

## INTERNATIONAL INSTRUMENTS

### Right to Education of Persons in Detention

#### BINDING

- **International Covenant on Economic, Social and Cultural Rights, 1966** (Articles 2 and 13)
- **International Covenant on Civil and Political Rights, 1966** (Article 10.3)
- **Convention on the Rights of the Child, 1989** (Articles 2, 28 and 29; General Comments 6 and 10)
- **UNESCO Convention against Discrimination in Education, 1960** (Articles 1, 4)
- **Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949** (Article 94)

#### NON- BINDING

- **UN Standard Minimum Rules for the Treatment of Prisoners, 1955** (Rules 40, 77 and 78)
- **UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985** (Rules 26.1 and 26.2)
- **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 1988** (Principle 28)
- **UN Rules for the Protection of Juveniles Deprived of their Liberty, 1990** (Rules 38 to 44)
- **UN Basic Principles for the Treatment of Prisoners, 1990** (Principle 6)
- **UN Guidelines for the Prevention of Juvenile Delinquency, 1990** (Paragraphs 5.a, 20 to 31 and 47)
  
- **General Comment 1 on Article 30 of the African Charter on the Rights and Welfare of the Child, 2013** (Paragraphs 20 and 26)
- **Kampala Declaration on Prison Conditions in Africa, 1996**
- **Arusha Declaration on Good Prison Practice, 1999**
- **Ouagadougou Declaration on Acceleration Penal and Prison Reform, 2002**
  
- **Recommendation (2006) 2 of the Committee of Ministers to Member States on the European Prison Rules**
- **Recommendation (89) 12 of the Committee of Ministers to Member States on Education in Prison**
  
- **Principles and Best practices on the Protection of Persons Deprived of Liberty in Americas, 2008**

## International Covenant on Economic, Social and Cultural Rights, 1966

### Article 2

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

### Article 13

1. The States Parties to the present Covenant recognise the right of **everyone** to education.
  2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
    - (a) Primary education shall be compulsory and available free **to all**;
    - (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible **to all** by every appropriate means, and in particular by the progressive introduction of free education;
    - (c) Higher education shall be made equally accessible **to all**, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- ...

## International Covenant on Civil and Political Rights, 1966

### Article 10

3. The penitentiary system shall comprise treatment of prisoners the essential aim 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.

### CCPR (now HRC) General Comment 21 concerning humane treatment of persons deprived of liberty (Article 10), 1992

11. In a number of cases, the information furnished by the State party contains no specific reference either to legislative or administrative provisions or to practical measures to ensure the re-education of convicted persons. The Committee requests specific information concerning the measures taken to provide teaching, education and re-education, vocational guidance and training and also concerning work programmes for prisoners inside the penitentiary establishment as well as outside.

## Convention on the Rights of the Child, 1989

### Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

## Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free **to all**;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible **to every child**, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible **to all** on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible **to all children**;

## Article 29

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

### [CRC General Comment 10: Children's rights in juvenile justice](#)

18. The Committee fully supports the Riyadh Guidelines and agrees that emphasis should be placed on prevention policies that facilitate the successful socialization and integration of all children, in particular through the family, the community, peer groups, schools, vocational training and the world of work, as well as through voluntary organizations. This means, inter alia that prevention programmes should focus on support for particularly vulnerable families, the involvement of schools in teaching basic values (including information about the rights and responsibilities of children and parents under the law), and extending special care and attention to young persons at risk. In this regard, particular attention should also be given to children who drop out of school or otherwise do not complete their education. The use of peer group support and a strong involvement of parents are recommended. The States parties should also develop community-based services and programmes that respond to the special needs, problems, concerns and interests of children, in particular of children repeatedly in conflict with the law, and that provide appropriate counselling and guidance to their families.

89. The Committee wishes to emphasize that, inter alia, the following principles and rules need to be observed in all cases of deprivation of liberty:

...

– Every child of compulsory school age has the right to education suited to his/her needs and abilities, and designed to prepare him/her for return to society; in addition, every child should, when appropriate, receive vocational training in occupations likely to prepare him/her for future employment;

### [CRC General Comment 6 on Treatment of unaccompanied and separated children outside their country of origin](#)

63. In the exceptional case of detention, conditions of detention must be governed by the best interests of the child and pay full respect to article 37 (a) and (c) of the Convention and other international obligations. ... During their period in detention, children have the right to education which ought, ideally, to take place outside the detention premises in order to facilitate the continuance of their education upon release.... In order to effectively secure the rights provided by article 37 (d) of the Convention, unaccompanied or separated children deprived of their liberty shall be provided with prompt and free access to legal and other appropriate assistance, including the assignment of a legal representative.

## UNESCO Convention against Discrimination in Education, 1960

### Article 1

1. For the purposes of this Convention, the term 'discrimination' includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

- (a) Of depriving any person or group of persons of access to education of any type or at any level;
- (b) Of limiting any person or group of persons to education of an inferior standard;
- (c) Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or
- (d) Of inflicting on any person or group of persons conditions which are in-compatible with the dignity of man.

2. For the purposes of this Convention, the term 'education' refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

### Article 4

The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

(a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;

(c) To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;

## Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949

### Article 94

The Detaining Power shall encourage intellectual, educational and recreational pursuits, sports and games amongst internees, whilst leaving them free to take part in them or not. It shall take all practicable measures to ensure the exercise thereof, in particular by providing suitable premises.

All possible facilities shall be granted to internees to continue their studies or to take up new subjects. The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside.

Internees shall be given opportunities for physical exercise, sports and outdoor games. For this purpose, sufficient open spaces shall be set aside in all places of internment. Special playgrounds shall be reserved for children and young people.

## UN Standard Minimum Rules for the Treatment of Prisoners, 1955

[UN Standard Minimum Rules for the Treatment of Prisoners](#) were adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977. It is a non-binding international instrument.

40. Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

77. (1) Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.

(2) So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

78. Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.

## UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985

26.1 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.

26.2 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.

## Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 1988

### Principle 28

A detained or imprisoned person shall have the right to obtain within the limits of available resources, if from public sources, reasonable quantities of educational, cultural and informational material, subject to reasonable conditions to ensure security and good order in the place of detention or imprisonment.

## United Nations Rules for the Protection of Juveniles Deprived of their Liberty, A/RES/45/113, 1990

### E. Education, vocational training and work

38. Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.

39. Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.

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

41. Every detention facility should provide access to a library that is adequately stocked with both instructional and recreational books and periodicals suitable for the juveniles, who should be encouraged and enabled to make full use of it.

42. Every juvenile should have the right to receive vocational training in occupations likely to prepare him or her for future employment.

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

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

## UN Basic Principles for the Treatment of Prisoners, 1990

Adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990

6. All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.

## UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), 1990

The UN Guidelines for the Prevention of Juvenile Delinquency affirm that every child has basic human rights, including, in particular, access to free education...

5. The need for and importance of progressive delinquency prevention policies and the systematic study and the elaboration of measures should be recognized. These should avoid criminalizing and penalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others. Such policies and measures should involve:

(a) The provision of opportunities, in particular educational opportunities, to meet the varying needs of young persons and to serve as a supportive framework for safeguarding the personal development of all young persons, particularly those who are demonstrably endangered or at social risk and are in need of special care and protection;

### B. Education

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

21. Education systems should, in addition to their academic and vocational training activities, devote particular attention to the following:

(a) Teaching of basic values and developing respect for the child's own cultural identity and patterns, 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) Promotion and development of the personality, talents and mental and physical abilities of young people to their fullest potential;

(c) Involvement of young persons as active and effective participants in, rather than mere objects of, the educational process;

(d) Undertaking activities that foster a sense of identity with and of belonging to the school and the community;

(e) Encouragement of young persons to understand and respect diverse views and opinions, as well as cultural and other differences;

(f) Provision of information and guidance regarding vocational training, employment opportunities and career development;

(g) Provision of positive emotional support to young persons and the avoidance of psychological maltreatment;

(h) Avoidance of harsh disciplinary measures, particularly corporal punishment.

22. Educational systems should seek to work together with parents, community organizations and agencies concerned with the activities of young persons.
23. Young persons and their families should be informed about the law and their rights and responsibilities under the law, as well as the universal value system, including United Nations instruments.
24. Educational systems should extend particular care and attention to young persons who are at social risk. Specialized prevention programmes and educational materials, curricula, approaches and tools should be developed and fully utilized.
25. Special attention should be given to comprehensive policies and strategies for the prevention of alcohol, drug and other substance abuse by young persons. Teachers and other professionals should be equipped and trained to prevent and deal with these problems. Information on the use and abuse of drugs, including alcohol, should be made available to the student body.
26. Schools should serve as resource and referral centres for the provision of medical, counselling and other services to young persons, particularly those with special needs and suffering from abuse, neglect, victimization and exploitation.
27. Through a variety of educational programmes, teachers and other adults and the student body should be sensitized to the problems, needs and perceptions of young persons, particularly those belonging to underprivileged, disadvantaged, ethnic or other minority and low-income groups.
28. School systems should attempt to meet and promote the highest professional and educational standards with respect to curricula, teaching and learning methods and approaches, and the recruitment and training of qualified teachers. Regular monitoring and assessment of performance by the appropriate professional organizations and authorities should be ensured.
29. School systems should plan, develop and implement extra-curricular activities of interest to young persons, in co-operation with community groups.
30. Special assistance should be given to children and young persons who find it difficult to comply with attendance codes, and to "drop-outs".
31. Schools should promote policies and rules that are fair and just; students should be represented in bodies formulating school policy, including policy on discipline, and decision-making.
47. Government agencies should provide young persons with the opportunity of continuing in full-time education, funded by the State where parents or guardians are unable to support the young persons, and of receiving work experience.

### **General Comment 1 on Article 30 of the African Charter on the Rights and Welfare of the Child, 2013**

Paragraphs 20 and 26 refer specifically to the right to education of children whose mothers or primary caregivers have been imprisoned or incarcerated. [Full text.](#)

### **Kampala Declaration on Prison Conditions in Africa, 1996**

Considering that in many countries in Africa ... there is a lack of ... education...

The participants at the International Seminar on Prison Conditions in Africa, held in Kampala from 19 to 21 September 1996, recommend:

7. that prisoners should be given access to education and skills training in order to make it easier for them to reintegrate into society after their release,

#### KAMPALA PLAN OF ACTION

2. Prisons in Africa should be considered in the context of economic development, social and cultural values and social change. Emphasis should be placed on providing education, skills- based training and a work programme that is in the interests of the rehabilitation of the offender while incorporating elements of self-sufficiency and sustainability of both the prison institutions and the detainees as a community.

5. In light of these general considerations, the following recommendations are made as essential elements of an effective Plan of Action for consideration by governments and civil society groups in Africa.

e. Many prisoners require only minimal levels of security and should be accommodated in open institutions. Wherever possible, prisoners should be encouraged to involve themselves in educational and productive activities with the support of staff.

### Arusha Declaration on Good Prison Practice, 1999

This [Declaration](#) recalls the Kampala Declaration on Prison Conditions in Africa.

### Ouagadougou Declaration on Accelerating Penal and Prison Reform, 2002

#### Plan of Action

3. Promoting the reintegration into society of alleged and convicted offenders

f. Provide civic and social education.

5. Encouraging best practice

c. Emphasise primary health care, hygiene education, nutrition and sanitation promotion in the prisons and link health care of prisoners with the Ministry of Health.

### Recommendation (2006) 2 of the Committee of Ministers to Member States on the European Prison Rules (Council of Europe)

#### *Conditions of imprisonment*

##### **Work**

26.16 Prisoners shall have at least one rest day a week and sufficient time for education and other activities.

##### **Education**

28.1 Every prison shall seek to provide all prisoners with access to educational programmes which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations.

28.2 Priority shall be given to prisoners with literacy and numeracy needs and those who lack basic or vocational education.

28.3 Particular attention shall be paid to the education of young prisoners and those with special needs.

28.4 Education shall have no less a status than work within the prison regime and prisoners shall not be

disadvantaged financially or otherwise by taking part in education.

28.5 Every institution shall have a library for the use of all prisoners, adequately stocked with a wide range of both recreational and educational resources, books and other media.

28.6 Wherever possible, the prison library should be organised in co-operation with community library services.

28.7 As far as practicable, the education of prisoners shall:

a. be integrated with the educational and vocational training system of the country so that after their release they may continue their education and vocational training without difficulty; and b. take place under the auspices of external educational institutions.

#### ***Detained children***

35.1 Where exceptionally children under the age of 18 years are detained in a prison for adults the authorities shall ensure that, in addition to the services available to all prisoners, prisoners who are children have access to the social, psychological and educational services, religious care and recreational programmes or equivalents to them that are available to children in the community.

35.2 Every prisoner who is a child and is subject to compulsory education shall have access to such education.

#### ***Specialist staff***

89.1 As far as possible, the staff shall include a sufficient number of specialists such as psychiatrists, psychologists, social and welfare workers, teachers and vocational, physical education and sports instructors.

#### ***Implementation of the regime for sentenced prisoners***

103.4 Such plans shall as far as is practicable include:

b. education

#### ***Work by sentenced prisoners***

105.4 When sentenced prisoners take part in education or other programmes during working hours as part of their planned regime they shall be remunerated as if they had been working.

#### ***Education of sentenced prisoners***

106.1 A systematic programme of education, including skills training, with the objective of improving prisoners' overall level of education as well as their prospects of leading a responsible and crime-free life, shall be a key part of regimes for sentenced prisoners.

106.2 All sentenced prisoners shall be encouraged to take part in educational and training programmes.

106.3 Educational programmes for sentenced prisoners shall be tailored to the projected length of their stay in prison.

### **Recommendation (89) 12 of the Committee of Ministers to Member States on Education in Prison (Council of Europe)**

See the [text](#)

**Principle X**

**Health**

Where children of parents deprived of their liberty are allowed to remain in the place of deprivation of liberty, the necessary provisions shall be made for a nursery staffed by qualified persons, and with the appropriate educational, pediatric, and nutritional services, in order to protect the best interest of the child.

**Principle XIII**

***Education and cultural activities***

Persons deprived of liberty shall have the right to education, which shall be accessible to all, without any discrimination, with due consideration to cultural diversity and special needs.

Primary or basic education shall be free for persons deprived of liberty, particularly for children, and for adults who have not received or completed the whole cycle of primary instruction.

Member States of the Organization of American States shall promote, progressively and to the maximum of their available resources, secondary, technical, vocational, and higher education in places of deprivation of liberty, and shall make them accessible to all, on the basis of individual capacity and skills.

Member States shall ensure that educational services provided in places of deprivation of liberty operate in close coordination and integration with the public education system; and shall promote cooperation with society through the participation of civil associations, non-governmental organizations, and private educational institutions.

Places of deprivation of liberty shall have libraries with sufficient books, newspapers, and educational magazines, with the appropriate equipment and technology, according to available resources.

Persons deprived of liberty shall have the right to take part in cultural, sporting, and social activities, and shall have opportunities for healthy and constructive recreation. Member States shall encourage the participation of the family, the community, and non-governmental organizations in these activities, in order to promote the reform, social readaptation, and rehabilitation of persons deprived of liberty.

**Principle XX**

***Personnel of places of deprivation of liberty***

Sufficient and qualified personnel shall be available to ensure security, surveillance, and custody, as well as to attend to medical, psychological, educational, labour, and other needs.

**Principle XXII**

***Disciplinary regime***

**5. Disciplinary competence**

Persons deprived of liberty shall not be responsible for the execution of disciplinary measures, or for custody or surveillance activities, not excluding their right to take part in educational, religious, sporting, and other similar activities, with the participation of the community, non-governmental organizations, and other private institutions.

