

Juveniles and Justice – Backgrounder

Every child needs nurturing, education and exercise. These needs don't end when children come in contact with the law. For the vast majority of children and young people around the world, however, their well-being and even their lives are jeopardized if they are so much as suspected of a crime.

Like in many countries, child prisoners in the Russian Federation are housed with older criminals in unsanitary, overcrowded cells where disease is rampant. Many countries use incarceration not as a last resort for the most serious crimes, but as a routine response to minor offenses such as loitering. Marginalized children, such as street kids, are especially targeted and may be tortured or even killed in custody. The authorities who commit these abuses are rarely punished.

Internationally accepted human rights standards call on all governments to protect the interests of children who come in contact with the law. The Universal Declaration of Human Rights says children are entitled to "special care and assistance." The Convention on the Rights of the Child requires governments to establish systems of justice that serve the best interests of children and provide for the rehabilitation and eventual reintegration into society of child offenders.

Amnesty International calls on governments everywhere to respect the rights of all children — without exception. This includes the rights of children who come in contact with the law. Join Amnesty International in speaking out for these basic principles.

What's Juvenile Justice?

The basic principles for how people younger than 18 should be treated before the law are well established in international agreements and standards such as the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Beijing Rules and the Riyadh Guidelines.

1. Decisions shall be taken based on the principle of non-discrimination and the best interests of the child, taking into account his or her age and circumstances and promoting a sense of worth and dignity.
2. The primary aim of juvenile justice is rehabilitation and the reintegration of the child into society.
3. A child in conflict with the law is entitled to basic legal assistance and representation.
4. Arrest, detention and imprisonment of a child shall be used only as a last resort and for the shortest appropriate time.
5. A range of alternatives to judicial proceedings and institutional care should be made available to ensure the child's best interests are safeguarded.

6. If children are detained, they shall have contact with their families, be segregated from adults, and treated with due respect to their age.
7. Cruel, inhuman or degrading treatment, including corporal punishment, capital punishment and life imprisonment without possibility of release, are prohibited.
8. Separate juvenile justice systems should be established, with specially trained staff and separate institutions aiming at the rehabilitation of the child.
9. Children have a right to prompt access to legal assistance and a prompt decision on their case.
10. The child's right to privacy must be respected.

Juvenile Justice Denied

International standards for the treatment and protection of juveniles in contact with the law and for the administration of juvenile justice are clear and well-defined. Yet everywhere children are denied the justice to which they are entitled.

When children come into conflict with the law, it's most often for minor, non-violent offenses — usually theft. In some cases their only “crime” is that they are poor, homeless or disadvantaged.

Edith (not her real name), a 12-year-old Aboriginal girl living in the Northern Territory, Australia, was arrested for stealing food for herself and for other neglected children she was caring for, including a baby. She was kept overnight in an adult cell in the local police station and then released, but served with a court order. When she broke the court order, by running away to visit the baby in hospital and to see her family, she was rearrested and imprisoned for 21 days in a juvenile detention centre 1,500 kilometres from her home. Aboriginal children make up only one third of the child population of the Northern Territory, but they constitute about 90 per cent of the young people in custody.

Children forced to live on the streets are particularly vulnerable to arbitrary arrest and ill-treatment. Many survive on begging, petty crime or prostitution, activities which bring them regularly to the attention of the police. Some are detained and ill-treated simply because they are easy prey. Others are arrested under laws which make homelessness and begging criminal offenses.

Rajesh, a 14-year-old ragpicker, was dragged into a jeep by several policemen in Kerala state, India, in May 1996. No reasons were given for his arrest. Police officers reportedly pierced his finger nails with pins, banged his head against the wall, and beat the soles of his feet. The police denied that Rajesh was in their custody and transferred him between police stations to conceal his whereabouts. When he was finally released on bail in June, he needed hospital treatment for his injuries. Amnesty International knows of no inquiry into the illegal detention and torture of Rajesh.

Authorities who should be protecting children's rights are seldom prosecuted when they violate these rights.

Sixteen-year-old Luiris Elena Flores was three months pregnant when she was arrested in Miranda state, Venezuela. She was separated from her family for several hours during which she was interrogated by police who reportedly beat and threatened her to get her to confess to robbery. Three days after her arrest she miscarried. To Amnesty's knowledge no investigation has been conducted into her allegations of torture.

The Convention on the Rights of the Child and the International Covenant on Civil and Political Rights both forbid the imposition of the death penalty for crimes committed before the offender turns 18. Yet in the last decade AI has documented 18 executions of juvenile offenders in Iran, Nigeria, Pakistan, Saudi Arabia, the USA and Yemen. Ten of these executions were carried out in the USA where more than 70 people remain on death rows in the USA for crimes committed when they were younger than 18.

Call To Action

Juvenile crime has specific causes. Any meaningful attempt to address juvenile crime must involve promoting and protecting the full range of rights set out in the Convention on the Rights of the Child, such as the right to education, to the highest standard of health and well-being, and to protection from abuse and exploitation, among others. Amnesty International believes that when children do come in contact with the law, these universal rights are best protected by a separate system of juvenile justice, adapted to the special needs of children and adolescents.

Such a system must include: a realistic age of criminal responsibility which takes into account the maturity of the child; a juvenile law based on children's rights; sanctions which prioritize education and training over detention and retribution; a separate court system with specially trained judges and lawyers who are aware of the particular needs of children and the different stages of their development; special training for the police and military; separate detention facilities for children, including rehabilitation centres; and proper follow-up and coordination with social services.