



Background paper no. 8
June 2003

***Correlation of Prisoners' Issues and Conditions
to International Covenants and Treaties:
An AFSC Resource Guide***

*AFSC New York Metropolitan Regional Office (NYMRO)
Criminal Justice Program, Prison Watch Project
972 Broad Street, 6th Floor, Newark, NJ 07102
Tel: (973) 643-3079, Fax: (973) 643-8924, e-mail: bkerness@afsc.org*

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Introduction

Since 1975, the Criminal Justice Program of the American Friends Service Committee in Newark, New Jersey has articulated its concern with the United States' violation of prisoners' human rights.

Since 1992, the AFSC Prison Watch Project has monitored the use of extended sensory deprivation, racism, brutality and the use of devices of torture in prisons across the country. Prison Watch has received testimonies from countless men and women held in prison conditions of egregious violations of international law, including the Convention Against Torture, ratified by the U.S. in 1994.

Over the years, the AFSC has received thousands of calls and letters from prisoners and family members complaining of the use of electric stun belts, stun guns, restraint chairs, restraint tables, and prison chain gangs. We continue to receive complaints of sexual assault of female prisoners, detention of minors, racism, brutality and other violations of human rights. In our efforts to speak about these concerns, we have used the language of United Nations treaties and covenants. It is our hope that through weaving this language into our own, the concepts of human rights law will find their way into the police, court and prison justice systems.

The importance and implementation of the wide range of international standards has practical relevance as a guide in the daily life of the U.S. criminal justice system. *Correlation of Prisoners' Issues and Conditions to International Conventions and Treaties: An AFSC Resource Guide* has been developed to empower those who advocate for prisoners rights. It emphasizes the importance that the U.S., as part of the world community, cannot continue to violate the basic human rights of prisoners while criticizing other countries for such violations.

The Resource Guide correlates the most relevant major issues and conditions existing in U.S. prisons to international standards as stipulated in international human rights agreements. It contains texts of the pertinent international treaties, conventions, declarations and rules, standards and principles in relation to the major issues.

In addition, Annex I of the Guide provides the status of ratification by the U.S. of the most relevant international human rights treaties and conventions (with a definition of treaty terms), and Annex II leads to links of the complete official documents of all the relevant human rights instruments.

This Resource Guide is born of the valiant attempts by prisoners to keep lawyers, advocates, loved ones and family members alert to what is happening to the powerless. We hope it will enable advocates for prisoners' rights to infuse the right language in their work and future dealings with the U.S. criminal justice system.

Nardos Assefa
Bonnie Kerness
June 2003

Correlation of Issues to International Conventions, Treaties and Declaration

Issues	International Conventions, Treaties and Declaration						
	ICESCR	ICCPR	ICERD	CEDWA	CAT	CRC	UN Declaration of Human Rights
	Article No.	Article No.	Article No.	Article No.	Article No.	Article No.	Article No.
Compensation/Reparation		Article 14 (6)	Article 6				
Death Penalty		Article 6 (1), (2) (5)					Article 3
Institutions/officials					Articles 10 (1&2), 11, 12		
Medical Care	Article 12 (1)			Article 5 (2)			
Political Prisoners							Article 19
Prisoners		Articles 6 (1), 10 (1)	Article 5 (b)				
Torture, isolation		Article 7			Articles 1, 4 (1), (2)		Article 5
Racism/discrimination			Articles 2 (a), 5 (a)				
Rape							
Women				Articles 1, 2 (d) & (g), 5 (1)			
Youth		Article 10 (3)				Articles 1, 6, 37, 40	

International Covenant on Economic, Social and Cultural Rights (CESCR)

International Convention on Civil and Political Rights (CCPR)

International Convention on the Elimination of all forms of Racial Discrimination (CERD)

Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Convention on the Rights of the Child (CRC)

In addition to this chart, each issue contains additional text drawn from the following UN Declarations, Standard Rules and Principles.

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Basic Principles for the Treatment of Prisoners

Body of Principles for the Protection of All Persons under Any Form of Detention or
Imprisonment

Declaration on the Elimination of Violence Against Women

Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment

Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in
the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or
Degrading Treatment or Punishment

Standard Minimum Rules for the Treatment of Prisoners

Safeguards guaranteeing protection of the rights of those facing the death penalty

United Nations Rules for the Protection of Juveniles Deprived of their Liberty

United Nations Standard Minimum Rules for the Administration of Juvenile Justice

Compensation/reparation

International Covenant on Civil and Political Rights (ICCPR)

Article 14

(6) When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such a conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination

Death Penalty

Universal Declaration of Human Rights

Article 3

Everyone has the right to life, liberty and security of person

International Covenant on Civil and Political Rights (CCPR)

Article 6

- (1) Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
- (2) In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provision of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.
- (5) Sentence of death shall not be imposed for crimes committed by person below eighteen years of age....
- (6) Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Safeguards guaranteeing protection of the rights of those facing the death penalty

Article 9

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

Institutions/Officials

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Article 10

(1) Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

(2) Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Standard Minimum Rules for the Treatment of Prisoners

Rule 27

Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.

Medical care

International Covenant on Economic, Social and Cultural Rights (CESCR)

Article 12

(1) The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Basic Principles for the Treatment of Prisoners

Principle 9

Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

Principle 24

A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge.

Standard Minimum Rules for the Treatment of Prisoners

Rule 10

All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

Rule 12

The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

Rule 13

Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as

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frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

Rule 22

- (1) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.
- (2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.
- (3) The services of a qualified dental officer shall be available to every prisoner.

Rule 25

- 1) The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.

Rule 26

- (1) The medical officer shall regularly inspect and advise the director upon:
 - (a) The quantity, quality, preparation and service of food;
 - (b) The hygiene and cleanliness of the institution and the prisoners;
 - (c) The sanitation, heating, lighting and ventilation of the institution;
 - (d) The suitability and cleanliness of the prisoners' clothing and bedding;
 - (e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.

Rule 62

The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may hamper a prisoner's rehabilitation. All necessary medical, surgical and psychiatric services shall be provided to that end.

Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Principle 1

Health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained.

Prisoners

Basic Principles for the Treatment of Prisoners

Principle 1

All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

Principle 1

All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

International Covenant on Civil and Political Rights (CCPR)

Article 10

(1) All persons deprived of their liberty shall be treated with humanity and with respect for the dignity of the human person.

(3) The penitentiary system shall comprise treatment of prisoners the essential of which shall be their reformation and social rehabilitation.

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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Article 13 – Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Political prisoners

Universal Declaration of Human Rights

Article 19 – Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Torture/Isolation

International Covenant on Civil and Political Rights (CCPR)

Article 7 – No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Article 1

...the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

Article 4

- (1) Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
- (2) Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Standard Minimum Rules for the Treatment of Prisoners

Rule 30

- (1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.
- (2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case.

Rule 31

Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.

Rule 32

- (1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.
- (2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31.
- (3) The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

Rule 33

Instruments of restraint, such as handcuffs, chains, irons and strait-jacket, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:

- a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;
- b) On medical grounds by direction of the medical officer;
- c) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.

Basic Principles for the Treatment of Prisoners

Principle 7

Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.

Racism/discrimination

Universal Declaration of Human Rights

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

International Covenant on Civil and Political Rights

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

International Convention on the Elimination of all Forms of Racial Discrimination (CERD)

Article 2 – States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

Article 5 - ... States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law....

(a) The right to equal treatment before the tribunals and all other organs administering justice;

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.

Basic Principles for the Treatment of Prisoners

Principle 2

There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

Principle 5 (1)

These principles shall be applied to all persons within the territory of any given State, without distinction of any kind, such as race, colour, sex, language, religion or religious belief, political or other opinion, national, ethnic or social origin, property, birth or other status.

Standard Minimum Rules for the Treatment of Prisoners

- (1) Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.
- (2) Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

Rape

Declaration on the Elimination of Violence against Women

Article 2

Violence against women shall be understood to encompass, but not be limited to, the following:

- (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Women

Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)

Article 1 - ... the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, or human rights and fundamental freedoms in the political, economic, social, cultural, civic or any other field.

Article 2

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation

(g) To repeal all national penal provisions which constitute discrimination against women.

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

International Covenant on Civil and Political Rights (CCPR)

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Declaration on the Elimination of Violence against Women

Article 2

Violence against women shall be understood to encompass, but not be limited to, the following:

(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Article 4

States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should:

(c) Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons

(i) Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

Principle 5

(2) Measures applied under the law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers, children and juveniles, aged, sick or handicapped persons shall not be deemed to be discriminatory. The need for, and the application of, such measures shall always be subject to review by a judicial or other authority.

Standard Minimum Rules for the Treatment of Prisoners

Rule 8

Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate

Rule 23

- (1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.
- (2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

Rule 53

- (1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.
- (2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.
- (3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

Youth

International Covenant on Civil and Political Rights (CCPR)

Article 6

(5) Sentence of death shall not be imposed for crimes committed by person below eighteen years of age and shall not be carried out on pregnant women.

Article 10

(3) The penitentiary system shall comprise treatment of prisoners the essential of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Convention on the Rights of the Child (CRC)

Article 1 - For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

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(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

United Nations Standard Minimum Rules for the Administration of Juvenile Justice

Rule 13

Detention pending trial

- (1) Detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time.
- (2) Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home.
- (3) Juveniles under detention pending trial shall be entitled to all rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.
- (4) Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.
- (5) While in custody, juveniles shall receive care, protection and all necessary individual assistance-social, educational, vocational, psychological, medical and physical-that they may require in view of their age, sex and personality.

Rule 19

Rule 19 aims at restricting institutionalization in two regards: in quantity ("last resort,") and in time ("minimum necessary period"). Rule 19 reflects one of the basic guiding principles of resolution 4 of the Sixth United Nations Congress: a juvenile offender should not be incarcerated unless there is no other appropriate response. The rule, therefore, makes the appeal that if a juvenile must be institutionalized, the loss of liberty should be restricted to the least possible degree, with special institutional arrangements for confinement and bearing in mind the differences in kinds of offenders, offences and institutions. In fact, priority should be given to "open" over "closed" institutions. Furthermore, any facility should be of a correctional or educational rather than of a prison type.

Rule 21

- (1) Records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand or other duly authorized persons.

Rule 26

Objectives of institutional treatment

1. The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.
2. Juveniles in institutions shall receive care, protection and all necessary assistance-social, educational, vocational, psychological, medical and physical-that they may require because of their age, sex, and personality and in the interest of their wholesome development .
3. Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.
4. Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured.
5. In the interest and well-being of the institutionalized juvenile, the parents or guardians shall have a right of access.
6. Inter-ministerial and inter-departmental co-operation shall be fostered for the purpose of providing adequate academic or, as appropriate, vocational training to institutionalized juveniles, with a view to ensuring that they do no leave the institution at an educational disadvantage.

Rule 27

1. The Standard Minimum Rules for the Treatment of Prisoners and related recommendations shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication.
2. Efforts shall be made to implement the relevant principles laid down in the Standard Minimum Rules for the Treatment of Prisoners to the largest possible extent so as to meet the varying needs of juveniles specific to their age, sex and personality.

Rule 29

Efforts shall be made to provide semi-institutional arrangements, such as half-way houses, educational homes, day-time training centres and other such appropriate arrangements that may assist juveniles in their proper reintegration into society.

United Nations Rules for the Protection of Juveniles Deprived of their Liberty

Rule 11

For the purposes of the Rules, the following definitions should 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 his or her liberty should be determined by law;

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(b) The deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority.

Annex I (Treaties, Conventions, Minimum Standards, Rules, Declarations and Principles)

International Covenant on Economic, Social and Cultural Rights (CESCR)

http://www.unhchr.ch/html/menu3/b/a_ceschr.htm

International Convention on Civil and Political Rights (CCPR)

http://www.unhchr.ch/html/menu3/b/a_ccpr.htm

International Convention on the Elimination of all forms of Racial Discrimination (CERD)

http://www.unhchr.ch/html/menu3/b/d_icerd.htm

Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

<http://www.unhchr.ch/html/menu3/b/e1cedaw.htm>

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

http://www.unhchr.ch/html/menu3/b/h_cat39.htm

Convention on the Rights of the Child (CRC)

<http://www.unhchr.ch/html/menu2/6/crc/treaties/crc.htm>

Basic Principles for the Treatment of Prisoners

http://193.194.138.190/html/menu3/b/h_comp35.htm

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

http://193.194.138.190/html/menu3/b/h_comp36.htm

Declaration on the Elimination of Violence Against Women

[http://193.194.138.190/huridocda/huridoca.nsf/\(Symbol\)/A.RES.48.104.En?Opendocument](http://193.194.138.190/huridocda/huridoca.nsf/(Symbol)/A.RES.48.104.En?Opendocument)

Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

http://193.194.138.190/html/menu3/b/h_comp38.htm

Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

http://193.194.138.190/html/menu3/b/h_comp40.htm

Standard Minimum Rules for the Treatment of Prisoners

http://193.194.138.190/html/menu3/b/h_comp34.htm

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Safeguards guaranteeing protection of the rights of those facing the death penalty
http://193.194.138.190/html/menu3/b/h_comp41.htm

United Nations Rules for the Protection of Juveniles Deprived of their Liberty
http://193.194.138.190/html/menu3/b/h_comp37.htm

United Nations Standard Minimum Rules for the Administration of Juvenile Justice
http://193.194.138.190/html/menu3/b/h_comp48.htm

Universal Declaration of Human Rights
<http://www.unhchr.ch/udhr/lang/eng.htm>

Annex II (Treaty Ratification by the United States)

Treaty	Signature	Ratification
International Covenant on Economic, Social and Cultural Rights (CESCR)	October 5, 1977	
International Convention on Civil and Political Rights (CCPR)		June 8, 1992
Optional Protocol to the International Covenant on Civil and Political Rights (CCPR-OPT)		
Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the death penalty (CCPR-OPT2)		
UN Convention on the Elimination of all forms of Racial Discrimination (CERD)		October 21, 1994
UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)	July 17, 1980	
The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP)		
UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)		October 21, 1994
UN Convention on the Rights of the Child (CRC)	February 16, 1995	
The Optional Protocol to the Convention on the Rights of the Child (CRC-OP-AC) on the involvement of children in armed conflict	July 5, 2000	
The Optional Protocol to the Convention on the Rights of the Child (CRP-OP-SC) on the sale of children, child prostitution and child pornography	July 5, 2000	
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC)		

Definitions of treaty terms:

Ratification: defines the international act whereby a state indicates its consent to be bound to a treaty if the parties intended to show their consent by such an act. In the case of bilateral treaties, ratification is usually accomplished by exchanging the requisite instruments, while in the case of multilateral treaties the usual procedure is for the depositary to collect the ratifications of all states, keeping all parties informed of the situation. The institution of ratification grants states the necessary time-frame to seek the required approval for the treaty on the domestic level and to enact the necessary legislation to give domestic effect to that treaty.

Signature Subject to Ratification, Acceptance or Approval: Where the signature is subject to ratification, acceptance or approval, the signature does not establish the consent to be bound. However, it is a means of authentication and expresses the willingness of the signatory state to continue the treaty-making process. The signature qualifies the signatory state to proceed to ratification, acceptance or approval. It also creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty.

Acceptance and Approval: The instruments of "acceptance" or "approval" of a treaty have the same legal effect as ratification and consequently express the consent of a state to be bound by a treaty. In the practice of certain states acceptance and approval have been used instead of ratification when, at a national level, constitutional law does not require the treaty to be ratified by the head of state.

Accession: is the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force. The Secretary-General of the United Nations, in his function as depositary, has also accepted accessions to some conventions before their entry into force. The conditions under which accession may occur and the procedure involved depend on the provisions of the treaty. A treaty might provide for the accession of all other states or for a limited and defined number of states. In the absence of such a provision, accession can only occur where the negotiating states were agreed or subsequently agree on it in the case of the state in question.