

Belfast Declaration

The International Association of Youth and Family Judges and Magistrates held its XVII World Congress in Belfast, Northern Ireland, from 27 August – 1 September 2006. In our efforts “to put the pieces together again” we focussed on the Convention on the Rights of the Child and its optional protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict as our most important and guiding international human rights instrument.

In the context of the implementation of the CRC, its optional protocols and other relevant international human rights standards the participants in the XVII World Congress of the IAYFJM would like to highlight the following statements which reflect the key issues emerging from the deliberations and discussions during this Congress:

(1) Ratification and implementation

a. It is very important that all States ratify the CRC and its optional protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict. For combating and eliminating child labour it is equally important that all States ratify ILO Convention 138 on the minimum age for admission to employment and ILO Convention 182 on the immediate actions for the elimination of the worst forms of child labour.

b. Each country should have a national strategy for the implementation and protection of the rights of children which is in full compliance with the CRC and other relevant international Human Rights standards, which is properly resourced, effectively led and is monitored by an independent and adequately mandated and resourced body such as the office of a children’s commissioner. An important part of such a national policy has to be the systematic and ongoing training of all professionals working with or for children such as social workers, psychologists, lawyers, police officers, prosecutors and judges.

(2) Article 12: The Right to be heard

In consultation with children and young people article 12 of the CRC should be incorporated into the domestic law of all state parties with particular regard to all legal, administrative and policy decisions impacting on children. All decision makers should be resourced and trained in how to give full effect to Art 12 on the right of the child to be heard.

(3) Non Discrimination

The right to non – discrimination (art 2 CRC) should be fully implemented and in that regard special attention should be paid to vulnerable groups of children and to discrimination against girls. For example specific measures should be taken to prevent child and forced marriages.

(4) Alternative care/permanency planning

a. The child in alternative care should where possible return to her/his birth family and we therefore emphasise the need to provide the birth family with support, counselling and other services to facilitate this return.

b. When this return is not feasible, we emphasise the importance of a prompt and individual assessment of the needs and circumstances of the child(ren) –including the possibility to maintain contact with the birth family - in order to ascertain from a range of options the best placement to give commitment, stability and continuity of care to that child.

c. Throughout this process the rights and the best interests of the child and the views of the child and adults receiving services should be taken into account.

(5) Violence Against Children

a. Children have the right to be protected from all forms of violence on an equal footing with adults. Due to their vulnerability children must be protected from all forms of violence in all settings stipulated by the UNSG study on violence including within the family, the school, institutions and the community, including within the workplace.

b. The outcome of the UNSG study on violence against children should be fully supported and all measures must be taken to insure the implementation of its recommendations.

(6) Domestic Violence

Measures to combat and prevent domestic violence must be taken; recognising international and regional human rights standards, children and non-abusive parents and guardians must be given support in a culturally sensitive manner.

(7) Children without Parental Care

Children without Parental Care(CWPC) are the holders of rights and are entitled to enjoy all the rights stipulated in the Convention on the Rights of the Child without any discrimination. All necessary measures must be taken to insure the implementation of these rights. To that effect States should support the adoption of minimum standards and UN guidelines for the protection of the rights of CWPC as recommended by the Committee on the Rights of the Child. States in partnership with the civil society are invited to examine the existing systems of alternative care including customary systems to ensure its conformity with the Convention and to build on its positive aspects with a view to providing the child(ren) with a family environment and to ensure that institutionalisation is the last resort and for the shortest duration.

(8) Child Abduction/ Intercountry Adoption.

In order to further strengthen the international protection of the rights of the child all States should ratify the Hague Conventions on Child Abduction (1980), Inter-country Adoption (1993) and on International Child Protection (1996).

(9) Children with parents in prison

If a decision is taken to send a parent to prison, a well developed care plan must be put in place prior to incarceration, involving the convicted parent, her/his child(ren) and significant others. The care plan must ensure protection of the child(ren) and should provide for continued contact between the child(ren) and the parent.

In the light of the best interest of the child, States should consider the introduction of the rule that pregnant women and mothers with children under the age of one year should not be incarcerated. In this regard it is also recommended that steps be taken to develop protocols for the police and others involved in criminal justice on how parents, in particular mothers, with dependent /young children should be treated within the criminal justice system in order to ensure that the rights and needs of the child(ren) of these parents are well taken care off.

(10) HEALTH CARE

All children and young people shall have the right to access early identification and assessment of his or her overall health needs (mental, physical and developmental) based on an approach which is timely, holistic, integrated and multidisciplinary, tailored to the needs and the best interests of the individual child and his or her particular circumstances.

A child infected or affected by HIV / Aids must enjoy all the rights enshrined in the CRC, in particular in respect of education, healthcare and social services. All organisations and individuals working for / with children infected or affected by HIV / Aids should comply with the recommendations of the Committee on the Rights of the Child in its general comment no 4 (2003) on HIV /Aids and the rights of the child.

SPECIAL PROTECTION

(11) Children and Armed Conflict

Children must be protected from the evils of armed conflicts. Using or targeting children in armed conflicts must be criminalized in accordance with international humanitarian law, including the Convention on the Rights of the Child & its optional protocols. Perpetrators who use children as soldiers, as shields or as targets of military operations must be treated as committing war crimes (crimes against humanity) and must be brought to justice. In addition, special attention should be given to children born to girls victimised in armed conflicts.

(12) Refugee and Asylum Seeking Children

It is urgent that all States (while taking into account general comment number 6 of the Committee on the Rights of the Child regarding the treatment of unaccompanied and separated children outside of their country of origin):

- a. Define a common policy in order to address the problems of unaccompanied minors, including the causes for their leaving their country of origin;
- b. Investigate the personal and family situation of the child with a view either to returning or taking care of the child in the country of arrival;
- c. Create a protective legal status during the investigation and guarantee its continuation if return is impossible.

(13) Trafficking of Children

As regards trafficking of children for economic and / or sexual purposes:

- a. Harmonisation of legislation is needed to combat all forms of trafficking;
- b. Child trafficking should always be prosecuted as a "crime against humanity";
- c. National and international policy must condemn all forms of trafficking;
- d. The granting of residence permits must favour the victims of trafficking;
- e. The creation of investigation and co-ordination networks specialised in the problems of trafficking and sexual exploitation of children is needed, including the possibility of appointing special liaison officers to promote effective coordination;
- f. Apply the principle of extra territoriality, without the requirement of double criminality, to ensure effective prosecution;
- g. Preventive information campaigns in the victims countries of origin on the rights of the child and on the dangers of trafficking must be carried out;
- h. Special attention must be given to vulnerable groups of children including street children and unaccompanied asylum seekers.

(14) Child witnesses and victims of crimes

In accordance with the UN guidelines on justice matters related to child victims and witnesses of crime, child witnesses should be supported throughout the court process to ensure that they feel safe, are heard in court and are able to give evidence effectively. This support should be provided by an independent agency ensuring that:

- a. Children should be well informed throughout the process;
- b. Children should be dealt with in a non-abusive atmosphere;
- c. Children should be cross-examined by trained individuals with child specific expertise;
- d. The court process should be taken forward without delay.

(15) Street Children

Priority must be given to the situation of marginalized and invisible street children with adequate public information and sufficient human and economic resources. In this regard special attention should be given to the implementation of the right of every street child to education, adequate health care, housing/shelter and protection and to maximum efforts to reunite them with their birth families unless that is not in their best interest.

(16) Diversion and restorative Justice

Recognizing the largely transitory nature of youth offending and the particular vulnerability of children who come into contact with the criminal justice system, States should adopt, after consultation with children and young people, in compliance with the CRC and other international agreed standards including the Beijing Rules, the Havana Rules, the Riyadh Guidelines, UN guidelines on child victims and witnesses of crime, a holistic youth justice system which prioritises and properly resources:

- a. Alternative diversion measures for children who come into contact with the criminal justice system;
- b. An interdisciplinary approach which also fully involves children, the family and community;
- c. A restorative justice system which should include a meaningful partial transfer of power to communities, victims, offenders and their families to produce a restorative response to offending.

(17) Detention

- a. Remands in detention (including pre-trial detentions) should be used only in exceptional cases and in such exceptional cases should be supervised. Alternative measures should be developed and used, such

as measures allowing for the youth to remain in his or her family or, if necessary in family type placements. Conditions might be imposed on the guardians of these youths to ensure that proper control be exercised.

b. Judicial delays should be reduced to a minimum.

Particular attention should be given to reduce court delays in cases where young people are remanded in custody, pending their trial.

c. Minors should be detained only in special centres separate from any adult prison. These centres should provide youths with education programmes during their detention. Girls who are detained should be under the care of female staff.

d. Some form of external control should be exerted over the use of pre-trial detention and the way it is applied.