionalization**

The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.

### **Avoidance of unnecessary delay**

Each case shall be handled expeditiously.

### **Records**

Records of juvenile offenders shall be kept strictly confidential and shall be limited to duly authorized personnel.

Records of juvenile offenders shall not be used in adult proceedings in subsequent cases involving the same offender.

### **Need for professionalism and training**

Professional education, in-service training, refresher courses and other modes of instruction shall be utilized.

Juvenile justice personnel shall reflect the diversity of juveniles in contact with the justice system. Efforts shall be made to ensure fair representation of women and minorities.



## **PART 4: NON-INSTITUTIONAL TREATMENT**

### **Provision of needed assistance**

Efforts shall be made to provide necessary assistance, such as lodging, education, vocational training and employment, to facilitate the rehabilitation process. Help from volunteers shall also be sought.

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## **PART 5: INSTITUTIONAL TREATMENT**

### **Objectives of institutional treatment**

Measures shall be taken within institutions for juveniles to provide care, protection, education and vocational skills to assist offenders in assuming constructive and productive roles in society.

Juveniles in institutions shall be kept separate from adults, and special attention shall be given to young female offenders.

Conditional release from institutions with appropriate support and assistance shall be used to the greatest extent possible.

### **Semi-institutional arrangements**

Efforts shall be made to provide semi-institutional arrangements, such as halfway houses, educational homes and daytime training centres, to assist juveniles in their re-integration into society.

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## **PART 6: RESEARCH, PLANNING, POLICY FORMULATION AND EVALUATION**

### **Research as a basis for planning, policy formulation and evaluation**

Efforts shall be made to review and appraise periodically the causes and problems of juvenile delinquency and crime and the needs of juveniles in custody.

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The full text of International Standards, Guidelines, Model Treaties and other instruments regarding the prevention and control of crime can be obtained from:

**Crime Prevention and Criminal Justice Branch  
Centre for Social Development and Humanitarian Affairs  
Vienna International Centre  
P.O. Box 500  
A-1400 Vienna, Austria**



# Declaration of Basic Principles of Justice for Victims of Crime and the Abuse of Power

Approved by the General Assembly, 29 November 1985 (resolution 40/34),  
on the recommendation of the Seventh Congress

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Victims should be treated with compassion and respect for their dignity and are entitled to prompt redress for harm caused.

Judicial and administrative mechanisms should be established and strengthened to enable victims to obtain redress.

Victims should be informed of their role and the timing and progress of their cases.

The views and concerns of victims should be presented and considered at appropriate stages of the process.

Steps should be taken to minimize delay and inconvenience to victims, ensure their privacy and protect them from intimidation and retaliation.

Offenders should, where appropriate, make restitution to victims or their families or dependants. Where public officials have violated criminal laws, victims should receive restitution from the State.

When compensation is not fully available from the offender, States should provide compensation to victims or their families in cases of significant physical or mental injury.

Victims should receive the necessary material, medical, psychological and social assistance through governmental and voluntary means.

Police, justice, social service and other personnel concerned should receive training to sensitize them to the needs of victims.

States should consider incorporating into national law norms proscribing abuses of power, including political and economic power. They should also provide remedies to victims of such abuses, including restitution and compensation.

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# Standard Minimum Rules for Non-Custodial Measures

Adopted by the General Assembly as resolution 45/110  
on the recommendation of the Eighth Congress

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## GENERAL PRINCIPLES

### Fundamental aims

The Standard Minimum Rules are basic principles to promote the use of non-custodial measures and establish minimum safeguards for persons subject to alternatives to imprisonment.

The Rules are intended to promote greater community involvement in the management of criminal justice and to promote among offenders a sense of responsibility towards society.

### The scope of non-custodial measures

Relevant provisions are applied to all persons subject to prosecution, trial or terms of sentencing. The criminal justice system should provide a wide range of non-custodial measures, from pretrial to post-sentencing dispositions, to allow flexibility while maintaining a capacity for consistent sentencing.

Use of non-custodial measures should be part of the movement towards depenalization, decriminalization, the principle of minimum intervention and use of informal community measures, instead of interfering or delaying efforts in those directions.

### Legal safeguards

Discretion by judicial or other competent independent authority is to be exercised at all stages of proceedings to ensure full accountability and accordance with the rule of law.

Non-custodial measures imposing an obligation on the offender applied before or instead of formal proceedings or trial, shall require the offender's consent.

The offender is entitled to make a request or complaint regarding implementation of non-custodial measures, and appropriate machinery shall be provided for the redress of any grievance related to violation of internationally recognized human rights.

Non-custodial measures shall not involve medical or psychological experimentation or undue risk of injury and shall respect the dignity and privacy of the offender.

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## **PRETRIAL STAGE**

### **Pre-trial dispositions**

Where appropriate and compatible with the legal system, the police and prosecution should discharge the offender if they consider that protection of society, crime prevention and respect for the law and rights of victims will not be served by proceeding with the case. A set of established criteria shall be developed for deciding the appropriateness of discharge. For minor cases the prosecutor may impose suitable non-custodial measures.

### **Avoidance of pre-trial detention**

Pretrial detention is to be used as a last resort in criminal proceedings, with due regard for the investigation of the alleged offence and protection of society and the victim, and the offender shall have the right to appeal its use.

Alternatives to pre-trial detention shall be employed at as early a stage as possible.

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## **TRIAL AND SENTENCING STAGE**

### **Social inquiry reports**

When available, judicial authority may make use of a factual, unbiased report by a competent official or agency that contains social information about the offender relevant to that person's pattern of offending and information and recommendations relevant to sentencing.

### **Sentencing dispositions**

In deciding a sentence, the judicial authority is to consider the rehabilitative needs of the offenders, the protection of society and the interests of the victim.

Sentencing authorities may dispose of cases in the following ways:

- a) Verbal sanctions, such as admonition, reprimand and warning;
  - b) Conditional discharge;
  - c) Status penalties;
  - d) Economic sanctions and monetary penalties, such as fines and day-fines;
  - e) Confiscation or an expropriation order;
  - f) Restitution to the victim or a compensation order;
  - g) Suspended or deferred sentence;
  - h) Probation and judicial supervision;
  - i) A community service order;
  - j) Referral to an attendance centre;
  - k) House arrest;
  - l) Any other mode of non-institutional treatment;
  - m) Some combination of the measures listed above.
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## **POST-SENTENCING STAGE**

The competent authority shall have at its disposal a wide range of post-sentencing alternatives to avoid institutionalization and assist offenders in their early reintegration into society.

Post-sentencing disposition may include:

- a) Furlough and halfway houses;
- b) Work or education release;
- c) Various forms of parole;
- d) Remission;
- e) Pardon.

Release from an institution to a non-custodial programme shall be considered at the earliest possible stage.

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## **IMPLEMENTATION OF NON-CUSTODIAL MEASURES**

### **Supervision**

The purpose of supervision is to reduce reoffending and assist the offender's integration into society.

Offenders should, when needed, be provided with psychological, social and material assistance and with opportunities to strengthen links with the community and facilitate reintegration.

### **Duration**

Duration of non-custodial measures shall not exceed the period established by the competent authority in accordance with the law.

Provision may be made for early termination if the offender responds favourably.

### **Conditions**

In determining the conditions to be observed by the offender account should be taken of the needs of society and the needs and rights of the offender and the victim.

Conditions to be observed shall be practical, precise and as few as possible, aimed at reducing the likelihood of relapse by the offender and taking into account the needs of the victim.

At the beginning of non-custodial measures, the offender shall receive an explanation, orally and in writing, of the conditions governing the measures.

Conditions may be modified by the competent authority in accord with progress made by the offender.

### **Treatment process**

In appropriate cases, case-work, group therapy, residential programmes and specialized treatment should be developed to meet the needs of offenders.

Treatment should be conducted by professionals with suitable training and experience.

Efforts should be made to understand the offender's background, personality, aptitude, intelligence,

values and the circumstances leading to commission of the offence.

The community and social support systems may be involved in application of non-custodial measures.

Case-load assignments are to be maintained at a manageable level.

For each offender, a case record is to be maintained and established.

## **Discipline and breach of conditions**

A breach of the conditions to be observed may result in modification or revocation of the non-custodial measure, although it should not automatically do so.

Modification or revocation shall be made by the competent authority after careful examination of the facts.

In such event, a suitable alternative is to be sought. Imprisonment may be imposed only in the absence of other suitable alternatives.

The power to arrest and detain the offender in cases where there is a breach of the conditions shall be prescribed by law.

The offender shall have the right to appeal modification or revocation of the non-custodial measure.

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## **STAFF**

### **Recruitment**

Persons appointed to apply non-custodial measures should be personally and professionally suitable, and there shall be no discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status in their recruitment.

Adequate salary and benefits and opportunity for professional growth and career advancement should be provided.

### **Staff training**

Before entering on duty, staff shall be given training in the nature and various modalities of non-custodial measures and the purposes of supervision.

Staff shall maintain and improve their knowledge by entering in-service training and refresher courses.

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## **VOLUNTEERS AND OTHER COMMUNITY RESOURCES**

### **Public participation**

Public participation should be encouraged as it is a major resource and an important factor in improving ties between offenders undergoing non-custodial measures, their families and the community.

It should be regarded as an opportunity for members of the community to contribute to the protection

of their society.

## **Public understanding and cooperation**

Conferences, seminars, symposia and other activities should be organized to stimulate awareness of the need for public participation in the application of non-custodial measures.

All forms of mass media should be utilized to help create a constructive public attitude.

## **Volunteers**

Volunteers shall be carefully screened and recruited on the basis of aptitude for and interest in the work involved, receive proper training and have access to support and counselling from, and the opportunity to consult with, the competent authority.

Volunteers should be insured against accident, injury and public liability and reimbursed for authorized expenditures. Public recognition should be extended to them.

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## **RESEARCH, PLANNING, POLICY FORMULATION AND EVALUATION**

Research on non-custodial treatment of offenders and the problems that confront clients, practitioners, the community and policy makers should be carried out regularly and relevant research and information mechanisms built into the criminal justice system's collection and analysis of data.

Suitable mechanisms should be evolved for linkages between services responsible for non-custodial measures and other branches of the criminal justice system, social development and welfare agencies, both governmental and non-governmental, in such fields as health, housing, education and labour, and with the mass media.

Efforts shall be made to promote scientific cooperation between countries in the field of non-institutional treatment. Research, training, technical assistance and the exchange of information should be strengthened through the United Nations regional and interregional institutes, in close collaboration with the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat.

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# Guidelines for the Prevention of Juvenile Delinquency

Adopted by the General Assembly as resolution 45/112  
on the recommendation of the Eighth Congress

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## FUNDAMENTAL PRINCIPLES

The prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful, socially useful activities and adopting a humanistic orientation, young persons can develop non-criminogenic attitudes.

Prevention of juvenile delinquency requires efforts by the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood.

A child-centered orientation should be pursued. Young persons should have an active role and partnership within society and should not be considered mere objects of socialization or control.

Progressive delinquency prevention policies should avoid criminalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others.

Policies and measures should involve:

- a) Educational and other opportunities to serve as a supportive framework for the personal development of young persons, particularly those who are endangered or at social risk;
- b) Specialized philosophies and approaches for prevention on the basis of laws, processes, institutions, facilities and a service delivery network aimed at reducing motivation, need and opportunity for infractions;
- c) Official intervention pursued in the overall interest of the young person and guided by fairness and equity;
- d) Safeguarding the well-being, development, rights and interests of all young persons;
- e) Consideration that youthful behaviour that does not conform to overall social norms and values is often part of the maturation and growth process and tends to disappear spontaneously with the transition to adulthood;
- f) Awareness that labelling a young person as "deviant", "delinquent" or "pre-delinquent", often contributes to a pattern of undesirable behaviour;

Community-based services should be developed for the prevention of juvenile delinquency, particularly where no agencies have yet been established. Formal agencies of social control should be utilized only as a last resort.

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## SCOPE OF THE GUIDELINES

These Guidelines should be interpreted and implemented within the framework of all United Nations instruments and norms relating to the rights, interests and well-being of all children and young persons, and implemented in the context of the economic, social and cultural conditions in each Member State.

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## GENERAL PREVENTION

Comprehensive prevention plans should be instituted at every level of government and include the following:

- a) In-depth analyses of the problem and inventories of programmes, services, facilities and resources;
  - b) Well-defined responsibilities for involved agencies, institutions and personnel;
  - c) Mechanisms for coordination of efforts between governmental and non-governmental agencies;
  - d) Policies, programmes and strategies based on prognostic studies and continuous monitoring and evaluation;
  - e) Methods for reducing opportunities to commit delinquent acts;
  - f) Community involvement through a wide range of services and programmes;
  - g) Interdisciplinary cooperation between national, state, provincial and local governments, with involvement of the private sector, the citizenry, and labour child-care, health, education, social, law enforcement and judicial agencies;
  - h) Youth participation in prevention policies and processes;
  - i) Specialized personnel at all levels.
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## SOCIALIZATION PROCESSES

### Family

Since the family is the central unit responsible for the primary socialization of children, efforts should be made to preserve the integrity of the family and extended family, including adequate day-care facilities.

Families should be provided with necessary assistance in resolving conditions of instability or conflict.

When a settled family environment is lacking and efforts of the community and extended family to assist parents have failed, foster care and adoption should be considered. Such placements should replicate, to the extent possible, a stable family environment and avoid the problem of "foster drift".

Special attention should be given to children affected by rapid and uneven economic, social and cultural change, in particular the children of migrant and refugee families, and innovative and socially constructive modalities for the socialization of children should be designed.

Measures should be taken to help families learn about parental roles and obligations and encourage their involvement in family and community-based activities.

### Education

Governments are under an obligation to make public education accessible to all young persons.

Educational systems should devote attention to the following:

- a) Teaching basic values and developing respect for the child's own culture, for the social values of the country in which the child is living, for civilizations different from the child's own and for human rights and fundamental freedoms;
- b) Promoting development of the personality and talents of young people to their fullest potential;
- c) Involvement of young persons as active participants rather than mere objects in the educational process;
- d) Activities that foster a sense of identity with the school and the community;
- e) Encouragement of young persons to understand diverse views and opinions;
- f) Information and guidance regarding vocational opportunities and career development;
- g) Avoidance of harsh disciplinary measures, particularly corporal punishment.

Educational systems should work with parents, community organizations and agencies concerned with young persons.

Young persons and their families should be informed about the law and their rights and responsibilities, as well as the universal value system, including United Nations instruments.

Particular attention should be extended to young persons who are at social risk, utilizing specialized programmes and educational materials.

Attention is also to be given to policies and strategies for the prevention of alcohol, drug and other substance abuse.

Schools should serve as resource and referral centres for medical, counselling and other services to young persons, particularly those with special needs or suffering from abuse or neglect.

Teachers, adults and students need to be sensitized to the problems and perceptions of young people belonging to underprivileged, minority or low-income groups.

School systems should attempt to meet and promote the highest standards, and regular monitoring and evaluation by appropriate professional organizations should be ensured.

Extra-curricular activities of interest to young persons should be developed by school systems in cooperation with community groups.

Special assistance should be given to students who find it difficult to comply with attendance codes and to "drop-outs".

School policies and rules should be fair, and students should be represented in school policy, including policy on discipline and decision-making.

## **Community**

Community-based services which respond to the interests of young persons, including community development centres and recreational facilities, should be developed and strengthened.

Adequate shelter should be provided for young persons who are no longer able to live at home or have no homes.

Services should be provided to deal with the difficult transition of young persons to adulthood,

including special programmes for young drugabusers that emphasize care, counselling, assistance and therapy.

Voluntary organizations serving young people are to receive financial and other support.

Local youth organizations should be created and strengthened and given participatory status in management of community affairs. They should encourage youth to organize collective and voluntary projects, particularly to benefit young persons in need of assistance.

Government agencies are to provide necessary services for homeless or street children.

A wide range of recreational facilities and services of interest to young persons should be established and made easily accessible.

## **Mass media**

The mass media should ensure that young persons have access to information from a diversity of national and international sources.

It should portray the positive contributions of young people to society.

Information on services, facilities and opportunities for young persons should be disseminated.

Mass media in general, and film and television in particular, should minimize the portrayal of pornography, drugs and violence, display violence and exploitation unfavourably, avoid demeaning and degrading presentations, especially of children, women and interpersonal relations, and promote egalitarian principles and roles.

The mass media should use its power for drug abuse prevention by relaying consistent messages through a balanced approach and by promoting effective drug awareness campaigns.

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## **SOCIAL POLICY**

Government agencies should give high priority to plans and programmes for young persons and provide sufficient funds and resources for adequate medical and mental health care, nutrition, housing, and substance abuse prevention.

Institutionalization of young persons should be a measure of last resort and for the minimum necessary period. Criteria for intervention of this sort should be strictly defined and limited to situations where the child or young person: a) has suffered harm inflicted by parents or guardians; b) has been sexually or physically abused; c) has been neglected, abandoned or exploited by the parents or guardians; d) is threatened by physical or moral danger due to the behaviour of parents; and e) is in jeopardy of serious physical or psychological danger manifested in his or her own behaviour and neither the parents or guardians nor the juvenile himself or herself can meet the danger by means other than institutionalization.

Government agencies should provide young persons with the opportunity of continuing in full-time education, funded by the State where the parents or guardians are unable to support the young persons, and of receiving work experience.

Programmes to prevent delinquency should be planned and developed on the basis of scientific research and periodically monitored, evaluated and adjusted.

Scientific information should be disseminated to professionals and the public at large about the sort of behaviour or situation which indicates or may result in victimization or abuse of young persons.

Generally, participation of young persons in programmes should be voluntary, and young persons should be involved in formulation and implementation of youth programmes.

Governments should take measures to prevent domestic violence against young persons and ensure fair treatment for victims.

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## **LEGISLATION AND JUVENILE JUSTICE ADMINISTRATION**

Specific laws and procedures should be enacted to protect the rights and well-being of all young persons, including legislation against the victimization, abuse, exploitation and use for criminal activity of children and young persons.

No child or young person should be subjected to harsh or degrading correction measures or punishment at home, in schools or in any other institution.

Legislation and enforcement should restrict and control accessibility of weapons to children and young persons.

Any conduct not considered an offence or penalized if committed by an adult should not be considered an offence or penalized if committed by a young person.

Consideration should be given to establishing an office of ombudsman or similar independent organ, to ensure that the status, rights and interests of young persons are upheld and proper referral to available services is made.

Law enforcement personnel and other relevant personnel, of both sexes, should be trained to respond to the special needs of young persons and be made familiar with programmes and referral possibilities for the diversion of young persons from the justice system.

Legislation should protect children and young persons from drug abuse and drug traffickers.

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## **RESEARCH, POLICY DEVELOPMENT AND COORDINATION**

Multidisciplinary and interdisciplinary efforts should be made to promote interaction between economic, social, educational and health agencies and services, the justice system, youth, community and development agencies and other relevant institutions.

Exchange of information and experience and technical and scientific cooperation in practical and policy-related matters should be intensified at the national, regional and international levels and within the United Nations system.

The United Nations Secretariat should play an active role in research, formulation of policy options and review of practical implementation and as a source of reliable information.

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A-1400 Vienna, Austria**



# Rules for the Protection of Juveniles Deprived of Their Liberty

Adopted by the General Assembly as resolution 45/113 on the recommendation of the Eighth Congress

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## FUNDAMENTAL PERSPECTIVES

The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles.

Imprisonment should be used as a last resort, should be in accord with the principles and procedures in these Rules and in the Standard Minimum Rules for the Administration of Juvenile Justice, and should be for the minimum necessary period. The length of the sanction should be determined by judicial authority, without precluding the possibility of early release. The Rules are designed to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty and serve as convenient standards of reference to professionals involved in the juvenile justice system. They should be made available to juvenile justice personnel in their national languages. Where appropriate, States should incorporate the Rules into their legislation or amend it accordingly and provide effective remedies for their breach, including compensation when injuries are inflicted on juveniles.

Competent authorities should seek to increase the awareness of the public that care of detained juveniles and preparation for their return to society is a social service of great importance. To this end, contacts between the juveniles and the local community should be fostered.

## SCOPE AND APPLICATION OF THE RULES

The following definitions apply:

- a) A juvenile is every person under the age of 18. The age limit below which it should not be permitted to deprive a child of liberty is to be determined by law.
- b) The deprivation of liberty means any form of detention or imprisonment or placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, ordered by any judicial, administrative or public authority.

Deprivation of liberty should be effected in conditions and circumstances which ensure respect for the human rights of juveniles. Detained juveniles should be guaranteed meaningful activities and programmes which promote health and self-respect, foster their sense of responsibility and encourage their development as potential members of society.

Detained juveniles are not to be denied for any reasons related to their status civil, economic, political, social or cultural rights to which they are entitled under national or international law and which are

compatible with the deprivation of their liberty, such as social security benefits, freedom of association and, upon reaching the minimum age established by law, the right to marry.

Protection of the individual rights of juveniles with special regard to the legality of the execution of the detention measures shall be ensured by the competent authority, while the objectives of social integration should be secured by regular inspections and other controls carried out according to international standards and national laws and regulations by a duly constituted body authorized to visit the juveniles and not belonging to the detention facility.

The Rules apply to all types and forms of detention facilities in which juveniles are deprived of their liberty.

The Rules are to be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

## **JUVENILES UNDER ARREST OR A WAITING TRIAL**

Juveniles who are detained under arrest or awaiting trial ("untried") are presumed innocent and shall be treated as such. Detention before trial shall be avoided and limited to exceptional circumstances. All efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.

The conditions under which an untried juvenile is detained should include, but not necessarily be limited to, the following:

- a) Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available, and to communicate regularly and confidentially with their legal advisers.
- b) Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so. Work, education or training should not cause the continuation of detention.
- c) Juveniles should receive and retain materials for their leisure and recreation as are compatible with the interests of the administration of justice.

## **THE MANAGEMENT OF JUVENILE FACILITIES**

### **Records**

All reports, including legal records, medical records, records of disciplinary proceedings and all other documents relating to the form, content and details of treatment, should be placed in a confidential individual file. Where possible, every juvenile should have the right to contest any fact or opinion contained in his or her file. In order to exercise this right, there should be procedures that allow an appropriate third party to consult the file on request. Upon release, the records of juveniles shall be sealed and, at an appropriate time, expunged.

No juvenile should be received in any detention facility without a valid commitment order of a judicial, administrative or other public authority. No juvenile should be detained in any facility where there is no such register.

### **Admission, registration, movement and transfer**



In every place where juveniles are detained, a complete and secure record of the following information should be kept concerning each juvenile:

- a) Information on the identity of the juvenile;
- b) The fact of and reasons for commitment and the authority thereof;
- c) The day and hour of admission, transfer and release;
- d) Details of the notifications to parents and guardians on every admission, transfer or release of the juveniles in their care at the time of commitment;
- e) Details of known physical and mental health problems, including drug and alcohol abuse.

The above-mentioned information should be provided without delay to the parents and guardians or closest relative of the juvenile.

On admission, juveniles will be given a copy of rules governing the facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints and the address of agencies which provide legal assistance. For those who are illiterate or cannot understand the language in the written form, the information shall be conveyed in a comprehensible manner.

## **Classification and placement**

As soon as possible after admission, each juvenile should be interviewed and a psychological and social report identifying factors relevant to the care and programme required by the juvenile should be prepared. This report, together with that of a medical officer who has examined the juvenile upon admission, should be forwarded to the director for the purpose of determining the most appropriate placement of the juvenile within the facility. When special rehabilitative treatment is required, and the length of the stay permits, trained personnel should prepare a written, individualized treatment plan specifying objectives, time-frame, means, stages and potential delays.

Detention of juveniles should take place only under conditions taking account of their particular needs, status, age, personality, sex and type of offence, to ensure their protection from harmful influences and risk situations. The principal criterion for the separation of different categories of juveniles should be the type of care best suited to individual needs.

In all detention facilities, juveniles should be separated from adults, unless they are members of the same family. Under controlled conditions, juveniles may be brought together with carefully selected adults as part of a special programme shown to be beneficial for the juveniles concerned.

Open detention facilities--those with no or minimal security measures--for juveniles should be established. The population in such facilities should be as small as possible. The number of juveniles detained in closed facilities should be small enough to enable individualized treatment. Detention facilities should be decentralized and of such size as to facilitate contact with families. Small-scale facilities should be established and integrated into the social, economic and cultural environment of the community.

## **Physical environment and accommodation**

Juveniles deprived of their liberty shall have the right to facilities and services meeting all requirements of health and human dignity.

Design of facilities should be in keeping with the rehabilitative aim, with due regard for privacy, sensory stimuli, opportunities for association between peers, sports and physical exercise and leisure

activities. Risk of fire should be minimized and safe evacuation ensured. Facilities should not be located where there are known health or other hazards.

Sleeping accommodation should consist of small group dormitories or individual bedrooms, while bearing in mind local standards. During sleeping hours, there should be regular, unobtrusive supervision. Every juvenile should, in accord with local or national standards, be provided with separate and sufficient bedding, clean when issued and changed often enough to ensure cleanliness.

Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply with physical needs in privacy and in a clean and decent manner.

The possession of personal effects is a basic element of the right to privacy and essential to psychological well-being. The right to possess and store personal effects is to be fully respected. Those effects the juvenile does not choose to retain or that are confiscated should be placed in safe custody, and an inventory thereof signed by the juvenile. All such articles and money should be returned to the juvenile on release, except in so far as he or she has been authorized to spend money or send such property out of the facility. If a juvenile receives or is found in possession of medicine, the medical officer is to decide what use to make of it.

To the extent possible, juveniles should have the right to use their own clothing. Facilities should ensure that each juvenile has personal clothing suitable for the climate and adequate to ensure good health, and which in no manner shall be degrading or humiliating. Juveniles removed from or leaving a facility should be allowed to wear their own clothing.

Every detention facility shall ensure suitably prepared food presented at normal mealtimes and of a quality and quantity to meet dietary, hygienic and health standards and, as far as possible, religious or cultural requirements. Clean drinking water is to be available at any time.

## **Education, vocational training and work**

Every juvenile of compulsory school age has the right to education suited to his or her needs and designed to prepare him or her for return to society. Such education should be provided outside the facility in community schools wherever possible. Special attention should be given to the education of juveniles of foreign origin or with particular cultural or ethnic needs and those who are illiterate or have cognitive difficulties have a right to special education.

Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so.

Diplomas or educational certificates awarded to juveniles while in detention should not indicate in any way that the juvenile has been institutionalized.

Every facility should provide access to a library adequately stocked with instructional and recreational books.

Every juvenile has the right to receive vocational training.

With due regard to proper vocational selection and the requirements of institutional administration, juveniles should be able to choose the type of work they wish to perform.

All protective national and international standards applicable to child labour should apply to juveniles deprived of their liberty.

Wherever possible, juveniles should be provided with opportunities to perform remunerated labour, if possible within the local community, as a complement to the vocational training provided. The organization and methods of work offered in detention facilities should resemble as closely as possible those of similar work in the community.

Every juvenile who performs work has the right to equitable remuneration. Interests of juveniles and their vocational training should not be subordinated to the purpose of making a profit for the detention facility or a third party. Part of the earnings of the juvenile normally should be set aside for a savings fund to be handed over at release. The juvenile has the right to the remainder, to purchase personal articles, indemnify the victim of his or her offence or send to his or her family or other persons outside the detention facility.

## **Recreation**

Every juvenile has the right to a suitable amount of time for daily free exercise, in the open air when weather permits, during which recreational and physical training normally should be provided. Adequate space, installations and equipment are to be provided. There should be additional time for daily leisure activities, including arts and crafts skill development if the juvenile so wishes. Remedial physical education and therapy under medical supervision should be offered to juveniles needing it.

## **Religion**

Every juvenile is to be allowed to satisfy the needs of his or her religious or spiritual life, by attending services in the facility or by conducting his or her own services and having possession of necessary books or items of religious observance and instruction. If a facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed to hold regular services and pay pastoral visits. Every juvenile has the right to visits from qualified representatives of any religion of his or her choice, as well as the right not to participate in religious services and freely to decline religious education, counselling or indoctrination.

## **Medical care**

Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care, as well as pharmaceutical products and special diets as medically indicated. All care should, where possible, be provided to detained juveniles through the appropriate facilities of the community in which the detention facility is located, to prevent stigmatization and promote integration into the community.

Every juvenile has a right to examination by a physician immediately upon admission to a detention facility, for the purpose of recording evidence of prior ill-treatment and identifying any physical or mental condition requiring treatment.

The medical service should seek to detect and treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society. Every facility should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and to staff trained in preventive care and emergency treatment. Every juvenile who complains of or demonstrates symptoms of physical or mental difficulties should be examined promptly by a medical officer.

Any medical officer who believes the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention should

report this fact immediately to the director of the facility and to the independent authority responsible for safeguarding the well-being of the juvenile.

A juvenile suffering from mental illness should be treated in a specialized institution under independent medical management. Steps should be taken to continue mental health care after release.

Juvenile detention facilities should adopt specialized drug abuse prevention and rehabilitation programmes administered by qualified personnel and adapted to the age, sex and other requirements of the juveniles concerned. Detoxification facilities and services staffed by trained personnel should be available.

Medicines should be administered only for necessary treatment and, when possible, after having obtained the informed consent of the juvenile concerned. In particular, they must not be administered to elicit information or a confession, as a punishment or as a means of restraint. Juveniles shall never be testees in the experimental use of drugs and treatment. Administration of any drug should always be authorized and carried out by qualified medical personnel.

### **Notification of illness, injury and death**

The family or guardian of a juvenile and any other person designated by the juvenile have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. Any parent, guardian or designated person shall be notified immediately in case of death, illness requiring transfer to an outside medical facility or a condition requiring clinical care within the detention facility for more than 48 hours. Notification should be given to the consular authorities of the State of which a foreign juvenile is a citizen.

Upon the death of a juvenile during the period of deprivation of liberty, the nearest relative has the right to inspect the death certificate, see the body and determine the method of its disposal. There should be an independent inquiry into the causes of death, the report of which should be made accessible to the nearest relative. This inquiry should also be made when the death occurs within six months of the date of the juvenile's release and there is reason to believe that the death is related to the period of detention.

A juvenile should be informed at the earliest possible time of the death or serious illness or injury of any immediate family member and have the opportunity to attend the funeral or go to the bedside of a critically ill relative.

### **Contains with the wider community**

Juveniles should have adequate communication with the outside world, which is part of fair and humane treatment and essential to preparation for return to society. Communication should be allowed with families, friends and other persons or representatives of reputable outside organizations. Juveniles should be allowed to leave the facility for a visit to home and family and should receive special permission to leave for educational or vocational reasons. Should the juvenile be serving a sentence, time spent outside a facility should be counted as part of the period of sentence.

Every juvenile has the right to receive regular and frequent visits, in principle once a week and not less than once a month, in privacy and with unrestricted communication with family and the defence counsel.

Every juvenile has the right to communicate in writing or by telephone at least twice a week with the person of his or her choice, unless legally restricted, and should be assisted in enjoying this right.

Every juvenile has the right to receive correspondence.

Juveniles have the right to keep informed of the news through newspapers and periodicals, access to radio, television and motion pictures, and visits of the representatives of any lawful club or organization.

### **Limitations of physical restraint and the use of force**

Recourse to instruments of restraint and to force should be prohibited, except as set forth below.

Instruments of restraint and force can be used only in exceptional cases, where all other control methods have failed, and only as authorized by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should consult medical and other relevant personnel at once and report to the higher administrative authority.

The carrying and use of weapons by personnel should be prohibited in any facilities where juveniles are detained.

### **Disciplinary procedures**

Disciplinary measures should promote safety and an ordered community and should be consistent with upholding the dignity of the juvenile and instilling a sense of justice, self-respect and respect for the rights of others.

All cruel, inhumane or degrading disciplinary measures shall be strictly prohibited, including corporal punishment, placement in a dark cell and solitary confinement. Reduction of diet and denial of contact with family members should be prohibited. Labour should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile and should not be imposed as a disciplinary measure. No juvenile should be sanctioned more than once for the same infraction. Collective sanctions should be prohibited.

Legislation or regulations should be established concerning the following:

- a) Conduct constituting a disciplinary offence;
- b) Type and duration of disciplinary sanctions that may be inflicted;
- c) The authority competent to impose such sanctions;
- d) The authority competent to consider appeals.

A report of misconduct should be presented promptly to the proper authority, and decided on without undue delay. A thorough examination of the case should be conducted.

No juvenile should be sanctioned except in accord with the law and regulations in force. No juvenile should be sanctioned without being informed of the alleged infraction and given a proper opportunity to present a defence, including right of appeal to a competent impartial authority. Complete records should be kept of all disciplinary proceedings.

No juveniles should be responsible for disciplinary functions except in the supervision of specified social, educational or sports activities or in self-government programmes.

### **Inspection and complaints**

Qualified inspectors or an equivalent authority not belonging to the administration of the facility should conduct inspections on a regular basis and undertake unannounced inspections on their own initiative and should enjoy full guarantees of independence. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty and to all juveniles and all records of such facilities.

Qualified medical officers attached to the inspecting authority or the public health service should participate in inspections, evaluating compliance with rules concerning physical environment, hygiene, accommodation, food, exercise and medical services. Every juvenile has the right to talk in confidence to any inspecting officer.

After completing the inspection, the inspector should submit a report including an evaluation of compliance with the present Rules and relevant national law and recommendations for ensuring compliance. Any facts indicating violation of legal provisions should be communicated to competent authorities for investigation and prosecution.

Every juvenile should be able to make requests or complaints to the director of the facility or his or her authorized representative, or to the central administration, the judicial authority or other proper authorities through the proper channels, without censorship as to substance, and should be informed of the response without delay.

Efforts should be made to establish an independent office (ombudsman) to investigate complaints made by juveniles deprived of their liberty and achieve equitable settlements.

Juveniles have the right to request assistance from family members, legal counsellors, humanitarian groups or others to make a complaint. Illiterate juveniles should be assisted if they need to use the services of agencies providing legal counsel or which are competent to receive complaints.

## **Return to the community**

Procedures, including early release, should be designed to assist juveniles returning to society, family life, education or employment after release.

Services to assist juveniles in re-establishing themselves in society should ensure, to the extent possible, suitable residence, employment, clothing and sufficient means. Representatives of agencies providing such services should be consulted and should have access to juveniles while detained.

## **PERSONNEL**

Personnel should be qualified and include a sufficient number of educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists, normally employed on a full-time basis, but not excluding part-time or volunteer workers as appropriate.

The administration should carefully select and recruit every grade and type of personnel, provide adequate remuneration and encourage conduct that will deserve and gain the respect of juveniles.

Organization and management should facilitate communications between different categories of staff and between staff and administration.

Personnel are to be trained in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present Rules, and to receive in-service training in professional skills.

The director of a facility should be qualified by administrative ability, suitable training and experience and should work full-time.

Personnel should respect and protect human dignity and fundamental rights. In particular:

- a) No staff member may inflict, instigate or tolerate any act of torture or any harsh, cruel, inhuman or degrading treatment under any pretext;
- b) All personnel should rigorously oppose corruption and report incidents without delay to the competent authorities;
- c) All personnel should respect the present Rules and report any serious violation;
- d) All personnel should ensure full protection of the physical and mental health of juveniles, including protection from physical, sexual and emotional abuse and exploitation;
- e) All personnel should respect the right of the juvenile to privacy, and should safeguard all confidential matters concerning juveniles and their families learned as a result of their professional capacity;
- f) All personnel should seek to minimize any differences between life inside and outside the detention facility which tend to lessen due respect to the dignity of juveniles as human beings.

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# Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

Adopted by the Eighth Crime Congress, Havana, 27 August-7 September 1990

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## General provisions

Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials and keep associated ethical issues constantly under review.

Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition allowing for differentiated use of force and firearms, to include non-lethal incapacitating weapons, with a view to increasingly restraining applications of means causing death or injury.

Development and deployment of non-lethal incapacitating weapons should be carefully evaluated to minimize the risk of endangering uninvolved persons, and use should be carefully controlled.

In carrying out their duty, law enforcement officials shall as far as possible apply non-violent means before resorting to force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

Whenever lawful use of force and firearms is unavoidable, law enforcement officials shall:

- a) Exercise restraint and act in proportion to the seriousness of the offence and the legitimate objective;
- b) Minimize damage and injury, and respect and preserve human life;
- c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
- d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest moment.

Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superior.

Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.

Exceptional circumstances, such as internal political instability or any other public emergency, may not be invoked to justify any departure from these basic principles.

## Special provisions

Law enforcement officials shall not use firearms against persons except in self-defence or defence of



others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives.

In the circumstances provided for under the above principle, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.

Rules and regulations should include guidelines that:

- a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;
- b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;
- c) Prohibit the use of firearms and ammunition that cause unwarranted injury or present an unwarranted risk;
- d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;
- e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;
- f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

## **Policing unlawful assemblies**

As everyone is allowed to participate in lawful and peaceful assemblies, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accord with the following two principles:

- a) In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict force used to the minimum necessary;
- b) In the dispersal of violent assemblies, firearms may be used only when less dangerous means are not practicable and only to the minimum extent necessary.

## **Policing persons in custody or detention**

Law enforcement officials shall not use force in relations with persons in custody or detention except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

They shall not use firearms in such relations except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention who presents an imminent threat.

## **Qualifications, training and counselling**

All law enforcement officials are to be selected by proper screening procedures, have appropriate moral, psychological and physical qualities for effective exercise of their functions and receive continuous professional training. Their continued fitness to perform should be subject to periodic

review.

Law enforcement officials are to be trained and tested in accord with appropriate proficiency standards in the use of force. Those required to carry firearms should be authorized to do so only upon completion of special training in their use.

Questions of police ethics and human rights shall be given special attention in the training of law enforcement officials, including the peaceful settlement of conflicts, the understanding of crowd behaviour, and methods of persuasion, negotiation and mediation. Law enforcement agencies should review their training programmes and operational procedures in the light of particular incidents.

Stress counselling should be made available to law enforcement officials who are involved in situations where force and firearms are used.

## **Reporting and review procedures**

Effective reporting and review procedures are to be established for all incidents where use of force or firearms causes injury or death or when firearms are used in the performance of law enforcement. An effective review process is to be available and independent administrative or prosecutorial authorities are to be in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities.

Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependants.

Superior officers are to be held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.

No criminal or disciplinary sanction is to be imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force or firearms, or who report such use by other officials.

Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders.

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# Basic Principles on the Role of Lawyers

Adopted by the Eighth Crime Congress, Havana, 27 August-7 September 1990

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## Access to lawyers and legal services

All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and defend them in all stages of criminal proceedings.

Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction without distinction or discrimination of any kind.

Governments shall ensure sufficient funding and other resources for legal services to the poor and, as necessary, other disadvantaged persons. Professional associations of lawyers shall cooperate to this end.

Programmes to inform the public about their rights and duties under the law and the important role of lawyers in protecting fundamental freedoms are to be promoted. Special attention should be given to the poor and disadvantaged to enable them to assert their rights and where necessary call upon the assistance of lawyers.

## Special safeguards in criminal justice matters

All persons are to be informed immediately by a competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.

All persons are entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to them without payment if they lack sufficient means.

All persons arrested or detained shall have prompt access to a lawyer, and in any case within 48 hours.

All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within hearing, of law enforcement officials.

## Qualifications and training

Lawyers are to have appropriate education and training and be made aware of the ideals and ethical duties of the lawyer and of human rights and fundamental freedoms recognized by national and international law.

There is to be no discrimination of any kind against a person with respect to entry into or continued

practice within the legal profession, except that a requirement that a lawyer must be a national of the country concerned shall not be considered discriminatory.

In countries where there exist groups, communities or regions whose needs for legal services are not met, particularly where such groups have distinct cultures, traditions or languages or have been the victims of past discrimination, special measures should be taken to provide opportunities for candidates from these groups to enter the legal profession and receive training appropriate to the needs of their groups.

## **Duties and responsibilities**

Lawyers shall at all times maintain the honour and dignity of their profession as essential agents of the administration of justice.

The duties of lawyers towards their clients shall include:

- a) Advising clients as to their legal rights and obligations, and to the working of the legal system in so far as it is relevant to the rights and obligations of their Clients;
- b) Assisting clients in every appropriate way, and taking legal action to protect their interests;
- c) Assisting clients before courts, tribunals or administrative authorities, where appropriate.

Lawyers shall seek to uphold human rights and fundamental freedoms recognized by national and international law and at all times act freely and diligently in accord with the law and recognized standards of the legal profession.

Lawyers shall always loyally respect the interests of their clients.

## **Guarantees for the functioning of lawyers**

Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

No court or administrative authority before whom the right to counsel is recognized shall refuse to recognize the right of a lawyer to appear before it for his or her client unless that lawyer has been disqualified in accord with national law and practice.

Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority.

It is the duty of the competent authorities to ensure that lawyers have access to appropriate information, files and documents in their possession or control in time to enable lawyers to provide effective legal assistance to their clients and at the earliest appropriate time.

Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential.

## **Freedom of expression and association**

Lawyers, like other citizens, are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law and

humanrights and to join or form local, national or international organizationsand attend meetings, without suffering professional restrictions. Inexercising these rights, lawyers shall always conduct themselves in accordwith the law and recognized standards of the profession.

### **Professional associations of lawyers**

Lawyers are entitled to form and join self-governing professionalassociations to represent their interests, promote continuing education andtraining and protect professional integrity. The executive body of theprofessional associations shall be elected by its members and exercise itsfunctions without external interference.

Professional associations of lawyers shall cooperate with Governmentsto ensure effective and equal access to legal services for all and thatlawyers are able, without improper interference, to counsel and assisttheir clients.

### **Disciplinary proceedings**

Codes of professional conduct are to be established by the legalprofession through appropriate organs, or by legislation, in accord withnational law and custom and recognized international standards and norms.

Charges or complaints made against lawyers in their professionalcapacities shall be processed expeditiously and fairly under appropriateprocedures. Lawyers have the right to a fair hearing, including the rightto be assisted by a lawyer of their choice.

Disciplinary proceedings shall be determined in accord with the codeof professional conduct and other recognized standards and ethics of thelegal profession.

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# Guidelines on the Role of Prosecutors

Adopted by the Eighth Crime Congress, Havana, 27 August-7 September 1990

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## Qualifications selection and training

Persons selected as prosecutors shall be individuals of integrity and ability, with appropriate training and qualifications.

States shall ensure that:

- a) Selection criteria for prosecutors embody safeguards against appointments based on partiality or prejudice of any kind, save that it shall not be considered discriminatory to require a candidate to be a national of the country concerned;
- b) Prosecutors have appropriate education and training and are aware of the ideals and duties of their office, of constitutional and statutory protections for the rights of the suspect and the victim, and of human rights and fundamental freedoms recognized by national and international law.

## Status and conditions of service

Prosecutors, as essential agents of the administration of justice, shall at all times maintain the honour and dignity of their profession.

States shall ensure that prosecutors can perform professional functions without intimidation, hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability.

Prosecutors and their families shall be physically protected by the authorities when personal safety is threatened due to discharge of professional functions.

Reasonable conditions of service of prosecutors, adequate remuneration and, where applicable, tenure, pension and age of retirement shall be set out by law or published rules or regulations.

Promotion of prosecutors, wherever such a system exists, shall be based on objective factors, such as ability, integrity and experience, and decided through fair and impartial procedures.

## Freedom of expression and association

Prosecutors, like other citizens, are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law and human rights and to join or form local, national or international organizations and attend meetings, without suffering professional restrictions. In exercising these rights, prosecutors shall always conduct themselves in accord with the law and recognized standards of the profession.

Prosecutors are to be free to form and join professional associations or other organizations to represent

their interests, promote professional training and protect their status.

## **Role in criminal proceedings**

The office of prosecutors shall be strictly separated from judicial proceedings.

Prosecutors are to take an active role in criminal proceedings, including institution of prosecution and, where authorized by law or consistent with local practice, in the investigation of crime, supervision over the legality of these investigations, supervision of the execution of court decisions and the exercise of other functions as representatives of the public interest.

Prosecutors shall perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and human rights.

In the performance of their duties, prosecutors shall:

- a) Carry out their functions impartially and avoid all kinds of discrimination;
- b) Protect the public interest, act with objectivity, take account of the position of the suspect and the victim and pay attention to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect;
- c) Keep matters in their possession confidential, unless performance of duty or needs of justice require otherwise;
- d) Consider the views and concerns of victims and ensure they are informed of their rights in accord with the Declaration of Basic Principles of Justice for Victims of Abuse of Power.

Prosecutors shall not initiate or continue prosecution, or shall make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded.

When prosecutors come into possession of evidence against suspects that they know or believe to be obtained through recourse to unlawful methods, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the court accordingly, and shall take all necessary steps to ensure that those responsible are brought to justice.

## **Discretionary functions**

In countries where prosecutors are vested with discretionary functions, the law or published rules or regulations shall provide guidelines to enhance fairness and consistency in taking decisions, including institution or waiver of prosecution.

## **Alternatives to prosecution**

In accord with national law, prosecutors should consider waiving prosecution, discontinuing proceedings conditionally or unconditionally or diverting criminal cases from the formal justice system, with full respect for the rights of suspect and victim. States should fully explore the possibility of adopting diversion schemes.

In countries where prosecutors are vested with discretion in deciding whether or not to prosecute a juvenile, special consideration should be given to the nature and gravity of the offence, protection of society and the personality and background of the juvenile. They shall particularly consider available alternatives to prosecution, and take prosecutory action only to the extent strictly necessary.

## **Relations with other government agencies or institutions**

To ensure fairness and effectiveness, prosecutors shall cooperate with the police, the courts, the legal profession, public defenders and other government agencies or institutions.

## **Disciplinary proceedings**

Disciplinary offences of prosecutors shall be based on law or lawful regulations. Complaints which allege that prosecutors acted in a manner out of the range of professional standards shall be processed expeditiously and fairly under appropriate procedures. Prosecutors have the right to a fair hearing. The decision is to be subject to independent review.

Disciplinary proceedings against prosecutors shall guarantee an objective evaluation and decision and be determined in accord with the law, the code of professional conduct and other established standards and in the light of the present Guidelines.

## **Observance of the Guidelines**

Prosecutors shall respect the present Guidelines and to the best of their capability prevent and oppose any violations thereof.

Prosecutors with reason to believe a violation of the Guidelines has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities vested with reviewing or remedial power.

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# Model Treaty on Extradition

Adopted by the Eighth Crime Congress, Havana, 27 August-7 September 1990

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## ARTICLE 1

### Obligation to extradite

Each Party agrees to extradite to the other any person who is wanted in the requesting State for prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence.

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## ARTICLE 2

### Extraditable offences

1. Extraditable offences are those punishable under the laws of both Parties by imprisonment or deprivation of liberty for a maximum period of at least [one/two] year(s), or by a more severe penalty. Where request for extradition relates to a person wanted for enforcement of a sentence, extradition shall be granted only if a period of at least [four/six] months remains to be served.
  2. In determining whether or an offence is punishable under the laws of both Parties, it shall not matter whether:
    - a) The laws of both Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology;
    - b) Under the laws of the Parties the constituent elements of the offence differ, it is the totality of the acts or omissions that shall be taken into account.
  3. Where extradition is sought for an offence against a law relating to taxation, customs duties or other revenue matters, extradition may not be refused on the ground that the law of the requesting State does not impose the same kind of tax or duty.
  4. If the request for extradition includes several separate offences each of which is punishable under the laws of both Parties, but some of which do not fulfil other conditions set out in paragraph 1 of this article, the requested Party may grant extradition for the latter offences provided the persons is to be extradited for at least one extraditable offence.
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## ARTICLE 3

### Mandatory grounds for refusal

Extradition shall not be granted in any of the following circumstances:

- a) If the offence for which extradition is requested is regarded as a political offence;
  - b) If there are grounds to believe the request has been made to prosecute or punish a person on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that the person's position may be prejudiced for any of these reasons;
  - c) If the offence is an offence under military law and not also an offence under criminal law;
  - d) If final judgement has been rendered against the person in the requested State in respect of the offence for which the person's extradition is requested;
  - e) If the person whose extradition has been requested has, under the law of either Party, become immune from prosecution or punishment for any reason, including lapse of time or amnesty;
  - f) If the person would be subjected to torture or cruel, inhuman treatment or degrading punishment or if that person has not or would not receive the minimum guarantees in criminal proceedings as contained in the International Covenant on Civil and Political Rights, article 14.
  - g) If the judgement of the requesting State has been rendered in absentia, the convicted person has not had sufficient notice of the trial nor opportunity to arrange for a defence and has not or will not have the opportunity to have the case retried.
- 

## ARTICLE 4

### Optional grounds for refusal

Extradition may be refused in any of the following circumstances:

- a) If the person whose extradition is requested is a national of the requested State;
  - b) If the competent authorities of the requested State have decided either not to institute or to terminate proceedings against the person for the offence for which extradition is requested;
  - c) If prosecution in the requested State is pending for the same offence;
  - d) If the offence carries the death penalty under the law of the requesting State;
  - e) If the offence has been committed outside the territory of either Party and the law of the requested State does not provide for jurisdiction over such an offence committed outside its territory;
  - f) If the offence is regarded under the law of the requested State as having been committed in whole or in part within that State;
  - g) If the person whose extradition has been requested has been sentenced or would be liable to be tried in the requesting State by an extraordinary or ad hoc court or tribunal;
  - h) If extradition would be incompatible with humanitarian considerations in view of age, health or other personal circumstances of that person.
- 

## ARTICLE 5

### Channels of communication and required documents

1. A request for extradition shall be made in writing and transmitted, along with supporting

documents, through diplomatic channels directly between the ministries of justice or other designated authorities.

2. A request shall be accompanied by the following:

a) In all cases,

- i) As accurate a description as possible of the person sought and information to help establish that person's identity, nationality and location;
- ii) The text of the relevant provision of the law creating the offence and a statement of the penalty that can be imposed;

b) If a warrant for arrest has been issued, by a certified copy of that warrant, a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the alleged offence;

c) If the person has been convicted, by a statement of the offence and a description of the acts or omissions constituting the offence and by the original or certified copy of the judgement;

d) If the person has been convicted in his or her absence, in addition to the documents set out in paragraph 2 c), by a statement as to the legal means available to the person to prepare a defence or have the case retried;

e) If the person has been convicted but no sentence imposed, by a statement of the offence, a document setting out the conviction and a statement affirming intent to impose a sentence.

3. The documents shall be accompanied by a translation into the language of the requested State or another language acceptable to that State.

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## ARTICLE 6

### **Simplified extradition procedure**

The requested State may grant extradition after receipt of a request for provisional arrest, provided that the person sought explicitly consents before a competent authority.

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## ARTICLE 7

### **Certification and authentication**

Except as provided by this Treaty, a request for extradition and the supporting documents thereto shall not require certification or authentication.

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## ARTICLE 8

### **Additional information**

If the requested State considers that the information provided in a request for extradition is not sufficient, it may request additional information to be furnished within such reasonable time as it specifies.

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## ARTICLE 9

### Provisional arrest

1. In case of urgency, the requesting State may apply for the provisional arrest of the person sought pending presentation of the request for extradition.
  2. The application for provisional arrest shall contain a description of the person sought, a statement of the existence of one of the documents mentioned in paragraph 2 of article 5, a statement of the punishment that has or can be imposed and a concise statement of the facts of the case and the location, where known, of the person.
  3. The requested State shall decide on the application and communicate its decision without delay.
  4. The person arrested shall be set at liberty upon the expiration of [40] days if a request for extradition supported by the relevant documents has not been received.
  5. Such release shall not prevent rearrest and institution of extradition proceedings if the request is subsequently received.
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## ARTICLE 10

### Decision on the request

1. The requested State shall promptly communicate its decision on the request for extradition to the requesting State.
  2. Reasons shall be given for any complete or partial refusal of the request.
- 

## ARTICLE 11

### Surrender of the person

1. Upon being informed that extradition has been granted, the Parties shall without undue delay arrange for the surrender of the person sought and the requested State shall inform the requesting State of the length of time for which the person was detained with a view to surrender.
  2. The person shall be removed from the territory of the requested State within such reasonable time as the requested State specifies and, if the person is not removed by then, the requested State may release the person and may refuse extradition for the same offence.
  3. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited it shall notify the other Party and a new date of surrender will be agreed upon.
- 

## ARTICLE 12

### Postponed or conditional surrender

1. The requested State may postpone the surrender of a person sought in order to proceed against

that person or enforce a sentence imposed for an offence other than that for which extradition is sought.

2. The requested State may, instead of postponing surrender, temporarily surrender the person sought to the requesting State in accordance with conditions determined between the Parties.

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## ARTICLE 13

### Surrender of property

1. To the extent permitted under the law of the requested State and subject to the rights of third parties, all property found in the requested State that has been acquired as a result of the offence or that may be required as evidence shall, upon request, be surrendered if extradition is granted.
2. Said property may, on request, be surrendered to the requesting State even if the extradition having been agreed to cannot be carried out.
3. When said property is liable to seizure or confiscation in the requested State, it may retain it or temporarily hand it over.
4. Where the law of the requested State or protection of the rights of third parties so require, any property so surrendered shall be returned to the requested State free of charge after completion of proceedings, if that State so requests.

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## ARTICLE 14

### Rule of speciality

1. A person extradited under this Treaty shall not be proceeded against, sentenced, detained, re-extradited to a third State, or subjected to any other restriction of personal liberty in the territory of the requesting State for any offence committed before surrender other than:
  - a) An offence for which extradition was granted;
  - b) Any other offence in respect of which the requested State consents.
2. A request for the consent of the requested State under this article shall be accompanied by the documents mentioned in paragraph 2 of article 5 and a legal record of any statement made by the extradited person with respect to the offence.
3. Paragraph 1 of this article shall not apply if the person has had an opportunity to leave the requesting State and has not done so within [30/45] days of final discharge in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the requesting State after leaving it.

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## ARTICLE 15

### Transit

1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to which the person is to be extradited shall request the other Party to permit

transit through its territory.

2. The requested State shall grant such a request expeditiously unless its essential interests would be prejudiced thereby.
3. The State of transit shall ensure legal provisions enabling the person to be held in custody during transit.
4. In the event of an unscheduled landing, the Party to be requested to permit transit may, at the request of the escorting officer, hold the person in custody for [48 hours] pending receipt of the transit request.

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## ARTICLE 16

### Concurrent requests

If a party receives requests for extradition for the same person from both the other Party and a third State it shall, at its discretion, determine to which of those States the person is to be extradited.

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## ARTICLE 17

### Costs

1. The requested State shall meet the cost of any proceedings in its jurisdiction arising out of a request for extradition.
2. The requested State shall also bear the costs incurred in its territory with the seizure and handing over of property or the arrest and detention of the person sought.
3. The requesting State shall bear the costs incurred in conveying the person from the territory of the requested State, including transit costs.

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## ARTICLE 18

### Final provisions

1. This Treaty is subject to (ratification, acceptance or approval).
2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of (ratification, acceptance or approval) are exchanged.
3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.
4. Either Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which notice is received by the other Party.

---

The full text of International Standards, Guidelines, Model Treaties and other instruments regarding the prevention and control of crime can be obtained from:

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Centre for Social Development and Humanitarian Affairs  
Vienna International Centre  
P.O. Box 500  
A-1400 Vienna, Austria**



# Model Treaty on Mutual Assistance in Criminal Matters

Adopted by the General Assembly as resolution 45/116  
on the recommendation of the Eighth Congress

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## ARTICLE 1

### Scope of application

1. The Parties shall afford to each other the widest possible measure of mutual assistance in investigations or court proceedings in respect of offences the punishment of which at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the Requesting State.
  2. Mutual assistance to be afforded in accord with this Treaty may include:
    - a) Taking evidence or statements from persons;
    - b) Assisting in the availability of detained persons or others to give evidence or assist in investigations;
    - c) Effecting service of judicial documents;
    - d) Executing searches and seizures;
    - e) Examining objects and sites;
    - f) Providing information and evidentiary items;
    - g) Providing relevant documents and records.
  3. This Treaty does not apply to:
    - a) The arrest or detention of any person with a view to extradition;
    - b) The enforcement of criminal judgements imposed in the Requesting State except as permitted by law in the Requested State;
    - c) The transfer of persons in custody to serve sentences;
    - d) The transfer of proceedings in criminal matters.
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## ARTICLE 2

### Other arrangements

Unless the Parties decide otherwise, this Treaty shall not affect obligations subsisting between them.

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## ARTICLE 3

### Designation of competent authorities

Each Party shall designate and indicate to the other Party an authority or authorities through which requests for the purposes of this Treaty should be made.

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## ARTICLE 4

### Refusal of assistance

1. Assistance may be refused if:
    - a) The Requested State is of the opinion that the request, if granted, would prejudice its sovereignty, security, public order or other essential public interests;
    - b) The offence is regarded as being of a political nature;
    - c) There are grounds to believe the request has been made for the purpose of prosecuting a person on account of race, sex, religion, nationality, ethnic origin or political opinions or that person's position may be prejudiced for any of those reasons;
    - d) The request relates to an offence subject to investigation or prosecution in the Requested State or which would be incompatible with this State's law on double jeopardy;
    - e) The Requested State is required to carry out compulsory measures inconsistent with its law and practice;
    - f) The act is an offence under military law, and not also an offence under ordinary criminal law.
  2. Before refusing a request, the Requested State shall consider whether assistance may be granted subject to certain conditions. If the Requesting State accepts assistance under these conditions, it shall comply with them.
  3. Reasons shall be given for any refusal or postponement of mutual assistance.
- 

## ARTICLE 5

### Contents of requests

1. Requests for assistance shall include:
  - a) The name of the requesting office and the competent authority conducting the investigation or court proceedings;
  - b) The purpose of the request and a brief description of the assistance sought;
  - c) A description of the facts alleged to constitute the offence and a statement of the relevant laws;
  - d) The name and address of the person to be served, where necessary;
  - e) The reasons for and details of any procedure or requirement that the Requesting State wishes to be followed;
  - f) Specification of any time-limit to be complied with;
  - g) Other necessary information.
2. Requests and supporting documents shall be accompanied by a translation into the language of

the Requested State or another language acceptable to that State.

3. The Requested State may request additional information.
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## ARTICLE 6

### Execution of requests

Requests for assistance shall be carried out promptly. To the extent consistent with the law of the Requested State, it shall carry out the request in the manner specified by the Requesting State.

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## ARTICLE 7

### Return of material to the Requested State

Any property, records or documents handed over to the Requesting State shall be returned as soon as possible unless right of return is waived.

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## ARTICLE 8

### Limitation on use

The Requesting State shall not use information provided for proceedings other than those stated in the request.

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## ARTICLE 9

### Protection of confidentiality

Upon request:

- a) The Requested State shall endeavour to keep confidential the request for assistance and its contents;
  - b) The Requesting State shall keep confidential evidence and information provided, except as needed for investigation and proceedings described in the request.
- 

## ARTICLE 10

### Service of documents

1. The Requested State shall effect service of documents that are transmitted to it.
2. A request to effect service of summonses shall be made not less than ... days before the date on which the appearance of a person is required. In urgent cases, the time requirement may be waived.

## ARTICLE 11

### Obtaining evidence

1. The Requested State shall take sworn or affirmed testimony for transmission to the Requesting State.
  2. Upon request, the parties to the relevant proceedings in the Requesting State, their legal representatives and representatives of the Requesting State may be present at these proceedings.
- 

## ARTICLE 12

### Right or obligation to decline to give evidence

1. A person required to give evidence may decline to do so where either:
    - a) The law of the Requested State permits or requires that person to decline to give evidence in similar circumstances; or
    - b) The law of the Requesting State permits or requires that person to decline to give evidence in similar circumstances.
  2. If a person claims a right or obligation to decline to give evidence under the law of the other State, a certificate of the competent authority of that other State as to the existence or non-existence of that right or obligation shall be relied on.
- 

## ARTICLE 13

### Availability of persons in custody to give evidence or to assist in investigations

1. Upon request, and if the Requested State agrees and its law permits, a person in custody may, subject to his or her consent, be temporarily transferred to the Requesting State to give evidence or assist in the investigations.
  2. The Requesting State shall hold that person in custody and shall return him or her at the conclusion of the matter under investigation or at such earlier time as that person's presence is no longer required.
  3. Where the Requested State advises the Requesting State that the transferred person is no longer required to be held in custody, that person shall be set at liberty.
- 

## ARTICLE 14

### Availability of other persons to give evidence or assist in investigations

1. The Requesting State may request the assistance of the Requested State in inviting a person:
  - a) To appear in proceedings in relation to a criminal matter, unless that person is the person charged; or
  - b) To assist in the investigations in relation to a criminal matter.

2. The Requested State shall invite the person to appear as a witness or expert in proceedings or to assist in investigations.
  3. The request or the summons shall indicate the approximate allowances and the travel and subsistence expenses payable by the Requesting State.
  4. Upon request, the Requested State may grant the person an advance, to be refunded by the Requesting State.
- 

## ARTICLE 15

### Safe conduct

1. Where a person is in the Requesting State pursuant to a request for assistance:
    - a) That person shall not be detained, prosecuted, punished or subjected to any other restrictions of personal liberty in respect of any acts or omissions that preceded the person's departure from the Requested State;
    - b) That person shall not, without that person's consent, be required to give evidence or assist in any other investigation or proceeding other than that which the request relates to.
  2. Paragraph 1 of this article shall cease to apply if that person, being free to leave, has not left the Requesting State within a period of [15] consecutive days after having been officially notified that his or her presence is no longer required or, having left, has voluntarily returned.
  3. A person who does not consent to a request pursuant to article 13 or accept an invitation pursuant to article 14 shall not, by reason thereof, be liable to any penalty or subjected to any coercive measure.
- 

## ARTICLE 16

### Provision of publicly available documents and other records

1. The Requested State shall provide copies of documents and records in so far as they are open to public access as part of a public register.
  2. The Requested State may provide copies of any other document or record under the same conditions as they would be provided to its own law enforcement and judicial authorities.
- 

## ARTICLE 17

### Search and seizure

The Requested State shall, in so far as its law permits, carry out requests for search and seizure and delivery of any material to the Requesting State for evidentiary purposes, provided that the rights of bonafide third parties are protected.

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## ARTICLE 18

### Certification and authentication

A request for assistance shall not require certification or authentication.

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## ARTICLE 19

### Costs

The ordinary costs of executing a request shall be borne by the Requested State, unless otherwise determined. The Parties shall consult in advance to determine the terms and conditions under which costs of a substantial or extraordinary nature will be borne.

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## ARTICLE 20

### Consultation

The Parties shall consult promptly, at the request of either, concerning the interpretation and application of this Treaty.

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## ARTICLE 21

### Final provisions

1. This Treaty is subject to (ratification, acceptance or approval).
  2. This Treaty shall enter into force on the thirtieth day after the instruments of (ratification, acceptance or approval) are exchanged.
  3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.
  4. Either Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which notice is received by the other Party.
- 

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A-1400 Vienna, Austria**

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# Model Treaty on the Transfer of Proceedings in Criminal Matters

Adopted by the General Assembly as resolution 45/118  
on the recommendation of the Eighth Congress

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## ARTICLE 1

### Scope of application

1. When a person is suspected of having committed an offence under the law of a State which is a Contracting Party, the State may request another State which is a Contracting Party to take proceedings in respect of this offence.
  2. The Contracting Parties shall take necessary legislative measures to ensure the necessary jurisdictions upon a request to take proceedings.
- 

## ARTICLE 2

### Channels of communications

A request to take proceedings shall be made in writing. The request, supporting documents and subsequent communications shall be transmitted through diplomatic channels, directly between the ministries of justice or any other designated authorities.

---

## ARTICLE 3

### Required documents

1. The request shall contain or be accompanied by the following information:
  - a) The authority presenting the request;
  - b) A description of the act for which transfer of proceedings is being requested, including time and place of the offence;
  - c) A statement on the results of investigations substantiating suspicion of an offence;
  - d) The legal provisions by which the act is considered an offence;
  - e) A statement on the identity, nationality and residence of the suspected person.
2. The documents shall be accompanied by a translation into the language of the Requested State or into another language acceptable to that State.

## ARTICLE 4

### **Certification and authentication**

A request to take proceedings shall not require certification or authentication.

## ARTICLE 5

### **Decision on the request**

The competent authorities of the Requested State shall examine what action to take on the request and shall promptly communicate their decision.

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## ARTICLE 6

### **Dual criminality**

A request to take proceedings can be complied with only if the act on which the request is based would be an offence if committed in the territory of the Requested State.

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## ARTICLE 7

### **Grounds for refusal**

The Requested State shall communicate reasons for refusal of a request to take proceedings. Acceptance may be refused if:

- a) The suspected person is not a national of or ordinary resident in the Requested State;
  - b) The act is an offence under military law, and not also an offence under ordinary criminal law;
  - c) The offence is in connection with taxes, duties, customs or exchange;
  - d) The offence is regarded by the Requested State as being of a political nature.
- 

## ARTICLE 8

### **The position of the suspected person**

1. The suspected person may express to either State his or her interest in the transfer of the proceedings. Such interest may also be expressed by the legal representative or close relatives of the suspected person.
  2. Before a request for transfer of proceedings is made, the Requesting State shall, if practicable, allow the suspected person to present his or her views on the alleged offence and the intended transfer.
-



## ARTICLE 9

### **The rights of the victim**

The rights of the victim of the offence, in particular his or her right to restitution or compensation, are not to be affected as a result of the transfer. If a settlement of the victim's claim has not been reached before the transfer, the Requested State shall permit representation of the claim in the transferred proceedings, if its law provides for such a possibility. In the event of the death of the victim, these provisions shall apply to his or her dependants accordingly.

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## ARTICLE 10

### **Effects of the transfer of proceedings on the Requesting State**

Upon acceptance by the Requested State of the request to take proceedings against the suspected person, the Requesting State shall provisionally discontinue prosecution, except necessary investigation, including judicial assistance to the Requested State, until informed that the case has finally been disposed of. From that date on, the Requesting State shall definitely refrain from further prosecution of the same offence.

---

## ARTICLE 11

### **Effects of the transfer of proceedings on the Requested State**

1. The proceedings shall be governed by the law of the Requested State. When charging the suspected person under its law, the Requested State shall make the necessary adjustment with respect to particular elements in the legal description of the offence.
  2. As far as compatible with the law of the Requested State, any act performed in the Requesting State shall have the same validity in the Requested State.
  3. The Requested State shall inform the Requesting State of the decision taken as a result of the proceedings.
- 

## ARTICLE 12

### **Provisional measures**

When the Requesting State requests transfer of proceedings, the Requested State may apply all provisional measures, including provisional detention and seizure, as could be applied under its own law if the offence had been committed in its territory.

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## ARTICLE 13

### The plurality of criminal proceedings

When criminal proceedings are pending in two or more States against the same suspected person for the same offence, the States shall conduct consultations to decide which of them should continue the proceedings.

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## ARTICLE 14

### Costs

Any costs incurred by a Contracting Party because of a transfer of proceedings shall not be refunded, unless otherwise agreed by both the Requesting and Requested States.

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## ARTICLE 15

### Final provisions

1. This Treaty is subject to (ratification, acceptance or approval).
2. This Treaty shall enter into force on the thirtieth day after the instruments of ratification are exchanged.
3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.
4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which notice is received by the other Party.

---

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A-1400 Vienna, Austria**



# Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released

Adopted by the General Assembly as resolution 45/118  
on the recommendation of the Eighth Congress

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## ARTICLE 1

### Scope of application

1. This Treaty shall be applicable if, according to a final court decision, a person has been found guilty of an offence and has been:
    - a) Placed on probation without sentence having been pronounced;
    - b) Given a suspended sentence involving deprivation of liberty;
    - c) Given a sentence which has been modified by parole or conditionally suspended.
  2. The State where the decision was taken (sentencing State) may request another State (administering State) to take responsibility for applying the terms of the decision (transfer of supervision).
- 

## ARTICLE 2

### Channels of communications

A request for the transfer of supervision shall be made in writing. The request, supporting documents and subsequent communications shall be transmitted through diplomatic channels, directly between the ministries of justice or any other designated authorities.

---

## ARTICLE 3

### Required documents

1. A request for the transfer of supervision shall contain all necessary information on identity, nationality and residence of the sentenced person and be accompanied by any court decision referred to in the preceding provision and a certificate that this decision is final.
2. The documents shall be accompanied by a translation into the language of the requested State or into another language acceptable to that State.

## ARTICLE 4

### **Certification and authentication**

A request for the transfer of supervision shall not require certification or authentication.

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## ARTICLE 5

### **Decision on the request**

The competent authorities of the Requested State shall examine what action to take on the request and shall promptly communicate their decision.

---

## ARTICLE 6

### **Dual criminality**

A request for the transfer of supervision can be complied with only if the act on which the request is based would be an offence if committed in the territory of the administering State.

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## ARTICLE 7

### **Grounds for refusal**

If the administering State refuses acceptance of a request, it shall communicate the reasons for refusal. Acceptance may be refused where:

- a) The sentenced person is not an ordinary resident in the administering State;
  - b) The act is an offence under military law, and is not also an offence under ordinary criminal law;
  - c) The offence is in connection with taxes, duties, customs or exchange;
  - d) The offence is regarded by the administering State as being of a political nature;
  - e) The administering State, under its own law, can no longer carry out the supervision or enforce the sanction because of lapse of time.
- 

## ARTICLE 8

### **The position of the sentenced person**

Whether sentenced or standing trial, the sentenced person may express to the sentencing State his or her interest in a transfer of supervision and his or her willingness to fulfil any conditions to be imposed. Such interest may also be expressed by his or her legal representative or close relatives.

---

## ARTICLE 9

### **The rights of the victim**

The rights of the victim of the offence, in particular his or her right to restitution or compensation, are not to be affected as a result of the transfer. In the event of the death of the victim, this provision shall apply to his or her dependants accordingly.

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## ARTICLE 10

### **The effect of the transfer of supervision on the sentencing State**

The acceptance by the administering State of responsibility for applying the terms of the decision shall extinguish the competence of the sentencing State to enforce the sentence.

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## ARTICLE 11

### **The effects of the transfer of supervision on the administering State**

1. The supervision transferred upon agreement and the subsequent procedure shall be carried out in accord with the law of the administering State. That State alone shall have the right of revocation. That State may adapt to its own law the conditions or measures prescribed, providing they are not more severe than those pronounced in the sentencing State.
  2. If the administering State revokes the conditional sentence or conditional release, it shall enforce the sentence in accord with its own law without, however, going beyond the limits imposed by the sentencing State.
- 

## ARTICLE 12

### **Review, pardon and amnesty**

1. The sentencing State alone shall have the right to decide on any application to reopen the case.
  2. Each Party may grant pardon, amnesty or commutation of the sentence.
- 

## ARTICLE 13

### **Information**

1. The Contracting Parties shall keep each other informed, as necessary, of circumstances likely to affect supervision or enforcement in the administering State.
2. After expiration of the period of supervision, the administering State shall provide to the sentencing State, at its request, a final report on the supervised person's conduct and compliance with the measures imposed.

## ARTICLE 14

### Costs

Supervision and enforcement costs incurred in the administering Stateshall not be refunded, unless otherwise agreed by both the sentencing Stateand the administering State.

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## ARTICLE 15

### Final provisions

1. This Treaty is subject to (ratification, acceptance or approval).
  2. This Treaty shall enter into force on the thirtieth day after theinstruments of (ratification, acceptance or approval) are exchanged.
  3. This Treaty shall apply to requests made after its entry intoforce, even if the relevant acts or omissions occurred prior to that date.
  4. Either Party may denounce this Treaty by giving notice in writingto the other Party. Such denunciation shall take effect six monthsfollowing the date on which notice is received by the other Party.
- 

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# Model Treaty for the Prevention of Crimes that Infringe on the Cultural Heritage of Peoples in the Form of Movable Property

Adopted by the Eighth Crime Congress  
and welcomed by the General Assembly in resolution 45/121

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## ARTICLE 1

### Scope of application and definition

1. For the purposes of this Treaty, movable cultural property shall be understood as referring to property which, on religious or secular grounds, is specifically designated by a State Party as being subject to export control by reason of its importance for archaeology, prehistory, history, literature, art or science, and as belonging to one or more of the following categories:
    - a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of paleontological interest;
    - b) Property relating to history, including the history of science and technology, military history, and the history of societies and religions, as well as to the lives of leaders, thinkers, scientists and artists, and to events of national importance;
    - c) Products of archaeological excavations or discoveries, including clandestine excavations or discoveries, whether on land or under water;
    - d) Elements of artistic or historical monuments or archaeological sites which have been dismantled;
    - e) Antiquities, including tools, ceramics, ornaments, musical instruments, pottery, inscriptions, coins, engraved seals, jewels, weapons and funerary remains;
    - f) Materials of anthropological, historical or ethnological interest;
    - g) Property of artistic interest, including paintings, statues, prints and assemblages;
    - h) Rare manuscripts and incunabula, old books, documents and publications of special interest;
    - i) Postage and revenue stamps;
    - j) Phonographic, photographic and cinematographic archives;
    - k) Articles of furniture and musical instruments of more than 100 years of age.
  2. This Treaty applies to movable cultural property stolen in or illicitly exported from the other State Party after the coming into force of the Treaty.
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## ARTICLE 2

### General principles

1. Each State Party undertakes:
    - a) To take necessary measures to prohibit the import and export of movable cultural property (i) which has been stolen in the other State Party or (ii) which has been illicitly exported from the other State Party;
    - b) To take the necessary measures to prohibit the acquisition of, and dealing within its territory with, movable cultural property which has been imported contrary to the above prohibitions;
    - c) To legislate to prevent persons and institutions within its territory from entering into international conspiracies with respect to movable cultural property;
    - d) To provide information concerning stolen movable cultural property to an international data base agreed upon between the States Parties;
    - e) To take measures to ensure that the purchaser of stolen movable cultural property which is listed on the international data base is not considered to have purchased such property in good faith;
    - f) To introduce a system whereby the export of movable cultural property is authorized by issue of an export certificate;
    - g) To use all means, including the fostering of public awareness, to combat illicit import and export, theft, illicit excavations and illicit dealing in movable cultural property.
  2. Each State undertakes to take the necessary measures to recover and return, at the request of the other State Party, any movable cultural property which is covered in subparagraph a) above.
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## ARTICLE 3

### Sanctions

Each State Party undertakes to impose sanctions upon:

- a) Persons or institutions responsible for illicit import or export of movable cultural property;
  - b) Persons or institutions that knowingly acquire or deal in stolen or illicitly imported movable cultural property;
  - c) Persons or institutions that enter into international conspiracies to obtain, export or import movable cultural property by illicit means.
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## ARTICLE 4

### Procedures

1. Requests for recovery and return shall be made through diplomatic channels.
2. All expenses incidental to the return and delivery of the movable cultural property shall be borne by the requesting State Party, and no persons or institution shall be entitled to claim any form of compensation from the State Party returning the property claimed. Neither shall the requesting State Party be required to compensate in any way such persons or institutions as may have participated in illegally sending abroad the property in question, although it must pay fair



compensation to any person or institution that in good faith acquired or was in legal possession of the property.

3. Both parties agree not to levy any customs or other duties on such movable property as may be discovered and returned in accord with the present Treaty.
4. The State Parties agree to make available to each other information to assist in combating crimes against movable cultural property.
5. Each State Party shall provide information concerning laws which protect its movable cultural property to an international data base agreed upon between the States Parties.

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## ARTICLE 5

### Final provisions

1. This Treaty is subject to (ratification, acceptance or approval).
2. This Treaty shall enter into force on the thirtieth day after the instruments of (ratification, acceptance or approval) are exchanged.
3. Either State Party may denounce this Treaty by giving notice in writing to the other State Party. Such denunciation shall take effect six months following the date on which notice is received by the other State Party.
4. This treaty is intended to be complementary to, and does not in anyway exclude, participation in other international arrangements.

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The full text of International Standards, Guidelines, Model Treaties and other instruments regarding the prevention and control of crime can be obtained from:

**Crime Prevention and Criminal Justice Branch  
Centre for Social Development and Humanitarian Affairs  
Vienna International Centre  
P.O. Box 500  
A-1400 Vienna, Austria**



# Annex to Resolution on Measures Against International Terrorism

Approved by the Eighth Congress

## Definition

It would be useful to identify behaviour that the international community regards as unacceptable and that requires the application of effective preventive and repressive measures consistent with international law, although to date the international community has been unable to arrive at a universally agreed meaning of what is included in the term "international terrorism".

## Identification of the problems

Existing international norms may not be sufficient to control terrorist violence. Among the issues of concern are: State policies and practices that may be considered a violation of international treaty obligations; the absence of specific norms on State responsibility to carry out international obligations; abuse of diplomatic immunity; the absence of norms concerning acts of States not prohibited by international law; the absence of international regulation and control of traffic in arms; the inadequacy of international mechanisms for the peaceful resolution of conflicts and protection of human rights; the lack of universal acceptance of the principle of *aut dedere aut iudicare*; and the shortcoming of international cooperation in preventing and controlling terrorist violence.

## International cooperation for the effective and uniform prevention and control of terrorism

Effective measures to be developed include: cooperation between law enforcement agencies, prosecutors and the judiciary; integration of the various agencies responsible for law enforcement and criminal justice; inter-State cooperation in penal matters; education and training of law enforcement personnel; and educational and public awareness programmes through the mass media.

## Jurisdiction

Greater uniformity in the laws and practices of States concerning criminal jurisdiction should be encouraged, while over-extension of national jurisdiction is avoided to prevent legal conflicts between States. Jurisdictional priorities should give territoriality the first priority.

## Extradition

States should develop and implement effective international extradition treaties. The political offence exception should not be a bar to extradition for crimes of terrorist violence, except when the requested State submits the case to its competent authorities for prosecution or transfers the case to

another State for prosecution.

## **Mutual assistance and cooperation**

Prevention and control of terrorist violence depends on mutual cooperation between States in securing evidence for prosecution or extradition of the offenders. States should also lend each other assistance in penal matters.

## **Non-applicability of defence**

Defence based on obedience to superior orders or acts of State should not apply with respect to persons who have violated international conventions against terrorist violence.

## **Conduct of States**

Terrorist violence supported, carried out or acquiesced to by States should be more effectively curbed by the international community, and the United Nations should develop mechanisms for the control of such conduct.

## **Targets of vulnerability**

The feasibility of an international convention to protect targets that are particularly vulnerable, the destruction of which would cause great harm to populations or society, such as hydroelectric or nuclear facilities, should be studied.

## **Control of weapons, ammunition and explosives**

States should develop national legislation for the control of weapons, ammunition and explosives that may be used for terrorist purposes. International regulations on the transfer, import, export and storage of such should be harmonized.

## **Protection of the judiciary and of criminal justice personnel**

States should adopt measures to protect the judiciary, criminal justice personnel, jurors and lawyers involved in trials of terrorism cases.

## **Protection of victims**

States should establish measures for the protection, assistance and relief of victims of terrorism.

## **Protection of witnesses**

States should adopt measures to protect witnesses of terrorist acts.

## **Treatment of offenders**

States should diminish existing disparities in the sentencing of terrorist offenders. Persons charged with or convicted of terrorist offences must be treated without discrimination and in accord with internationally recognized human rights standards.

## **Role of the mass media**

States and the mass media should consider guidelines to control the following: sensationalizing and justifying terrorist violence; disseminating strategic information on potential targets; and disseminating tactical information while terrorist acts are taking place. These guidelines are in no way intended to restrict the basic human right of freedom of speech or to encourage interference in the domestic affairs of other States.

### **Codification of international criminal law and creation of an international criminal court**

The International Law Commission should be encouraged to continue to explore the possibility of an international criminal court or some other international mechanism to have jurisdiction over persons who have committed offences, including those connected with terrorism or illicit trafficking in drugs. States could also explore the possibility of separate international criminal courts of regional or subregional jurisdiction in which grave international crimes could be brought to trial and the incorporation of such courts within the United Nations system.

### **Enhancing the effectiveness of international cooperation**

States that are signatories to international conventions prohibiting terrorist violence are urged to ratify those conventions and enforce their provisions, and States that are not signatories are urged to ratify and enforce those conventions. The central role of the United Nations, its Crime Prevention and Criminal Justice Branch and the Centre for Social Development and Humanitarian Affairs of the United Nations Office at Vienna should be strengthened in order to preserve peace, strengthen the world order and fight against crime under the rule of law.

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